STATE OF NEW YORK

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IN SENATE

April 25, 2017

Introduced by Sens. SAVINO, ALCANTARA, AVELLA, CARLUCCI, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to the layout, installing, servicing, repairing, inspecting, testing and maintaining of automatic water-based fire protection systems; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 40 to read as follows:

ARTICLE 40
AUTOMATIC WATER-BASED FIRE PROTECTION SYSTEMS
Section 900. Definitions.
901. Contractor license and RME requirements; scope of practice; penalties for non-compliance.
902. Powers of the department of state division of licensing services and the New York state fire protection licensure board.
903. New York state fire protection advisory board.
904. New licensing and certification requirements.
905. Licensing and certification requirements for existing contractor.
906. Specialists.
907. License: application; insurance; display; and duplicates.
908. License: renewal and RME.
909. Inspection of water-based fire protection systems.

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

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910. Fees.
911. Suspension and revocation of licenses.
912. Hearing on charges; decision.
913. Judicial review.
914. Violations and penalties.
915. Official acts used as evidence.
916. Disposition of fees.
917. Severability.
918. Applicability.
919. Contractual agreements.

§ 900. Definitions. As used in this article, unless the context requires otherwise:

1. "A/d/b/a" means "also doing business as".

2. "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 or a U.S. Department of Labor recognized fire sprinkler fitter apprenticeship program and must be directly supervised by a licensed journeyperson on any one jobsite.

3. "Approved apprenticeship program" means an apprenticeship-training program recognized by the industry and accepted as an apprenticeship program by the state of New York or the U.S. Department of Labor.

4. "Board" means the New York State Fire Protection Licensure Board under the department. The board shall be the approving body for all rules, requirements, regulations, and future modifications affecting licensure, certificates and certification, exams, training, and other issues under this article.

5. "Business entity" means a firm, company, partnership, limited liability company or corporation.

6. "Department" refers to the division of licensing services within the department of state.

7. "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/pressure requirements for the 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 identify water supplies that could lead to microbiologically influenced corrosion (MIC); and

(g) seismic information and other items identified by law or the uniformed codes.

8. "Fee" means any "examination fee," "license fee," "registration fee," and/or "renewal fee" is required to accompany an application or issuance of any license, certification, or registration including any temporaries or renewals, pursuant to this article. Such fee shall be non-refundable.

9. "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, inspecting, testing, maintaining, and servicing fire suppression or fire fighting systems including both overhead piping and underground fire water mains, backflow prevention devices, 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.

10. "Fire sprinkler system" means any water-based automatic fire extinguishing, fire suppression system or fire control 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 fire prevention and building codes of the state of New York and referenced standards and approved more restrictive local standards.

11. "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.

12. "Geographical area" means all counties, except New York, Bronx, Kings, Queens, Richmond, Nassau and Suffolk.

13. "Inspection" means a visual examination of a building owner's water-based fire protection system or portion thereof to verify within the scope of NFPA 25 that the system appears to be in operating condition and is free of physical damage.

14. "Inspection, testing, and maintenance" means a program provided by a New York state licensed water-based fire protection contractor when contracted with a property or building owner or their representative 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 authorized representative and appropriate authorities that may be required.

15. "Inspector" means a person certified in the NICET Level II "Inspections and Testing of Water-Based Systems" and is employed by a New York state licensed contractor as herein defined who performs inspection and testing on a water-based fire protection system within the scope of NFPA 25, the New York State Fire and Building Code set, and other laws or regulations.

16. "Inspector trainee" means inspectors in training that may perform inspections under the direct supervision of a NICET Level II certified inspector for up to one year prior to obtaining NICET Level I and subsequently perform inspections under direct supervision up to an additional two years prior to obtaining NICET Level II in the field of "inspections and testing of water-based systems". The inspector in training and NICET Level II supervisor must both be in the direct employ of the contractor I, II, III, or IV. The department shall issue a card once per lifetime with a three year limitation and be maintained to prove these durations

are met, if the inspector trainee does not obtain the required certifications, he or she shall not be allowed to continue to perform inspections.

17. "Install" or "installation" means the initial placement of the water-based fire protection system or its extension or alteration after the initial placement.

18. "Journeyperson" means a person qualified by at least ten thousand hours (10,000) of work experience installing, adjusting, repairing, dismantling, inspecting, testing, and maintaining water-based fire protection systems and who is competent to instruct and supervise the water-based fire protection work of apprentice fire sprinkler fitters and residential trainees, and/or a person who has completed a state or federally recognized apprenticeship program.

19. "Layout" means the placement of risers, cross mains, branch lines, fire sprinklers, sizing of pipe, hanger locations, and supplemental hydraulic calculations in accordance with the provisions of water-based fire protection design standards and design criteria as provided by engineer of record.

20. "License holder" means a business entity as herein defined as licensed by the department 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.

21. "Maintenance" means work performed by the licensed water-based fire protection contractor to keep equipment operable and make repairs.

22. "Multipurpose system" means a piping system intended to serve both the domestic and fire protection needs.

23. "NCCI" means the National Council on Compensation Insurance.

24. "NFPA" means the National Fire Protection Association, Inc.

25. "NFSA" means the National Fire Sprinkler Association, Inc.

26. "NICET" means the National Institute for Certification in Engineering Technologies or other recognized entity by the fire sprinkler industry equal or better to NICET as determined by the department.

27. "OFPC" or "office" means the New York State Office of Fire Prevention and Control.

28. "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.

29. "Repair" means any work on a system after the initial installation to replace, correct and maintain the system to provide performance as originally designed.

30. "Residential tradesperson" means a person in the employ of a contractor I, III, or IV and is limited to the scope of work as defined in contractor IV, plus mixed use residential occupancies up to and including four stories in height and is qualified by at least eight thousand hours (8,000) of work experience installing, adjusting, repairing, and dismantling fire suppression systems and who is competent to instruct and supervise the fire suppression work of residential trainees.

31. "Residential trainee" is under the contractor I, III, or IV license only and is limited to the scope of work as defined in contractor IV and means a person in training that may perform residential fire sprinkler fitter work under direct supervision of a residential tradesperson or a journeyperson. The department shall issue a card once per lifetime with a four year limitation and be maintained to prove these

durations are met, if the residential trainee does not obtain the residential tradesperson license within the time limit, he or she shall not be allowed to continue to perform such work.

32. (a) "Responsible managing employee" or "RME" means an individual with appropriate NICET Certification who is a full time employee of a water-based fire protection company, and is designated as the water-based fire protection company's qualifier to do business as a water-based fire protection contracting company. An RME may serve to qualify only one contractor business location under this article in the state of New York. An RME who works for more than one water-based fire protection company at the same time shall not be considered a full time employee of either, subject to the exception set forth in paragraph (b) of this subdivision.

(b) An RME with appropriate NICET certifications may qualify one water-based fire protection company or 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.

33. "Supervise" or "supervision" means the direction, management, and oversight by the RME named on the business license of the activities of 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 require the RME have to be at the site of each layout, install, repair, inspection, test, or maintenance of the water-based fire protection systems at all times.

34. "Testing" means testing water-based fire protection systems as defined by fire code of the state of New York and referenced documents.

35. "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.

36. "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.

(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. The contractor II inspectors shall be certified NICET Level II or better in "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.

(d) "Contractor IV" or "residential fire sprinkler contractor" 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 limited residential water-based fire protection systems and whose scope of business is limited to the scope of application of NFPA 13D "Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes" and NFPA 13R "Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies" which is limited to certain occupancy types.

(i) Contractor IV entities shall not and are not authorized to contract or perform any work in the scope of this article for the following:

(A) nursing homes and ambulatory care facilities; or

(B) dormitories, fraternities, sororities, or any housing that targets students on or off campus.

(ii) A multi-purpose NFPA 13D fire sprinkler system layout, installation, service, repair, inspection, test, or maintenance shall require a contractor I, III, or IV license and meet all requirements contained herein regardless of and in addition to any other potable water professional or trade requirements, certifications or licensures required by the state and authorities having jurisdiction.

37. "Water-Based Fire Protection Contractor business license" means a license issued by the department to a business entity to operate as a water-based fire protection contractor.

38. "Water-based fire protection system" is a commercial or residential system individually designed to protect the interior or exterior of a specific building, structure, or other hazard from fire, or life safety whether land-based or marine. This system begins at the point of private service as defined and ends at the most remote point of the system. 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, or multi-purpose 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 and standards of the state of New York.

39. "Years experience" means proof of employment based on definition in "full time employee" for each twelve-month period.

§ 901. Contractor license and RME 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 hereinafter provided. The RME named to qualify a business under this article must be a full time employee of the organization or business. An RME who is employed by more than one water-based fire protection contractor during the same

period of time shall not be the qualifier for more than one water-based fire protection contractor at the same time.

(b) The department shall revoke, for a period of time determined by the department, the RME as a qualifier for all water-based fire protection contractors if an RME makes use or allows the use of NICET or equivalent certification to qualify a company of which the RME is not a full-time employee.

(c) Within two years from the effective date of this article, a contractor who performs water-based fire protection systems work in New York state must have in its employ one RME with appropriate NICET certifications at each location where lay-out of water-based fire protection systems shop drawings are performed. The provisions of this paragraph shall apply to water-based fire protection systems contractors based in other states, or any other location for work performed in the geographical areas specified in subdivision twelve of section nine hundred of this article.

(d) Nothing in this subdivision prohibits an employee acting on behalf of governmental entities or insurance providers from inspecting and enforcing New York state codes, provided such employee is acting solely on behalf of its employer. All fire protection cards, registrations, certificates, and licenses required herein by this article and issued by the department shall have statewide application and local governmental entities are prohibited from establishing and imposing more or less stringent standards, local licensing, certification, or registration on state licensed water-based fire protection contractors or its employees.

(e) Local government shall not require any form of a business certificate, licensing, certification, registration of a water-based fire protection contractor or its RME or its employees that are licensed, certified, or registered by the department of state unless the company maintains a physical office within the jurisdiction.

2. By 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 fire protection service as defined herein to the most remote parts of the system or hold himself out as being able so to do unless he is licensed, certified, or registered pursuant to this article. Nothing herein shall prohibit a properly licensed business entity in accordance with the provisions of this article from employing individuals including New York state registered journeypersons and apprentices to assist in the layout, installing, servicing, repairing, inspecting, testing, or maintaining of water-based fire protection systems and the license holder shall be responsible for the proper layout, installing, servicing, repairing, inspecting, testing, or maintaining of water-based fire protection systems.

3. By two years of the effective date of this article, the department shall require the NICET program of Inspection and Testing of Fire Protection Systems minimum Level II or equivalent acceptable to the department as proof that the inspectors are knowledgeable about nationally accepted standards for the inspection, testing, and maintenance of water-based fire protection systems.

4. By 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 the geographical areas specified in subdivision twelve of

section nine hundred of this article unless licensed as a water-based fire protection contractor I or contractor IV in the state of New York.

5. By one year of the effective date of this article, a contractor I, contractor III, and contractor IV, who installs the underground piping from the point of private service is responsible for completing the installation to the aboveground connection flange 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. Introduction or addition of a backflow prevention device to an existing water-based fire protection system, will cause a reduction in available water pressure and may create system malfunction. It is the responsibility of the building or property owner, commercial or residential to obtain the services of a New York state licensed professional engineer to evaluate the fire protection system, supply documented findings to the water-based fire protection contractor, and approve the installation of any backflow prevention device.

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 under this article 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 herein set forth is guilty of a misdemeanor of the second degree, punishable as provided in this article.

9. In addition to the penalties provided in subdivision eight of this section, a water-based fire protection contractor licensed under 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 pursuant to sections nine hundred ten of this article and administrative fines pursuant to section nine hundred thirteen of this article.

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 or are currently enrolled in a New York state registered- or a U.S. 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, upon the effective date of this article, fire sprinkler fitter apprenticeship training programs approved by the U.S. 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 qualifications in this article.

13. Licenses issued to contractors shall clearly show the level of license issued for ease of identification by field staff of department and OFPC, local code enforcement officials, the public, and other interested parties.

14. License Applicability Overview.

Function	Class I	Class II	Class III	Class IV
Inspect	All	All	Water, not foam	13D and limited 13R
Test	All	All	Water, not foam	13D and limited 13R
Maintain	All	n/a	Water, not foam	13D and limited 13R
Install	All	n/a	Water, not foam	13D and limited 13R
Repair	All	n/a	Water, not foam	13D and limited 13R
Modify	All	n/a	Water, not foam	13D and limited 13R

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 in this article. 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 may 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.

§ 902. Powers of the department of state division of licensing services and the New York state fire protection licensure board. In addition to the powers and duties elsewhere prescribed in this article, the department and board shall have power:

1. to appoint an adequate number of assistants, field 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 licenses, or registrations under this article.

3. to keep records of all licenses, certifications, and registrations issued, suspended or revoked and publish such 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 promulgate 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 licenses and registrations, and the reception thereof, the investigation and examination of applicants and their qualifications, and the other matters incidental or appropriate to their powers and duties as prescribed by this article and for the proper administration and enforcement of the provisions of this article, and to

make recommendations to add, amend, or repeal any of such rules and regulations.

§ 903. New York state fire protection advisory board. 1. The secretary of state shall establish the New York state fire protection advisory board. The board shall conduct its first meeting within ninety days of the effective date of this article.

2. The board shall be composed of eleven members as follows:

(a) the New York secretary of state or his/her designee;

(b) the New York state fire administrator or his/her designee;

(c) the New York state director of the division of building standards and codes or his/her designee;

(d) two members shall be fire sprinkler fitter representatives appointed by the President of the New York Pipe Trades;

(e) three members appointed by the President of the National Fire Sprinkler Association, Inc., one of whom shall be a professional engineer licensed by the department of education with experience in water-based fire protection;

(f) the NFSA regional manager representing New York;

(g) one member appointed by the temporary president of the senate; and

(h) one member appointed by the speaker of the assembly.

3. Of the members appointed by the President of the National Fire Sprinkler Association, Inc., the appointees' businesses locations shall be from as separate geographical areas of New York state as is possible. The appointees' businesses must 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.

4. Vacancies on the board shall be filled in the same manner as the original appointment.

5. The chair of the board shall be the secretary of state or his or her designee. In the absence of the secretary of state or his or her designee, the state fire administrator or his or her designee or the director of building standards and codes division or designee may serve as chair.

6. The board shall meet at least quarterly but may meet more often as the need presents itself. Members of the board shall use due diligence to participate in all scheduled and special meetings as required. The department shall take minutes and make minutes available as soon as reasonably possible to board members that are absent.

7. The board shall have the power and authority to:

(a) direct the department in administration of the requirements established in this article and all future fire protection licenses in the state;

(b) review complaints and disputed administrative action and make non-binding recommendations for disciplinary action to the department at the request of the certificate holder, license holder, or the department;

(c) make decisions and supply in writing to the department rules, codes, standards, interpretations, and training; and

(d) develop and maintain fitter testing for the purpose of licensure of journeypersons and apprentices, which shall be administered and enforced by the department.

8. The term of the appointed board members shall expire on June thirtieth of the first year after the establishment of the board and biennially thereafter. An appointee may qualify for more than one term.

9. Six members of the board shall constitute a quorum for purposes of voting and making decisions; provided, however, that such members shall include at least one fire protection contractor and one fire sprinkler fitter. Motions shall not move forward without at least one vote in consensus from at least one fire sprinkler fitter and one member appointed by the President of the National Fire Sprinkler Association, Inc.

10. Members of the board shall receive no additional pay, allowances, or benefits by reason of his or her service to the board, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties to the extent authorized by the comptroller for state employees.

§ 904. New licensing and certification requirements. 1. As a prerequisite for licensure as a contractor I, the RME qualifier or qualifiers 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 employment of a water-based fire protection system contractor I or a combination of equivalent education and experience. It is the intent that the contractor I RME meet the criteria of NICET Level III certification in the specific technical discipline of "Water-based layout" or an equivalent accepted by the board and also department as a prerequisite with NICET "Special Hazards Suppression Systems" or an equivalent accepted by the board and department. Two RMEs are permitted with one in each discipline.

2. As a prerequisite for licensure as a contractor II, the RME qualifier must be at least eighteen years of age, be of good moral character, and be certified NICET Level II for "Inspection and Testing of Water-based Systems" or equivalent accepted by the board and department. NICET Level I "Inspection and Testing of Water-based Systems" or an equivalent accepted by the board and department may perform inspection and testing under direct on site supervision of a NICET II or equivalent inspector.

3. As a prerequisite for licensure as a contractor III, the RME qualifier 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 employment of a water-based fire protection system contractor I or III or a combination of equivalent education and experience. The RME qualifier for the contractor III license shall meet the criteria of NICET Level III certification in the specific technical discipline of "Water-based layout" as a prerequisite or an equivalent accepted by the board and department.

4. As a prerequisite for licensure as a contractor IV, the RME qualifier 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 employment of a water-based fire protection system contractor I, III, or contractor IV or a combination of equivalent education and experience. The RME qualifying a contractor IV license shall meet the criteria of NICET Level III certification or equivalent in the specific technical discipline of "Water-based layout".

5. 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.

§ 905. Licensing and certification requirements for existing contractor. 1. An existing contractor shall be entitled to a license under this article if such contractor shall present to the department: (a) 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 the state for at least five years within the period of six years immediately prior to the effective date of this article; or

(b) proof of proper insurance as a water-based fire protection contractor within the state 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.

2. A business has been actively engaged in the proper class of contracting or a water-based fire protection contractor that has been in existence less than five years as of the effective date of this article shall be entitled to a license upon presentation to the department of proof of regularly performing fire sprinkler work or successfully completed a fire sprinkler apprenticeship program provided by a fire sprinkler local or other nationally recognized fire sprinkler association program which is to be deemed acceptable by the board, and show valid proof of proper NCCI insurance rating as a water-based fire protection contractor within New York state since the inception of the business.

3. No license issued pursuant to the provisions of this section shall be renewed.

§ 906. Specialists. 1. The department shall issue licenses to the following classes of specialists:

(a) journeyperson fitter;

(b) apprentice fitter;

(c) residential tradesperson;

(d) residential trainee;

(e) inspector; and

(f) inspector trainee.

2. The department shall implement rules and regulations regarding the qualifications and testing pursuant to this article for the purposes of registering specialists as advised or recommended from the board.

3. In addition to any other information required by the department, the applicant's social security number shall be recorded on any application for a registration submitted pursuant to the provisions of this article. Failure to provide the applicant's social security number may delay approval and issuance of a card to perform work under this article.

4. The department 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 department to determine the presence or absence of an applicant's qualifications for a license of a particular class. The department 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 department may make such other inquiries as necessary to determine the qualifications of the applicant. An applicant expressly consents to such inquiries by the department by the submission of such applicant's application to the department.

5. For one year after the effective date of this article, the department shall grant licenses pursuant to section nine hundred seven of this

article without requiring a test. After the one year period, the department shall, in addition to all other requirements under this article, require each specialist 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 department 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 department may deny the application of any applicant who fails to comply with the provisions of this article or any rule or regulation related thereto, or who lacks the necessary qualifications for a license.

8. The department or board may, upon complaint or upon his or her own inquiry, and upon notice to a specialist, suspend or revoke any license, certificate, or card issued pursuant to this article if:

(a) the specialist's application that was supported by documentation that 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 was proven to unsafely or incompetently perform 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 failed to comply with any rule or regulation of the department or board promulgated to implement the provisions of this article.

9. Any person aggrieved by a decision of the department or board is entitled to judicial review as provided in the civil practice law and rules.

10. Any person entering or any firm, corporation, or employee thereof, or any representative, member or officer of such firm or corporation causing a person to enter upon or engage in the business of performing any fire suppression work as defined in section nine hundred nine of this article without obtaining the required license or otherwise complying with this article, is for the first offense guilty of a misdemeanor. Such a conviction will result in a fine of not less than one hundred dollars or more than five hundred dollars. For a second and each subsequent offense, the penalty and punishment is a fine of not less than five hundred dollars or 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 section nine hundred nine of this article, after official notice that such work is unlawful, is a separate offense.

11. Any fire suppression work performed by a person is determined by the secretary of state to be 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 department or board, is subject to being issued a citation or a civil action in the name of the state in the 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 secretary of state and with any final decision of the board. The department and board shall be represented in all such proceedings by the attorney general or his/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. Cards issued by the department shall be clearly marked whether the cardholder is an apprentice or journeyperson.

14. No journeyperson or apprentice shall hold himself or herself out to be qualified to install, inspect, test, or maintain a water-based fire protection system without being in the active employ of a licensed New York state water-based fire protection contractor.

15. When applying for renewal, journeypersons, residential tradespersons, and residential trainees shall prove sixteen hours of approved continuing education units in the field of fire suppression work, safety, or other applicable course of study from a third party source of education or training. Safety courses may be a maximum of eight hours of the requirements and shall be OSHA sanctioned or approved programs. On-line internet programs may obtain a maximum of four hours. All education, courses of study, and training will require proof of successful completion of all hours.

16. The department may issue a temporary license to a fitter prior to such person taking an examination if such person meets the requirements of "journeyperson fitter" as defined in this article. The temporary license shall only be issued once to a person during his/her lifetime and shall only be valid from the date of issuance until the date of the next examination.

17. (a) If any person, eligible as a journeyperson or apprentice as provided in this section, be in the military service at or during the time an application is required to be filed with fee paid, according to the provisions of this section, the period within which the application may be filed and fee may be paid, is extended in behalf of such person until three months after the termination of military service, notwithstanding any provisions in this article to the contrary.

(b) In the case of persons who are or were in the military service and have been or will be discharged under conditions other than dishonorable, the period of two years specified need not be continuous. The length of time such person was employed as a specialist before entering active military service may be added to any period of time during which such person was or is engaged as a specialist after the termination of military service.

§ 907. License: application; insurance; display; and duplicates. 1. After a representative RME meets the provisions of this article as a business qualifier, any business entity desiring a license to engage in the business of layout, installing, inspecting, servicing, altering, or maintaining of water-based fire protection systems under this article, may make application to the department. The RME shall be subscribed by the license applicant and affirmed by him or her as true under the penalties of perjury. The license application shall be in such form and shall contain such information relative to the RME NICET certification

number, category of discipline, and level of discipline. Each license application shall be accompanied by a copy of required certifications as established in this article proving the level of certification for inspection by the department.

2. All licenses shall be for a period of two years.

3. No license shall be assignable or transferable except as hereinafter provided.

4. A license issued to a limited liability company or to a 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 department in writing within five business 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; the period of sixty days prior may be extended upon application to the department and for good cause for an additional period not to exceed one hundred and twenty days; by the end of such period a new RME must be designated who has met the certification requirements of this article on behalf of the license holder.

5. (a) As a prerequisite to issuance of a license, the department 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 herein with a minimum of one million dollars ($1,000,000) for contractor I, contractor II, contractor III, and contractor IV. This proof shall show appropriate coverage for comprehensive general liability for bodily injury and property damages, products liability, completed operations, contractual liability, and workers' compensation. The board 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, any material change in coverage or any termination, non-renewal, or cancellation unless thirty days prior notice shall be given to the department.

(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. 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 department, shall be subject to the penalties provided in this article.

6. Upon satisfaction of the requirements of this section, the license shall be issued. 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 department 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 department 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 department.

8. The license issued 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 the business of layout, installing, servicing, repairing, inspecting, testing, or maintaining of water-based fire protection systems.

9. Within one year of the effective date of this article, and after obtaining a license issued pursuant to the terms of this article, 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 in the phrase "New York State License # ".

10. Within one year of the effective date of this article, and after obtaining a license issued pursuant to the terms of this article, all advertising placed by a business entity licensed under this article must contain the following statement: "New York State License # ".

11. A duplicate license may be issued for one lost, destroyed or mutilated upon application therefor on a form prescribed by the department and the payment of the fee prescribed therefore 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 license shall be transposed identically onto the duplicate license.

12. Notice in writing shall be given to the department 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 RME for a period of not more than sixty days from the date of death of such individual. The period of sixty days aforesaid may be extended upon application to the department and for good cause shown for an additional period not to exceed one hundred and twenty days.

§ 908. License: renewals and RME. The contractor shall submit application for license renewal with current RME information and qualifications.

§ 909. Inspection of water-based fire protection systems. 1. The department or OFPC 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 the laws and rules of the state and in accordance with specific project requirements. This does not diminish the capacity and duties of the local code enforcement office.

2. Water-based fire protection systems installed in public and private properties, except one-family or two-family dwellings, in this state

shall be inspected following procedures established in the nationally recognized inspection, testing, and maintenance standard NFPA-25 as set forth in the edition adopted by the New York State Codes Council and New York State Article 19. 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 in this article. This section does not prohibit governmental entities and code enforcement officials in the performance of their duties from inspecting and enforcing New York state adopted and referenced standards and codes.

3. Only the appropriate water-based fire protection license holders may open valves or flowing water in water-based fire protection systems. Alarm contractors are prohibited from doing so. The water-based system inspector shall test the fire suppression system, is responsible to flow water and may reset the alarm panel when flow and tamper indicators report. A security or fire alarm license shall not be required to perform this portion of inspection, testing, and maintenance of any fire suppression system.

4. A building owner or building owner's authorized representative shall contract with a New York state licensed contractor for the means of scheduled inspection and testing before any certificate of occupancy is issued. The inspecting contractor shall provide to the building owner (other than detached one- and two-family homes) a copy of the inspection report established detailing applicable New York state codes 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. 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. 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 the responsibility of the building owner. The building owner is responsible for requesting service from a licensed New York state contractor I or IV when any deficiency exists. The NFPA-25 inspection of exposed underground piping supplying a water-based fire protection system from point of private service shall 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, their officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's 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. Two years after the effective date of this article, the department shall require the NICET Level II "inspection and testing of water-based fire protection systems" or equivalent training and education as determined by the department for the RME(s) qualifying a contractor II as

proof that he or she is knowledgeable in nationally accepted standards for the inspection of water-based fire protection systems. Each contractor II RME shall maintain NICET Level II "inspection and testing of water-based fire protection systems" certification or equivalent as a condition of permit renewal.

8. No municipality or county shall require any forms or documents for fire protection system inspections, testing, and maintenance beyond what is in the scope of the fire code of the state of New York and document NFPA 25. All forms and documentation required shall come from the building owner or their legal representative.

9. Building owners or their legal representatives shall cause a copy of all fire protection system inspection forms for their properties to be forwarded to the appropriate code enforcement office within thirty business days of completion of inspection.

10. Code enforcement offices shall review all fire protection inspection, testing and maintenance forms and documents for system deficiencies that are noted, and determine time limitations of correction of deficiencies noted on fire protection system inspection reports with the appropriate building owner or their legal representative.

§ 910. 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 issuing a duplicate certificate or license in substitution for one lost, destroyed, or mutilated shall be twenty-five dollars.

3. The fee for changing a name or address shall be ten dollars.

4. The department may charge a fee for the issuance of a specialist license, which shall not exceed one hundred and fifty dollars.

5. Any journeyperson or apprentice license issued pursuant to this article shall be valid for a period of two years. A licensee may renew his/her license upon the payment of a fifty dollar renewal fee. Each renewal license shall be valid for a two-year period.

6. The fees set forth herein shall be for registrations, certificates, and licenses issued for the period of two years or for a fraction of such period.

§ 911. Suspension and revocation of licenses. 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 department may be imposed or a reprimand issued by the department or board, 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 of this article, or of any rule or regulation adopted hereunder;

(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;

(h) (i) a violation of any provision of this article or of any rule adopted and promulgated pursuant to this article or (ii) the failure or refusal to comply with any notice or order to correct a violation or any cease and desist order by any RME or business holding a license is cause for denial, non-renewal, revocation, or suspension of a person acting as an RME qualifier for a license or license by the department 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, (i) allow another person to use the certificate or license number, or (ii) use a certificate or license number other than the valid certificate or license number; and

(l) fail to provide proof of insurance to the department or fail 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 an RME qualifier or licenses then held by the business entity and during such period of time no license shall be issued to such business entity. During the suspension or revocation of any license, the former holder shall not engage in or attempt or profess to engage in any transaction or business for which a license is required under this chapter or directly or indirectly own, control, or be employed in any manner by any firm, business, or corporation for which a license under this chapter is required. If, during the period between the beginning of proceedings and the entry of an order of suspension or revocation by the department, a new license has been issued to the business entity so charged, the order of suspension or revocation shall operate to suspend or revoke such new license held by such business entity.

3. The department 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 department shall not issue a new license if it finds that the circumstances for which the 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 department 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 department or a court or its voluntary surrender by a license holder does not deprive the department to investigate or act in disciplinary proceedings against the license holder.

7. Application for a license following a revocation of a previous license in any category for a water-based fire protection contractor shall follow all procedures for obtaining a new license.

§ 912. 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 had before an officer or employee of the department, designated for such purpose by the department, upon notice to the certificate or license holder of at least ten days. The department shall consider the recommendations of the board. 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 defense either in person or by counsel and may produce witnesses and testify in his 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 findings and a recommendation to the department for decision. The department 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 department or any officer or employee of the department designated by the secretary of state, may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records, photographs, and documents deemed pertinent to the subject of investigation.

§ 913. Judicial review. The action of the department 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 under and pursuant to article seventy-eight of the civil practice law and rules.

§ 914. 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 license suspended or revoked, shall continue to engage in the business of layout, installing, servicing, repairing, inspecting, testing, or maintaining water-based fire protection systems or who, without a license to engage in the business of layout, installing, servicing, repairing, inspecting, testing, or maintaining water-based fire protection systems, 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.

§ 915. Official acts used as evidence. The official acts of the secretary of state and the department 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.

§ 916. Disposition of fees. Fees collected pursuant to this article shall be paid into an appropriate account for the department 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 the state purposes account therein.

§ 917. Severability. 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.

§ 918. Applicability. 1. This article shall not apply to water-based fire suppression work in New York city or 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 a New York city or Nassau county or Suffolk county license or licenses as having any standing outside the boundaries of New York city or Nassau county or Suffolk county.

2. This article shall not apply to:

(a) a person who performs water-based fire suppression work with respect to any one- or two- family dwelling owned or leased by that person; or

(b) a person who, while employed by a public utility or its affiliate, performs water-based 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 detectors, 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 established by the provisions of the currently adopted edition of NFPA 25, the New York State Fire Prevention and Building Code, which shall be considered a statewide minimum level of inspection criteria for water-based fire protection systems, or more restrictive local standards; 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 provision of this article and the provision 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 act 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.

5. Nothing in this act 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.

6. Any elected or appointed official authorized to issue building or fire protection 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 water-based fire protection license. If the fire protection contractor is not known at the time of permit request by a general contractor or other party applying for permit, the required information above shall be supplied before any above ground fire protection work commences. Any permits at state or local levels for the layout, installing, servicing, repairing, inspecting, testing, or 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.

§ 919. 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 herein 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, materialspersons, 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, materialspersons, 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 shall not apply to any contracts, agreements, or guarantees entered into before the effective date of this section but affects renewals thereof when such renewal takes place after the effective date of this section.

4. Water-based fire protection contractors 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 a 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.

§ 2. The general business law is amended by adding a new section 905 to read as follows:

§ 905. Licensing and certification requirements for existing contractor. An existing contractor shall be entitled to a license under this article if such contractor shall present to the department: 1. 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 the state for at least five years within the period of six years immediately prior to the effective date of this article; or

2. proof of proper insurance as a water-based fire protection contractor within the state 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. No license issued pursuant to the provisions of this section shall be renewed.

§ 3. This act shall take effect on the first of January next succeeding the date upon which it shall have become a law; provided, however, that:

a. section 905 of the general business law as added by section one of this act shall expire and be deemed repealed one year after the effective date of this act, when upon such date, the provisions of section two of this act shall take effect; and

b. section 905 of the general business law as added by section two of this act shall expire and be deemed repealed two years after the effective date of this act.