

Proposed Int. No. 309-A

By Council Members Vacca, Nelson, Addabbo Jr., Avella, Fidler, Gentile, James, Koppell, Sanders Jr., Seabrook, Stewart, Weprin, Liu, Arroyo, White Jr., Mendez, McMahon, Gonzalez, Comrie, Jackson, Gallagher and Oddo

A Local Law to amend the administrative code of the city of New York, in relation to sanctioning professional engineers and registered architects who knowingly or negligently professionally certify a false or noncompliant building permit application or plans.

Be it enacted by the Council as follows:

Section 1. Article 9 of subchapter one of chapter one of title 27 is amended by adding a new section 27-143.2:

§27-143.2 Professional certification of application and plans. a. Definitions. For the purposes of this section, the following terms shall have the following meanings:

i. “Professional certification” or “professionally certify” means the submission to the department of a signed, personal verification made by a professional engineer or registered architect that accompanies an application and/or plans filed with the department for less than full review that attests that such application or plans do not contain any false information and that such application or plans are in compliance with all applicable provisions of law.

ii. “Probation” means a six-month period that begins after professional certification privileges that have been suspended or revoked are restored by the commissioner.

b. The commissioner shall suspend, revoke or otherwise condition the professional certification privileges of each professional engineer or registered architect who has been found, after a hearing at the office of administrative trials and hearings pursuant to the department’s rules, to have 1) knowingly or negligently professionally

certified an application and/or plans that contained false information or were not in compliance with all applicable provisions of law or 2) submitted two professionally certified applications within any twelve-month period that either led to revocation of a permit or otherwise demonstrated incompetence or a lack of knowledge of applicable laws. The term “otherwise condition” shall include, but not be limited to, limitations on the permission to professionally certify certain applications, such as, but not limited to, an application for what the department deems to be a type one alteration permit, and additional audits and monitoring of such professional’s work.

c. A professional engineer or registered architect who has had his or her professional certification privileges suspended or revoked in accordance with subdivision b of this section may apply for the restoration of professional certification privileges one year or more after such privileges were suspended or revoked by the department. The department may restore such privileges and, in such case, shall place the professional engineer or registered architect on probation.

d. Any professional engineer or registered architect who has been placed on probation by the department shall be required to attend one or more training or continuing education courses related to compliance with the building code and related laws, rules and regulations, the zoning resolution, or all of these. Such course or courses shall be provided by or approved by the department, as shall be determined by the commissioner.

e. A professional engineer or registered architect whose professional certification privileges have been conditioned on the successful completion of any mandatory training or continuing education courses shall provide proof acceptable to the commissioner of the

successful completion of such mandatory training or continuing education courses before the expiration of the time period imposed by the commissioner for compliance.

f. The commissioner shall permanently revoke, without the opportunity of restoration, the professional certification privileges of a professional engineer or registered architect who, while on probation, professionally certifies an application, plans or other document that contains false information or is not in compliance with all applicable provisions of law or who otherwise demonstrates incompetence or a lack of knowledge of applicable laws.

g. Nothing herein shall be construed to limit the commissioner's power, consistent with state and local law, to adopt rules that include additional grounds to limit the filing privileges of or otherwise sanction professional engineers or registered architects who have been determined after a hearing to have knowingly or negligently submitted applications or other documents to the department that contained false information or were not in compliance with all applicable provisions of law or who have otherwise demonstrated incompetence or a lack of knowledge of applicable law or standards.

h. The department shall create and maintain a database of all professional engineers and registered architects whose privileges to professionally certify applications or plans or other documents have been revoked, suspended or otherwise conditioned. Within seven business days of the issuance by the commissioner of a notice or other document revoking, suspending or otherwise conditioning the privilege to certify documents pursuant to this article, the department shall post on its website the name of the professional engineer or registered architect whose privileges have been limited, a description of the limitation, the initial date of the limitation, the restoration date if and

when applicable, the addresses of the locations for the applications or permits associated with the limitation, and whether the limitation was imposed after a hearing or a settlement. The department shall, within thirty days, provide information concerning any revocation, suspension or condition with respect to a specific professional engineer or registered architect in the database referred to in this subdivision, and any additional information requested concerning such revocation, suspension or condition, to every person who requests such information from the department.

§2. This local law shall take effect immediately upon enactment, except that the provisions of subdivision d of section 27-143.2 as added by section one of this local law shall take effect one hundred and twenty-days after enactment.

01-24-07, 8-30 pm