S T A T E O F N E W Y O R K

3190--A

2009-2010 Regular Sessions

I N S E N A T E

March 12, 2009

Introduced by Sens. SAVINO, AUBERTINE, DIAZ, HASSELL-THOMPSON, KLEIN, ONORATO, OPPENHEIMER, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to enacting the New York water-based fire protection licensure act for the purpose of regulating the business of layout, installing, servicing, repairing, inspecting, testing and maintenance of automatic water-based fire protection systems

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Short title. This act shall be known and may be cited as the "New York state water-based fire protection licensure act".

S 2. Legislative intent. It is declared that there exists and may in the future exist within the state locations where water-based fire protection systems are installed and improper installation and/or improper inspection, testing, and maintenance of existing fire protection systems may adversely affect the public health, safety and general welfare. It is further acknowledged that fire protection systems are critical life and property safety systems and said systems whose layout, installing, servicing, repairing, inspecting, testing, or maintenance require specialized knowledge and experience.

Therefore the purpose of this act is to protect, promote and preserve the public health, safety and general welfare by providing for the establishment of minimum standards for licensure of water-based fire protection system installation contractors, certification of responsible managing employees, as well as establish penalties for improper layout, installing, servicing, repairing, inspecting, testing, or maintaining of fire protection systems and prohibit unlicensed activities.

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

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S 3. The executive law is amended by adding a new article 7-B to read as follows:

ARTICLE 7-B
WATER-BASED FIRE PROTECTION
LICENSURE ACT

SECTION 178. DEFINITIONS.
178-A. CONTRACTOR LICENSE AND RME CERTIFICATE REQUIREMENTS; SCOPE OF PRACTICE; PENALTIES FOR NON-COMPLIANCE.
178-B. POWERS OF THE OFFICE OF FIRE PREVENTION AND CONTROL.
178-C. NEW LICENSING AND CERTIFICATION REQUIREMENTS.
178-D. LICENSING AND CERTIFICATION REQUIREMENTS FOR EXISTING CONTRACTORS.
178-E. FIRE SUPPRESSION SPECIALISTS.
178-F. LICENSE: APPLICATION; INSURANCE; DISPLAY; DUPLICATES.
178-G. LICENSE: RENEWAL; CONTINUING EDUCATION.
178-H. INSPECTION OF FIRE PROTECTION SYSTEMS.
178-I. FEES.
178-J. SUSPENSION AND REVOCATION OF LICENSES AND CERTIFICATES.
178-K. HEARING ON CHARGES; DECISION.
178-L. JUDICIAL REVIEW.
178-M. VIOLATIONS AND PENALTIES.
178-N. OFFICIAL ACTS USED AS EVIDENCE.
178-O. DISPOSITION OF MONEYS DERIVED FROM OPERATION OF ARTICLE.
178-P. APPLICABILITY.
178-Q. CONTRACTUAL AGREEMENTS.
178-R. ELECTRONIC INFORMATION.
178-S. SEPARABILITY.

S 178. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT REQUIRES OTHERWISE:

1. "A/D/B/A" MEANS ALSO DOING BUSINESS AS.

2. "ADVISORY COUNCIL" MEANS THE NEW YORK FIRE PROTECTION ADVISORY COUNCIL (NYFPAC) ESTABLISHED BY THE OFFICE OF FIRE PREVENTION AND CONTROL. THE COUNCIL SHALL BE THE APPROVING BODY OF ALL RULES, REQUIREMENTS, AND FUTURE MODIFICATIONS AFFECTING TRAINING, LICENSURES, CERTIFICATIONS AND OTHER ISSUES WITHIN THIS ARTICLE.

3. "APPRENTICE SPRINKLER FITTER" MEANS A PERSON WITH INTEREST IN AND APTITUDE FOR PERFORMING FIRE SUPPRESSION WORK KNOWN AS, BUT NOT LIMITED TO, FIRE SPRINKLER FITTING WORK BUT WHO ALONE IS NOT CAPABLE OF PERFORMING FIRE SUPPRESSION WORK, AND SUCH PERSON MUST BE ENROLLED IN A NEW YORK STATE REGISTERED FIRE SPRINKLER FITTER APPRENTICESHIP PROGRAM.

4. "APPROVED APPRENTICESHIP PROGRAM" MEANS AN APPRENTICESHIP TRAINING PROGRAM RECOGNIZED BY THE INDUSTRY AND CERTIFIED AS AN APPRENTICESHIP PROGRAM BY THE STATE OF NEW YORK OR THE UNITED STATES DEPARTMENT OF LABOR.

5. "BUSINESS ENTITY" MEANS A FIRM, COMPANY, PARTNERSHIP, LIMITED LIABILITY COMPANY OR CORPORATION.

6. "ENGINEER OF RECORD" MEANS A PROFESSIONAL ENGINEER LICENSED IN ACCORDANCE WITH ARTICLE ONE HUNDRED FORTY-FIVE OF THE EDUCATION LAW AND QUALIFIED BY EXPERIENCE AND TRAINING TO PROVIDE DESIGN CRITERIA FOR FIRE PROTECTION SYSTEMS TO INCLUDE: (A) SELECTION OF TYPE OF SYSTEM AND COMPONENTS; (B) CLASSIFICATION OF THE HAZARD AND COMMODITIES TO BE PROTECTED; (C) THE DENSITY AND WATER FLOW AND PRESSURE REQUIREMENTS FOR THE SPRINKLER SYSTEM DESIGN; (D) CONFIRMATION OF THE AVAILABLE WATER SUPPLY DATA; (E) PRELIMINARY HYDRAULIC CALCULATIONS TO VERIFY ADEQUACY OF PROPOSED WATER SUPPLY ARRANGEMENTS; (F) REASONABLE EFFORTS TO IDENTI-

FY WATER SUPPLIES THAT COULD LEAD TO MICROBIOLOGICALLY INFLUENCED CORROSION (MIC); AND (G) SEISMIC INFORMATION.

7. "FEE", "EXAMINATION FEE", "CERTIFICATION FEE", "LICENSE FEE", AND/OR "RENEWAL FEE" MEANS THE FEES REQUIRED TO ACCOMPANY AN APPLICATION OR ISSUANCE OF ANY CERTIFICATE OR LICENSE, INCLUDING ANY TEMPORARY OR RENEWAL CERTIFICATE OR LICENSE, PURSUANT TO THIS ARTICLE. SUCH FEE SHALL BE NON-REFUNDABLE.

8. "FIRE SUPPRESSION" MEANS

(A) THE PRACTICE, MATERIALS, AND EQUIPMENT, IN OR ADJACENT TO A BUILDING, OR PREMISES, USED IN THE INSTALLATION, MAINTENANCE, EXTENSION, OR ALTERATION OF ALL PIPING, MATERIALS, AND EQUIPMENT, BOTH ABOVE AND BELOW GROUND, AS DEFINED BY THE STATE FIRE CODE, IN CONNECTION WITH THE DISCHARGE OF WATER, BACKFLOW PREVENTERS, AND PRIVATE WATER SUPPLY SYSTEMS, FOR THE EXPRESS PURPOSE OF EXTINGUISHING AND CONTROLLING FIRE; AND

(B) THE PRACTICE OF INSTALLING, REPAIRING, TESTING AND SERVICING FIRE SUPPRESSION OR FIRE FIGHTING SYSTEMS INCLUDING BOTH OVERHEAD PIPING AND UNDERGROUND FIRE WATER MAINS, BACKFLOW PREVENTERS, FIRE HYDRANTS AND HYDRANT MAINS, STANDPIPES AND HOSE CONNECTIONS TO THE FIRE SPRINKLER SYSTEMS, FIRE SPRINKLER TANK HEATERS, AIR LINES AND THERMAL SYSTEMS USED IN CONNECTION WITH FIRE SPRINKLER SYSTEMS, TANK AND PUMP CONNECTIONS, AND FIRE PROTECTION SYSTEMS AS DEFINED BY THE STATE FIRE CODE.

9. "FIRE SPRINKLER SYSTEM" MEANS ANY WATER-BASED AUTOMATIC FIRE EXTINGUISHING SYSTEM EMPLOYING FIRE SPRINKLERS AND CONSISTING OF UNDERGROUND AND OVERHEAD PIPING OR CONDUITS INCLUDING ACCESSORY FIRE PUMPS AND ASSOCIATED PIPING, FIRE STANDPIPES THAT CONVEY WATER WITH OR WITHOUT OTHER AGENTS TO DISPERSAL OPENINGS OR DEVICES TO EXTINGUISH, CONTROL, SUPPRESS, OR CONTAIN FIRE AND PROVIDE PROTECTION FROM EXPOSURE TO FIRE OR THE PRODUCTS OF COMBUSTION AND INSTALLED IN ACCORDANCE WITH APPLICABLE CODES OF THE STATE OF NEW YORK AND RECOGNIZED NFPA STANDARDS.

10. "FULL TIME EMPLOYEE" MEANS AN EMPLOYEE OF THE BUSINESS ENTITY IN A POSITION EXPECTED TO WORK AT LEAST TWO THOUSAND HOURS PER YEAR. EARNED, PAID TIME FOR LEAVE SUCH AS VACATION, SICK OR PERSONAL DAYS SHALL NOT COUNT AGAINST THE TWO THOUSAND HOURS.

11. "GEOGRAPHICAL AREA" MEANS DISTINCT AREAS OF THE STATE AS FOLLOWS:

(A) ZIP CODES 10000 - 12999 AND 13300 - 13999

(B) ZIP CODES 13000 - 13299 AND 14000 - 14999

12. "INSPECTION" MEANS A VISUAL EXAMINATION OF A SYSTEM OR PORTION THEREOF TO VERIFY THAT IT APPEARS TO BE IN OPERATING CONDITION AND IS FREE OF PHYSICAL DAMAGE.

13. "INSPECTION, TESTING AND MAINTENANCE SERVICE" MEANS A SERVICE PROGRAM PROVIDED BY A NEW YORK STATE LICENSED WATER-BASED FIRE PROTECTION CONTRACTOR OR QUALIFIED BUILDING OWNER'S REPRESENTATIVE IN WHICH ALL COMPONENTS UNIQUE TO THE PROPERTY'S SYSTEMS ARE INSPECTED AND TESTED AT THE REQUIRED TIMES AND NECESSARY MAINTENANCE IS PROVIDED. THIS PROGRAM INCLUDES LOGGING AND RETENTION OF RELEVANT RECORDS AND REPORTING OF DEFICIENCIES AND MALFUNCTIONS TO THE BUILDING OWNER OR HIS OR HER AUTHORIZED REPRESENTATIVE AND APPROPRIATE AUTHORITIES THAT MAY BE REQUIRED.

14. "INSPECTOR" MEANS A PERSON EMPLOYED BY A LICENSED CONTRACTOR WHO PERFORMS INSPECTION, TESTING AND MAINTENANCE ON A WATER-BASED FIRE PROTECTION SYSTEM WITHIN THE SCOPE OF NFPA 25. IT IS THE INTENT THAT AN "INSPECTOR" MEET THE QUALIFICATIONS OF NICET II INSPECTION AND TESTING.

15. "INSTALL" OR "INSTALLATION" MEANS THE INITIAL PLACEMENT OF THE WATER-BASED FIRE PROTECTION SYSTEM OR ITS EXTENSION OR ALTERATION AFTER THE INITIAL PLACEMENT.

16. "JOURNEYPERSON FITTER" MEANS A PERSON QUALIFIED BY AT LEAST TEN THOUSAND HOURS OF WORK EXPERIENCE INSTALLING, ADJUSTING, REPAIRING, AND DISMANTLING FIRE SUPPRESSION SYSTEMS AND WHO IS COMPETENT TO INSTRUCT AND SUPERVISE THE FIRE SUPPRESSION WORK OF APPRENTICE FIRE SPRINKLER FITTERS.

17. "LAYOUT" MEANS THE PLACEMENT OF RISERS, CROSS MAINS, BRANCH LINES, SPRINKLER HEADS, SIZING OF PIPE, HANGER LOCATIONS, AND SUPPLEMENTAL HYDRAULIC CALCULATIONS IN ACCORDANCE WITH THE PROVISIONS OF WATER-BASED FIRE PROTECTION DESIGN STANDARDS.

18. "LICENSE HOLDER" MEANS A BUSINESS ENTITY LICENSED BY THE OFFICE TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS UNDER THIS ARTICLE. ONE LICENSE MAY NAME NO MORE THAN ONE BUSINESS ENTITY.

19. "MAINTENANCE" MEANS WORK PERFORMED BY THE LICENSED WATER-BASED FIRE PROTECTION CONTRACTOR TO KEEP EQUIPMENT OPERABLE AND MAKE REPAIRS.

20. "MULTIPURPOSE SYSTEM" MEANS A PIPING SYSTEM INTENDED TO SERVE BOTH THE DOMESTIC AND FIRE PROTECTION NEEDS.

21. "NCCI" MEANS THE NATIONAL COUNCIL ON COMPENSATION INSURANCE.

22. "NFPA" MEANS THE NATIONAL FIRE PROTECTION ASSOCIATION.

23. "NFSA" MEANS THE NATIONAL FIRE SPRINKLER ASSOCIATION, INC.

24. "NICET" MEANS THE NATIONAL INSTITUTE FOR CERTIFICATION IN ENGINEERING TECHNOLOGIES. CERTIFICATIONS BY FUTURE INSTITUTIONS OF THE EQUIVALENT SHALL NOT BE DENIED.

25. "OFPC" OR "OFFICE" MEANS THE OFFICE OF FIRE PREVENTION AND CONTROL ESTABLISHED BY ARTICLE SIX-C OF THIS CHAPTER.

26. "POINT OF PRIVATE SERVICE" MEANS THE POINT AT WHICH THE PRIVATE UNDERGROUND PIPING FOR A WATER-BASED FIRE PROTECTION SYSTEM USING WATER AS THE EXTINGUISHING AGENT BECOMES USED FOR THE WATER-BASED FIRE PROTECTION SYSTEM.

27. "REPAIR" MEANS ANY WORK ON A SYSTEM AFTER THE INITIAL INSTALLATION TO REPLACE, CORRECT AND MAINTAIN THE SYSTEM TO PROVIDE PERFORMANCE AS ORIGINALLY DESIGNED.

28. "RESPONSIBLE MANAGING EMPLOYEE" OR "RME" MEANS AN INDIVIDUAL CERTIFIED BY THE OFFICE AND A FULL TIME EMPLOYEE OF THE WATER-BASED FIRE PROTECTION COMPANY AND DESIGNATED AS THE WATER-BASED FIRE PROTECTION COMPANY'S QUALIFIER TO DO BUSINESS AS A WATER-BASED FIRE PROTECTION CONTRACTING COMPANY. THE RME ON A FULL TIME BASIS SUPERVISES THAT EACH SYSTEM IS INSTALLED, INSPECTED, TESTED, AND MAINTAINED IN COMPLIANCE WITH STATE CODE AND NATIONALLY ACCEPTED WATER-BASED FIRE PROTECTION STANDARDS AS ADOPTED BY THE STATE. AN RME MAY SERVE TO QUALIFY ONLY ONE CONTRACTOR BUSINESS LOCATION. THE RME MAY QUALIFY UP TO TWO SEPARATE WATER-BASED FIRE SPRINKLER COMPANIES THAT OPERATE IN THE SAME PHYSICAL BUSINESS LOCATION AND PHYSICAL ADDRESS PROVIDED THAT THE CONTROLLING BUSINESS PRINCIPAL MAINTAINS BOTH CONTRACTOR LICENSES OF ANY CLASS FOR BOTH BUSINESSES ALONG WITH ALL OTHER REQUIREMENTS WITHIN THIS ARTICLE AT ONE LOCATION.

29. "SUPERVISE" OR "SUPERVISION" MEANS THE DIRECTION, MANAGEMENT, AND OVERSIGHT BY A CERTIFIED RME OF THE ACTIVITIES OF NON-CERTIFIED PERSONNEL IN THE LAYOUT, INSTALLING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING REPAIR OF ANY WATER-BASED FIRE PROTECTION SYSTEM. HOWEVER, IT IS NOT THE INTENTION THAT SUPERVISION REQUIRES THE RME TO HAVE TO BE AT THE SITE OF EACH LAYOUT, INSTALLATION, REPAIR, INSPECTION, TEST, OR MAINTENANCE OF THE WATER-BASED FIRE PROTECTION SYSTEMS AT ALL TIMES.

30. "TESTING" MEANS A PROCEDURE USED TO DETERMINE THE STATUS OF A SYSTEM AS INTENDED BY CONDUCTING PERIODIC PHYSICAL CHECKS ON WATER-BASED FIRE PROTECTION SYSTEMS SUCH AS WATER-FLOW TESTS, FIRE PUMP TESTS, ASSO-

CIATED ALARM TESTS, AND TRIP TESTS OF DRY PIPE, DELUGE, OR PREACTION VALVES, FOR COMPARISONS WITH THE ORIGINAL ACCEPTANCE TEST.

31. "TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS" MEANS AND REFERS TO A NEW YORK STATE LICENSED WATER-BASED FIRE PROTECTION CONTRACTOR THAT HOLDS ITSELF OUT DIRECTLY OR INDIRECTLY, AS BEING ABLE, OR WHO OFFERS OR UNDERTAKES, BY ANY MEANS OR METHOD, TO LAYOUT, INSTALL, REPAIR, INSPECT, TEST, OR MAINTAIN A WATER-BASED FIRE PROTECTION SYSTEM.

32. "WATER-BASED FIRE PROTECTION CONTRACTOR" CLASSES:

(A) "CONTRACTOR I" OR "WATER-BASED FIRE PROTECTION SYSTEMS CONTRACTOR" MEANS A BUSINESS ENTITY THAT OFFERS TO UNDERTAKE OR REPRESENTS ITSELF AS BEING ABLE TO UNDERTAKE, OR DOES UNDERTAKE THE LAYOUT, INSTALLING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING ALL TYPES OF WATER-BASED FIRE PROTECTION SYSTEMS AND COMPONENTS. TYPES OF SYSTEMS INCLUDE BUT ARE NOT LIMITED TO LAND BASED AND MARINE APPLICATIONS OF FIRE SPRINKLER, STANDPIPE AND HOSE, FIXED WATER SPRAY, AND FOAM FIRE PROTECTION SYSTEMS. MULTI-PURPOSE NFPA 13D FIRE SPRINKLER SYSTEM LAYOUT, INSTALLATION, SERVICE, REPAIR, INSPECTION, TEST, OR MAINTENANCE SHALL REQUIRE A CONTRACTOR I OR III LICENSE AND MEET ALL REQUIREMENTS CONTAINED IN THIS ARTICLE REGARDLESS OF AND IN ADDITION TO ANY OTHER POTABLE WATER PROFESSIONAL OR TRADE REQUIREMENTS, CERTIFICATIONS OR LICENSURES REQUIRED BY THE STATE.

(B) "CONTRACTOR II" OR "WATER-BASED FIRE PROTECTION SYSTEMS INSPECTION CONTRACTOR" MEANS A BUSINESS ENTITY THAT IS LIMITED TO THE EXECUTION OF CONTRACTS REQUIRING THE ABILITY FOR INSPECTION AND TESTING ALONG WITH MINOR MAINTENANCE OF LAND-BASED AND MARINE WATER-BASED FIRE PROTECTION SYSTEMS. CONTRACTOR II INSPECTORS SHALL MEET NICET II REQUIREMENTS FOR INSPECTION AND TESTING OF WATER-BASED SYSTEMS. REPAIRS MAY BE PERFORMED BY THIS CLASS TO THE LIMIT OF REPLACING DEFICIENT PARTS WITHOUT BEING CONSIDERED AN ALTERATION OR CHANGE IN THE ORIGINAL SYSTEM.

(C) "CONTRACTOR III" OR "FIRE SPRINKLER SYSTEM CONTRACTOR" MEANS A BUSINESS ENTITY THAT OFFERS TO UNDERTAKE OR REPRESENTS ITSELF AS BEING ABLE TO UNDERTAKE, OR DOES UNDERTAKE THE LAYOUT, INSTALLING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING ALL TYPES OF WATER-BASED FIRE PROTECTION SYSTEMS AND COMPONENTS WITH THE EXCEPTION OF FOAM SYSTEMS. TYPES OF SYSTEMS INCLUDE LAND BASED AND MARINE APPLICATIONS OF FIRE SPRINKLER, STANDPIPE AND HOSE AND FIXED WATER SPRAY. MULTI-PURPOSE NFPA 13D FIRE SPRINKLER SYSTEM LAYOUT, INSTALLATION, SERVICE, REPAIR, INSPECTION, TEST, OR MAINTENANCE SHALL REQUIRE A CONTRACTOR I OR III LICENSE AND MEET ALL REQUIREMENTS CONTAINED IN THIS ARTICLE REGARDLESS OF AND IN ADDITION TO ANY OTHER POTABLE WATER PROFESSIONAL OR TRADE REQUIREMENTS, CERTIFICATIONS OR LICENSURES REQUIRED BY THE STATE.

(D) "CONTRACTOR IV" OR "NFPA 13D FIRE SPRINKLER CONTRACTOR FOR DWELLINGS" MEANS A BUSINESS ENTITY THAT OFFERS TO UNDERTAKE OR REPRESENTS ITSELF AS BEING ABLE TO UNDERTAKE, OR DOES UNDERTAKE THE LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF ONE- AND TWO-FAMILY DWELLINGS AND MANUFACTURED HOUSING WATER-BASED FIRE PROTECTION SYSTEMS AND WHOSE SCOPE OF BUSINESS IS LIMITED TO THE SCOPE OF APPLICATION OF THE NFPA 13D STANDARD FOR THE INSTALLATION OF SPRINKLER SYSTEMS IN ONE- AND TWO-FAMILY DWELLINGS AND MANUFACTURED HOMES. MULTI-PURPOSE NFPA 13D FIRE SPRINKLER SYSTEM LAYOUT, INSTALLATION, SERVICE, REPAIR, INSPECTION, TEST, OR MAINTENANCE SHALL REQUIRE A CONTRACTOR IV LICENSE AND MEET ALL REQUIREMENTS CONTAINED IN THIS ARTICLE REGARDLESS OF AND IN ADDITION TO ANY OTHER POTABLE WATER PROFES-

SIONAL OR TRADE REQUIREMENTS, CERTIFICATIONS OR LICENSURES REQUIRED BY THE STATE.

33. "WATER-BASED FIRE PROTECTION CONTRACTOR BUSINESS LICENSE" MEANS A LICENSE ISSUED BY THE OFFICE TO A BUSINESS ENTITY TO OPERATE AS A WATER-BASED FIRE PROTECTION CONTRACTOR.

34. "WATER-BASED FIRE PROTECTION SYSTEM" IS A SYSTEM INDIVIDUALLY DESIGNED TO PROTECT THE INTERIOR OR EXTERIOR OF A SPECIFIC BUILDING, STRUCTURE, OR OTHER HAZARD FROM FIRE, WHETHER LAND-BASED OR MARINE. SAID SYSTEM BEGINS AT THE POINT OF PRIVATE SERVICE AS DEFINED IN THIS ARTICLE AND ENDS AT THE MOST REMOTE SUPPRESSION DEVICE. SUCH SYSTEMS INCLUDE, BUT ARE NOT LIMITED TO, WATER FIRE SPRINKLER SYSTEMS, WATER SPRAY SYSTEMS, FOAM-WATER SPRINKLER SYSTEMS, FOAM-WATER SPRAY SYSTEMS, AND FOAM EXTINGUISHING SYSTEMS USED FOR FIRE PROTECTION. SUCH SYSTEMS ALSO INCLUDE ANY OVERHEAD AND PRIVATE UNDERGROUND FIRE MAINS, FIRE HYDRANTS ATTACHED THERETO, STANDPIPES AND HOSES CONNECTED TO FIRE SPRINKLER SYSTEMS, FIRE SPRINKLER TANK HEATERS, AIR LINES, THERMAL SYSTEMS USED IN CONNECTION WITH FIRE SPRINKLER SYSTEMS, AND TANKS AND PUMPS CONNECTED TO FIRE SPRINKLER SYSTEMS AND INSTALLED IN ACCORDANCE WITH APPLICABLE CODES OF THE STATE OF NEW YORK AND THE RECOGNIZED NFPA STANDARDS.

35. "YEARS EXPERIENCE" MEANS PROOF OF EMPLOYMENT BASED ON TWO THOUSAND HOURS PER YEAR IN THE BUSINESS OF WATER-BASED FIRE PROTECTION. EARNED, PAID TIME FOR LEAVE SUCH AS VACATION, SICK OR PERSONAL DAYS SHALL NOT COUNT AGAINST THE TWO THOUSAND HOURS.

S 178-A. CONTRACTOR LICENSE AND RME CERTIFICATE REQUIREMENTS; SCOPE OF PRACTICE; PENALTIES FOR NON-COMPLIANCE. 1. (A) IT IS UNLAWFUL FOR ANY ORGANIZATION, BUSINESS, OR INDIVIDUAL TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF A WATER-BASED FIRE PROTECTION SYSTEM, ACT IN THE CAPACITY OF A WATER-BASED FIRE PROTECTION CONTRACTOR, OR ADVERTISE ITSELF AS BEING A WATER-BASED FIRE PROTECTION CONTRACTOR WITHOUT HAVING BEEN DULY LICENSED AND HOLDING A VALID AND EXISTING LICENSE, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE. THE HOLDER OF AN RME CERTIFICATE USED TO QUALIFY AN ORGANIZATION MUST BE A FULL TIME EMPLOYEE OF THE QUALIFIED ORGANIZATION OR BUSINESS. A CERTIFICATE HOLDER WHO IS EMPLOYED BY MORE THAN ONE WATER-BASED FIRE PROTECTION CONTRACTOR DURING THE SAME PERIOD OF TIME SHALL NOT BE THE QUALIFYING CERTIFICATE HOLDER FOR MORE THAN ONE WATER-BASED FIRE PROTECTION CONTRACTOR.

(B) THE OFFICE SHALL REVOKE, FOR A PERIOD OF TIME DETERMINED BY THE OFFICE, THE RME CERTIFICATE WHEN AN RME MAKES USE OR ALLOWS THE USE OF THE CERTIFICATE TO QUALIFY A COMPANY OF WHICH THE CERTIFICATE HOLDER IS NOT A FULL-TIME EMPLOYEE.

(C) WITHIN TWO YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE, A CONTRACTOR WHO PERFORMS WATER-BASED FIRE PROTECTION SYSTEMS WORK IN THIS STATE MUST HAVE IN ITS EMPLOY ONE CERTIFIED RME AT EACH LOCATION WHERE LAYOUT OF WATER-BASED FIRE PROTECTION SYSTEMS SHOP DRAWINGS IS PERFORMED. THIS INCLUDES WATER-BASED FIRE PROTECTION SYSTEMS CONTRACTORS BASED IN OTHER STATES, NEW YORK CITY, SUFFOLK COUNTY AND NASSAU COUNTY FOR WORK PERFORMED IN AREAS AFFECTED BY THIS ARTICLE.

(D) NOTHING IN THIS SECTION SHALL PROHIBIT AN EMPLOYEE ACTING ON BEHALF OF GOVERNMENTAL ENTITIES OR INSURANCE PROVIDERS FROM INSPECTING AND ENFORCING STATE LAW OR REGULATIONS, PROVIDED SUCH EMPLOYEE IS ACTING SOLELY ON BEHALF OF ITS EMPLOYER. ALL FIRE PROTECTION CERTIFICATES AND LICENSES REQUIRED BY THIS ARTICLE AND ISSUED BY THE OFFICE SHALL HAVE STATEWIDE APPLICATION AND LOCAL GOVERNMENTAL ENTITIES ARE PROHIBITED FROM ESTABLISHING AND IMPOSING MORE OR LESS STRINGENT STANDARDS ON STATE

CERTIFIED OR LICENSED WATER-BASED FIRE PROTECTION CONTRACTORS OR ITS EMPLOYEES.

(E) LOCAL GOVERNMENTS SHALL NOT REQUIRE A BUSINESS CERTIFICATE OF A LICENSED WATER-BASED FIRE PROTECTION CONTRACTOR, ITS RME OR ITS EMPLOYEES UNLESS THE COMPANY MAINTAINS AN OFFICE WITHIN SUCH LOCAL GOVERNMENT'S JURISDICTION.

2. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, NO PERSON OR BUSINESS ENTITY SHALL ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS BEGINNING AT THE POINT OF SERVICE AS DEFINED IN THIS ARTICLE TO THE MOST REMOTE PARTS OF THE SYSTEM OR HOLD HIMSELF OR HERSELF OUT AS BEING ABLE SO TO DO UNLESS HE OR SHE IS LICENSED AND CERTIFIED PURSUANT TO THIS ARTICLE. NOTHING IN THIS ARTICLE SHALL PROHIBIT A PROPERLY LICENSED BUSINESS ENTITY IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE FROM EMPLOYING INDIVIDUALS INCLUDING LICENSED JOURNEYPERSONS AND APPRENTICES TO ASSIST IN THE LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS AND SAID LICENSE HOLDER SHALL BE RESPONSIBLE FOR THE PROPER LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS.

3. WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE OFFICE SHALL REQUIRE NICET, SUB-FIELD OF INSPECTION AND TESTING OF FIRE PROTECTION SYSTEMS LEVEL II AS PROOF THAT THE INSPECTORS ARE KNOWLEDGEABLE ABOUT NATIONALLY ACCEPTED STANDARDS FOR THE INSPECTION, TESTING, AND MAINTENANCE OF WATER-BASED FIRE PROTECTION SYSTEMS.

4. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, NO PERSON OR BUSINESS SHALL ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING A WATER-BASED FIRE PROTECTION SYSTEM FOR ONE- AND TWO-FAMILY DWELLINGS OR MANUFACTURED HOUSING WITHIN THIS STATE, EXEMPTING NEW YORK CITY, SUFFOLK COUNTY AND NASSAU COUNTY, UNLESS LICENSED AS A WATER-BASED FIRE PROTECTION CONTRACTOR I OR CONTRACTOR IV IN THIS STATE.

5. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, THE CONTRACTOR I, CONTRACTOR III, OR CONTRACTOR IV, WHO INSTALLS THE UNDERGROUND PIPING FROM THE POINT OF SERVICE AS DEFINED IN THIS ARTICLE IS RESPONSIBLE FOR COMPLETING THE INSTALLATION TO THE ABOVEGROUND CONNECTION FLANGE, WHICH BY DEFINITION IN THIS ARTICLE IS NO MORE THAN THREE FEET ABOVE THE FINISHED FLOOR, BEFORE COMPLETING THE CONTRACTOR'S MATERIAL AND TEST CERTIFICATE FOR UNDERGROUND PIPING DOCUMENT. ABOVEGROUND CONTRACTORS MAY NOT COMPLETE THE CONTRACTOR'S MATERIAL AND TEST CERTIFICATE FOR UNDERGROUND PIPING DOCUMENT FOR UNDERGROUND PIPING OR PORTIONS THEREOF WHICH HAVE BEEN INSTALLED BY OTHERS.

6. RETROFITTING OF A BACKFLOW DEVICE ON AN EXISTING WATER-BASED FIRE PROTECTION SYSTEM WILL CAUSE A REDUCTION IN AVAILABLE WATER PRESSURE AND MAY CREATE SYSTEM MALFUNCTION. THE DEVELOPMENT OF ABOVEGROUND FIRE PROTECTION SYSTEM HYDRAULIC CALCULATIONS IS A TASK OF THE CONTRACTOR I, AS DEFINED IN THIS ARTICLE. ACCORDINGLY, A CONTRACTOR I SHALL BE CONTRACTED TO INSPECT AND RECALCULATE THE SYSTEM AND TAKE CORRECTIVE ACTIONS TO ENSURE THAT THE SYSTEM WILL FUNCTION WITH THE AVAILABLE WATER SUPPLY BEFORE RETROACTIVELY INSTALLING ANY CROSS-CONTAMINATION OR BACKFLOW DEVICE UPON ANY EXISTING WATER-BASED FIRE PROTECTION SYSTEMS.

7. A WATER-BASED FIRE PROTECTION CONTRACTOR LICENSED UNDER THIS ARTICLE SHALL NOT:

(A) ENTER INTO A WRITTEN OR ORAL AGREEMENT TO AUTHORIZE, OR OTHERWISE KNOWINGLY ALLOW A CONTRACTOR WHO IS NOT LICENSED PURSUANT TO THIS ARTI-

CLE TO ENGAGE IN THE BUSINESS OF, OR ACT IN THE CAPACITY OF, A WATER-BASED FIRE PROTECTION CONTRACTOR; OR

(B) APPLY FOR OR OBTAIN A CONSTRUCTION PERMIT FOR WATER-BASED FIRE PROTECTION WORK UNLESS THE WATER-BASED FIRE PROTECTION CONTRACTOR OR THE BUSINESS ORGANIZATION QUALIFIED BY THE WATER-BASED FIRE PROTECTION CONTRACTOR HAS CONTRACTED TO CONDUCT THE WORK SPECIFIED IN THE APPLICATION FOR THE PERMIT.

8. ANY PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE OR COMMITS ANY OF THE ACTS CONSTITUTING CAUSE FOR DISCIPLINARY ACTION AS SET FORTH IN THIS ARTICLE IS GUILTY OF A MISDEMEANOR, PUNISHABLE AS PROVIDED IN THIS ARTICLE.

9. IN ADDITION TO THE PENALTIES OTHERWISE PROVIDED IN THIS ARTICLE, A WATER-BASED FIRE PROTECTION CONTRACTOR LICENSED PURSUANT TO THIS ARTICLE WHO VIOLATES ANY PROVISION OF THIS SECTION OR WHO COMMITS ANY ACT CONSTITUTING CAUSE FOR DISCIPLINARY ACTION IS SUBJECT TO SUSPENSION OR REVOCATION OF THE LICENSE AND ADMINISTRATIVE FINES.

10. A LICENSE HOLDER HAS AN AFFIRMATIVE DUTY TO PROVIDE SUPERVISION TO EMPLOYEES AND FOR ALL BUSINESS ACTIVITIES. SUCH SUPERVISION SHALL CONSIST OF REGULAR, FREQUENT AND CONSISTENT PERSONAL GUIDANCE, INSTRUCTION, OVERSIGHT AND SUPERINTENDENCE BY THE QUALIFYING RME OR RMES WITH RESPECT TO THE GENERAL BUSINESS CONDUCTED BY THE FIRM AND ALL MATTERS RELATING THERETO.

11. (A) THE LICENSE HOLDER SHALL EMPLOY APPRENTICES WHO HAVE SUCCESSFULLY ENROLLED IN A NEW YORK STATE REGISTERED OR A UNITED STATES DEPARTMENT OF LABOR RECOGNIZED FIRE SPRINKLER FITTER APPRENTICESHIP PROGRAM.

(B) NOTWITHSTANDING ANY MORATORIUM ON APPRENTICESHIP TRAINING PROGRAMS THAT MAY BE IMPOSED BY ANY STATE AGENCY OR BOARD, ON THE EFFECTIVE DATE OF THIS ARTICLE, FIRE SPRINKLER FITTER APPRENTICESHIP TRAINING PROGRAMS APPROVED BY THE UNITED STATES DEPARTMENT OF LABOR SHALL BE APPROVED AND ACCEPTED BY ALL STATE AGENCIES.

12. NOTHING IN THIS ARTICLE SHALL PROHIBIT A PRINCIPAL OF A GIVEN BUSINESS ENTITY FROM QUALIFYING AS THAT BUSINESS ENTITY'S RME AS LONG AS THE PRINCIPAL MEETS ALL THE QUALIFIERS.

13. LICENSES ISSUED TO CONTRACTORS AND CERTIFICATES ISSUED TO RMES SHALL START WITH AN OBVIOUS IDENTIFIER DIGIT FOR EASE OF IDENTIFICATION BY FIELD STAFF OF THE OFFICE AS WELL AS CODE ENFORCEMENT OFFICIALS AT ALL LEVELS AND OTHER INTERESTED PARTIES.

(A) CLASS I LICENSES SHALL START WITH "1"

(B) CLASS II LICENSES SHALL START WITH "2"

(C) CLASS III LICENSES SHALL START WITH "3"

(D) CLASS IV LICENSES SHALL START WITH "4"

(E) RME CERTIFICATION NUMBERS SHALL START WITH "R"

(F) FUTURE CLASSIFICATIONS WILL ALSO HAVE A READILY IDENTIFIABLE FIRST DIGIT FOR THE CLASS AS NOTED ABOVE AND IN OTHER SECTIONS OF THIS ARTICLE.

14. LICENSE APPLICABILITY OVERVIEW:

FUNCTION	CLASS I	CLASS II	CLASS III	CLASS IV
INSPECT	ALL	ALL	WATER	13D
TEST	ALL	ALL	WATER	13D
MAINTAIN	ALL		WATER	13D
INSTALL	ALL		WATER	13D
REPAIR	ALL		WATER	13D
MODIFY	ALL		WATER	13D

15. THE PROPER APPLICATION OF THE REFERENCED WATER-BASED FIRE PROTECTION SYSTEM INSPECTION, TESTING, AND MAINTENANCE STANDARD REQUIRES ONE WITH SPECIAL KNOWLEDGE AND CERTIFICATION AS REQUIRED HEREIN. THE ACT

OF OPENING AND CLOSING VALVES AND OTHER ACTIONS NECESSARY TO ENSURE SYSTEM READINESS THEREFORE REQUIRES SPECIAL SKILLS AND KNOWLEDGE; AN UNTRAINED PERSON COULD CAUSE A COSTLY SYSTEM TRIP. ACCORDINGLY, THE POINT OF CONNECTION FOR FIRE ALARM SIGNALING DEVICES IS THE POINT OF CONNECTION ON THE INITIATING DEVICE. IT IS THE INTENT THAT ALARM CONTRACTORS BE PROHIBITED FROM AND ONLY THE APPROPRIATE WATER-BASED FIRE PROTECTION LICENSE HOLDERS OPENING VALVES OR FLOWING WATER IN WATER-BASED FIRE PROTECTION SYSTEMS AND THAT TESTING THE WIRES FROM THE POINT OF CONNECTION BACK TO THE MONITORING DEVICES IS THE SCOPE OF PRACTICE OF AN ALARM TECHNICIAN. THE WATER-BASED SYSTEM INSPECTOR EMPOWERED TO TEST THE FIRE SUPPRESSION SYSTEM PURSUANT TO THIS ARTICLE IS RESPONSIBLE TO FLOW WATER AND RESET THE ALARM PANEL WHEN FLOW AND TAMPER INDICATORS REPORT. IT IS THE INTENT THAT AN ALARM LICENSE IS NOT REQUIRED TO PERFORM THIS PORTION OF INSPECTION, TESTING, AND MAINTENANCE.

S 178-B. POWERS OF THE OFFICE OF FIRE PREVENTION AND CONTROL. IN ADDITION TO THE POWERS AND DUTIES OTHERWISE PRESCRIBED IN THIS ARTICLE, THE OFFICE SHALL HAVE THE POWER:

1. TO APPOINT AN ADEQUATE NUMBER OF ASSISTANTS, INSPECTORS AND OTHER EMPLOYEES AS MAY BE NECESSARY TO CARRY OUT THE PROVISIONS OF THIS ARTICLE, TO PRESCRIBE THEIR DUTIES, AND TO FIX THEIR COMPENSATION WITHIN THE AMOUNT APPROPRIATED THEREFOR.

2. TO EXAMINE THE QUALIFICATIONS AND FITNESS OF APPLICANTS FOR CERTIFICATES AND LICENSES UNDER THIS ARTICLE.

3. TO KEEP RECORDS OF ALL CERTIFICATES AND LICENSES ISSUED, SUSPENDED OR REVOKED AND PUBLISH SUCH CERTIFICATION AND LICENSURE INFORMATION ON A WEBSITE ACCESSIBLE BY THE PUBLIC.

4. TO PREPARE A MANUAL OF RULES AND REGULATIONS FOR THE LICENSURE PROCESS OF WATER-BASED FIRE PROTECTION CONTRACTORS AND TO PUBLISH SUCH INFORMATION ON A WEBSITE ACCESSIBLE BY THE PUBLIC.

5. TO ADOPT SUCH RULES AND REGULATIONS NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE, AS MAY BE NECESSARY WITH RESPECT TO THE FORM AND CONTENT OF APPLICATIONS FOR CERTIFICATES, LICENSES, AND THE RECEPTION THEREOF, THE INVESTIGATION AND EXAMINATION OF APPLICANTS AND THEIR QUALIFICATIONS, AND THE OTHER MATTERS INCIDENTAL OR APPROPRIATE TO HIS OR HER POWERS AND DUTIES AS PRESCRIBED BY THIS ARTICLE AND FOR THE PROPER ADMINISTRATION AND ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE, AND TO AMEND OR REPEAL ANY OF SUCH RULES AND REGULATIONS.

6. THE STATE FIRE ADMINISTRATOR SHALL ESTABLISH THE NEW YORK FIRE PREVENTION ADVISORY COUNCIL AND HAVE ITS FIRST MEETING WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE COMPOSED OF NINE MEMBERS AS FOLLOWS:

(A) THE STATE FIRE ADMINISTRATOR OR HIS OR HER DESIGNEE;

(B) THE DIRECTOR OF THE DIVISION OF CODES ENFORCEMENT AND ADMINISTRATION OR HIS OR HER DESIGNEE;

(C) TWO FIRE SPRINKLER FITTER REPRESENTATIVES APPOINTED BY THE PRESIDENT OF THE NEW YORK PIPE TRADES RESIDING IN SEPARATE GEOGRAPHICAL AREAS OF NEW YORK STATE;

(D) TWO PERSONS APPOINTED BY THE PRESIDENT OF THE NFSA REPRESENTING BUSINESSES SHALL BE FROM DIFFERENT GEOGRAPHICAL AREAS OF THIS STATE WHO HAVE BEEN ACTIVELY ENGAGED IN THE BUSINESS OF LAYOUT, INSTALLING, INSPECTING, TESTING, SERVICING, ALTERING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS FOR AT LEAST FIVE YEARS IMMEDIATELY PRIOR TO THEIR APPOINTMENT;

(E) THE NFSA REGIONAL MANAGER REPRESENTING NEW YORK; AND

(F) TWO NEW YORK LICENSED PROFESSIONAL ENGINEERS. PROFESSIONAL ENGINEERS IN THE FIRE PROTECTION DISCIPLINE WILL HAVE PRIORITY.

7. THE CHAIR OF THE ADVISORY COUNCIL SHALL BE THE STATE FIRE ADMINISTRATOR.

8. THE ADVISORY COUNCIL SHALL ACT IN A CAPACITY TO DIRECT THE OFFICE IN ADMINISTRATION OF THE REQUIREMENTS ESTABLISHED IN THIS ARTICLE. THE ADVISORY COUNCIL SHALL MEET AT LEAST QUARTERLY BUT MAY MEET MORE OFTEN AS THE NEED PRESENTS ITSELF. THE FIRST MEETING SHALL BE WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE. THE ADVISORY COUNCIL SHALL HAVE THE AUTHORITY TO REVIEW COMPLAINTS AND DISPUTED ADMINISTRATIVE ACTION AND MAKE NON-BINDING RECOMMENDATIONS FOR DISCIPLINARY ACTION TO THE OFFICE AT THE REQUEST OF THE CERTIFICATE HOLDER, LICENSE HOLDER, OR THE OFFICE. THE ADVISORY COUNCIL SHALL MAKE DECISIONS AND SUPPLY IN WRITING TO THE OFFICE REGARDING RULES, CODES, STANDARDS, INTERPRETATIONS AND TRAINING. THE ADVISORY COUNCIL MEMBERS' TERMS SHALL EXPIRE JUNE THIRTIETH AND BIENNIALLY THEREAFTER. A MAJORITY OF THE BOARD INCLUDING AT LEAST ONE FIRE PROTECTION CONTRACTOR AND ONE TRADE REPRESENTATIVE SHALL CONSTITUTE A QUORUM TO CONDUCT BUSINESS, VOTE, AND MAKE DECISIONS. NO MEMBER OF THE ADVISORY COUNCIL SHALL BE PAID A SALARY AS SUCH MEMBER, BUT EACH SHALL RECEIVE NECESSARY EXPENSES WHILE ATTENDING ADVISORY COUNCIL MEETINGS AND REIMBURSEMENT, INCLUDING TRAVEL IN PERFORMANCE OF HIS OR HER DUTIES.

9. MOTIONS SHALL NOT MOVE FORWARD WITHOUT AT LEAST ONE VOTE IN CONSENSUS FROM EACH A SPRINKLER FITTER REPRESENTATIVE AND A BUSINESS REPRESENTATIVE OF THE ADVISORY COUNCIL.

10. THE ADVISORY COUNCIL SHALL DEVELOP AND MAINTAIN FITTER TESTING FOR THE PURPOSE OF LICENSURE OF JOURNEYPERSONS AND APPRENTICES WHICH SHALL BE ADMINISTERED AND ENFORCED BY THE OFFICE.

11. IT IS EXPECTED THAT MEMBERS OF THE ADVISORY COUNCIL MAKE DUE DILIGENCE TO PARTICIPATE IN ALL SCHEDULED AND SPECIAL MEETINGS AS REQUIRED. THE OFFICE SHALL MAKE MINUTES AVAILABLE AS SOON AS REASONABLY POSSIBLE TO ADVISORY COUNCIL MEMBERS THAT WERE ABSENT.

S 178-C. NEW LICENSING AND CERTIFICATION REQUIREMENTS. 1. ACTIVE NICET III CERTIFICATE HOLDERS IN "AUTOMATIC SPRINKLER SYSTEMS LAYOUT" AND NICET II CERTIFICATE HOLDERS IN "SPECIAL HAZARDS" SHALL BE CONSIDERED HAVING MET REQUIREMENTS FOR CONTRACTOR I.

2. ACTIVE NICET II CERTIFICATE HOLDERS IN "INSPECTION AND TESTING OF WATER-BASED FIRE PROTECTION SYSTEMS" SHALL BE CONSIDERED HAVING MET REQUIREMENTS FOR CONTRACTOR II.

3. ACTIVE NICET III CERTIFICATE HOLDERS IN "AUTOMATIC SPRINKLER SYSTEMS LAYOUT" SHALL BE CONSIDERED HAVING MET REQUIREMENTS FOR CONTRACTOR III.

4. ACTIVE NICET II CERTIFICATE HOLDERS IN "AUTOMATIC SPRINKLER SYSTEMS LAYOUT" SHALL BE CONSIDERED HAVING MET REQUIREMENTS FOR CONTRACTOR IV.

5. AS A PREREQUISITE FOR LICENSURE AS A CONTRACTOR I THE RME APPLICANT MUST BE AT LEAST TWENTY-THREE YEARS OF AGE, BE OF GOOD MORAL CHARACTER, AND SHALL POSSESS FIVE YEARS' PROVEN EXPERIENCE AND PROGRESSIVE TRAINING IN THE EMPLOY OF A CONTRACTOR I OR A COMBINATION OF EQUIVALENT EDUCATION AND EXPERIENCE. A CONTRACTOR I SHALL MEET THE CRITERIA OF NICET III CERTIFICATION IN THE SPECIFIC TECHNICAL DISCIPLINE OF "AUTOMATIC SPRINKLER SYSTEMS LAYOUT" AS A PREREQUISITE WITH NICET "SPECIAL HAZARDS".

6. AS A PREREQUISITE FOR LICENSURE AS A CONTRACTOR II, THE INSPECTORS MUST BE AT LEAST EIGHTEEN YEARS OF AGE AND BE OF GOOD MORAL CHARACTER. AN INSPECTOR SHALL MEET THE CRITERIA FOR NICET II FOR INSPECTION AND TESTING. A NICET I INSPECTOR MAY PERFORM INSPECTION AND TESTING UNDER DIRECT SUPERVISION OF A NICET II INSPECTOR.

7. AS A PREREQUISITE FOR LICENSURE AS A CONTRACTOR III, THE RME APPLICANT MUST BE AT LEAST TWENTY-THREE YEARS OF AGE, BE OF GOOD MORAL CHAR-

ACTER, AND SHALL POSSESS FIVE YEARS' PROVEN EXPERIENCE AND PROGRESSIVE TRAINING IN THE EMPLOY OF A CONTRACTOR I OR III OR A COMBINATION OF EQUIVALENT EDUCATION AND EXPERIENCE. A CONTRACTOR III SHALL MEET THE CRITERIA OF NICET III CERTIFICATION IN THE SPECIFIC TECHNICAL DISCIPLINE OF "AUTOMATIC SPRINKLER SYSTEMS LAYOUT" AS A PREREQUISITE.

8. AS A PREREQUISITE FOR LICENSURE AS A CONTRACTOR IV, THE RME APPLICANT MUST BE AT LEAST TWENTY-THREE YEARS OF AGE, BE OF GOOD MORAL CHARACTER, AND SHALL POSSESS FIVE YEARS' PROVEN EXPERIENCE AND PROGRESSIVE TRAINING IN THE EMPLOY OF A CONTRACTOR I OR CONTRACTOR IV OR A COMBINATION OF EQUIVALENT EDUCATION AND EXPERIENCE. AN RME QUALIFYING CONTRACTOR IV SHALL MEET THE CRITERIA OF NICET II CERTIFICATION OR EQUIVALENT IN THE SPECIFIC TECHNICAL DISCIPLINE OF AUTOMATIC SPRINKLER SYSTEMS LAYOUT.

9. IF AN APPLICANT FOR AN ORIGINAL LICENSE, AFTER HAVING BEEN NOTIFIED TO DO SO, DOES NOT SHOW PROOF OF APPLICABLE NICET CERTIFICATION FOR THE CONTRACTOR CLASS BEING APPLIED FOR WITHIN ONE YEAR FROM THE DATE OF FILING HIS OR HER APPLICATION, THE FEE PAID BY THE APPLICANT SHALL BE FORFEITED. NEW APPLICATIONS FOR A LICENSE SHALL BE ACCOMPANIED BY ANOTHER APPLICATION FEE FIXED BY THIS ARTICLE.

10. A NEW YORK STATE PROFESSIONAL ENGINEER LICENSE WITH EDUCATION AND EXPERIENCE IN FIRE PROTECTION ENGINEERING MAY BE SUBSTITUTED FOR THE NICET REQUIREMENTS IN THIS SECTION.

S 178-D. LICENSING AND CERTIFICATION REQUIREMENTS FOR EXISTING CONTRACTORS. 1. (A) ANY BUSINESS ENTITY WHICH PRESENTS TO THE OFFICE SATISFACTORY EVIDENCE THAT THE BUSINESS HAS BEEN ACTIVELY ENGAGED IN THE PROPER CLASS OF CONTRACTING IN THE SCOPE OF THE LICENSE APPLIED FOR IN LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS AS A CONTRACTOR I, CONTRACTOR II, OR CONTRACTOR III WITHIN THIS STATE FOR AT LEAST FIVE YEARS WITHIN THE PERIOD OF SIX YEARS IMMEDIATELY PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE AND SHOW PROOF OF PROPER INSURANCE AS A WATER-BASED FIRE PROTECTION CONTRACTOR WITHIN THIS STATE, SHALL BE ENTITLED TO A LICENSE UNDER THIS ARTICLE. EVIDENCE OF DOING BUSINESS SHALL CONSIST OF PROOF OF FIVE YEARS AS A WATER-BASED FIRE PROTECTION CONTRACTOR AND PROOF OF FIVE YEARS INSURANCE IMMEDIATE TO APPLICATION AS A WATER-BASED FIRE PROTECTION CONTRACTOR. PROOF OF FIVE YEARS INSURANCE SHALL INCLUDE THE LATEST NCCI RATING SHEET FOR WORKERS' COMPENSATION SHOWING THE APPROPRIATE CODE FOR FIRE SPRINKLER FITTERS.

(B) NEW BUSINESSES THAT HAVE FORMED WITHIN FIVE YEARS PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE THAT PERFORM WORK IN ONE OF THE WATER-BASED FIRE PROTECTION CONTRACTOR CATEGORIES PURSUANT TO THIS ARTICLE AS AN ALTERNATIVE TO PARAGRAPH (A) OF THIS SUBDIVISION, MAY SHOW PROOF OF HAVING SUCCESSFULLY COMPLETED A FIRE SPRINKLER APPRENTICESHIP PROGRAM AS PROVIDED BY FIRE SPRINKLER FITTERS LOCALS OR A NATIONALLY RECOGNIZED FIRE SPRINKLER ASSOCIATION, SHOW THAT THEIR BUSINESS HAS BEEN IN EXISTENCE FOR LESS THAN FIVE YEARS, AND SHOW PROOF OF PROPER INSURANCE AS A WATER-BASED FIRE PROTECTION CONTRACTOR WITHIN THIS STATE.

2. (A) THIS PROVISION FOR FILING FOR A LICENSE AS AN EXISTING BUSINESS ENTITY PURSUANT TO THIS ACT SHALL BE REPEALED ONE YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

(B) PROVISIONS ARE REPEALED TWO YEARS FROM THE EFFECTIVE DATE OF THIS ARTICLE AT WHICH TIME ALL CONTRACTORS AFFECTED BY THIS ARTICLE MUST MEET THE REQUIREMENTS OF THIS ARTICLE.

S 178-E. FIRE SUPPRESSION SPECIALISTS. 1. THE FOLLOWING CLASSES ARE DEEMED SPECIALISTS:

(A) JOURNEYPERSON FITTER; AND

(B) APPRENTICE FITTER.

2. THE OFFICE SHALL IMPLEMENT RULES AND REGULATIONS REGARDING THE QUALIFICATIONS AND TESTING PURSUANT TO THIS ARTICLE FOR THE PURPOSES OF REGISTERING SPECIALISTS.

3. IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE OFFICE, THE APPLICANT'S SOCIAL SECURITY NUMBER SHALL BE RECORDED ON ANY APPLICATION FOR A REGISTRATION SUBMITTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

4. THE OFFICE SHALL PREPARE AND ARRANGE FOR THE RECEIPT OF APPLICATIONS FROM THOSE WHO INTEND TO PERFORM FIRE SUPPRESSION WORK WITHIN THE STATE. SUCH APPLICATION SHALL BE SUFFICIENTLY DETAILED TO ENABLE THE OFFICE TO DETERMINE THE PRESENCE OR ABSENCE OF AN APPLICANT'S QUALIFICATIONS FOR A LICENSE OF A PARTICULAR CLASS. THE OFFICE MAY REQUIRE APPLICANTS TO SUPPLY AFFIDAVITS OR OTHER DOCUMENTS ATTESTING TO THE APPLICANT'S QUALIFICATIONS FROM PAST EMPLOYERS, OTHER FIRE SPRINKLER FITTERS, ENGINEERS, AND OTHERS WITH SPECIFIC KNOWLEDGE OF THE APPLICANT'S QUALIFICATIONS. THE OFFICE MAY MAKE SUCH OTHER INQUIRIES AS IT CONSIDERS NECESSARY TO DETERMINE THE QUALIFICATIONS OF THE APPLICANT. AN APPLICANT EXPRESSLY CONSENTS TO SUCH INQUIRIES BY THE STATE FIRE ADMINISTRATOR OR HIS OR HER DESIGNEE BY SUCH APPLICANT'S APPLICATION.

5. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS ARTICLE, THE OFFICE SHALL GRANT LICENSES PURSUANT TO THIS SECTION WITHOUT REQUIRING A TEST. AFTER THE ONE YEAR PERIOD, THE OFFICE SHALL, IN ADDITION TO ALL OTHER REQUIREMENTS UNDER THIS ARTICLE, REQUIRE EACH APPLICANT TO PASS A COMPETENCY TEST SHOWING THAT THE APPLICANT IS KNOWLEDGEABLE IN FIRE SUPPRESSION WORK PRIOR TO ISSUING ANY LICENSE PURSUANT TO THIS ARTICLE.

6. THE OFFICE SHALL ESTABLISH A METHOD FOR ESTABLISHING AN APPLICANT'S QUALIFICATIONS, INCLUDING THE DETERMINATION OF HOW MANY HOURS OF FIRE SUPPRESSION WORK THE APPLICANT HAS PERFORMED.

7. THE OFFICE MAY DENY THE APPLICATION OF ANY APPLICANT WHO FAILS TO COMPLY WITH THE PROVISIONS OF THIS ARTICLE OR ANY RULE OR REGULATION RELATING THERETO, OR WHO LACKS THE NECESSARY QUALIFICATIONS FOR A LICENSE.

8. THE OFFICE AND ADVISORY BOARD MAY, UPON COMPLAINT OR UPON HIS OR HER OWN INQUIRY, AND UPON NOTICE TO A SPECIALIST, SUSPEND OR REVOKE ANY LICENSE ISSUED PURSUANT TO THIS ARTICLE IF:

(A) THE SPECIALIST APPLICATION AND SUPPORTING DOCUMENTATION WAS MATERIALLY FALSE OR MISLEADING REGARDING THE QUALIFICATIONS OR EXPERIENCE OF THE APPLICANT; OR

(B) THE SPECIALIST SUBSCRIBED OR VOUCHED FOR A MATERIALLY FALSE OR MISLEADING STATEMENT BY AN APPLICANT; OR

(C) THE SPECIALIST UNSAFELY OR INCOMPETENTLY PERFORMED FIRE SUPPRESSION WORK; OR

(D) THE SPECIALIST VIOLATED ANY LAW, RULE, OR REGULATION THAT WAS ENACTED TO PROTECT THE CONSUMER OR THE PUBLIC AGAINST UNFAIR, UNSAFE, UNLAWFUL, OR IMPROPER BUSINESS PRACTICES; OR

(E) THE SPECIALIST FAILS TO COMPLY WITH ANY RULE OR REGULATION OF THE ADVISORY BOARD OR THE OFFICE PROMULGATED TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

9. ANY PERSON AGGRIEVED BY A DECISION OF THE ADVISORY BOARD OR OFFICE IS ENTITLED TO JUDICIAL REVIEW AS PROVIDED IN THE CIVIL PRACTICE LAW AND RULES.

10. ANY PERSON, FIRM, CORPORATION, OR EMPLOYEE THEREOF, OR ANY REPRESENTATIVE, MEMBER OR OFFICER OF SUCH FIRM OR CORPORATION ENTERING OR CAUSING A PERSON TO ENTER UPON OR ENGAGE IN THE BUSINESS OF PERFORMING ANY FIRE SUPPRESSION WORK AS DEFINED IN THIS SECTION, WITHOUT OBTAINING THE REQUIRED LICENSE OR OTHERWISE COMPLYING WITH THIS ARTICLE, IS FOR

THE FIRST OFFENSE GUILTY OF A MISDEMEANOR. UPON CONVICTION THEREOF, SUCH PERSON SHALL BE FINED NOT LESS THAN ONE HUNDRED DOLLARS, NOR MORE THAN FIVE HUNDRED DOLLARS. FOR A SECOND AND EACH SUBSEQUENT OFFENSE, THE PENALTY AND PUNISHMENT SHALL BE A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS, NOR MORE THAN ONE THOUSAND DOLLARS. EACH DAY DURING WHICH FIRE SUPPRESSION WORK IS PERFORMED WITHOUT THE REQUIRED LICENSE OR WHILE NOT IN COMPLIANCE WITH ANY OF THE PROVISIONS OF THIS SECTION, AFTER OFFICIAL NOTICE THAT SUCH WORK IS UNLAWFUL, IS A SEPARATE OFFENSE.

11. ANY FIRE SUPPRESSION WORK PERFORMED BY A PERSON WHICH IS DETERMINED BY THE STATE FIRE ADMINISTRATOR TO CONSTITUTE A SAFETY OR HEALTH HAZARD TO MEMBERS OF THE PUBLIC, OR ANY FIRE SUPPRESSION WORK OF AN EXTENSIVE NATURE BEING PERFORMED BY ANY PERSON WITHOUT THE REQUIRED LICENSE OR OTHERWISE IN NONCOMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE OR CONTRARY TO AN ORDER OR RULE PROMULGATED LAWFULLY BY THE OFFICE OR ADVISORY BOARD, IS SUBJECT TO BEING ISSUED A CITATION OR A CIVIL ACTION IN THE NAME OF THE STATE IN THE SUPREME COURT OF THE COUNTY WHERE SUCH WORK IS BEING PERFORMED FOR AN INJUNCTION AGAINST SUCH PERSON, FIRM OR CORPORATION, ENJOINING SUCH WORK OR VIOLATION. A COURT BY MANDATORY OR PROHIBITORY INJUNCTION MAY COMPEL COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, WITH THE LAWFUL ORDERS OF THE STATE FIRE ADMINISTRATOR AND WITH ANY FINAL DECISION OF THE ADVISORY COUNCIL. THE ADVISORY BOARD AND STATE FIRE ADMINISTRATOR SHALL BE REPRESENTED IN ALL SUCH PROCEEDINGS BY THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE.

12. AS OF THE EFFECTIVE DATE OF THIS ARTICLE, NO MUNICIPALITY OR COUNTY MAY REQUIRE ANY LICENSE OR EVIDENCE OF A PERSON'S COMPETENCE AS A FIRE SUPPRESSION SYSTEM WORKER FROM A PERSON PURSUANT TO THIS ARTICLE AS A CONDITION PRECEDENT TO PERMISSION TO PERFORM FIRE SUPPRESSION WORK WITHIN THE MUNICIPALITY. THIS SHALL NOT INCLUDE A LICENSE FOR ANY WORK COVERED BY ANY NATIONAL, STATE OR MUNICIPAL ELECTRICAL CODE INCLUDING BUT NOT LIMITED TO PULL STATIONS, STROBES, HEAT DETECTORS, SMOKE DETECTORS, FIRE ALARMS OR BELLS, AND ANY ELECTRICAL WIRING INCLUDING CONDUIT CONNECTED TO RACEWAY CONTROL CABINETS.

13. THE FIRST DIGIT OF THE LICENSE IDENTIFICATION NUMBER ISSUED TO A JOURNEYPERSON SHALL BE A "J".

14. THE FIRST DIGIT OF THE LICENSE IDENTIFICATION NUMBER ISSUED TO AN APPRENTICE SHALL BE AN "A".

15. NO JOURNEYPERSON OR APPRENTICE SHALL HOLD HIMSELF OR HERSELF OUT TO BE QUALIFIED TO INSTALL, INSPECT, TEST, OR MAINTAIN A FIRE PROTECTION SYSTEM WITHOUT BEING IN THE ACTIVE EMPLOY OF A LICENSED NEW YORK STATE WATER-BASED FIRE PROTECTION CONTRACTOR.

16. THE OFFICE MAY ISSUE A TEMPORARY LICENSE TO A FITTER PRIOR TO SUCH PERSON TAKING AN EXAMINATION IF SUCH PERSON MEETS THE REQUIREMENTS OF A JOURNEYPERSON FITTER AS DEFINED IN THIS ARTICLE. THE TEMPORARY LICENSE SHALL ONLY BE ISSUED ONCE TO A PERSON DURING HIS OR HER LIFETIME AND SHALL ONLY BE VALID FROM THE DATE OF ISSUANCE UNTIL THE DATE OF THE NEXT EXAMINATION.

S 178-F. LICENSE: APPLICATION; INSURANCE; DISPLAY; DUPLICATES. 1. AFTER A REPRESENTATIVE RME HAS SUCCESSFULLY PASSED THE DESIGNATED EXAMINATION AS PROVIDED IN THIS ARTICLE OR IF THE APPLICANT MEETS THE PROVISIONS OF THIS ARTICLE, ANY BUSINESS ENTITY DESIRING A LICENSEE TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, INSPECTING, SERVICING, ALTERING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS PURSUANT TO THIS ARTICLE, MAY MAKE APPLICATION TO THE OFFICE THEREFOR. THE APPLICATION SHALL BE SUBSCRIBED BY THE APPLICANT AND AFFIRMED BY HIM OR HER AS TRUE UNDER THE PENALTIES OF PERJURY. THE APPLICATION SHALL BE IN SUCH FORM AND SHALL CONTAIN SUCH INFORMATION RELATIVE TO THE APPLICANT

AND HIS OR HER QUALIFICATIONS AS MAY BE PRESCRIBED BY THE OFFICE. EACH APPLICATION SHALL BE ACCOMPANIED BY EVIDENCE OF EDUCATION, EXPERIENCE, AND REQUIRED CERTIFICATIONS AS ESTABLISHED IN THIS ARTICLE PROVING THE LEVEL OF CERTIFICATION FOR INSPECTION BY THE OFFICE.

2. ALL LICENSES SHALL BE FOR A PERIOD OF THREE YEARS.

3. NO LICENSE SHALL BE ASSIGNABLE OR TRANSFERABLE EXCEPT AS PROVIDED IN THIS ARTICLE.

4. (A) A LICENSE ISSUED TO A LIMITED LIABILITY COMPANY OR CORPORATION TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS SHALL REQUIRE THAT SUCH BUSINESS BE OPERATED UNDER THE DIRECTION OF AN RME OF THE LIMITED LIABILITY COMPANY OR CORPORATION, WHO SHALL BE REQUIRED TO MEET THE CERTIFICATION REQUIREMENTS OF THIS ARTICLE ON BEHALF OF THE LICENSE HOLDER AND WHO, IN THE CASE OF A CORPORATION, SHALL NOT BE REQUIRED TO BE AN OFFICER OF THE CORPORATION. IF SUCH RME, WHO SHALL HAVE MET THE REQUIREMENTS OF THIS ARTICLE, CEASES TO ACT IN THE CAPACITY OF RME FOR ANY REASON WHATSOEVER, THE LICENSE HOLDER SHALL NOTIFY THE OFFICE IN WRITING WITHIN FOURTEEN DAYS FROM SUCH TERMINATION OR CESSATION. THE LICENSE HOLDER MAY CONTINUE TO CONDUCT THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS FOR A PERIOD NOT TO EXCEED SIXTY DAYS FROM THE DATE OF SUCH TERMINATION OR CESSATION. SUCH PERIOD MAY BE EXTENDED UPON APPLICATION TO THE OFFICE FOR GOOD CAUSE FOR AN ADDITIONAL PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS. BY THE END OF SUCH PERIOD A NEW RME, WHO HAS MET THE CERTIFICATION REQUIREMENTS OF THIS ARTICLE, MUST BE DESIGNATED ON BEHALF OF THE LICENSE HOLDER. A LICENSE HOLDER MAY QUALIFY AS ONLY ONE COMPANY.

(B) THE LIMITED LIABILITY COMPANY OR CORPORATION SHALL BE LIABLE WITH RESPECT TO ALL ACTIONS TAKEN BY ITS MEMBER, MANAGER OR MANAGING OFFICER ACTING ON BEHALF OF SUCH LIMITED LIABILITY COMPANY OR CORPORATION.

5. (A) AS A PREREQUISITE TO ISSUANCE OF A LICENSE, THE OFFICE SHALL REQUIRE THE BUSINESS ENTITY TO SUBMIT SATISFACTORY EVIDENCE THAT THE COMPANY HAS OBTAINED APPROPRIATE WATER-BASED FIRE PROTECTION CONTRACTING COMMERCIAL GENERAL LIABILITY INSURANCE SHOWING PROOF OF APPROPRIATE COVERAGE AMOUNTS DOING BUSINESS AS DESCRIBED FOR THE APPROPRIATE CONTRACTOR LEVEL BEING APPLIED FOR PURSUANT TO THIS ARTICLE WITH A MINIMUM OF ONE MILLION DOLLARS FOR CONTRACTOR I, CONTRACTOR II, CONTRACTOR III, AND CONTRACTOR IV. SAID PROOF SHALL SHOW APPROPRIATE COVERAGE FOR COMPREHENSIVE GENERAL LIABILITY FOR BODILY INJURY AND PROPERTY DAMAGES, PRODUCT LIABILITY, COMPLETED OPERATIONS, CONTRACTUAL LIABILITY, AND WORKERS' COMPENSATION. THE ADVISORY COUNCIL MAY ADOPT RULES PROVIDING FOR THE MINIMAL AMOUNT OF INSURANCE FOR ALL CONTRACTOR CLASSES.

(B) THE WATER-BASED FIRE PROTECTION CONTRACTOR CERTIFICATE OF INSURANCE SHALL PROVIDE THAT THE INSURANCE SHALL NOT BE MODIFIED, CONTAIN ANY MATERIAL CHANGE IN COVERAGE OR PERMIT ANY TERMINATION, NON-RENEWAL, OR CANCELLATION UNLESS THIRTY DAYS' PRIOR NOTICE SHALL BE GIVEN TO THE OFFICE.

(C) THE WATER-BASED FIRE PROTECTION CONTRACTOR CERTIFICATE OF INSURANCE MUST INCLUDE THE POLICY NUMBER, DATE OF EXPIRATION, AND PHYSICAL ADDRESS OF EACH CONTRACTOR LOCATION IN THE STATE AND THE CONTRACTOR'S OPERATION OF BUSINESS MUST BE NOTED IN THE DESCRIPTION PART OF THE CERTIFICATE.

(D) THE "STATE OF NEW YORK" SHALL BE NAMED AS THE CERTIFICATE HOLDER.

(E) AN INSURER WHICH FAILS TO SO NOTIFY THE OFFICE SHALL BE SUBJECT TO THE PENALTIES PROVIDED WITHIN THIS ARTICLE.

6. UPON SATISFACTION OF THE REQUIREMENTS OF THIS SECTION, THE LICENSE SHALL BE ISSUED FORTHWITH. HOWEVER, NO LICENSE SHALL REMAIN IN EFFECT IF, AFTER ISSUANCE, THE LICENSE HOLDER FAILS TO MAINTAIN ALL INSURANCE COVERAGE REQUIRED BY THIS SECTION.

7. THE OFFICE MAY, AT ANY TIME SUBSEQUENT TO THE ISSUANCE OF THE LICENSE OR ITS RENEWAL, REQUIRE, UPON DEMAND AND IN NO EVENT MORE THAN THIRTY DAYS AFTER NOTICE OF THE DEMAND, THE LICENSE HOLDER TO PROVIDE PROOF OF INSURANCE COVERAGE ON A FORM PROVIDED BY THE OFFICE CONTAINING CONFIRMATION OF INSURANCE COVERAGE AS REQUIRED BY THIS ARTICLE. FAILURE TO PROVIDE PROOF OF INSURANCE COVERAGE AS REQUIRED, FOR ANY LENGTH OF TIME, SHALL RESULT IN THE IMMEDIATE SUSPENSION OF THE LICENSE UNTIL PROOF OF INSURANCE IS PROVIDED TO AND ACCEPTED BY THE OFFICE.

8. A LICENSE TO CONDUCT THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS SHALL BE CONSPICUOUSLY POSTED UPON THE PREMISES WHERE THE LICENSE HOLDER IS ENGAGED IN SUCH BUSINESS.

9. ALL DOCUMENTS OR RECEIPTS ISSUED BY OR ON BEHALF OF A BUSINESS LICENSED PURSUANT TO THIS ARTICLE MUST CONTAIN THE IDENTIFICATION NUMBER ISSUED TO SUCH BUSINESS AND THE PHRASE "LICENSED BY THE N.Y. STATE OFFICE OF FIRE PREVENTION & CONTROL".

10. ALL ADVERTISING PLACED BY A BUSINESS ENTITY LICENSED UNDER THIS ARTICLE MUST CONTAIN THE FOLLOWING STATEMENT: "LICENSED BY THE N.Y. STATE OFFICE OF FIRE PREVENTION & CONTROL".

11. A DUPLICATE LICENSE MAY BE ISSUED FOR ONE LOST, DESTROYED OR MUTILATED UPON APPLICATION THEREFOR ON A FORM PRESCRIBED BY THE OFFICE AND THE PAYMENT OF THE FEE PRESCRIBED THEREFOR BY THIS ARTICLE. EACH SUCH DUPLICATE LICENSE SHALL HAVE THE WORD "DUPLICATE" CLEARLY STAMPED OR WATERMARKED ACROSS THE FACE THEREOF AND SHALL BEAR THE SAME NUMBER AS THE ONE IT REPLACES. ALL INFORMATION FROM THE ORIGINAL MUST BE TRANSPOSED IDENTICALLY.

12. NOTICE IN WRITING SHALL BE GIVEN TO THE OFFICE BY THE HOLDER OF A LICENSE TO CONDUCT THE BUSINESS OF LAYOUT, INSTALLING, INSPECTING, SERVICING, ALTERING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS OF ANY CHANGE IN ADDRESS OF THE BUSINESS TOGETHER WITH THE RETURN OF LICENSE, WHEREUPON A PROPERLY SIGNED ENDORSEMENT WILL BE MADE ON THE FACE OF THE LICENSE AS TO SUCH CHANGE AND THE LICENSE THEN RETURNED TO THE LICENSE HOLDER. A CHANGE OF ADDRESS BY A LICENSE HOLDER WITHOUT SUCH NOTICE AND ENDORSEMENT OF LICENSE SHALL OPERATE TO CANCEL THE LICENSE.

13. A LICENSE TO CONDUCT THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS ISSUED TO A BUSINESS ENTITY MAY BE USED AFTER THE DEATH OF THE CERTIFIED RME FOR A PERIOD OF NOT MORE THAN SIXTY DAYS FROM THE DATE OF DEATH OF SUCH INDIVIDUAL. SUCH SIXTY DAY PERIOD MAY BE EXTENDED UPON APPLICATION TO THE OFFICE AND FOR GOOD CAUSE SHOWN FOR AN ADDITIONAL PERIOD NOT TO EXCEED ONE HUNDRED TWENTY DAYS.

S 178-G. LICENSE: RENEWAL; CONTINUING EDUCATION. 1. ANY RME CERTIFICATE WHICH HAS NOT BEEN SUSPENDED OR REVOKED, MAY, UPON THE PAYMENT OF THE RENEWAL FEE PRESCRIBED BY THIS ARTICLE, BE RENEWED FOR ADDITIONAL PERIODS OF TWO YEARS FROM ITS EXPIRATION, WITHOUT FURTHER EXAMINATION, UPON THE FILING OF AN APPLICATION FOR SUCH RENEWAL AND COMPLETION OF THE CONTINUING EDUCATION REQUIREMENTS PURSUANT TO THIS ARTICLE, ON A FORM AND WITH SUCH ADDITIONAL INFORMATION AS PRESCRIBED BY THE OFFICE TO INCLUDE BUT NOT BE LIMITED TO VERIFICATION OF INSURANCE AS REQUIRED PURSUANT TO THIS ARTICLE.

2. A RME CERTIFICATE TO QUALIFY FOR THE CONTRACTOR I AND CONTRACTOR III CLASSIFICATIONS PURSUANT TO THIS ARTICLE SHALL NOT BE RENEWED UNLESS THE CERTIFICATE HOLDER PRODUCES DOCUMENTATION OF AT LEAST TWENTY-FOUR CONTACT HOURS OF CONTINUING EDUCATION IN THE WATER-BASED FIRE PROTECTION DISCIPLINE DURING THE BIENNIAL CERTIFICATION PERIOD.

3. AN RME CERTIFICATE TO QUALIFY FOR THE CONTRACTOR II CLASSIFICATION AS DEFINED IN THIS ARTICLE SHALL NOT BE RENEWED UNLESS THE CERTIFICATE HOLDER PRODUCES DOCUMENTATION OF AT LEAST SIXTEEN CONTACT HOURS OF CONTINUING EDUCATION WITH AT LEAST FOUR OF THOSE HOURS REGARDING INSPECTION AND TESTING.

4. AN RME CERTIFICATE TO QUALIFY FOR THE CONTRACTOR IV CLASSIFICATION AS DEFINED IN THIS ARTICLE SHALL NOT BE RENEWED UNLESS THE CERTIFICATE HOLDER PRODUCES DOCUMENTATION OF AT LEAST SIXTEEN CONTACT HOURS OF CONTINUING EDUCATION IN THE SCOPE OF NFPA 13D AND APPROPRIATE STATE REQUIRED FIRE SPRINKLER DOCUMENTS PRIOR TO RENEWAL.

5. THE OFFICE, THROUGH THE ADVISORY COUNCIL, SHALL DEVELOP GUIDELINES FOR CONTINUING EDUCATION UNITS WHICH MAY BE OBTAINED AT MEETINGS WITH A TECHNICAL SPEAKER, SEMINARS, CONFERENCES, AND WORKSHOPS, INCLUDING ON-LINE EDUCATIONAL OFFERINGS WHICH PROVIDE A VERIFICATION SYSTEM OF ON-LINE ATTENDANCE, DELIVERED BY RECOGNIZED INDUSTRY TRADE ASSOCIATIONS.

6. THE CONTACT HOURS OF CONTINUING EDUCATION MUST BE OBTAINED WITHIN THE BIENNIAL CERTIFICATION PERIOD. CONTINUING EDUCATION REQUIREMENTS SUCCESSFULLY OBTAINED FOR NICET RENEWAL FOR THE APPROPRIATE CLASS OF CONTRACTING MAY BE USED TO MEET THE CONTINUING EDUCATION REQUIREMENTS PURSUANT TO THIS SECTION.

7. ANY PERSON FAILING TO FILE AN APPLICATION AND FEE FOR RENEWAL OF A CERTIFICATE WITHIN ONE YEAR IMMEDIATELY FOLLOWING THE EXPIRATION OF THE LAST CERTIFICATE SHALL PAY AN ADDITIONAL FEE OF ONE HUNDRED DOLLARS, AND IF THE RME FAILS TO FILE AN APPLICATION AND FEE FOR RENEWAL WITHIN TWO YEARS HE OR SHE SHALL BE INELIGIBLE FOR SUCH CERTIFICATE UNTIL HE OR SHE SHALL HAVE AGAIN MET THE REQUIREMENTS SET FORTH IN THIS ARTICLE.

S 178-H. INSPECTION OF FIRE PROTECTION SYSTEMS. 1. THE OFFICE SHALL HAVE THE RIGHT TO INSPECT ANY FIRE PROTECTION SYSTEM DURING AND AFTER CONSTRUCTION TO DETERMINE THAT SUCH SYSTEM MEETS THE STANDARDS SET FORTH IN ACCORDANCE WITH SPECIFIC PROJECT REQUIREMENTS AND EXISTING STATE AND FEDERAL LAW.

2. WATER-BASED FIRE PROTECTION SYSTEMS INSTALLED IN PUBLIC AND PRIVATE PROPERTIES, EXCEPT ONE- OR TWO-FAMILY DWELLINGS, SHALL BE INSPECTED FOLLOWING PROCEDURES ESTABLISHED IN THE NATIONALLY RECOGNIZED INSPECTION, TESTING, AND MAINTENANCE STANDARD NFPA-25 AS SET FORTH IN ARTICLE NINETEEN OF THIS CHAPTER. QUARTERLY, ANNUAL, THREE-YEAR, AND FIVE-YEAR INSPECTIONS CONSISTENT WITH THE CONTRACTUAL PROVISIONS WITH THE OWNER SHALL BE CONDUCTED BY THE LICENSE HOLDER'S INSPECTORS EMPLOYED BY THE LICENSE HOLDER PURSUANT TO PROVISIONS OF THIS ARTICLE. THIS SECTION DOES NOT PROHIBIT GOVERNMENTAL ENTITIES AND CODE ENFORCEMENT OFFICIALS IN THE PERFORMANCE OF THEIR DUTIES FROM INSPECTING AND ENFORC-ING STATE ADOPTED AND REFERENCED STANDARDS AND CODES.

3. THE INTENT OF THE WATER-BASED FIRE PROTECTION SYSTEM INSPECTOR IS TO PROTECT THE PUBLIC FROM PAYING FOR SERVICES PROVIDED FROM UNQUALIFIED AND UNTRAINED PERSONNEL. THE FURTHER INTENT IS TO PROVIDE AN IDENTIFICA-TION SYSTEM TO HELP THE CONSUMER IDENTIFY UNLICENSED ACTIVITY. IT IS UNDERSTOOD THAT SOME FIRE PROTECTION SYSTEMS MAY REQUIRE MAINTENANCE AND REPAIR ACTIVITY BEYOND THE SCOPE OF PRACTICE OF THE INSPECTOR AND ACCORDINGLY MAINTENANCE AND REPAIR PERSONNEL WILL WORK ON THE SYSTEM WHOSE WORK TYPICALLY IS APPROVED BY THE OWNER PRIOR TO REPAIRS.

4. A BUILDING OWNER OR BUILDING OWNER'S AUTHORIZED REPRESENTATIVE SHALL CONTRACT WITH A NEW YORK LICENSED CONTRACTOR I, CONTRACTOR II, OR CONTRACTOR III FOR THE MEANS OF SCHEDULED INSPECTION AND TESTING BEFORE ANY CERTIFICATE OF OCCUPANCY IS ISSUED. THE INSPECTING CONTRACTOR SHALL PROVIDE TO THE BUILDING OWNER A COPY OF THE INSPECTION REPORT ESTABLISHED DETAILING APPLICABLE STATE CODE REQUIREMENTS AND NFPA 25 STANDARD INSPECTION, TESTING, AND MAINTENANCE CRITERIA. THE MAINTENANCE OF WATER-BASED FIRE PROTECTION SYSTEMS AS WELL AS CORRECTIVE ACTIONS ON DEFICIENT SYSTEMS IS THE RESPONSIBILITY OF THE OWNER OF THE WATER-BASED FIRE PROTECTION SYSTEM OR HYDRANT CONNECTED THERETO. IT IS RECOGNIZED THAT THE INSPECTING CONTRACTOR AND THE INSTALLING CONTRACTOR MAY NOT BE THE SAME. THE LIMIT OF LIABILITY OF INSPECTING CONTRACTORS SHALL BE THAT OF THE DOLLAR VALUE OF THE INSPECTION, TESTING, AND MAINTENANCE CONTRACT. THE INSTALLING WATER-BASED FIRE PROTECTION CONTRACTOR SHALL BE REPOSED AND MAY NOT BE SUED FOR LATENT CONSTRUCTION DEFECTS, THOSE NOT APPARENT BY REASONABLE INSPECTION, MORE THAN TEN YEARS AFTER SUBSTANTIAL COMPLETION OF A PROJECT.

5. IT IS THE INTENT OF THIS ARTICLE THAT THE INSPECTIONS AND TESTING OF AUTOMATIC FIRE SPRINKLER SYSTEMS FOR DETACHED ONE-FAMILY DWELLINGS, DETACHED TWO-FAMILY DWELLINGS, AND MANUFACTURED HOUSING WITHIN THE SCOPE OF NFPA 13D ARE ACCOMPLISHED BY THE BUILDING OWNER. THE BUILDING OWNER IS FURTHER RESPONSIBLE FOR REQUESTING SERVICE FROM A LICENSED STATE CONTRACTOR I OR CONTRACTOR IV WHEN ANY DEFICIENCY EXISTS. IT IS FURTHER INTENDED THAT THE NFPA 25 INSPECTION OF EXPOSED UNDERGROUND PIPING SUPPLYING A WATER-BASED FIRE PROTECTION SYSTEM FROM POINT OF PRIVATE SERVICE BE CONDUCTED UNDER CONTROL OF A CONTRACTOR I.

6. MAINTENANCE OF FIRE PROTECTION SYSTEMS AS WELL AS CORRECTIVE ACTIONS ON DEFICIENT SYSTEMS IS THE RESPONSIBILITY OF THE OWNER OF THE SYSTEM OR PRIVATE HYDRANT. NOTWITHSTANDING INSPECTION CONTRACTS WITH CONFLICTING LANGUAGE, THE OWNER OF THE FIRE PROTECTION SYSTEM OR PRIVATE HYDRANT SHALL INDEMNIFY AND HOLD HARMLESS THE OTHER PARTY TO THE CONTRACT AND THEIR OFFICERS AND EMPLOYEES FROM LIABILITIES, DAMAGES, LOSSES AND COSTS, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES TO THE EXTENT CAUSED BY THE NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL FAILURE OF THE OWNER TO MAINTAIN OR TAKE CORRECTIVE ACTION TO MAINTAIN A FIRE PROTECTION SYSTEM OR PRIVATE HYDRANT.

7. EFFECTIVE TWO YEARS FROM THE EFFECTIVE DATE OF THIS ARTICLE, THE OFFICE SHALL REQUIRE THE NICET II "INSPECTION AND TESTING OF WATER-BASED FIRE PROTECTION SYSTEMS" OR EQUIVALENT TRAINING AND EDUCATION AS DETERMINED BY THE OFFICE FOR AN RME QUALIFYING A CONTRACTOR II AS PROOF THAT THEY ARE KNOWLEDGEABLE IN NATIONALLY ACCEPTED STANDARDS FOR THE INSPECTION OF WATER-BASED FIRE PROTECTION SYSTEMS.

8. THE CONTINUING EDUCATION REQUIREMENTS FOR CONTRACTOR II RME OR RMES SHALL BE SIXTEEN CONTACT HOURS DURING EACH BIENNIAL RENEWAL PERIOD. IT IS THE RESPONSIBILITY OF THE CONTRACTOR II RME TO MAINTAIN NICET II "INSPECTION AND TESTING OF WATER-BASED FIRE PROTECTION SYSTEMS" CERTIFICATION AS A CONDITION OF PERMIT RENEWAL AFTER TWO YEARS OF THE EFFECTIVE DATE OF THIS ARTICLE. CONTINUING EDUCATION REQUIREMENTS NEEDED FOR NICET RENEWAL OR EQUIVALENT MAY BE USED TO MEET THE CONTINUING EDUCATION REQUIREMENTS.

S 178-I. FEES. 1. THE FEE FOR A LICENSE TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS SHALL BE TWO HUNDRED DOLLARS. FOR EACH RENEWAL THEREOF, THE FEE SHALL BE ONE HUNDRED DOLLARS.

2. THE FEE FOR RME CERTIFICATION UNDER THIS ARTICLE SHALL BE ONE HUNDRED DOLLARS.

3. THE FEE FOR ISSUING A DUPLICATE CERTIFICATE OR LICENSE IN SUBSTITUTION FOR ONE LOST, DESTROYED, OR MUTILATED SHALL BE TWENTY-FIVE DOLLARS.

4. THE FEE FOR CHANGING A NAME OR ADDRESS SHALL BE TEN DOLLARS.

5. THE OFFICE MAY CHARGE A FEE NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS FOR THE ISSUANCE OF A SPECIALIST LICENSE.

6. ANY JOURNEYPERSON OR APPRENTICE LICENSES ISSUED PURSUANT TO THIS ARTICLE SHALL BE VALID FOR A PERIOD OF TWO YEARS. A LICENSEE MAY RENEW HIS OR HER LICENSE UPON THE PAYMENT OF A FIFTY DOLLAR RENEWAL FEE. EACH RENEWAL LICENSE SHALL BE VALID FOR A TWO-YEAR PERIOD.

7. THE FEES SET FORTH IN THIS SECTION SHALL BE FOR CERTIFICATES AND LICENSES ISSUED FOR THE CERTIFICATE OR LICENSE PERIOD OF TWO YEARS OR A FRACTION OF SUCH PERIOD.

S 178-J. SUSPENSION AND REVOCATION OF LICENSES AND CERTIFICATES. 1. A LICENSE TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS MAY BE SUSPENDED OR REVOKED, OR IN LIEU THEREOF A FINE NOT EXCEEDING ONE THOUSAND DOLLARS PER VIOLATION PAYABLE TO THE OFFICE MAY BE IMPOSED OR A REPRIMAND ISSUED BY THE OFFICE, FOR ANY ONE OR MORE OF THE FOLLOWING CAUSES:

(A) FRAUD OR BRIBERY IN SECURING A LICENSE;

(B) THE MAKING OF ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN ANY APPLICATION OR OTHER STATEMENT OR CERTIFICATE REQUIRED BY OR PURSUANT TO THIS ARTICLE;

(C) INCOMPETENCE;

(D) FAILURE TO DISPLAY THE LICENSE AS PROVIDED IN THIS ARTICLE;

(E) VIOLATION OF ANY PROVISION, RULE OR REGULATION OF THIS ARTICLE;

(F) CONVICTION OF A FELONY INVOLVING FRAUD, THEFT, PERJURY OR BRIBERY OR OTHER CAUSE WHICH WOULD PERMIT DISQUALIFICATIONS FROM RECEIVING A LICENSE UPON THE ORIGINAL APPLICATION;

(G) FAILURE TO SUPERVISE, AS DEFINED IN THIS ARTICLE, THE INSTALLATION OF THE FIRE PROTECTION SYSTEM COVERED BY THE BUILDING PERMIT SIGNED BY THE RME CERTIFICATE HOLDER;

(H) VIOLATION OF ANY PROVISION OF THIS ARTICLE OR ANY RULE ADOPTED AND PROMULGATED PURSUANT TO THIS ARTICLE OR THE FAILURE OR REFUSAL TO COMPLY WITH ANY NOTICE OR ORDER TO CORRECT A VIOLATION OR ANY CEASE AND DESIST ORDER BY ANY CERTIFIED RME OR BUSINESS HOLDING A LICENSE. ANY SUCH VIOLATION SHALL BE CAUSE FOR DENIAL, NON-RENEWAL, REVOCATION, OR SUSPENSION OF SUCH CERTIFICATE OR LICENSE BY THE OFFICE AFTER SUCH OFFICER HAS DETERMINED GUILT OF SUCH VIOLATION;

(I) IMPROPER LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING A WATER-BASED FIRE PROTECTION SYSTEM OR PRIVATE UNDERGROUND WATER SUPPLY MAIN CONNECTING TO THE SYSTEM;

(J) RENDERING INOPERATIVE A WATER-BASED FIRE PROTECTION SYSTEM EXCEPT DURING SUCH TIME AS THE SYSTEM IS BEING INSPECTED, TESTED, SERVICED, REPAIRED, OR MAINTAINED, OR EXCEPT PURSUANT TO A COURT ORDER;

(K) WHILE HOLDING A CERTIFICATE OR LICENSE, ALLOWING ANOTHER PERSON TO USE THE CERTIFICATE OR LICENSE NUMBER, OR USING A CERTIFICATE OR LICENSE NUMBER OTHER THAN THE VALID CERTIFICATE OR LICENSE NUMBER; AND

(L) FAILURE TO PROVIDE PROOF OF INSURANCE TO THE OFFICE OR FAILURE TO MAINTAIN IN FORCE THE INSURANCE COVERAGE REQUIRED BY THIS ARTICLE.

2. AN ORDER OF SUSPENSION SHALL STATE THE PERIOD OF TIME OF SUCH SUSPENSION, WHICH PERIOD MAY NOT BE IN EXCESS OF TWO YEARS FROM THE DATE OF SUCH ORDER. SUCH ORDERS SHALL AFFECT SUSPENSION OR REVOCATION OF ALL CERTIFICATES OR LICENSES THEN HELD BY THE PERSON OR BUSINESS ENTITY AND DURING SUCH PERIOD OF TIME NO CERTIFICATE OR LICENSE SHALL BE ISSUED TO

SUCH PERSON OR BUSINESS ENTITY. DURING THE SUSPENSION OR REVOCATION OF ANY CERTIFICATE OR LICENSE, THE FORMER HOLDER SHALL NOT ENGAGE IN, ATTEMPT, OR PROFESS TO ENGAGE IN ANY TRANSACTION OR BUSINESS FOR WHICH A CERTIFICATE OR LICENSE IS REQUIRED UNDER THIS ARTICLE OR DIRECTLY OR INDIRECTLY OWN, CONTROL, OR BE EMPLOYED IN ANY MANNER BY ANY FIRM, BUSINESS, OR CORPORATION FOR WHICH A CERTIFICATE OR LICENSE UNDER THIS ARTICLE IS REQUIRED. IF, DURING THE PERIOD BETWEEN THE BEGINNING OF PROCEEDINGS AND THE ENTRY OF AN ORDER OF SUSPENSION OR REVOCATION BY THE OFFICE, A NEW CERTIFICATE OR LICENSE HAS BEEN ISSUED TO THE PERSON OR BUSINESS ENTITY SO CHARGED, THE ORDER OF SUSPENSION OR REVOCATION SHALL OPERATE TO SUSPEND OR REVOKE SUCH NEW CERTIFICATE OR LICENSE HELD BY SUCH PERSON OR BUSINESS ENTITY.

3. THE OFFICE SHALL NOT, SO LONG AS THE REVOCATION OR SUSPENSION REMAINS IN EFFECT, GRANT ANY NEW LICENSE FOR THE ESTABLISHMENT OF ANY NEW FIRM, BUSINESS, OR CORPORATION OF ANY PERSON, BUSINESS PARTNERSHIP, OR QUALIFIER THAT HAS OR WILL HAVE THE SAME OR SIMILAR MANAGEMENT, OWNERSHIP, CONTROL, EMPLOYEES, OR LICENSE HOLDERS, OR WILL USE A SAME OR SIMILAR NAME AS A PREVIOUSLY REVOKED OR SUSPENDED FIRM, BUSINESS, CORPORATION, PERSON, OR QUALIFIER. IN ADDITION, THE OFFICE SHALL NOT ISSUE A NEW LICENSE IF IT FINDS THAT THE CIRCUMSTANCE OR CIRCUMSTANCES FOR WHICH THE CERTIFICATE OR LICENSE WAS PREVIOUSLY REVOKED OR SUSPENDED STILL EXIST OR ARE LIKELY TO RECUR.

4. WHENEVER THE LICENSE TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, INSPECTING, SERVICING, TESTING, REPAIRING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS IS REVOKED, SUCH LICENSE SHALL NOT BE REINSTATED OR REISSUED UNTIL AFTER THE EXPIRATION OF A PERIOD OF FIVE YEARS FROM THE DATE OF SUCH REVOCATION.

5. THE FILING OF A PETITION IN BANKRUPTCY, EITHER VOLUNTARY OR INVOLUNTARY, OR THE MAKING OF A COMPOSITION OF CREDITORS OR THE APPOINTMENT OF A RECEIVER FOR THE BUSINESS ENTITY'S LICENSE MAY BE CONSIDERED BY THE OFFICE AS JUST CAUSE FOR SUSPENSION OF A LICENSE.

6. THE LAPSE OR SUSPENSION OF A LICENSE BY OPERATION OF LAW OR BY ORDER OF THE OFFICE OR A COURT OR ITS VOLUNTARY SURRENDER BY A LICENSE HOLDER DOES NOT DEPRIVE THE OFFICE TO INVESTIGATE OR ACT IN DISCIPLINARY PROCEEDINGS AGAINST THE LICENSE HOLDER.

S 178-K. HEARING ON CHARGES; DECISION. NO CERTIFICATE OR LICENSE SHALL BE SUSPENDED OR REVOKED NOR SHALL ANY FINE OR REPRIMAND BE IMPOSED UNTIL AFTER A HEARING IS HELD BEFORE AN OFFICER OR EMPLOYEE OF THE OFFICE DESIGNATED FOR SUCH PURPOSE BY THE OFFICE, UPON NOTICE TO THE CERTIFICATE OR LICENSE HOLDER OF AT LEAST TEN DAYS. THE OFFICE SHALL CONSIDER THE RECOMMENDATIONS OF THE ADVISORY COUNCIL. THE NOTICE SHALL BE SERVED EITHER PERSONALLY OR BY REGISTERED MAIL AND SHALL STATE THE DATE AND PLACE OF HEARING AND SET FORTH THE GROUND OR GROUNDS CONSTITUTING THE CHARGES AGAINST THE CERTIFICATE OR LICENSE HOLDER. THE CERTIFICATE OR LICENSE HOLDER SHALL HAVE THE OPPORTUNITY TO BE HEARD IN HIS OR HER DEFENSE EITHER IN PERSON OR BY COUNSEL AND MAY PRODUCE WITNESSES AND TESTIFY IN HIS OR HER BEHALF. A STENOGRAPHIC RECORD OF THE HEARING SHALL BE TAKEN AND PRESERVED. THE HEARING MAY BE ADJOURNED FROM TIME TO TIME. THE PERSON CONDUCTING THE HEARING SHALL MAKE A WRITTEN REPORT OF HIS OR HER FINDINGS AND A RECOMMENDATION TO THE OFFICE FOR DECISION. THE OFFICE SHALL REVIEW SUCH FINDINGS AND THE RECOMMENDATION AND, AFTER DUE DELIBERATION, SHALL ISSUE AN ORDER ACCEPTING, MODIFYING OR REJECTING SUCH RECOMMENDATION AND DISMISSING THE CHARGES OR SUSPENDING OR REVOKING THE CERTIFICATE OR LICENSE OR IN LIEU THEREOF IMPOSING A FINE OR REPRIMAND UPON THE CERTIFICATE OR LICENSE HOLDER. FOR THE PURPOSE OF THIS ARTICLE, THE OFFICE OR ANY DESIGNATED OFFICER OR EMPLOYEE OF THE OFFICE, MAY

ADMINISTER OATHS, TAKE TESTIMONY, SUBPOENA WITNESSES AND COMPEL THE PRODUCTION OF BOOKS, PAPERS, RECORDS AND DOCUMENTS DEEMED PERTINENT TO THE SUBJECT OF INVESTIGATION.

S 178-L. JUDICIAL REVIEW. THE ACTION OF THE OFFICE IN SUSPENDING, REVOKING OR REFUSING TO ISSUE OR RENEW A CERTIFICATE OR LICENSE, OR IMPOSING A FINE OR REPRIMAND ON THE HOLDER THEREOF MAY BE REVIEWED BY A PROCEEDING BROUGHT PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

S 178-M. VIOLATIONS AND PENALTIES. ANY PERSON OR BUSINESS ENTITY WHO SHALL DIRECTLY OR INDIRECTLY ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS OR HOLD ONESELF OUT TO THE PUBLIC AS BEING ABLE SO TO DO WITHOUT A LICENSE THEREFOR, OR WHO SHALL VIOLATE ANY OF THE PROVISIONS OF THIS ARTICLE, OR HAVING HAD A CERTIFICATE OR LICENSE SUSPENDED OR REVOKED, SHALL CONTINUE TO ENGAGE IN SUCH BUSINESS OR WHO, WITHOUT A LICENSE TO ENGAGE IN SUCH BUSINESS, DIRECTLY OR INDIRECTLY EMPLOYS, PERMITS OR AUTHORIZES AN UNCERTIFIED PERSON TO ENGAGE IN THE BUSINESS OF LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING WATER-BASED FIRE PROTECTION SYSTEMS, SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHABLE BY IMPRISONMENT OF NOT MORE THAN SIX MONTHS, OR BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS OR BY BOTH SUCH FINE AND IMPRISONMENT UPON THE FIRST CONVICTION AND BY IMPRISONMENT OF NOT MORE THAN ONE YEAR OR BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS NOR MORE THAN FIVE THOUSAND DOLLARS OR BY BOTH SUCH FINE AND IMPRISONMENT UPON A SUBSEQUENT CONVICTION. EACH VIOLATION OF THIS ARTICLE SHALL BE DEEMED A SEPARATE OFFENSE.

S 178-N. OFFICIAL ACTS USED AS EVIDENCE. THE OFFICIAL ACTS OF THE OFFICE SHALL BE PRIMA FACIE EVIDENCE OF THE FACTS THEREIN AND SHALL BE ENTITLED TO BE RECEIVED IN EVIDENCE IN ALL ACTIONS AT LAW AND OTHER LEGAL PROCEEDINGS IN ANY COURT OR BEFORE ANY BOARD, BODY OR OFFICER.

S 178-O. DISPOSITION OF MONEYS DERIVED FROM OPERATION OF ARTICLE. FEES COLLECTED PURSUANT TO THIS ARTICLE SHALL BE PAID INTO AN APPROPRIATE ACCOUNT FOR THE OFFICE PURSUANT TO THE STATE FINANCE LAW FOR ADMINISTRATION OF THIS ARTICLE. ALL REMAINING MONEYS DERIVED FROM THE OPERATION OF THIS ARTICLE SHALL, ON OR BEFORE THE TENTH DAY OF EACH MONTH, BE PAID INTO THE GENERAL FUND OF THE STATE TREASURY TO THE CREDIT OF SUCH ACCOUNT.

S 178-P. APPLICABILITY. 1. THIS ARTICLE DOES NOT APPLY TO ANY INDIVIDUAL PERFORMING FIRE SUPPRESSION WORK IN NEW YORK CITY, NASSAU COUNTY, OR SUFFOLK COUNTY. ANY MUNICIPALITY OR LOCAL GOVERNMENTAL AGENCY LOCATED IN NEW YORK CITY, OR NASSAU COUNTY OR SUFFOLK COUNTY MAY REQUIRE OTHER LICENSES OR EVIDENCE OF A PERSON'S COMPETENCE TO LAYOUT, INSTALL, REPAIR, INSPECT, TEST, OR MAINTAIN ALL TYPES OF WATER-BASED FIRE PROTECTION SYSTEMS AND COMPONENTS. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO IMPLY A HOLDER OF NEW YORK CITY, NASSAU COUNTY OR SUFFOLK COUNTY LICENSE OR LICENSES AS HAVING ANY STANDING OUTSIDE THE BOUNDARIES OF SUCH CITY OR COUNTIES.

2. THIS ARTICLE SHALL NOT APPLY TO:

(A) A PERSON WHO PERFORMS FIRE SUPPRESSION WORK WITH RESPECT TO ANY ONE- OR TWO-FAMILY DWELLING OWNED OR LEASED BY THAT PERSON;

(B) A PERSON WHO, WHILE EMPLOYED BY A PUBLIC UTILITY OR ITS AFFILIATE, PERFORMS PLUMBING OR FIRE SUPPRESSION WORK IN CONNECTION WITH THE FURNISHING OF PUBLIC UTILITY SERVICE; OR

(C) ANY WORK COVERED BY ANY NATIONAL, STATE OR MUNICIPAL ELECTRICAL CODE INCLUDING BUT NOT LIMITED TO PULL STATIONS, STROBES, HEAT DETEC-

TORS, SMOKE DETECTORS, FIRE ALARMS OR BELLS, AND ANY ELECTRICAL WIRING INCLUDING CONDUIT CONNECTED TO RACEWAY CONTROL CABINETS.

3. THE PROVISIONS OF THIS ARTICLE SHALL GOVERN NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY; PROVIDED, HOWEVER, THAT LOCAL LAW SHALL GOVERN WITH RESPECT TO INSPECTION OF WATER-BASED FIRE PROTECTION SYSTEMS BY A CODE ENFORCEMENT OFFICIAL UNDER SUCH LOCAL LAW AND LOCAL LAWS TO THE CONTRARY SHALL NOT DIMINISH THE LEVEL OF INSPECTION BY THE PROVISIONS OF THE EDITION OF NFPA 25 REFERENCED BY THE STATE CODES, WHICH SHALL BE CONSIDERED A STATEWIDE MINIMUM LEVEL OF INSPECTION CRITERIA FOR WATER-BASED FIRE PROTECTION SYSTEMS; AND PROVIDED, FURTHER, THAT THIS ARTICLE SHALL NOT BE HELD TO INVALIDATE ANY PROVISION OF THE LAWS OF THIS STATE OR ANY SUBDIVISION THEREOF UNLESS THERE IS A DIRECT CONFLICT BETWEEN THE PROVISIONS OF THIS ARTICLE AND THE PROVISIONS OF SUCH LAW OR UNLESS SUCH LAW IS DUPLICATIVE OF THIS ARTICLE, IN WHICH CASE THIS ARTICLE SHALL PREVAIL. NO LOCAL LAW SHALL REQUIRE ANY FEE, LICENSE OR CERTIFICATE FOR THE LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, OR MAINTAINING OF WATER-BASED FIRE PROTECTION SYSTEMS, EXCEPT WHEN THE FIRE SPRINKLER COMPANY IS LOCATED WITHIN A POLITICAL JURISDICTION WHO THEN MAY APPLY BUSINESS LICENSURE CRITERIA CONSISTENT WITH FEES IMPOSED ON OTHER BUSINESSES.

4. NOTHING IN THIS ARTICLE LIMITS THE POWER OF A MUNICIPALITY OR COUNTY TO REGULATE THE QUALITY AND CHARACTER OF WORK PERFORMED BY CONTRACTORS THROUGH A SYSTEM OF PERMITS, FEES, AND INSPECTIONS WHICH ARE DESIGNED TO SECURE COMPLIANCE WITH, AND AID IN THE IMPLEMENTATION OF, STATE AND LOCAL BUILDING LAWS OR TO ENFORCE OTHER LOCAL LAWS FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY. HOWEVER, BUSINESS CERTIFICATES SHALL NOT BE REQUIRED UNLESS THE COMPANY OPERATES OFFICES OR FACILITIES WITHIN THE JURISDICTION OF THE MUNICIPALITY OR COUNTY.

5. NOTHING IN THIS ARTICLE LIMITS THE POWER OF A MUNICIPALITY OR COUNTY TO ADOPT ANY SYSTEM OF PERMITS REQUIRING SUBMISSION TO AND APPROVAL BY THE MUNICIPALITY OR COUNTY OF PLANS AND SPECIFICATIONS FOR WORK TO BE PERFORMED BY CONTRACTORS BEFORE COMMENCEMENT OF THE WORK, EXCEPT THAT NO MUNICIPALITY OR COUNTY SHALL REQUIRE A WATER-BASED FIRE PROTECTION SYSTEM CONTRACTOR'S SHOP DRAWINGS TO BE SEALED BY A PROFESSIONAL ENGINEER, PROVIDED THE SYSTEM DESIGN DRAWINGS PROPERLY INCLUDE SUCH A SEAL.

6. ANY OFFICIAL AUTHORIZED TO ISSUE BUILDING OR OTHER RELATED PERMITS SHALL ASCERTAIN THAT THE APPLICANT CONTRACTOR IS DULY CERTIFIED BEFORE ISSUING THE PERMIT. THE EVIDENCE SHALL CONSIST ONLY OF THE EXHIBITION TO HIM OR HER OF EVIDENCE OF THE CURRENT CERTIFICATION. ANY PERMITS AT STATE OR LOCAL LEVELS FOR THE LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, MAINTAINING OR REPAIR OF A WATER-BASED FIRE PROTECTION SYSTEM MAY ONLY BE ISSUED TO A LICENSED WATER-BASED FIRE PROTECTION CONTRACTOR OF THE APPROPRIATE CLASSIFICATION TO CONDUCT THE WORK.

S 178-Q. CONTRACTUAL AGREEMENTS. 1. ANY PORTION OF ANY AGREEMENT OR CONTRACT FOR OR IN CONNECTION WITH, OR ANY GUARANTEE OF OR IN CONNECTION WITH ANY LAYOUT, INSTALLING, SERVICING, REPAIRING, INSPECTING, TESTING, MAINTAINING, OR DEMOLITION OF A WATER-BASED FIRE PROTECTION SYSTEM BETWEEN AN OWNER OF REAL PROPERTY OR GENERAL CONTRACTOR AND THE WATER-BASED FIRE PROTECTION SYSTEM CONTRACTOR WHEREIN ANY PARTY REFERRED TO IN THIS ARTICLE PROMISES TO INDEMNIFY OR HOLD HARMLESS THE OTHER PARTY TO THE AGREEMENT, CONTRACT, OR GUARANTEE FOR LIABILITY FOR DAMAGES TO PERSONS OR PROPERTY CAUSED IN PART BY ANY ACT, OMISSION, OR DEFAULT OF THE INDEMNITEE ARISING FROM THE CONTRACT OR ITS PERFORMANCE, SHALL BE VOID AND UNENFORCEABLE UNLESS THE CONTRACT CONTAINS A MONETARY LIMITATION ON THE EXTENT OF THE INDEMNIFICATION THAT BEARS A REASONABLE

COMMERCIAL RELATIONSHIP TO THE CONTRACT AND IS PART OF THE PROJECT SPECIFICATIONS OR BID DOCUMENTS, IF ANY. NOTWITHSTANDING THE FOREGOING, THE MONETARY LIMITATION ON THE EXTENT OF THE INDEMNIFICATION PROVIDED TO THE OWNER OF REAL PROPERTY BY ANY PARTY IN PRIVITIES OF CONTRACT WITH SUCH OWNER SHALL NOT BE LESS THAN ONE MILLION DOLLARS PER OCCURRENCE, UNLESS OTHERWISE AGREED BY THE PARTIES. INDEMNIFICATION PROVISIONS IN ANY SUCH AGREEMENTS, CONTRACTS, OR GUARANTEES MAY NOT REQUIRE THAT THE INDEMNITOR INDEMNIFY THE INDEMNITEE FOR DAMAGES TO PERSONS OR PROPERTY CAUSED BY THE SOLE NEGLIGENCE OF ANOTHER PARTY, OR IN WHOLE OR IN PART BY ANY ACT, OMISSION, OR DEFAULT OF A PARTY OTHER THAN:

(A) THE INDEMNITOR;

(B) ANY OF THE INDEMNITOR'S CONTRACTORS, SUBCONTRACTORS, SUB-SUBCONTRACTORS, MATERIALMEN, OR AGENTS OF ANY TIER OR THEIR RESPECTIVE EMPLOYEES; OR

(C) THE INDEMNITEE OR ITS OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES. HOWEVER, SUCH INDEMNIFICATION SHALL NOT INCLUDE CLAIMS OF, OR DAMAGES RESULTING FROM, GROSS NEGLIGENCE, OR WILLFUL, WANTON OR INTENTIONAL MISCONDUCT OF THE INDEMNITEE OR ITS OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES, OR FOR STATUTORY VIOLATION OR PUNITIVE DAMAGES EXCEPT AND TO THE EXTENT THE STATUTORY VIOLATION OR PUNITIVE DAMAGES ARE CAUSED BY OR RESULT FROM THE ACTS OR OMISSIONS OF THE INDEMNITOR OR ANY OF THE INDEMNITOR'S CONTRACTORS, SUBCONTRACTORS, SUB-SUBCONTRACTORS, MATERIALMEN, OR AGENTS OF ANY TIER OR THEIR RESPECTIVE EMPLOYEES.

2. A CONSTRUCTION CONTRACT FOR A PUBLIC AGENCY OR IN CONNECTION WITH A PUBLIC AGENCY'S PROJECT MAY NOT REQUIRE ONE PARTY TO INDEMNIFY, DEFEND, OR HOLD HARMLESS THE OTHER PARTY, ITS EMPLOYEES, OFFICERS, DIRECTORS, OR AGENTS FROM ANY LIABILITY, DAMAGE, LOSS, CLAIM, ACTION, OR PROCEEDING, AND ANY SUCH CONTRACT PROVISION IS VOID AS AGAINST PUBLIC POLICY OF THIS STATE.

3. THIS SECTION DOES NOT AFFECT ANY CONTRACTS, AGREEMENTS, OR GUARANTEES ENTERED INTO BEFORE THE EFFECTIVE DATE OF THIS ARTICLE BUT AFFECTS RENEWALS THEREOF WHEN SAID RENEWAL TAKES PLACE AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

4. WATER-BASED FIRE PROTECTION CONTRACTORS PURSUANT TO THIS ARTICLE SHALL BE GRANTED SUFFICIENT TIME TO INSPECT ANY PERCEIVED CONSTRUCTION DEFECT IN A BUILDING THAT THEY MAY DISPROVE OR ACCEPT AS IN THEIR PURVIEW BEFORE ANY LEGAL ACTIONS OR SUITS ARE BROUGHT FORTH. IF SAID CONTRACTOR TAKES RESPONSIBILITY FOR THE DEFECT, REASONABLE TIME SHALL BE ALLOWED FOR THE CONTRACTOR OR ITS REPRESENTATIVE OR REPRESENTATIVES TO CORRECT WITHOUT FEAR OF ANY LEGAL ACTIONS OR SUIT. A WATER-BASED FIRE PROTECTION CONTRACTOR SHALL NOT BE HELD LIABLE FOR ECONOMIC DAMAGES CAUSED BY OTHERS.

5. THE OWNER HAS AN OBLIGATION TO INSTALL FIRE PROTECTION SYSTEMS IN COMPLIANCE WITH ADOPTED FIRE PROTECTION SYSTEM STANDARDS.

S 178-R. ELECTRONIC INFORMATION. THE OFFICE SHALL SET UP AND MAINTAIN AN INTERNET WEB PAGE OR PAGES INCLUDING, BUT NOT LIMITED TO APPROPRIATE FORMS, LISTING OF LICENSED CONTRACTORS, JOURNEYPERSON, APPRENTICES, CERTIFIED RMES, RULES AND REGULATIONS, ADVISORY COUNCIL MEETING SCHEDULES, ADVISORY COUNCIL MEETING MINUTES, SUSPENSIONS, REVOCATIONS, AND CONTACT INFORMATION FOR COMPLAINTS.

S 178-S. SEPARABILITY. IF ANY PART OR PROVISION OF THIS ARTICLE OR THE APPLICATION THEREOF TO ANY PERSON OR CIRCUMSTANCE BE ADJUDGED INVALID BY ANY COURT OF COMPETENT JURISDICTION, SUCH JUDGMENT SHALL BE CONFINED IN ITS OPERATION TO THE PART, PROVISION OR APPLICATION DIRECTLY INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN RENDERED AND SHALL NOT AFFECT OR IMPAIR THE VALIDITY OF THE REMAINDER OF

THIS ARTICLE OR THE APPLICATION THEREOF TO OTHER PERSONS OR CIRCUMSTANCES AND THE LEGISLATURE HEREBY DECLARES THAT IT WOULD HAVE ENACTED THIS ARTICLE OR THE REMAINDER THEREOF HAD THE INVALIDITY OF SUCH PROVISION OR APPLICATION THEREOF BEEN APPARENT.

S 4. This act shall take effect immediately.