

STATE OF NEW YORK

5364

2025-2026 Regular Sessions

IN SENATE

February 20, 2025

Introduced by Sens. COMRIE, SKOUFIS -- 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 profes-
sionals

The People of the State of New York, represented in Senate and Assem-
bly, 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-six between a municipal corporation, as defined in
15 section sixty-six of the general construction law, and a design profes-
16 sional for professional design services related to the design,
17 construction, repair, or maintenance of any public building, structure,
18 highway, bridge, viaduct, water or sewer system, or other public facili-
19 ty that requires a design professional to defend or indemnify such
20 municipal corporation, its agents, contractors, subcontractors or
21 suppliers shall be deemed void and against public policy and wholly
22 unenforceable, except as to claims that are caused by or the result of
23 the negligence, recklessness, or willful misconduct of the design

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

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1 professional. Any contractual obligation permitted under this section
2 shall be limited and enforceable only to the degree or percentage or
3 fault attributable to such design professional.

4 § 2. The public authorities law is amended by adding a new section
5 2879-d to read as follows:

6 § 2879-d. Design professional liability. 1. As used in this section:

7 a. The term "design professional" shall mean:

8 (1) An individual licensed pursuant to articles one hundred forty-
9 five, one hundred forty-seven, and one hundred forty-eight of the educa-
10 tion law, or

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

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

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

33 2. Any provision, clause, covenant, or agreement contained in, collat-
34 eral to, or affecting a contract executed on or after January first, two
35 thousand twenty-six between a state authority or local authority and a
36 design professional for professional design services related to the
37 design, construction, repair, or maintenance of any public building,
38 structure, highway, bridge, viaduct, water or sewer system, or other
39 public facility that requires a design professional to defend or indem-
40 nify such state authority or local authority, its agents, contractors,
41 subcontractors or suppliers shall be deemed void and against public
42 policy and wholly unenforceable, except as to claims that are caused by
43 or the result of the negligence, recklessness, or willful misconduct of
44 the design professional. Any contractual obligation permitted under this
45 section shall be limited and enforceable only to the degree or percent-
46 age or fault attributable to such design professional.

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

49 6. a. As used in this subdivision:

50 (1) The term "design professional" shall mean: (i) an individual
51 licensed pursuant to articles one hundred forty-five, one hundred
52 forty-seven, and one hundred forty-eight of the education law; or (ii)
53 any corporation, limited liability company, partnership or other busi-
54 ness entity legally authorized to practice any of the professions regu-
55 lated by articles one hundred forty-five, one hundred forty-seven, and
56 one hundred forty-eight of the education law.

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

9 b. Any provision, clause, covenant, or agreement contained in, collat-
10 eral to, or affecting a contract executed on or after January first, two
11 thousand twenty-six between a state agency and a design professional for
12 professional design services related to the design, construction,
13 repair, or maintenance of any public building, structure, highway,
14 bridge, viaduct, water or sewer system, or other public facility that
15 requires a design professional to defend or indemnify such state agency,
16 its agents, contractors, subcontractors or suppliers shall be deemed
17 void and against public policy and wholly unenforceable, except as to
18 claims that are caused by or the result of the negligence, recklessness,
19 or willful misconduct of the design professional. Any contractual obli-
20 gation permitted under this section shall be limited and enforceable
21 only to the degree or percentage or fault attributable to such design
22 professional.

23 § 4. This act shall take effect immediately.