§ 15-1711. Provisions and conditions of licenses; payment to state treasury of moneys received under this title.

1. The term of the license shall not exceed fifty years from its date.

2. The licensee shall agree to accept and abide by the terms and provisions of title 17 of this article, and to pay to the state the charge or rental, if any, fixed by the department and reserved in the license, or as the same may be readjusted pursuant to law.

3. The license shall by reference to maps, plans, and specifications or otherwise clearly identify and define the improvement or development to be affected under the license.

4. If the license affects any canal or canal feeder waters, it shall contain a provision, in substance, reserving to the Commissioner of Transportation the right at any and all times to enter upon the property covered by the license, and to do and perform such acts or things, including the temporary drawing off of the water from the dam or forebay from which the licensee is drawing water and such interruption in the supply of water to the licensee, as may be deemed necessary for the repair, reconstruction or improvement of the canal or any canal works or structures and that the licensee shall be at all times subject to such reasonable rules and regulations for the management and maintenance of the canals and navigation thereof as the Commissioner of Transportation shall from time to time prescribe; also a provision in substance reserving to the department the right, on ninety days' written notice to the licensee, to retake, recapture and resume wholly or in part the use of the water and other property covered by the license, including all structures erected upon and improvements to such property, and to control and limit the manner and extent of use of such water or other property, whenever in the opinion of the Commissioner of Transportation or the Legislature, the necessary supply of water for the use of the canals of the state, or any future alterations or improvements of the canals, or the safety of the works connected therewith, may render such resumption, control or limitation necessary; also a provision in substance reserving to the state the right wholly to abandon or destroy

the canal, dam or works by the erection or construction of which the surplus water covered by the license is rendered available. In either of which events, the licensee, if he promptly complies with any and all lawful directions of the department with respect to the cessation of the use of water and removal from the premises may recover from the state in the Court of Claims the damages resulting to him therefrom, but the damages for improvements on state lands shall not exceed the reconstruction cost. The damages for which the state shall be liable may be specified in the license. The state shall not be liable for any temporary interruption for the repair of or in the operation of the canal, and in case of a substantial change in the right or privilege granted, the department, by agreement, may readjust the charge or rental with the licensee.

5. The license shall contain a provision in substance that if there be a partial resumption of the use of the water or of the land which is covered by the license, the licensee, at his option, may continue for the remainder of the term specified in the license to use the residue of the water and land covered by the license, under the terms and conditions of the license, or such modified terms as may be agreed upon, upon the payment to the state of a revised and readjusted charge or rental, and that if the licensee refuses to accept or continue the use of the remaining water and land at the revised and readjusted rental, the license shall terminate and the licensee shall have his claim for damages as provided by the preceding subdivision.

6. Except as otherwise provided by law, the terms and provisions of a license may be altered only by mutual agreement between the department and the licensee, after publication as provided in subdivision 1 of section 15-0903 of a notice setting forth the time and place of the meeting at which the proposal to alter the terms and provisions of the license will be considered. If by any such agreement the amount of water available for use by the licensee is curtailed or the privileges and rights under the license are materially changed, the department may revise and readjust the rental to be paid.

7. The license may contain a provision to the effect that the licensee

shall furnish to the state, free of charge or upon terms to be fixed as therein provided, the hydraulic or hydro-electric power required for the operation or lighting of certain defined state structures, works or property.

8. The license may also contain a provision in substance, that the licensee shall obtain the fee simple absolute of, or any lesser interest in, all property other than that of the state used by him in the construction of the project.

9. In issuing licenses for a minor part only of a complete project, or for a complete project of not more than one hundred horsepower capacity, the department may in its discretion waive such conditions, provisions and requirements of title 17 of this article, except the license period of fifty years, as it may deem to be to the public interest to waive under the circumstances.

10. The department shall pay into the state treasury the moneys received by it in the course of administering the provisions of title 17 of this article in the manner provided by section 121 of the State Finance Law.