§ 214-d. Limitations on certain actions against licensed engineers and architects. 1. Any person asserting a claim for personal injury, wrongful death or property damage, or a cross or third-party claim for contribution or indemnification arising out of an action for personal injury, wrongful death or property damage, against a licensed architect, engineer, land surveyor or landscape architect or against a partnership, professional corporation or limited liability company lawfully practicing architecture, engineering, land surveying or landscape architecture which is based upon the professional performance, conduct or omission by such licensed architect, engineer, land surveyor or landscape architect or such firm occurring more than ten years prior to the date of such claim, shall give written notice of such claim to each such architect, engineer, land surveyor or landscape architect or such firm at least ninety days before the commencement of any action or proceeding against such licensed architect, engineer, land surveyor or landscape architect or such firm including any cross or third-party action or claim. The notice of claim shall identify the performance, conduct or omissions complained of, on information and belief, and shall include a request for general and special damages. Service of such written notice of claim may be made by any of the methods permitted for personal service of a summons upon a natural person, partnership or professional corporation. A notice of claim served in accordance with this section shall be filed, together with proof of service thereof, in any court of this state in which an action, proceeding or cross or third-party claim arising out of such conduct may be commenced or interposed, within thirty days of the service of the notice of claim. Upon the filing of any such notice of claim, a county clerk shall collect an index number fee in accordance with section eight thousand eighteen of this chapter and an index number shall be assigned.

2. In such pleadings as are subsequently filed in any court, each party shall represent that it has fully complied with the provisions of this section.

3. Service of a notice as provided in this section shall toll the applicable statute of limitations to and including a period of one hundred twenty days following such service.

4. From and after the date of service of the notice provided for in subdivision one of this section, the claimant shall have the right to serve a demand for discovery and production of documents and things for inspection, testing, copying or photographing in accordance with rule three thousand one hundred twenty of this chapter. Such demand shall be governed by the procedures of article thirty-one of this chapter. In addition, the claimant shall have the right to the examination before trial of such licensed architect, engineer, land surveyor or landscape architect or such firm or to serve written interrogatories upon such licensed architect, engineer, land surveyor or landscape architect or such firm after service of and compliance with a demand for production and inspection in accordance with this section. The court may, at any time at its own initiative or on motion of such licensed architect, engineer, land surveyor or landscape architect or such firm deny, limit, condition or restrict such examination before trial or written interrogatories upon a showing that such claimant has failed to establish reasonable necessity for the information sought or failed to establish that the information sought by such examination or interrogatories cannot reasonably be determined from the documents or things provided in response to a demand for production and inspection served in accordance with this section. Such examination before trial or interrogatories shall otherwise be governed by article thirty-one of this chapter.

5. After the expiration of ninety days from service of the notice provided in subdivision one of this section, the claimant may commence or interpose an action, proceeding or cross or third-party claim against such licensed architect, engineer, land surveyor or landscape architect or such firm. The action shall proceed in every respect as if the action were one brought on account of conduct occurring less than ten years prior to the claim described in said action, unless the defendant architect, engineer, land surveyor or landscape architect or such firm shall have made a motion under rule three thousand two hundred eleven or three thousand two hundred twelve of this chapter, in which event the action shall be stayed pending determination of the motion. Such motion shall be granted upon a showing that such claimant has failed to comply

with the notice of claim requirements of this section or for the reasons set forth in subdivision (h) of rule three thousand two hundred eleven or subdivision (i) of rule three thousand two hundred twelve of this chapter; provided, however, such motion shall not be granted if the moving party is in default of any disclosure obligation as set forth in subdivision four of this section.

6. No claim for personal injury, or wrongful death or property damage, or a cross or third-party claim for contribution or indemnification arising out of an action for personal injury, wrongful death or property damage may be asserted against a licensed architect, engineer, land surveyor or landscape architect or such firm arising out of conduct by such licensed architect, engineer, land surveyor or landscape architect or such firm occurring more than ten years prior to the accrual of such claim shall be commenced or interposed against any such licensed architect, engineer, land surveyor or landscape architect or such firm unless it shall appear by and as an allegation in the complaint or necessary moving papers that the claimant has complied with the requirements of this section. Upon the commencement of such a proceeding or action or interposition of such cross or third-party claim, a county clerk shall not be entitled to collect an index number fee and such action, proceeding or cross or third-party claim shall retain the previously assigned index number. Such action, proceeding or cross or third-party claim shall otherwise be governed by the provisions of this chapter.

7. The provisions of this section shall apply only to a licensed architect, engineer, land surveyor or landscape architect or such firm practicing architecture, engineering, land surveying or landscape architecture in the state of New York at the time the conduct complained of occurred and shall not apply to any person or entity, including but not limited to corporations, which was not licensed as an architect, engineer, land surveyor or landscape architect or such firm in this state or to a firm not lawfully practicing architecture, engineering, land surveying or landscape architecture at the time the conduct complained of occurred.

8. The provisions of this section shall not be construed to in any way alter or extend any applicable statutes of limitations except as expressly provided herein.