

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.

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ARTICLE 35-G
WATER-BASED FIRE PROTECTION
LICENSURE ACT

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§ 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.

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

4. A water-based fire protection contractor licensed under this article shall not:

(a) enter into a written or oral agreement to authorize, subcontract, or otherwise knowingly allow any individual or entity 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 such water-based fire protection contractor or a business entity qualified by such contractor has contracted to conduct the work specified in their application for the required permit.

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

6. In addition to the penalties provided in subdivision five 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 the suspension or revocation of their license and such administrative fines as prescribed by this article.

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

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

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

10. License applicability shall be in accordance with the following 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>

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

(a) To prescribe the duties of, fix the compensation of, and appoint an adequate number of assistants, field inspectors, and other employees 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 dwelling, 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-q. 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 ated 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

owner of real property or general contractor and the water-based fire protection contractor wherein any party 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 privity 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, materials person, 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, materials persons, or agents of any tier or their respective employees.

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

3. This section does not affect any contracts, agreements, or guarantees entered into before the effective date of this article but affects renewals thereof when such renewal takes place after the effective date of this article.

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 such contractor takes responsibility for such defect, reasonable time shall be allowed for such contractor or their representative to correct such defect 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. An owner has an obligation to install fire protection systems in compliance with adopted fire protection system standards.

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