

STATE OF NEW YORK

4591

2025-2026 Regular Sessions

IN SENATE

February 10, 2025

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the general municipal law, the public authorities law and the state finance law, in relation to liability of design professionals

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general municipal law is amended by adding a new
2 section 103-h to read as follows:

3 § 103-h. Design professional liability. 1. For purposes of this
4 section, the term "design professional" shall mean:

5 a. An individual licensed pursuant to articles one hundred forty-five,
6 one hundred forty-seven, and one hundred forty-eight of the education
7 law; or

8 b. Any corporation, limited liability company, partnership or other
9 business entity legally authorized to practice any of the professions
10 regulated by articles one hundred forty-five, one hundred forty-seven,
11 and one hundred forty-eight of the education law.

12 2. Any provision, clause, covenant, or agreement contained in, collat-
13 eral to, or affecting a contract executed on or after January first, two
14 thousand twenty-five between a municipal corporation, as defined in
15 section sixty-six of the general construction law, and a design profes-
16 sional for professional services related to the design, construction,
17 inspection, monitoring, repair, or maintenance of any public building,
18 structure, highway, bridge, viaduct, water or sewer system, or other
19 public facility that requires a design professional to defend or indem-
20 nify such municipal corporation, its agents, contractors, subcontractors
21 or suppliers shall be deemed void and against public policy and wholly
22 unenforceable, except as to damages that are caused by or are the prox-
23 imate result of the negligence, recklessness, or willful misconduct of
24 the design professional. Any contractual obligation permitted under this

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

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section shall be limited and enforceable only to the degree or percentage of fault attributable to such design professional. Nothing in this section shall void or render unenforceable any provision, clause, covenant or agreement that requires a design professional to defend or indemnify a municipal corporation for non-professional liability claims or damages to the extent covered by the design professional's commercial general liability insurance or automobile liability insurance.

3. Notwithstanding any provision of law to the contrary, this section shall not be construed to affect or alter section two hundred forty or two hundred forty-one of the labor law.

§ 2. The public authorities law is amended by adding a new section 2879-d to read as follows:

§ 2879-d. Design professional liability. 1. As used in this section:

a. The term "design professional" shall mean:

(1) An individual licensed pursuant to articles one hundred forty-five, one hundred forty-seven, and one hundred forty-eight of the education law, or

(2) Any corporation, limited liability company, partnership or other business entity legally authorized to practice any of the professions regulated by articles one hundred forty-five, one hundred forty-seven, and one hundred forty-eight of the education law.

b. The term "state authority" shall mean a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York, with one or more of its members appointed by the governor or who serve as members by virtue of holding a civil office of the state, other than an interstate or international authority or public benefit corporation, including subsidiaries of such public authority or public benefit corporation.

c. The term "local authority" shall mean: (1) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (2) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government; (3) a local industrial development agency or authority or other local public benefit corporation; (4) an affiliate of such local authority; or (5) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law.

2. Any provision, clause, covenant, or agreement contained in, collateral to, or affecting a contract executed on or after January first, two thousand twenty-five between a state authority or local authority and a design professional for professional services related to the design, construction, inspection, monitoring, repair, or maintenance of any public building, structure, highway, bridge, viaduct, water or sewer system, or other public facility that requires a design professional to defend or indemnify such state authority or local authority, its agents, contractors, subcontractors or suppliers shall be deemed void and against public policy and wholly unenforceable, except as to damages that are caused by or are the proximate result of the negligence, recklessness, or willful misconduct of the design professional. Any contractual obligation permitted under this section shall be limited and enforceable only to the degree or percentage of fault attributable to such design professional. Nothing in this section shall void or render unenforceable any provision, clause, covenant or agreement that requires a design professional to defend or indemnify a state authority or local

1 authority for non-professional liability claims or damages to the extent
2 covered by the design professional's commercial general liability insur-
3 ance or automobile liability insurance.

4 3. Notwithstanding any provision of law to the contrary, this section
5 shall not be construed to affect or alter section two hundred forty or
6 two hundred forty-one of the labor law.

7 § 3. Section 136-a of the state finance law is amended by adding a new
8 subdivision 6 to read as follows:

9 6. a. As used in this subdivision:

10 (1) The term "design professional" shall mean: (i) an individual
11 licensed pursuant to articles one hundred forty-five, one hundred
12 forty-seven, and one hundred forty-eight of the education law; or (ii)
13 any corporation, limited liability company, partnership or other busi-
14 ness entity legally authorized to practice any of the professions regu-
15 lated by articles one hundred forty-five, one hundred forty-seven, and
16 one hundred forty-eight of the education law.

17 (2) The term "state agency" shall mean (i) any state department, (ii)
18 any division, board, commission or bureau of any state department, (iii)
19 the state university of New York and the city university of New York,
20 including all their constituent units, or (iv) a board, a majority of
21 whose members are appointed by the governor or who serve by virtue of
22 being state officers or employees as defined in subparagraph (i), (ii)
23 or (iii) of paragraph (i) of subdivision one of section seventy-three of
24 the public officers law.

25 b. Any provision, clause, covenant, or agreement contained in, collat-
26 eral to, or affecting a contract executed on or after January first, two
27 thousand twenty-five between a state agency and a design professional
28 for professional services related to the design, construction,
29 inspection, monitoring, repair, or maintenance of any public building,
30 structure, highway, bridge, viaduct, water or sewer system, or other
31 public facility that requires a design professional to defend or indem-
32 nify such state agency, its agents, contractors, subcontractors or
33 suppliers shall be deemed void and against public policy and wholly
34 unenforceable, except as to damages that are caused by or are the proxi-
35 mate result of the negligence, recklessness, or willful misconduct of
36 the design professional. Any contractual obligation permitted under this
37 section shall be limited and enforceable only to the degree or percent-
38 age of fault attributable to such design professional. Nothing in this
39 section shall void or render unenforceable any provision, clause, coven-
40 ant or agreement that requires a design professional to defend or indem-
41 nify a state agency for non-professional liability claims or damages to
42 the extent covered by the design professional's commercial general
43 liability insurance or automobile insurance.

44 c. Notwithstanding any provision of law to the contrary, this section
45 shall not be construed to affect or alter section two hundred forty or
46 two hundred forty-one of the labor law.

47 § 4. This act shall take effect immediately.