

## NOTICE OF PUBLIC HEARING

**Subject:** Opportunity to comment on proposed rule relating to registered filing representatives.

**Date / Time:** October 4, 2012 / 10am

**Location:** Department of Buildings  
280 Broadway, 3rd Floor  
New York, NY 10007

**Contact:** Adam Goold  
Assistant General Counsel  
Department of Buildings  
280 Broadway  
New York, NY 10007

### Proposed Rule

Pursuant to the authority vested in the Commissioner of Buildings by section 643 of the New York City Charter, and in accordance with section 1043 of the Charter, the Department of Buildings proposes to REPEAL Section 31-01 of Chapter 31, add a new Section 104-24 to Subchapter A of Chapter 100, and amend Sections 101-03 of Subchapter A of Chapter 100, 104-03 of Subchapter D of Chapter 100, and 104-06 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York. Matter underlined is new; matter [in brackets] is deleted. The rule was included in the agency's most recent regulatory agenda.

### Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment to Adam Goold by mail or electronically through the NYC Rules website at <http://www.nyc.gov/nycrules> by October 4, 2012.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Adam Goold by September 18, 2012.
- Written comments and a summary of oral comments received at the hearing will be available until November 5, 2012 between the hours of 9:00 a.m. and 5:00 p.m. at the Office of the Commissioner, Department of Buildings, 280 Broadway, 7<sup>th</sup> floor, New York, NY 10007.

## **Statement of Basis and Purpose of Proposed Rule**

The foregoing rule is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043 of the New York City Charter.

In promulgating this rule, the Commissioner is exercising the authority of Section 28-416.3 of Article 416 of the New York City Administrative Code, which states, "The commissioner shall promulgate rules for the proper and efficient administration and enforcement of this article. Unless required by rule, a registered filing representative shall not be required to take an examination or to complete continuing education courses as a condition for renewal of the registration." This authority is being exercised at this time to meet the needs of the construction industry and the Department for qualified registered filing representatives.

The construction industry, including architects, engineers, contractors and owners, often use the services of registered filing representatives to present, submit, furnish and/or seek approval of applications or construction documents, and to remove documents from the possession of the Department of Buildings ("DOB"). These construction documents are then reviewed by DOB plan examiners and/or other DOB technical staff who may issue objections if the construction documents do not comply with the Construction Codes, zoning or other applicable law, rule or requirement. These objections should be addressed by persons with some threshold knowledge of the construction documents and the applicable procedures and requirements. Sometimes the person who presents, submits, or furnishes the documents is not qualified or prepared to address the objections issued by the plan examiner or other technical staff. In such instances, the approval process is delayed.

To eliminate this problem and ensure the efficient processing of construction documents, DOB is proposing a rule that creates training, education, filing experience and continuing education requirements for registered filing representatives. These requirements will create two classes of registered filing representative:

- Class 2 Registered Filing Representatives, who will be permitted to present, submit, furnish or seek approval of applications or construction documents, and remove documents from the possession of DOB, and who will be qualified to meet with plan examiners and other technical staff to address objections; and,
- Class 1 Registered Filing Representatives, who will be limited to presenting, submitting, furnishing or seeking approval of applications or construction documents, and removing documents from the possession of DOB.

By creating these two classes of registered filing representatives, the proposed rule will:

- Assist the Department, the construction industry, and the public in identifying qualified individuals to support their filings; and
- Expedite the approval process by ensuring that only qualified registered filing representatives appear before plan examiners and other technical staff to address objections.

For those individuals who do not have the academic requirements to qualify for Class 2 status, the rule provides a two-month window of opportunity (April 1-June 1, 2013) in which such individuals will be eligible to register as Class 2 representatives based solely on their years of experience and number of jobs filed with DOB.

The proposed rule also restates the existing fee structure set forth in Section 28-401.15 of Article 401 of the New York City Administrative Code to align with the proposed, triennial filing representative registration term.

Finally, the proposed rule amends Section 104-03 of the Rules of the City of New York to provide that the initial term of a filing representative's registration will be three years, beginning on the applicant's birthday following the date of registration, and that the registration may be renewed for terms of three years. Section 104-03 is also being amended to clarify that the term of a general contractor registration is three years, beginning on the applicant's birthday following the date of registration, and that the term of a master electrician or special electrician license is one year, beginning on the applicant's birthday following the date of issuance. .

Section 1. Section 31-01 of Chapter 31 of Title 1 of the Rules of the City of New York, relating to Suspension, revocation or limitation of registration of persons who present, submit, furnish or seek approval of applications for approval of plans or remove any documents from the possession of the Department of Buildings, is REPEALED.

§2. Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Section 104-24, to read as follows:

§104-24 Registered filing representatives. This section establishes two types of filing representative and sets forth the training, education, and experience requirements necessary at registration for both classes of representative.

(a) References. See Article 416 of Title 28 of the New York City Administrative Code.

(b) Definitions. For the purposes of this chapter, the following terms mean:

(1) Architect. A person licensed and registered to practice the profession of architecture under the education law of the state of New York.

(2) Engineer. A person licensed and registered to practice the profession of engineering under the education law of the state of New York.

(3) Registered design professional. An architect or engineer.

(4) Registered design professional of record. The registered design professional who prepared or supervised the preparation of applicable construction documents filed with the department.

(c) Class 1 registered filing representatives. Class 1 filing representatives may, following registration and issuance of an identification card, present, submit, furnish or seek approval of applications or construction documents, and remove documents from the possession of the department. However, beginning July 1, 2013, such filing representatives cannot appear before or attend appointments with plan examiners and other department technical staff regarding construction document approvals, including, but not limited to, plan review, audit review, pre-determinations, and determinations.

(d) Class 1 filing representative registration requirements. Beginning April 1, 2014, those seeking class 1 filing representative status must submit the following at registration:

(1) Proof of the successful completion of a sixteen- (16) hour training course, approved by the department, within one (1) year of application for registration, in the following areas:

- (i) The New York City Building Code;
- (ii) The New York City Energy Conservation Code;
- (iii) The New York City Zoning Resolution; and
- (iv) Relevant provisions of the New York City Administrative Code and department practices.

(2) Proof of the successful completion of a department-approved, integrity training.

(e) Class 1 filing representative renewal requirements. During the one (1) year immediately prior to renewal, or beginning July 1, 2014 the three (3) years immediately prior to renewal, a class 1 registered filing representative must have attended and successfully completed a Department-administered or Department-approved integrity training and the sixteen- (16) hour training course required by subdivision (d) of this rule. If the sixteen- (16) hour training course was successfully completed prior to registration, it need not be completed again prior to renewal. Proof of completion of such course(s) must be submitted to the Department at renewal.

(f) Class 2 registered filing representatives. Class 2 registered filing representatives (also referred to as "code and zoning representatives") may, following registration and issuance of an identification card, perform all of the activities of a class 1 registered filing representative and may also appear before and attend appointments with plan examiners and other department technical staff regarding construction document approvals, including, but not limited to, plan review, audit review, pre-determinations, and determinations. Class 2 registered filing representatives may also appear or attend such appointments at the NYC Development Hub, in person or online, when accompanied by the registered design professional of record or an individual employed and supervised by the registered design professional of record in the preparation of the construction documents being discussed.

(g) Class 2 filing representative registration requirements. Beginning April 1, 2013, those seeking class 2 filing representative status must submit the following at registration:

(1) Proof of the successful completion of a thirty-six- (36) hour training course approved by the department, within one (1) year of application for registration, in the following areas:

- (i) The New York City Building Code;
- (ii) The New York City Energy Conservation Code;
- (iii) The New York City Zoning Resolution; and
- (iv) Relevant provisions of the New York City Administrative Code and department practices.

(2) Proof of:

(i) A four (4) year degree in Architecture or Engineering from an accredited college; or

(ii) A four (4) year degree in another field from an accredited college, and proof of four (4) years of filing experience with the department with at least one hundred (100) jobs within six (6) years of application for registration; or

(iii) Eight (8) years of filing experience with the department with at least two hundred (200) jobs within ten (10) years of application for registration. Those seeking class 2 filing representative status under this paragraph only must submit all necessary documentation for registration between April 1, 2013 and June 1, 2013.

(3) Proof of the successful completion of a department-approved, integrity training.

(h) Class 2 filing representative renewal requirements. Class 2 registered filing representatives must have attended and successfully completed a Department-administered or Department-approved integrity training and have successfully completed a sixteen- (16) hour, Department-approved, refresher course within the three (3) years immediately prior to renewal. Proof of completion of such course(s) must be submitted to the Department at renewal.

(g) Additional powers of the commissioner. The commissioner may, upon a determination of good cause, extend the dates and deadlines set forth in this rule.

(h) Suspension or revocation. Filing representative registration may be suspended or revoked in accordance with Section 28-401.19 of the New York City Administrative Code.

§3. Paragraph (4) of Subdivision (b) of Section 104-06 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(4) Filing Representative. [During the one (1) year immediately prior to renewal, the registrant shall have attended at Department-administered or Department-approved integrity training.] Renewals for class 1 or class 2 filing representative registration are subject to the requirements set forth in 1 RCNY 104-24.

§4. Subdivision (h) of Section 104-03 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is relettered Subdivision (i), a new Subdivision (h) is added, and Subdivisions (d) and (g) are amended, to read as follows:

(d) The term of an initial general contractor registration [issued to a new or renewal applicant shall be three (3) years, measured from the date of the applicant's birthday] is three (3) years, beginning on the applicant's birthday following the date of registration, and may be renewed for additional three (3) year periods after such initial registration.

(g) The term of an initial master electrician or special electrician license [issued to a new or renewal applicant shall be one (1) year, measured from the date of the applicant's birthday] is one (1) year, beginning on the applicant's birthday following the date of issuance, and may be renewed for additional one (1) year periods after such initial issuance.

(h) The term of an initial filing representative registration is three (3) years, beginning on the applicant's birthday following the date of registration, and may be renewed for additional three (3) year periods after such initial registration. Changing from a class 1 registered filing representative to a class 2 registered filing representative will require a new registration.

[(h)] (i) Nothing contained herein shall limit the authority of the Commissioner to stagger the issuance of licenses based on considerations other than the date of issuance of the license or to otherwise provide for reasonable implementation of modifications to license terms.

§5. Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entry to the end of the table set forth in that section:

<u>Filing representative registration.</u>	<u>Initial:</u> <u>\$50 for a 1-year registration or</u>	<u>Renewal:</u> <u>\$50 for a 1-year renewal or \$150 for a</u>	<u>Late-renewal:</u> <u>\$50</u>	<u>Reissuance:</u> <u>\$50</u>
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	<u>\$150 for a 3-year registration.</u>	<u>3-year renewal.</u>		
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NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400

CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)

**RULE TITLE: Amendment of Rules Governing Filing Representatives**  
**REFERENCE NUMBER: DOB-33**  
**RULEMAKING AGENCY: DOB**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco Navarro  
Mayor's Office of Operations

July 24, 2012  
Date

NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-788-1087

CERTIFICATION PURSUANT TO  
CHARTER §1043(d)

**RULE TITLE:** Amendment of Rules Governing Filing Representatives

**REFERENCE NUMBER:** 2012 RG 058

**RULEMAKING AGENCY:** Department of Buildings

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

July 23, 2012  
Date