

# STATE OF NEW YORK

4877

2025-2026 Regular Sessions

## IN SENATE

February 13, 2025

Introduced by Sen. FAHY -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to establishment of the water-based fire protection licensure act, 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:

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

3 § 2. Legislative intent. It is declared that there exists and may in  
4 the future exist within the state of New York locations where water-  
5 based fire protection systems are installed and improper installation  
6 and improper inspection, testing, and maintenance of existing fire  
7 protection systems may adversely affect the public health, safety and  
8 general welfare. It is further acknowledged that fire protection systems  
9 are critical life and property safety systems and such systems whose  
10 layout, installing, repairing, inspecting, testing, or maintenance  
11 require specialized knowledge and experience. Therefore the purpose of  
12 this act is to protect, promote and preserve the public health, safety  
13 and general welfare by providing for the establishment of minimum stand-  
14 ards for licensure of water-based fire protection system installation  
15 and inspecting contractors as well as designating and utilization of  
16 responsible managing employees as qualifiers of said license with estab-  
17 lishment of penalties for improper layout, installing, repairing,  
18 inspecting, testing, or maintaining of water-based fire protection  
19 systems and prohibit unlicensed activities. Furnishing and installing  
20 underground water-supply and one-family and two-family residential  
21 systems, unless a residential system in a "group home" are exempt from  
22 this act.

23 § 3. The general business law is amended by adding a new article 35-G  
24 to read as follows:

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

LBD09389-01-5

ARTICLE 35-G  
WATER-BASED FIRE PROTECTION  
LICENSURE ACT

Section 759-g. Definitions.

759-h. License and RME requirements; scope of practice; penalties for non-compliance.

759-i. Powers of the department and board.

759-j. New licensure requirements.

759-k. Licensure for existing contractors.

759-l. Licensure: application; insurance; display; duplicates.

759-m. License renewals and RMEs.

759-n. Inspection of water-based fire protection systems.

759-o. Fees.

759-p. Suspension and revocation of licenses.

759-q. Hearing on charges; decision.

759-r. Judicial review.

759-s. Violations and penalties.

759-t. Official acts used as evidence.

759-u. Disposition of moneys derived from operation of this article.

759-v. Severability.

759-w. Applicability.

759-x. Contractual agreements.

§ 759-g. Definitions. As used in this article, unless the context requires otherwise:

1. "AFSA" means the American fire sprinkler association.

2. "Board" means the state fire protection advisory board under the department. Such board shall be the advising body for all rules, requirements, regulations, and future modifications affecting licensure, certificates and certification, exams, training, and other topics covered under this article.

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

4. "Department" means the department of state division of licensing services.

5. "Engineer of record" means an education department-licensed professional engineer, qualified by experience and training to provide design criteria for fire protection systems including:

(a) selection of system types and components;

(b) classification of potential hazards and commodities to be protected;

(c) density, water flow, and pressure requirements for system designs;

(d) confirmation of available water supply data;

(e) preliminary hydraulic calculations verifying the adequacy of proposed water supply arrangements;

(f) ability to identify water supplies that could lead to microbiologically influenced corrosion; and

(g) familiarity with seismic information and other items identified by law or the uniform fire and building codes of the state.

6. "Fee" means any examination fee, license fee, registration fee, or renewal fee accompanying 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.

7. "Fire control" or "fire suppression" means:

(a) the practices, or materials and equipment in or adjacent to a building or premises, used in the installation, maintenance, extension,

1 or alteration of all piping materials and equipment, as defined by the  
2 state uniform fire prevention and building code, in connection with the  
3 discharge of water and backflow prevention for the express purpose of  
4 extinguishing and controlling fire; and

5 (b) the practice of installing, repairing, inspecting, testing, and  
6 maintaining water-based fire protection systems as defined by the state  
7 uniform fire prevention and building code.

8 8. "Fire sprinkler system" means any water-based fire protection  
9 system, fire suppression system, or fire control system employing fire  
10 sprinklers and consisting of underground and overhead piping, including  
11 fire pumps and associated piping, fire standpipes that convey water with  
12 or without other agents to dispersal openings or devices for the purpose  
13 of extinguishing, controlling, suppressing, or containing fire, and  
14 which provide protection from fire exposure or exposure to the products  
15 of combustion, and are installed in accordance with the state uniform  
16 fire prevention and building code and referenced standards and state-ap-  
17 proved local standards.

18 9. "Full-time employee" means an employee of a business entity who is  
19 expected to work at least one thousand five hundred sixty hours per  
20 year. Earned, paid time for leave such as vacation, sick, or personal  
21 days shall be inclusive within the one thousand five hundred sixty  
22 hours.

23 10. "Inspection" means the visual examination of a building's water-  
24 based fire protection system, or a portion thereof, to verify that such  
25 system appears to be in operating condition and is free of physical  
26 damage.

27 11. "Inspection, testing, and maintenance" means a program provided by  
28 a state-licensed water-based fire protection contractor who has  
29 contracted with a property or building owner, or such property or build-  
30 ing owner's representative, in which all components unique to such prop-  
31 erty or buildings' systems are inspected and tested at required frequen-  
32 cies and in which necessary maintenance is provided. Such programs shall  
33 include logging and retention of relevant records and reporting of defi-  
34 ciencies and malfunctions to the property or building owner or their  
35 authorized representative, and the appropriate authorities as required.

36 12. "Inspector" means a person who is employed by a state-licensed  
37 water-based fire protection contractor, who performs inspection and  
38 testing on a water-based fire protection system, as per the state  
39 uniform fire prevention and building code, and a program provided by a  
40 state-licensed water-based fire protection contractor.

41 13. "Install" or "installation" means the initial placement of a  
42 water-based fire protection system, or its extension or alteration after  
43 the initial placement.

44 14. "Layout" means the placement of risers, cross mains, branch lines,  
45 fire sprinklers, and hanger locations, and sizing of pipe and supple-  
46 mental hydraulic calculations in accordance with the provisions of  
47 water-based fire protection design standards and design criteria as  
48 provided by the engineer of record.

49 15. "License holder" means a business entity as defined by this  
50 section and as licensed by the department to engage in the business of  
51 the layout, installing, repairing, inspecting, testing, or maintaining  
52 of water-based fire protection systems. A single license may name no  
53 more than one business entity.

54 16. "Limited maintenance" means adjustment of or replacement of system  
55 components like and kind, inclusive of maintenance requirements per NFPA  
56 25, as defined in this section.

1 17. "Maintenance" means work performed by a licensed water-based fire  
2 protection contractor to keep water-based fire protection equipment  
3 operable including repairs.

4 18. "NCCI" means the national council on compensation insurance.

5 19. "NFPA" means the national fire protection association, inc.

6 20. "NFPA 25" means the NFPA's most recent state referenced publica-  
7 tion, which establishes the minimum requirements for the periodic  
8 inspection, testing, and maintenance of water-based fire protection  
9 systems and the actions to undertake when changes in occupancy, use,  
10 process, materials, hazard, or water supply that potentially impact the  
11 performance of such water-based system are planned or identified.

12 21. "NFSA" means the national fire sprinkler association, inc.

13 22. "NICET" means the national institute for certification in engi-  
14 neering technologies or other entities recognized as being equal to or  
15 better than NICET, as determined by the department.

16 23. "OFPC" means the state office of fire prevention and control.

17 24. "Repair" means any work on a system after the initial installation  
18 to replace, correct or maintain such system.

19 25. "Responsible managing employee" or "RME" means an individual with  
20 appropriate NICET certification or state-approved equivalent who is a  
21 full-time employee of a water-based fire protection contractor, and who  
22 is designated as such water-based fire protection contractor's qualifier  
23 to do business as a water-based fire protection contractor. A RME may  
24 serve to qualify no more than two water-based fire protection contrac-  
25 tors under this article in the state. Where an RME qualifies multiple  
26 business entities, the entities must be shown to have common ownership  
27 or controlling interest and the RME must be a full-time employee.

28 26. "Supervise" or "supervision" means the direction, management, and  
29 oversight by the RME named on a contractor's business license of the  
30 activities of personnel in the layout, installing, repairing, inspect-  
31 ing, testing, or maintaining repair of any water-based fire protection  
32 system. Notwithstanding this subdivision, supervision shall not require  
33 such RME to be at the site of each layout, install, repair, inspection,  
34 test, or maintenance of water-based fire protection systems at all  
35 times.

36 27. "Testing" means testing water-based fire protection systems as  
37 defined by the state uniform fire prevention and building code.

38 28. "Water-based fire protection contractor" or "contractor" means any  
39 of the following classes:

40 (a) "Contractor I" or "water-based fire protection contractor" means a  
41 business entity that offers to undertake, represents itself as being  
42 able to undertake, or does undertake the layout, installing, repairing,  
43 inspecting, testing, or maintaining of all types of water-based fire  
44 protection systems and components.

45 (b) "Contractor II" or "water-based fire protection systems inspection  
46 contractor" means a business entity that is limited to the execution of  
47 contracts requiring the inspection and testing along with limited main-  
48 tenance of fire protection systems. Contractor II businesses shall have  
49 an RME certified NICET II or better or state equivalent in inspection  
50 and testing of water-based systems.

51 29. "Water-based fire protection contractor business license" or  
52 "license" means a license issued by the department to a business entity  
53 to operate as a water-based fire protection contractor.

54 30. "Water-based fire protection system" means a commercial or resi-  
55 dential system individually designed to protect the interior or exterior  
56 of a specific building, structure, or other potential hazard from fire,

1 or to promote life safety. Such systems include, but are not limited to,  
2 water fire-sprinkler systems, water spray systems, foam-water sprinkler  
3 systems, foam-water spray systems, and foam extinguishing systems used  
4 for fire protection.

5 § 759-h. License and RME requirements; scope of practice; penalties  
6 for non-compliance. 1. (a) It is unlawful for any organization, busi-  
7 ness entity, or individual to engage in the business of layout, install-  
8 ing, repairing, inspecting, testing, or maintaining water-based fire  
9 protection systems, to act in the capacity of a water-based fire  
10 protection contractor, or to advertise itself as being a water-based  
11 fire protection contractor without having been duly licensed and without  
12 holding a valid license, except as otherwise provided in this section.  
13 The RME named to qualify an organization or business entity under this  
14 article must be a full-time employee of such organization or business  
15 entity.

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

21 (c) All entities performing layout of drawings, installing, repairing,  
22 inspecting, testing, or maintaining water-based fire protection systems  
23 within the state (exempting systems within the jurisdictions of the five  
24 boroughs of New York city, Nassau county, and Suffolk county) must have  
25 in their employ one or more RMEs with appropriate certification for the  
26 layout of water-based fire protection system shop drawings to be  
27 performed, or for the practice of inspection, testing, and maintenance  
28 of water-based fire protection systems. This includes contractors based  
29 in other states, New York city, Nassau county, and Suffolk county, or  
30 any other location work covered under this article is to be performed.

31 (d) Nothing in this subdivision shall prohibit an employee acting on  
32 behalf of any government entity or insurance provider from inspecting  
33 and enforcing the state uniform fire prevention and building code and  
34 local laws, provided such employee is acting solely on behalf of such  
35 government entity or insurance provider. All fire protection cards,  
36 registrations, certificates, and licenses required by this article and  
37 issued by the department shall have statewide application (exempting the  
38 jurisdictions of the five boroughs of New York city, Nassau county, and  
39 Suffolk county). Local governments (exempting the jurisdictions of the  
40 five boroughs of New York city, Nassau county, and Suffolk county) shall  
41 not establish or impose any further standards, licensing, certification,  
42 or registration upon state-licensed water-based fire protection contrac-  
43 tors or their employees.

44 (e) Local governments (exempting the jurisdictions of the five  
45 boroughs of New York city, Nassau county, and Suffolk county) shall not  
46 require any type of additional licensing, certification, or registration  
47 of a water-based fire protection contractor, its RME, or its employees  
48 that are licensed, certified, or registered by the department of state  
49 unless such contractor maintains a physical office within such local  
50 government's jurisdiction.

51 2. As of eighteen months after the effective date of this article, no  
52 person or business entity shall engage in the business of layout,  
53 installing, repairing, inspecting, testing, or maintaining water-based  
54 fire protection systems beginning at the point of fire protection  
55 service to the most remote parts of the system, or hold themselves out as  
56 being able so to do unless they are licensed pursuant to this article.

1 3. Retrofitting of a backflow prevention device: It is the responsi-  
 2 bility of the building or property owner, commercial or residential to  
 3 obtain a state licensed professional engineer to become engineer of  
 4 record to evaluate any water-based fire protection system, supply docu-  
 5 mented findings to the water-based fire protection contractor, and  
 6 approve the installation of any backflow prevention device, in order to  
 7 avoid the introduction or addition of a backflow prevention device to an  
 8 existing water-based fire protection system, that causes a reduction in  
 9 available water pressure and may create a system malfunction.

10 4. A water-based fire protection contractor licensed under this arti-  
 11 cle shall not:

12 (a) enter into a written or oral agreement to authorize, subcontract,  
 13 or otherwise knowingly allow any individual or entity who is not  
 14 licensed under this article to engage in the business of, or act in the  
 15 capacity of, a water-based fire protection contractor; or

16 (b) apply for or obtain a construction permit for water-based fire  
 17 protection work unless such water-based fire protection contractor or a  
 18 business entity qualified by such contractor has contracted to conduct  
 19 the work specified in their application for the required permit.

20 5. Any person who violates any provision of this article or commits  
 21 any of the acts constituting a cause for disciplinary action as set  
 22 forth by this article shall be guilty of a class B misdemeanor, punisha-  
 23 ble as provided by this article, and the laws of the state.

24 6. In addition to the penalties provided in subdivision five of this  
 25 section, a water-based fire protection contractor licensed under this  
 26 article who violates any provision of this section or who commits any  
 27 act constituting cause for disciplinary action is subject to the suspen-  
 28 sion or revocation of their license and such administrative fines as  
 29 prescribed by this article.

30 7. A license holder has an affirmative duty to provide supervision of  
 31 employees and all business activities. Such supervision shall consist of  
 32 regular, frequent personal guidance, instruction, oversight, and super-  
 33 intendence by the qualifying RME or RMEs with respect to the general  
 34 business conducted by a firm, and all matters relating thereto.

35 8. Nothing in this article shall prohibit a principal of a given busi-  
 36 ness entity from qualifying as such business entity's RME as long as  
 37 such principal meets the qualifications of this article.

38 9. Licenses issued to contractors shall clearly identify the level of  
 39 such license for ease of identification by field staff of the department  
 40 and OFPC, local code enforcement officials, the public, and any other  
 41 interested parties.

42 10. License applicability shall be in accordance with the following  
 43 table:

| <u>FUNCTION</u> | <u>CLASS I</u> | <u>CLASS II</u> |
|-----------------|----------------|-----------------|
| <u>Inspect</u>  | <u>All</u>     | <u>All</u>      |
| <u>Test</u>     | <u>All</u>     | <u>All</u>      |
| <u>Maintain</u> | <u>All</u>     | <u>Limited</u>  |
| <u>Install</u>  | <u>All</u>     | <u>N/A</u>      |
| <u>Repair</u>   | <u>All</u>     | <u>N/A</u>      |

50 § 759-i. Powers of the department and board. 1. In addition to the  
 51 powers and duties elsewhere prescribed in this article, the department  
 52 and board shall have the following powers:

53 (a) To prescribe the duties of, fix the compensation of, and appoint  
 54 an adequate number of assistants, field inspectors, and other employees  
 55 as may be necessary to carry out the provisions of this article.

1 (b) To examine the qualifications of applicants for licenses or regis-  
2 trations under this article.

3 (c) To keep records of all licenses, certifications, and registrations  
4 issued, suspended, or revoked, and to publish such information on a  
5 website accessible to the public.

6 (d) To prepare a manual of rules and regulations for the licensure  
7 process of water-based fire protection contractors and to publish such  
8 information on a website accessible to the public.

9 (e) To promulgate such rules and regulations as may be necessary  
10 prescribing the form, content, and reception of applications for  
11 licenses and registrations, the manner of investigation and examination  
12 of applicants and their qualifications, and any other matters incidental  
13 or appropriate to the powers and duties as prescribed by this article  
14 and for the proper administration and enforcement of the provisions of  
15 this article, and to make recommendations to add, amend, or repeal any  
16 of such rules and regulations.

17 2. The secretary of state shall create a state fire protection advi-  
18 sory board and have the first meeting within ninety days of the effec-  
19 tive date of this article. Such board shall be composed of the following  
20 members:

21 (a) one position for the secretary of state or their designee;

22 (b) one position for the state fire administrator or their designee;

23 (c) one position for the state department of state division of build-  
24 ing standards and codes or their designee;

25 (d) two persons appointed by the president of the NFSA who shall be of  
26 New York state, and whose businesses must have been actively engaged in  
27 the business of layout, installing, inspecting, testing, altering, or  
28 maintaining water-based fire protection systems for at least five years  
29 immediately prior to their appointment;

30 (e) two persons appointed by the president of AFSA who shall be of New  
31 York state and whose businesses must have been actively engaged in the  
32 business of layout, installing, inspecting, testing, altering or main-  
33 taining water-based fire protection systems for at least five years  
34 immediately prior to their appointment;

35 (f) one position for the NFSA staff person or designee; and

36 (g) one position for the AFSA staff person or designee.

37 3. The chair of the board shall be the secretary of state or their  
38 designee. The state fire administrator or their designee, or the direc-  
39 tor of building standards and codes division or their designee, may  
40 serve as chair in the chair's absence so as to conduct business. The  
41 chair of the board shall serve as the deciding vote where there are tie  
42 votes.

43 4. The board shall advise the department in the administration of the  
44 requirements established by this article and all other future fire  
45 protection system licensing.

46 5. The board shall be the author of water-based fire protection  
47 certification exams for RMEs in the state of New York.

48 6. The board shall meet at least once quarterly. The board shall have  
49 the authority to review complaints and disputed administrative action  
50 and to make non-binding recommendations for disciplinary action to the  
51 department at the request of a certificate holder, license holder, or  
52 the department. The board shall make decisions and supply in writing to  
53 the department rules, codes, standards, interpretations, and training.  
54 The board members' terms shall expire on the thirtieth day of June  
55 following the effective date of this article and biennially thereafter.  
56 Term limits shall be limited to four consecutive terms. No member of the

1 board shall be paid a salary as such member, but each shall receive  
2 necessary expenses for attending board meetings and reimbursement,  
3 including travel for performance of their board duties.

4 7. The board shall review and advise the department regarding all new  
5 applications and the department shall administer new licenses following  
6 board approval and renewals with proper documentation.

7 8. Members of the board shall exercise due diligence to participate in  
8 all scheduled and special meetings as required. The department shall  
9 take minutes and make minutes available as soon as reasonably possible  
10 to board members that are absent.

11 9. The majority of the board with at least one fire protection  
12 contractor board member must be present to constitute a quorum.

13 10. Motions shall not move forward without a minimum of two fire  
14 protection contractor board members in support of the motion.

15 11. Proxy votes shall be allowed.

16 12. Remote electronic audio or audio and visual participation shall be  
17 allowed.

18 § 759-j. New licensure requirements. 1. As a prerequisite for licen-  
19 sure as a contractor I, a RME qualifier must be at least twenty-three  
20 years of age, be of good moral character so as not to adversely impact  
21 their ability to perform the duties and responsibilities of a licensed  
22 contractor, and shall possess five years of proven experience and  
23 progressive training in the employment of a water-based fire protection  
24 system contractor I or a combination of equivalent education and experi-  
25 ence. It is the intent that the contractor I RME meet the criteria of  
26 NICET III certification requirements or state equivalent set forth by  
27 the advisory board in the specific technical discipline of water-based  
28 layout, or equivalent criteria accepted by the board and the department  
29 as a prerequisite, along with NICET special hazards suppression systems  
30 or equivalent criteria accepted by the board and department. Two RMEs  
31 are permitted, with one in each discipline. More than one RME may be  
32 permitted per company.

33 2. As a prerequisite for licensure as a contractor II, a RME qualifier  
34 must be at least eighteen years of age and shall be certified NICET II  
35 for inspection and testing of water-based systems or equivalent certifi-  
36 cation accepted by the board and the department.

37 3. A state professional engineer license along with education and  
38 documented experience in water-based fire protection system engineering  
39 may be substituted for the RME requirements in this section.

40 § 759-k. Licensure for existing contractors. Each existing contractor  
41 shall file for a license as an existing contractor by presenting to the  
42 department satisfactory evidence that such contractor has been actively  
43 engaged in the proper class of contracting in the scope of the license  
44 applied for in layout, installing, repairing, inspecting, testing, or  
45 maintaining of water-based fire protection systems, as a contractor I or  
46 contractor II and shall show proof of proper insurance as a water-based  
47 fire protection contractor. Such evidence shall include proof of insur-  
48 ance which includes the latest NCCI rating sheet for workers compen-  
49 sation showing the appropriate code for fire sprinkler fitters. All  
50 existing contractors shall file for a license pursuant to this section  
51 within eighteen months of the effective date of this article.

52 § 759-l. Licensure: application; insurance; display; duplicates. 1.  
53 Once a representative RME meets the provisions of this article to be a  
54 qualifier, any business entity desiring a license to engage in the busi-  
55 ness of layout, installing, inspecting, altering, or maintaining of  
56 water-based fire protection systems under this article, may make an

1 application to the department. The RME shall be subscribed by the  
2 license applicant and affirmed by them as true under the penalties of  
3 perjury. The license application shall be in such form and shall contain  
4 the RME's NICET certification number, category of discipline, and level  
5 of discipline. Each license application shall be accompanied by a copy  
6 of required certifications as established in this article, proving the  
7 level of certification for inspection by the department.

8 2. All licenses shall be valid for a period of two years and shall not  
9 be based on certification obligations.

10 3. No license shall be assignable or transferable except as otherwise  
11 provided by this section.

12 4. If a RME, who has met the requirements of this article, ceases to  
13 act in the capacity of RME, the license holder shall notify the depart-  
14 ment in writing within thirty business days from such termination or  
15 cessation. The license holder may continue to conduct the business of  
16 layout, installing, repairing, inspecting, testing, or maintaining  
17 water-based fire protection systems for a period not to exceed one  
18 hundred eighty days from the date of such termination or cessation,  
19 except that such period may be extended upon an application to the  
20 department with good cause for an additional period not to exceed one  
21 hundred twenty days. By the end of such period a new RME must be desig-  
22 nated who has met the certification requirements of this article.

23 5. (a) As a prerequisite to issuance of a license, the department  
24 shall require a business entity to submit satisfactory evidence that  
25 such business entity has obtained appropriate water-based fire  
26 protection contracting commercial general liability insurance, showing  
27 proof of appropriate coverage amounts for the appropriate contractor  
28 level being applied for, with a minimum of one million dollars for  
29 contractor I or, contractor II. Said evidence shall show appropriate  
30 coverage for comprehensive general liability for bodily injury and prop-  
31 erty damages, products liability, completed operations, contractual  
32 liability, and workers' compensation. The board may adopt rules provid-  
33 ing for the minimal amount of insurance for all contractor classes.

34 (b) Water-based fire protection contractor certificates of insurance  
35 shall provide that such insurance shall not be modified, that there  
36 shall be no material changes in coverage or any termination, non-rene-  
37 wal, or cancellation unless thirty days' notice is given to the depart-  
38 ment.

39 (c) Water-based fire protection contractor certificates of insurance  
40 must include the policy number, date of expiration, and physical address  
41 of each contractor location. Each contractor's operation of business  
42 must be noted in the description part of such contractor's certificate.

43 (d) The "State of New York" shall be named as the certificate holder.

44 (e) An insurer who fails to so notify the department shall be subject  
45 to the penalties provided within this article.

46 6. A license shall be issued upon satisfaction of the requirements of  
47 this section. No license shall remain in effect if, after issuance, the  
48 license holder fails to maintain insurance coverage required by this  
49 article.

50 7. The department may, at any time subsequent to the issuance of a  
51 license or renewal, require, upon demand and within thirty days of  
52 notice of such demand, the license holder to provide proof of insurance  
53 coverage on a form provided by the department, containing confirmation  
54 of insurance coverage as required by this article. Failure to provide  
55 proof of insurance coverage as required, for any length of time, shall

1 result in the immediate suspension of the license until proof of insur-  
2 ance is provided to, and accepted by, the department.

3 8. A license issued to conduct the business of layout, installing,  
4 repairing, inspecting, testing, or maintaining of water-based fire  
5 protection systems shall be conspicuously posted upon the premises where  
6 the license holder is engaged in such business of layout, installing,  
7 repairing, inspecting, testing, or maintaining of water-based fire  
8 protection systems.

9 9. Upon obtaining a license, all documents or receipts issued by or on  
10 behalf of a contractor licensed pursuant to this article shall contain  
11 the license identification number issued to such contractor.

12 10. A duplicate license may be issued for one lost, destroyed, or  
13 mutilated upon an application for such duplicate license on a form  
14 prescribed by the department and upon payment of the fee prescribed by  
15 this article. Each such duplicate license shall have the word "dupli-  
16 cate" clearly stamped or watermarked across its face and shall bear the  
17 same number as the original license. All information from the original  
18 license shall be transposed identically.

19 11. Notice in writing shall be given to the department by a license  
20 holder of any change in address of such license holder together with the  
21 return of such holder's license, whereupon a properly signed endorsement  
22 shall be made on the face of such license as to such change, and such  
23 license shall then be returned to the license holder.

24 12. Each license to conduct the business of layout, installing,  
25 repairing, inspecting, testing, or maintaining of water-based fire  
26 protection systems issued to a business entity may be used after the  
27 death of the RME for a period of not more than one hundred eighty days  
28 from the date of such RME's death. Such one hundred eighty-day period  
29 may be extended upon an application to the department and for good cause  
30 shown for an additional period not to exceed one hundred twenty days  
31 total.

32 § 759-m. License renewals and RMEs. The contractor shall submit an  
33 application and fees for license renewal along with all required  
34 documentation including RME qualifications to the department.

35 § 759-n. Inspection of water-based fire protection systems. 1. The  
36 department and OFPC shall have the right to inspect any water-based fire  
37 protection system during and after construction to determine whether  
38 such system meets the standards set forth in the laws and rules of the  
39 state. This does not diminish the capacity and duties of the local code  
40 enforcement office having jurisdiction.

41 2. A building owner who has water-based fire protection systems  
42 installed in public or private properties, including group homes, but  
43 not including private one-family or two-family dwellings or manufactured  
44 housing, shall cause such building to be inspected in compliance with  
45 the procedures set forth in NFPA 25 by a state licensed water-based fire  
46 protection contractor. This section does not prohibit governmental enti-  
47 ties and code enforcement officials in the performance of their duties  
48 from inspecting and enforcing state uniform fire prevention and building  
49 code and local laws.

50 3. A building owner shall cause to be corrected all deficiencies  
51 discovered during inspection.

52 4. A building owner or building owner's authorized representative  
53 shall contract with a state-licensed contractor for scheduled inspection  
54 and testing before any certificate of occupancy is issued and does not  
55 detract liability of the building owner and the building owner's respon-  
56 sibilities. The inspecting contractor shall provide to such building

1 owner a copy of the inspection report detailing applicable state code  
2 requirements and NFPA 25 standard inspection, testing, and maintenance  
3 criteria. The maintenance of water-based fire protection systems as well  
4 as corrective actions on deficient systems is the responsibility of the  
5 owner of the water-based fire protection system connected thereto. It is  
6 recognized that the inspecting contractor and the installing contractor  
7 may or may not be one and the same. The limit of liability of inspecting  
8 contractors shall be that of the dollar value of the inspection, test-  
9 ing, and maintenance contract. The installing water-based fire  
10 protection contractor shall be reposed and may not be sued for latent  
11 construction defects, more than ten years after substantial completion  
12 of a project.

13 5. A building owner shall ensure that inspections, testing, and main-  
14 tenance of water-based fire protection systems for detached one-family  
15  dwellings, detached two-family dwellings, and manufactured housing, meet  
16 the standards set forth in NFPA 13D. Group homes shall be subject to the  
17 standards set forth in NFPA 25 and shall be governed by this article.

18 6. Maintenance of water-based fire protection systems as well as  
19 corrective actions on deficient systems is the responsibility of the  
20 owner of the system. Notwithstanding inspection contracts with  
21 conflicting language, the owner of the water-based fire protection  
22 system shall indemnify and hold harmless the other party to the  
23 contract, and their officers and employees, from liabilities, damages,  
24 losses and costs, including, but not limited to, reasonable attorney's  
25 fees, to the extent caused by the negligence, recklessness, or inten-  
26 tional failure of the system owner to maintain or take corrective action  
27 to maintain a water-based fire protection system.

28 7. Effective thirty-six months from the effective date of this arti-  
29 cle, the department shall require NICET III inspection and testing of  
30 water-based fire protection systems or equivalent training and education  
31 as determined by the department for the RME or RMEs qualifying a  
32 contractor II as proof that they are knowledgeable in nationally  
33 accepted standards for the inspection of water-based fire protection  
34 systems.

35 8. It is the responsibility of the contractor II RME to maintain NICET  
36 III inspection and testing of water-based fire protection systems  
37 certification or equivalent state certification as a condition of  
38 license renewal after thirty-six months of the effective date of this  
39 article.

40 9. No jurisdiction through local law or code enforcement office policy  
41 shall require any forms or documents for water-based fire protection  
42 system inspections, testing, or maintenance beyond what is in the scope  
43 of the fire code of the state and NFPA 25. All inspection, testing, and  
44 maintenance reporting forms and documentation required shall come from  
45 the building owner or such owner's legal representative unless local law  
46 requires otherwise.

47 § 759-o. Fees. 1. The fee for a license to engage in the business of  
48 layout, installing, repairing, inspecting, testing, or maintaining of  
49 water-based fire protection systems shall be two hundred dollars. For  
50 each renewal thereof, the fee shall be one hundred dollars.

51 2. The fee for issuing a duplicate certificate or license in substi-  
52 tution for one lost, destroyed, or mutilated shall be twenty-five  
53 dollars.

54 3. The fee for changing a name or address on a license shall be ten  
55 dollars.

1 4. The fees set forth in this section shall be for registrations,  
2 certificates, and licenses issued for the period of two years or a frac-  
3 tion of such period.

4 5. Fees collected shall be deposited for the department's adminis-  
5 tration of this article. Excess fees shall assist in providing education  
6 for state certified code enforcement officials, building safety inspec-  
7 tors, and firefighters.

8 § 759-p. Suspension and revocation of licenses. 1. A license to engage  
9 in the business of layout, installing, repairing, inspecting, testing,  
10 or maintaining of water-based fire protection systems may be suspended  
11 or revoked, or in lieu thereof a fine not exceeding one thousand dollars  
12 per violation payable to the department may be imposed, or a penalty may  
13 be issued by the department or board, for any of the following causes:

14 (a) fraud or bribery in securing a license;

15 (b) making any false statement as to a material matter in an applica-  
16 tion or other statement or certificate required by or pursuant to this  
17 article;

18 (c) incompetence;

19 (d) failure to display the license as provided in this article;

20 (e) violation of any provision of this article, or of any rule or  
21 regulation adopted pursuant to this article;

22 (f) conviction of a felony involving fraud, theft, perjury or bribery  
23 or any other cause which would permit disqualifications from receiving a  
24 license upon the original application;

25 (g) failure to supervise the installation of a fire protection system  
26 covered by a building permit signed by a RME;

27 (h) a RME or license holder's violation of any provision of this arti-  
28 cle or any rule or regulation adopted and promulgated pursuant to this  
29 article or the failure or refusal to comply with any notice or order to  
30 correct a violation or any cease and desist order;

31 (i) improper layout, installing, repairing, inspecting, testing, or  
32 maintaining a water-based fire protection system;

33 (j) having rendered inoperative a water-based fire protection system  
34 except during such time as the system is being inspected, tested,  
35 repaired, altered, or maintained, using impairment procedures as per  
36 state uniformed code, or except pursuant to a court order;

37 (k) while holding a certificate or license allowing another person to  
38 use such certificate or license number, or using a certificate or  
39 license number other than the valid certificate or license number;

40 (l) failure to provide proof of insurance to the department or failure  
41 to maintain insurance coverage required by this article; or

42 (m) loss of a RME for more than one hundred twenty consecutive days.

43 2. An order of suspension shall state the length of such suspension,  
44 which may not exceed two years from the date of such order. Such orders  
45 shall affect suspension or revocation of a RME qualifier or licenses  
46 held by a contractor and during such period of time no license shall be  
47 issued to such contractor. During the period of suspension or revocation  
48 of any license, the former license holder shall not engage in or attempt  
49 or profess to engage in any transaction or business for which a license  
50 is required under this chapter, or directly or indirectly own, control,  
51 or be employed in any manner by any business entity for which a license  
52 under this chapter is required. If, during the period between the  
53 beginning of proceedings and the entry of an order of suspension or  
54 revocation by the department, a new license has been issued to the busi-  
55 ness entity so charged, the order of suspension or revocation shall

1 operate to suspend or revoke such new license held by such business  
2 entity.

3 3. So long as a revocation or suspension remains in effect, the  
4 department shall not grant any new license for the establishment of any  
5 new business entity to any person, business entity, or qualifier that  
6 has or will have the same or similar management, ownership, control,  
7 employees, or license holders, or will use the same or similar name as  
8 such previously revoked or suspended business entity, person, or qual-  
9 ifier. In addition, the department shall not issue a new license if it  
10 finds that the circumstances for which such license was previously  
11 revoked or suspended still exist or are likely to recur.

12 4. Whenever a license to engage in the business of layout, installing,  
13 inspecting, testing, repairing, or maintaining of water-based fire  
14 protection systems is revoked, such license shall not be reinstated or  
15 reissued until five years from the date of such revocation.

16 5. The filing of a petition in bankruptcy, either voluntary or invol-  
17 untary, or the making of a composition of creditors or the appointment  
18 of a receiver for a business entity's license may be considered by the  
19 department as just cause for suspension of such license.

20 6. The lapse or suspension of a license by operation of law or by  
21 order of the department or a court or the voluntary surrender of such  
22 license by its license holder does not deprive the department of its  
23 authority to investigate or act in disciplinary proceedings against the  
24 license holder.

25 7. A contractor filing an application for a water-based fire  
26 protection license following the revocation of a previous license in any  
27 category shall follow all procedures for obtaining a new license.

28 § 759-g. Hearing on charges; decision. No certificate or license shall  
29 be suspended or revoked nor shall any fine or penalty be imposed until  
30 after a hearing is held before an officer or employee of the department  
31 designated for such purpose by the department, upon notice to the  
32 certificate or license holder of at least ten days. The department  
33 shall consider the recommendations of the board. The notice shall be  
34 served either personally or by registered mail and shall state the date  
35 and place of the hearing and set forth the ground or grounds constitut-  
36 ing the charges against the certificate or license holder. Such certif-  
37 icate or license holder shall have the opportunity to be heard either in  
38 person or by counsel and may produce witnesses and testify on their own  
39 behalf. A stenographic record of the hearing shall be taken and  
40 preserved. The hearing may be adjourned from time to time. The person  
41 conducting the hearing shall make a written report including their find-  
42 ings and a recommendation to the department for decision. The department  
43 shall review such findings and recommendation and, after due deliber-  
44 ation, shall issue an order accepting, modifying, or rejecting such  
45 recommendation and dismissing the charges or suspending or revoking the  
46 certificate or license, or in lieu thereof, imposing a fine or penalty  
47 upon the certificate or license holder. For the purposes of this arti-  
48 cle, the department or any officer or employee of the department desig-  
49 nated by the secretary of state, may administer oaths, take testimony,  
50 subpoena witnesses, and compel the production of books, papers, records,  
51 photographs, and documents deemed pertinent to the subject of investi-  
52 gation.

53 § 759-r. Judicial review. The action of the department in suspending,  
54 revoking or refusing to issue or renew a certificate or license, or  
55 imposing a fine or penalty upon the holder of such license may be

1 reviewed in a proceeding brought under and pursuant to article seventy-  
2 eight of the civil practice law and rules.

3 § 759-s. Violations and penalties. Any person or business entity who  
4 directly or indirectly engages in the business of layout, installing,  
5 repairing, inspecting, testing, or maintaining water-based fire  
6 protection systems or holds oneself out to the public as being able to  
7 perform such work and is without a license, or who shall violate any of  
8 the provisions of this article, or having had a license suspended or  
9 revoked, continues to engage in the business of layout, installing,  
10 repairing, inspecting, testing, or maintaining water-based fire  
11 protection systems or who, without a license to engage in the business  
12 of layout, installing, repairing, inspecting, testing, or maintaining  
13 water-based fire protection systems, directly or indirectly employs,  
14 permits or authorizes an uncertified person to engage in the business of  
15 layout, installing, repairing, inspecting, testing, or maintaining  
16 water-based fire protection systems, shall be guilty of a misdemeanor  
17 and, upon conviction, shall be punishable by imprisonment of not more  
18 than six months, or by a fine of not more than one thousand dollars or  
19 both upon the first conviction, and by imprisonment of not more than one  
20 year or by a fine of not less than one thousand dollars or more than  
21 five thousand dollars or both upon a subsequent conviction. Each  
22 violation of this article shall be deemed a separate offense.

23 § 759-t. Official acts used as evidence. The official acts of the  
24 secretary of state and the department shall be prima facie evidence of  
25 the facts therein and shall be entitled to be received in evidence in  
26 all actions at law and other legal proceedings in any court or before  
27 any board, body, or officer.

28 § 759-u. Disposition of moneys derived from operation of this article.  
29 Fees collected pursuant to this article shall be paid into the appropri-  
30 ate account for the department pursuant to the state finance law, for  
31 administration of this article. All remaining moneys derived from the  
32 operation of this article shall on or before the tenth day of each month  
33 be paid into a fund of the state treasury to the credit of the depart-  
34 ment's account to assist in providing education for state certificated  
35 code enforcement officials, building safety inspectors, and firefight-  
36 ers.

37 § 759-v. Severability. If any part or provision of this article or the  
38 application thereof to any person or circumstance be adjudged invalid by  
39 any court of competent jurisdiction, such judgment shall be confined in  
40 its operation to the part, provision or application directly involved in  
41 the controversy in which such judgment shall have been rendered and  
42 shall not affect or impair the validity of the remainder of this article  
43 or the application thereof to other persons or circumstances, and the  
44 legislature hereby declares that it would have enacted this article or  
45 the remainder thereof had the invalidity of such provision or applica-  
46 tion thereof been apparent.

47 § 759-w. Applicability. 1. This article shall not apply to water-based  
48 fire protection work performed under the jurisdiction of the five  
49 boroughs of New York city, Nassau county, or Suffolk county. Any munici-  
50 pality or local government agency located in New York city, Nassau coun-  
51 ty, or Suffolk county may require other licenses or evidence of a  
52 person's competence to layout, install, repair, inspect, test, or main-  
53 tain all types of water-based fire protection systems and components.  
54 Nothing in this section shall be construed to imply that a holder of a  
55 New York city, Nassau county, or Suffolk county license shall have any

1 standing outside the boundaries of the jurisdiction issuing such  
2 license.

3 2. This article shall not apply to:

4 (a) a person who performs water-based fire protection work with  
5 respect to any one-family or two-family dwelling owned or leased by such  
6 person unless otherwise specified;

7 (b) a person who, while employed by a public utility or its affiliate,  
8 performs water-based fire protection work in connection with the  
9 furnishing of such public utility service;

10 (c) any work covered by any national, state, or municipal electrical  
11 code including but not limited to pull stations, strobes, heat detec-  
12 tors, smoke detectors, fire alarms or bells, and any electrical wiring  
13 including conduit connected to raceway control cabinets; or

14 (d) underground water supply for fire protection up to the floor  
15 flange where the water-based fire protection system above ground begins.

16 3. This article shall not be held to invalidate any provision of the  
17 laws of this state or any subdivision thereof unless there is a direct  
18 conflict between the provision of this article and the provision of such  
19 law or unless such law is duplicative of this article, in which case  
20 this article shall prevail. No local law shall require any fee, license,  
21 or certificate for the layout, installing, repairing, inspecting, test-  
22 ing, or maintaining of water-based fire protection systems, except when  
23 the water-based fire protection contractor business is located within a  
24 political jurisdiction. Any jurisdiction may apply business licensure  
25 criteria and fees consistent with other businesses in such jurisdiction.

26 4. Nothing in this article shall limit the power of a municipality or  
27 county to regulate the quality and character of work performed by  
28 water-based fire protection contractors through a system of permits,  
29 fees, and inspections which are designed to secure compliance with, and  
30 aid in the implementation of, state and local laws or to enforce other  
31 local laws for the protection of the public health and safety.

32 5. Nothing in this article shall limit the power of a municipality or  
33 county to adopt any system of permits requiring submission to and  
34 approval by such municipality or county of plans and specifications for  
35 work to be performed by contractors before commencement of such work,  
36 except that no municipality or county shall require a water-based fire  
37 protection contractor's shop drawings to be stamped or sealed by a  
38 professional engineer or registered architect.

39 6. Any elected or appointed official authorized to issue a building,  
40 fire protection, or other related permit for a project that includes  
41 water-based fire protection shall ascertain that the applicant contrac-  
42 tor or subcontractor is appropriately licensed before issuing such  
43 permit. The evidence shall consist only of the presentation to the offi-  
44 cial of evidence of the current contractor I license holder. If the  
45 water-based fire protection contractor is not known at time of permit  
46 request by a general contractor or other party applying for permit, the  
47 required information above shall be supplied before any water-based fire  
48 protection work commences. Any permits for the layout, installing,  
49 repairing, inspecting, testing, or maintaining of a water-based fire  
50 protection system may only be issued to a licensed water-based fire  
51 protection contractor of the appropriate classification to conduct the  
52 work.

53 § 759-x. Contractual agreements. 1. Any portion of any agreement or  
54 contract for or in connection with, or any guarantee of or in connection  
55 with any layout, installing, repairing, inspecting, testing, maintain-  
56 ing, or demolition of a water-based fire protection system between an

1 owner of real property or general contractor and the water-based fire  
2 protection contractor wherein any party promises to indemnify or hold  
3 harmless the other party to the agreement, contract, or guarantee for  
4 liability for damages to persons or property caused in part by any act,  
5 omission, or default of the indemnitee arising from the contract or its  
6 performance, shall be void and unenforceable unless the contract  
7 contains a monetary limitation on the extent of the indemnification that  
8 bears a reasonable commercial relationship to the contract and is part  
9 of the project specifications or bid documents, if any. Notwithstanding  
10 the foregoing, the monetary limitation on the extent of the indemnifica-  
11 tion provided to the owner of real property by any party in privity of  
12 contract with such owner shall not be less than one million dollars per  
13 occurrence, unless otherwise agreed by the parties. Indemnification  
14 provisions in any such agreements, contracts, or guarantees may not  
15 require that the indemnitor indemnify the indemnitee for damages to  
16 persons or property caused by the sole negligence of another party, or  
17 in whole or in part by any act, omission, or default of a party other  
18 than:

19 (a) the indemnitor;

20 (b) any of the indemnitor's contractors, subcontractors, sub-subcon-  
21 tractors, materialsperson, or agents of any tier or their respective  
22 employees; or

23 (c) the indemnitee or its officers, directors, agents, or employees.  
24 However, such indemnification shall not include claims of, or damages  
25 resulting from gross negligence, or willful, wanton or intentional  
26 misconduct of the indemnitee or its officers, directors, agents or  
27 employees, or for statutory violation or punitive damages except and to  
28 the extent the statutory violation or punitive damages are caused by or  
29 result from the acts or omissions of the indemnitor or any of the  
30 indemnitor's contractors, subcontractors, sub-subcontractors, material-  
31 persons, or agents of any tier or their respective employees.

32 2. A construction contract for a public agency or in connection with a  
33 public agency's project may not require one party to indemnify, defend,  
34 or hold harmless the other party, its employees, officers, directors, or  
35 agents from any liability, damage, loss, claim, action, or proceeding,  
36 and any such contract provision is void as against public policy of this  
37 state.

38 3. This section does not affect any contracts, agreements, or guaran-  
39 tees entered into before the effective date of this article but affects  
40 renewals thereof when such renewal takes place after the effective date  
41 of this article.

42 4. Water-based fire protection contractors shall be granted sufficient  
43 time to inspect any perceived construction defect in a building that  
44 they may disprove or accept as in their purview before any legal actions  
45 or suits are brought forth. If such contractor takes responsibility for  
46 such defect, reasonable time shall be allowed for such contractor or  
47 their representative to correct such defect without fear of any legal  
48 actions or suit. A water-based fire protection contractor shall not be  
49 held liable for economic damages caused by others.

50 5. An owner has an obligation to install fire protection systems in  
51 compliance with adopted fire protection system standards.

52 § 4. This act shall take effect one year after it shall have become a  
53 law, provided, however that the provisions of section 759-k of the  
54 general business law as added by section three of this act shall expire  
55 eighteen months after the effective date of this act when upon such date  
56 the provisions of such section shall be deemed repealed. Effective imme-

1 diately, the addition, amendment and/or repeal of any rule or regulation  
2 necessary for the implementation of this act on its effective date are  
3 authorized to be made and completed on or before such effective date.