

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter and Article 416 of Title 28 of the New York City Administrative Code, that the Department of Buildings hereby **REPEALS** Section 31-01 of Chapter 31, adds a new Section 104-24 to Subchapter A of Chapter 100, and amends 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, regarding registered filing representatives.

This rule was first published on September 4, 2012 and a public hearing thereon was held on October 4, 2012.

Dated: 3/12/2013  
New York, New York

  
Robert D. LiMandri  
Commissioner

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

The following rule is promulgated 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 set forth in 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 laws, or other relevant rules or requirements. 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 adopting 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 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 (May 1- June 30, 2013) in which such individuals will be eligible to register as class 2 representatives based solely on their years as a registered filing representative with DOB and number of jobs filed with DOB.

The 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 triennial filing representative registration term.

In addition, the rule amends Section 104-03 of the Rules of the City of New York to provide that, beginning July 1, 2014, the 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.

A public hearing on this rule was held on October 4, 2012. In response to comments received, the Department has made the following changes and clarifications to the following provisions of the rule:

- Subdivision (a) of Section 104-24: added a reference to Section 28-416.2 of the New York City Administrative Code, which sets forth a list of persons exempt from filing representative registration.
- Subdivision (b)(3) of Section 104-24: added a definition of the term "Job."
- Subdivision (c) of Section 104-24: clarified who constitutes "department technical staff."
- Subdivision (d) of Section 104-24: added a requirement that beginning May 1, 2013, those seeking class 1 filing representative status must complete a department-approved, integrity training prior to registration.
- Subdivision (f) of Section 104-24: clarified when a class 2 representative can appear/attend appointments at the NYC Development Hub.
- Subdivision (g) of Section 104-24: eased the registration requirements for class 2 applicants and made changes to dates at which the new requirements will begin to apply:
  - The final rule does not require the completion of a thirty-six hour training course until 2014. The proposed rule required completion of such course by 2013.

- The final rule imposes certain registration requirements beginning May 1, 2013, while the proposed rule imposed them beginning on April 1, 2013. This change was made to conform with Section 28-401.12 of the New York City Administrative Code, which states that applications for renewals of licenses shall be made no more than 60 calendar days prior to the expiration date of such license.
- Subdivision (g)(1)(i)(B) & (g)(2)(i)(B) of Section 104-24: For applicants submitting proof of a four year degree other than in Architecture or Engineering, the final rule lessened the requirements from 4 years of filing experience with at least 100 jobs within 6 years of application for registration, to 2 years as a registered filing representative with at least 50 jobs within 4 years of application for class 2 filing representative status.
- Subdivision (g)(1)(i)(C) of Section 104-24: During the two-month window for registration without submission of proof of academic degree, the final rule lessened requirements from 8 years of filing experience with at least 200 jobs within 10 years of application for registration, to 4 years as a registered filing representative with at least 125 jobs within 8 years of application for class 2 filing representative status. The time period for such registration was also changed from April 1 - June 1, 2013 to May 1- June 30, 2013.
- Subdivision (h) of Section 104-24: separated class 2 filing representative renewal requirements into 2 parts:
  - Beginning July 1, 2014, during the one (1) year immediately prior to renewal, a class 2 registered filing representative must complete an integrity training and the thirty-six- (36) hour training course.
  - Beginning July 1, 2017, during the three (3) years immediately prior to renewal, a class 2 registered filing representative must complete an integrity training and a sixteen- (16) hour, Department-approved, refresher course.
- Subdivision (h) of Section 104-03: lessened the fee for changing from a class 1 representative to a class 2 representative, from a \$150 registration fee to a \$50 reissuance fee.

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 representatives and sets forth the training, education, and experience requirements necessary at registration for both classes of representatives.

(a) References. See Article 416 of Title 28 of the New York City Administrative Code and Section 28-416.2 of same for a list of persons exempt from filing representative registration.

(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) Job. An application with an individual job number filed by the registered design professional of record. This does not include limited alteration applications, post-approval amendments, electrical applications, or demolition applications.

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

(5) 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 including, but not limited to code and zoning specialists, plan examiners, chief plan examiners, borough commissioners, and deputy borough commissioners, regarding

construction document approvals, including, but not limited to, plan review, audit review, pre-determinations, and determinations.

(d) Class 1 filing representative registration requirements.

(1) Beginning May 1, 2013, those seeking class 1 filing representative status must submit proof of the successful completion of a department-approved, integrity training at registration.

(2) Beginning May 1, 2014, those seeking class 1 filing representative status must submit the following at registration:

(i) 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:

(A) The New York City Building Code;

(B) The New York City Energy Conservation Code;

(C) The New York City Zoning Resolution; and

(D) Relevant provisions of the New York City Administrative Code and department practices.

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

(e) Class 1 filing representative renewal requirements. Beginning July 1, 2014, during the one (1) year immediately prior to renewal, or beginning July 1, 2017, during 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. However, class 2 registered filing representatives can only appear before, or attend such

appointments at, the NYC Development Hub for New Building applications, Alteration Type 1 applications, and any and all related applications, in person or online, if they are employed and supervised by the registered design professional of record. If not, when appearing before or attending such appointments at the NYC Development Hub, class 2 registered filing representatives must be 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 requirements.

(1) Beginning May 1, 2013, those seeking class 2 filing representative status must submit the following:

(i) Proof of:

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

(B) A four (4) year degree in another field from an accredited college, and proof of two (2) years as a registered filing representative with the department with at least fifty (50) jobs filed within four (4) years of application for class 2 filing representative status; or

(C) Those who do not meet the requirements of paragraphs (i) or (ii) above may register and submit proof of the following during the limited time period of May 1, 2013 through June 30, 2013 only: four (4) years as a registered filing representative with the department with at least one hundred and twenty-five (125) jobs filed within eight (8) years of application for class 2 filing representative status.

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

(2) Beginning May 1, 2014, those seeking class 2 filing representative status must submit the following:

(i) Proof of:

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

(B) A four (4) year degree in another field from an accredited college, and proof of two (2) years as a registered

filing representative with the department with at least fifty (50) jobs filed within four (4) years of application for class 2 filing representative status; or

(ii) Proof of the successful completion of a thirty-six- (36) hour training course approved by the department, within one (1) year of application for class 2 filing representative status, in the following areas:

(A) The New York City Building Code;

(B) The New York City Energy Conservation Code;

(C) The New York City Zoning Resolution; and

(D) Relevant provisions of the New York City Administrative Code and department practices.

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

(h) Class 2 filing representative renewal requirements.

(1) Beginning July 1, 2014, during the one (1) year immediately prior to renewal, a class 2 registered filing representative must have attended and successfully completed a Department-administered or Department-approved integrity training and the thirty-six- (36) hour training course required by subdivision (g) of this rule. If the thirty-six- (36) 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.

(2) Beginning July 1, 2017, during the three (3) years immediately prior to renewal, a class 2 registered filing representative must have attended and successfully completed a Department-administered or Department-approved integrity training and a sixteen- (16) hour, Department-approved, refresher course. Proof of completion of such course(s) must be submitted to the Department at renewal.

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

(j) 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) Beginning July 1, 2014, 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 payment of a reissuance fee.

[(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</u>	<u>Initial:</u> \$50 for a 1-	<u>Renewal:</u> \$50 for a 1-	<u>Late-renewal:</u> \$50	<u>Reissuance:</u> \$50
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<u>registration.</u>	<u>year registration or \$150 for a 3-year registration.</u>	<u>year renewal or \$150 for a 3-year renewal.</u>		
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