

7734

2011-2012 Regular Sessions

I N A S S E M B L Y

May 16, 2011

Introduced by M. of A. CYMBROWITZ -- read once and referred to the
Committee on Higher Education

AN ACT to amend the education law, in relation to licensing consequences
for architects or engineers who seriously abuse their self-certifica-
tion privileges

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 6509 of the education law is amended by adding a
2 new subdivision 2-a to read as follows:
3 (2-A) SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE
4 CITY OF NEW YORK. WHERE THE EDUCATION LAW MAKES A DISTINCTION BETWEEN
5 MERE VIOLATIONS OF THE STANDARDS OF NEW YORK CITY'S PROFESSIONAL CERTIF-
6 ICATION PROGRAM FOR REGISTERED DESIGN PROFESSIONALS AND A SERIOUS ABUSE
7 OF SUCH PROGRAM, THE TERM "SERIOUS ABUSE" SHALL MEAN THAT THE REGISTERED
8 DESIGN PROFESSIONAL HAS:
9 (A) KNOWINGLY OR RECKLESSLY CERTIFIED DOCUMENTS THAT CONTAINED FALSE
10 INFORMATION OR DOCUMENTS THAT WERE NOT IN COMPLIANCE WITH APPLICABLE
11 LAW; OR
12 (B) CERTIFIED TWO APPLICATIONS WITHIN ANY TWELVE MONTH PERIOD THAT
13 CONTAINED ERRORS THAT RESULTED IN THE REVOCATION OF AN ASSOCIATED PERMIT
14 OR THAT OTHERWISE DEMONSTRATED A LACK OF KNOWLEDGE OF OR DISREGARD FOR
15 APPLICABLE LAWS; OR
16 (C) CERTIFIED AN APPLICATION OR CONSTRUCTION DOCUMENTS WHILE ON
17 PROBATION AS IMPOSED BY THE BOARD OF REGENTS PURSUANT TO SECTION SIXTY-
18 FIVE HUNDRED ELEVEN OF THIS SUBPART.
19 S 2. Section 6510 of the education law is amended by adding a new
20 subdivision 2-a to read as follows:
21 2-A. SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE
22 CITY OF NEW YORK.
23 A. NOTICE TO THE STATE DEPARTMENT OF EDUCATION. THE NEW YORK CITY
24 DEPARTMENT OF BUILDINGS IS REQUIRED TO PROVIDE WRITTEN NOTICE TO THE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 DEPARTMENT OF ANY PROFESSIONAL ENGINEER OR REGISTERED ARCHITECT WHO WAS
2 THE SUBJECT OF ANY DISCIPLINARY PROCEEDING WHERE THERE HAS BEEN AN
3 ADVERSE DETERMINATION OR SANCTION BY THE DEPARTMENT INCLUDING ANY
4 SETTLEMENT AGREEMENT THAT IS REACHED BETWEEN THE PARTIES THAT RESULTED
5 IN A SANCTION OF SELF-CERTIFICATION PRIVILEGES BEING IMPOSED BY THE
6 DEPARTMENT. SUCH NOTICE SHALL BE SENT WITHIN TEN BUSINESS DAYS AFTER A
7 DETERMINATION IS MADE IN ANY SUCH DISCIPLINARY PROCEEDING OR AFTER A
8 SETTLEMENT OF SUCH PROCEEDING HAS BEEN REACHED, AND SHALL INCLUDE THE
9 NAME, AND BUSINESS FIRM NAME AND ADDRESS OF SUCH LICENSED PROFESSIONAL,
10 AS WELL AS ANY SUPPORTING DOCUMENTATION FOR THE SANCTION IMPOSED.

11 B. AUTOMATIC SUSPENSION FOR SERIOUS ABUSES. WHERE THE DEPARTMENT HAS
12 RECEIVED WRITTEN NOTICE FROM THE DEPARTMENT OF BUILDINGS OF THE CITY OF
13 NEW YORK, PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, THAT A PROFES-
14 SIONAL ENGINEER OR REGISTERED ARCHITECT HAS BEEN SANCTIONED OR AGREED TO
15 SURRENDER HIS OR HER SELF-CERTIFICATION PRIVILEGES FOLLOWING A DISCIPLI-
16 NARY PROCEEDING, AND WHERE A STATE PROFESSIONAL CONDUCT OFFICER DETER-
17 MINES THAT THE LICENSED PROFESSIONAL'S ACTIONS CONSTITUTE A SERIOUS
18 ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK,
19 AS DEFINED IN SECTION SIXTY-FIVE HUNDRED NINE OF THIS SUBPART, THE BOARD
20 OF REGENTS SHALL IMMEDIATELY SUSPEND THE DESIGN PROFESSIONAL'S LICENCE
21 PENDING A HEARING REQUEST. THE LICENSED PROFESSIONAL SHALL BE ENTITLED
22 TO A PROMPT HEARING TO REVIEW THE DETERMINATION OF THE PROFESSIONAL
23 CONDUCT OFFICER.

24 C. PRIOR ADJUDICATIONS. THE BOARD OF REGENTS SHALL ALSO REVIEW ALL
25 NOTIFICATIONS RECEIVED FROM THE DEPARTMENT OF BUILDINGS OF THE CITY OF
26 NEW YORK, PURSUANT TO SECTION 28-104.2.1.6 OF THE ADMINISTRATIVE CODE OF
27 THE CITY OF NEW YORK, FOR THE FIVE CALENDAR YEARS IMMEDIATELY PRECEDING
28 THE EFFECTIVE DATE OF THIS SECTION. ANY PROFESSIONAL ENGINEER OR REGIS-
29 TERED ARCHITECT INCLUDED IN SUCH NOTIFICATION WHO HAS NOT BEEN THE
30 SUBJECT OF A STATE PROFESSIONAL MISCONDUCT PROCEEDING PURSUANT TO THIS
31 SECTION SHALL BE REQUIRED TO SUBMIT TO A HEARING PURSUANT TO PARAGRAPH D
32 OF THIS SUBDIVISION IF A STATE PROFESSIONAL CONDUCT OFFICER DETERMINES
33 THAT THE REGISTERED DESIGN PROFESSIONAL'S ACTIONS CONSTITUTED A SERIOUS
34 ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK
35 AS DEFINED IN SECTION SIXTY-FIVE HUNDRED NINE OF THIS SUBPART.

36 D. HEARINGS GENERALLY. IN SUCH CASES AS DESCRIBED IN PARAGRAPH C OF
37 THIS SUBDIVISION, OR WHERE A LICENSED PROFESSIONAL WHO HAS HAD HIS OR
38 HER LICENSE SUSPENDED PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION
39 REQUESTS A HEARING, OR WHERE THE EXISTING RECORD IS INSUFFICIENT FOR A
40 PROFESSIONAL CONDUCT OFFICER TO MAKE A DETERMINATION AS TO WHETHER A
41 SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM HAS OCCURRED,
42 THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION PURSUANT TO PARAGRAPH B OF
43 SUBDIVISION ONE OF THIS SECTION.

44 IF, AFTER AN INVESTIGATION, THE DEPARTMENT BELIEVES THAT A SERIOUS
45 ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF NEW YORK CITY HAS
46 OCCURRED, SUCH ACCUSATION SHALL BE INCLUDED IN THE CHARGES PREPARED FOR
47 A DISCIPLINARY PROCEEDING PURSUANT TO PARAGRAPH C OF SUBDIVISION ONE OF
48 THIS SECTION. THE DEPARTMENT AND THE BOARD OF REGENTS SHALL THEN FOLLOW
49 THE STANDARD PROCEDURE FOR A DISCIPLINARY PROCEEDING AS STATED IN THIS
50 SECTION.

51 THE BOARD OF REGENTS SHALL IMMEDIATELY SUSPEND THE PROFESSIONAL
52 LICENSE OF ANY ARCHITECT OR ENGINEER FOUND TO HAVE SERIOUSLY ABUSED THE
53 PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK.

54 S 3. This act shall take effect immediately.