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## CHAPTER 10.

### FIRE PROTECTION SPRINKLER SYSTEMS ACT

#### **SECTION 40-10-05.** Application of Chapter 1; conflicts.

Unless otherwise provided for in this chapter, Chapter 1 of Title 40 applies to fire sprinkler systems regulated or administered, or both, by the South Carolina Department of Labor, Licensing and Regulation. If there is a conflict between this chapter and Chapter 1 of Title 40, the provisions of this chapter control.

#### **SECTION 40-10-10.** Administration of act.

The Fire Protection Sprinkler Systems Act must be administered by the South Carolina Contractor's Licensing Board which, in its authority over the fire sprinkler industry, shall protect the health, safety, and welfare of the public through the regulation of businesses and individuals who identify, assess, and provide work to individuals or other legal entities through the administration and enforcement of this chapter and any regulation promulgated under this chapter and Chapter 1 of Title 40. The purpose of this act is to assure the people of South Carolina that fire protection sprinkler systems are being installed and maintained by individuals or fire sprinkler contractors that are properly licensed and qualified to engage in the planning, sale, installation, repair, alteration, addition, maintenance, testing, or inspection of these systems.

#### **SECTION 40-10-20.** Definitions.

For purposes of this chapter:

- (1) "Bid" means an offer to furnish labor, equipment, or materials or other services regulated by this chapter.
- (2) "Board" means the South Carolina Contractor's Licensing Board.
- (3) "Certification" means an individual who is registered with the department and who has been issued a certificate as a qualifying party for a fire sprinkler contractor.
- (4) "Contractor" means an individual or entity licensed to engage in the planning, sale, installation, repair, alteration, addition, maintenance, or inspection of fire sprinkler systems.
- (5) "Department" means the South Carolina Department of Labor, Licensing and Regulation.
- (6) "Entity" means a sole proprietorship, partnership, limited liability partnership, limited liability company, association, joint venture, cooperative, corporation, or other legal entity authorized by law and approved by the board.
- (7) "Fire sprinkler contractor" means an entity or individual approved by the board to engage in the planning, sale, installation, repair, alteration, addition, maintenance, or inspection of fire protection sprinkler systems or water spray systems, but does not include local building officials, fire inspectors, or insurance inspectors when acting in their official capacity.
- (8) "Fire sprinkler system" means a system of overhead or underground piping, or both, to protect the interior or exterior of a building or structure from fire where the primary extinguishing agent is water and designed in accordance with fire protection engineering standards. The system includes the overhead and underground fire water mains, fire hydrants and hydrant mains, standpipes, and hose connection to sprinkler systems, supplied from a reliable, constant, and sufficient water supply, such as a gravity tank, fire pump, reservoir, or pressure tank, or connection by underground piping to a city main but does not include dual or multi-purpose water lines supplying fire systems or equipment, potable water, or process water, or both. The system is a network of specially sized or hydraulically designed piping installed in a building, structure, or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

Fire protection sprinkler systems include the following types: water based or wet-pipe systems, water foam systems, dry-pipe systems, preaction systems, residential systems, deluge systems, combined dry-pipe and preaction systems, non-freeze systems, and circulating closed loop systems.

(9) "Grandfather qualifying party" means an individual who qualified for certification to become a primary qualifying party for a fire protection sprinkler contractor before September 1, 1985, and who has not met the NICET Level III or IV Technician Certification requirement in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" to qualify a fire sprinkler contractor as a primary qualifying party.

(10) "Individual" means a natural person, male or female.

(11) "Licensee" means a fire sprinkler contractor who has been issued a license by the department to engage in fire sprinkler system work.

(12) "Misconduct" means grounds for revocation, suspension, or other discipline of a licensee for violation of this chapter or a satisfactory showing that a licensee has had a license or other authorization to practice in a construction-related field denied, canceled, revoked, or suspended or disciplined in another state or federal jurisdiction.

(13) "NFPA" means the National Fire Protection Association.

(14) "NICET" means the National Institute for Certification in Engineering Technologies.

(15) "Permit" means a written document or certification from an authority or municipal jurisdiction to allow any entity or individual to engage in contracting within their area of authority or jurisdiction.

(16) "Primary qualifying party" means a full-time employee of a fire sprinkler contractor who holds a valid NICET Level III or IV Technician Certificate in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" and who has been issued a qualifying party certificate by the board to qualify an entity as a fire sprinkler contractor. The individual has been designated by the licensee as the principle individual responsible for directing or reviewing fire sprinkler contractor work.

(17) "Qualifying party" means an individual who has received a NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" and who is an employee of a fire sprinkler contractor who has been issued a qualifying party certificate.

(18) "Revocation" means the cancellation or withdrawal of a license or certification or other authorization issued by the board either permanently or for a period specified by the board. An individual whose license or certification or other authorization has been permanently revoked by the board shall never again be eligible for a license or certification from the board.

(19) "Total cost of construction" means the actual cost incurred by the owner, all contractors, subcontractors, and other parties for labor, material, equipment, profit, and incidental expenses for the entire project. This does not include the cost of design services unless those services are included in a construction contract.

**SECTION 40-10-40.** Primary qualifying party; qualifications; transfer of certification; notice of loss of certain certifications.

(A) A fire sprinkler contractor may not engage in fire sprinkler system work unless the entity has in its employment a primary qualifying party who meets the requirements of this chapter and has been designated by the licensee as the principle individual responsible for directing or reviewing fire sprinkler contractor work.

(B) Upon meeting all requirements of this chapter, the qualifying party may be issued a qualifying party certificate and may qualify a fire sprinkler contractor to engage in fire sprinkler system work as the primary qualifying party. The primary qualifying party, along with the licensee, may be held responsible by the board for improper work or violations of this chapter. The degree of responsibility upon the primary qualifying party may be based upon his participation in the work or violation.

(C) To become a primary qualifying party, an individual must:

(1) meet all requirements of subsections (A) and (B);

- (2) submit an affidavit verifying full-time employment in a responsible management position by the entity for whom the applicant will be the primary qualifying party;
- (3) not take other employment that would diminish the ability to adequately supervise work performed by the licensee's employees or subcontractors; any employment conflict interpretations with this requirement must be determined by a majority vote of the board;
- (4) perform his supervisory work duties from the office location in which the individual is listed as the primary qualifying party; and
- (5) submit a notarized copy of his current NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" along with two government issued or department recognized ID cards containing his photograph, if applicable.
- (D) If the primary qualifying party ceases to perform his duties, the licensee and the qualifying party must notify the department within fifteen days of the primary qualifying party's termination of employment. If the department is not notified within fifteen days, the department shall immediately cancel the license. If the licensee properly notifies the department within the prescribed timeframe, the license remains in good standing for six months from the date of the departure of the primary qualifying party. If a primary qualifying party is not replaced within the six-month period, the department shall immediately cancel the license. If the fire sprinkler contractor has another qualifying party in their employment that is listed with the department, that individual may be listed as the primary qualifying party.
- (E) A qualifying party may transfer his certification to another fire sprinkler contractor when he becomes a new employee for that licensee. The new employer must send written notification of the new employment to the department within fifteen days of employment.
- (F) No primary qualifying party for a licensed fire sprinkler contractor may serve as a primary qualifying party for another fire sprinkler contractor or as the primary qualifying party for any other main or branch office while serving as the primary qualifying party for the licensee.
- (G) Any qualifying party that is listed as a qualifying party for a fire sprinkler contractor must keep his NICET Level III or IV Technician Certification current in "Fire Protection Engineering Technology Automatic Sprinkler System Layout".
- (H) A fire sprinkler contractor may have an unlimited number of qualifying parties listed with the department under the licensee's license.
- (I) If a qualifying party loses his NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout", the licensee or the qualifying party must report the loss to the department within fifteen days. The notice requirements of subsection (D) apply.

#### **SECTION 40-10-41. Licensing requirements.**

- (A) A person, firm, association, partnership, corporation, or other legal entity desiring to engage in work as a fire sprinkler contractor within this State shall submit an application to the department. The owner, partners, or president, the primary qualifying party, and all other qualifying parties must sign the application stating that the information contained in the application is true.
- (B) To qualify for a license, the applicant shall:
  - (1) submit a completed application on a form approved by the department;
  - (2) employ a primary qualifying party holding a current NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout";
  - (3) submit an affidavit stating that the applicant's proposed primary qualifying party is a full-time employee in a responsible management or supervisory position who has a current NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" or submit a notarized copy of the applicant's primary qualifying party's NICET Level III or IV Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" along with a government issued ID card containing his photograph; and
  - (4) submit all fees.

(C) Each fire sprinkler contractor's main office or branch office must be separately licensed and have a primary qualifying party assigned exclusively to that location. The name of the branch office must be the same name that appears on the licensee's license.

(D) No license or certificate may be assigned to another individual or entity or branch office.

(E) Any change that varies from the applicant's original application must be reported to the department within fifteen days from the date of the change.

(F) All licenses may be on a biennial or other basis upon board approval.

#### **SECTION 40-10-42. Renewal of license.**

(A) Each licensee shall apply to the department for license renewal before the license expiration date on a form prepared by the department. Renewal applications not postmarked by the expiration date result in a lapse license cancellation. An entity that fails to renew and continues to engage in fire sprinkler work is practicing without a license and subject to the penalties prescribed in this chapter.

(B) A license not renewed after ninety days from the expiration date cannot be considered for renewal. An initial application form and fees and late renewal penalty must be submitted to obtain a new license. The licensee shall submit documentation of a current comprehensive general liability insurance policy for all license renewals.

(C) Any change that varies from the license's renewal application must be reported to the department within fifteen days from the date of the change.

#### **SECTION 40-10-43. Engaging in fire sprinkler work; restrictions; contracts involving burglar alarm work.**

(A) It is unlawful to engage in fire sprinkler work under a name other than the exact name that appears on the license issued pursuant to this chapter. "Engaging in fire sprinkler work" includes marketing, advertising, using site signs, submitting contracts, and performing work. This requirement does not include advertising on vehicles, which may use an abbreviated version of the license name so long as the advertising is not misleading.

(B) A licensed fire sprinkler contractor may be a subcontractor to another licensed fire sprinkler contractor who has the contract with a client to engage in fire sprinkler work.

(C) A licensed fire sprinkler contractor who has the contract for fire sprinkler work may subcontract water line installation to a licensed water and sewer lines contractor when the waterline work is outside a structure and is included in the fire sprinkler system.

(D) A licensed fire sprinkler contractor may subcontract fire sprinkler work regulated under this chapter to another licensed fire sprinkler contractor and must approve and be responsible for the work the subcontractor performed. Both fire sprinkler contractors may be held accountable by the board for improper work. A fire sprinkler contractor may not bid or perform any general or mechanical work that requires licensure.

(E) A fire sprinkler contractor may submit a bid for a project which includes fire/burglar alarm work if fifty percent or more of the work to be performed is fire sprinkler work. The fire/burglar alarm work must be subcontracted to a licensed fire/burglar alarm contractor. The fire sprinkler contractor is responsible for the work performed by the fire/burglar alarm contractor. Both licensees may be held accountable by the board for improper work. The determination of the cost of the work involved on a project must be determined by the total cost of construction involved in the bid or contract or work to be performed.

#### **SECTION 40-10-44. Grandfathered primary qualifying parties.**

(A) An individual who was grandfathered as a primary qualifying party for a fire sprinkler contractor cannot qualify another fire sprinkler contractor if the grandfathered primary qualifying party leaves the employment of the entity in which he was the original primary qualifying party.

(B) A grandfathered primary qualifying party for a fire sprinkler contractor may change his or her organizational style of business, and the grandfathered primary qualifying party may continue to qualify the licensed fire sprinkler contractor.

#### **SECTION 40-10-45. Prohibited activities.**

It is unlawful for a person to engage in the planning, sale, installation, repair, alteration, addition, maintenance, testing, or inspection of a fire sprinkler system, water based or wet pipe systems, or water foam systems in this State except in conformity with the provisions of this chapter.

#### **SECTION 40-10-50. Fees; lapsed licenses; expiration date.**

(A) The department shall provide all administrative, fiscal, investigative, inspectional, clerical, secretarial, and license renewal operations and activities of the board in accordance with Section 40-1-50.

(B) All fees associated with the NICET Level III or IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" or any other costs for certification are the responsibility of the fire sprinkler contractor and payable to the provider.

(C) All license fees must be submitted to the department.

(D) Initial license fees are:

(1) two hundred dollars for a fire sprinkler contractor license, which includes one qualifying party certificate;

(2) fifty dollars for each additional qualifying party certificate; and

(3) one hundred dollars for each branch office, which includes one primary qualifying party certificate.

(E) Renewal license fees are:

(1) two hundred dollars for a fire sprinkler business renewal, which includes one primary qualifying party certificate;

(2) fifty dollars for each additional qualifying party certificate; and

(3) one hundred dollars for each branch office, which includes one primary qualifying party certificate.

(F) A late renewal fee is due on the day following the expiration date of the license if practice continued and is:

(1) one hundred dollars for up to thirty days;

(2) one hundred fifty dollars up to sixty days;

(3) two hundred dollars for sixty-one to ninety days; and

(4) two hundred fifty dollars for ninety-one to one hundred twenty days.

(G) A license that has lapsed for more than one hundred twenty days may not be renewed. An initial application must be submitted.

(H) The replacement fee for a lost or destroyed certificate is ten dollars.

(I) The replacement fee for a lost or destroyed license is ten dollars.

(J) A fire sprinkler contractor license expires the last day of July in the licensure cycle established by the board.

(K) A ten dollar charge may be assessed for a qualifying party to transfer his qualification certificate to another licensee.

#### **SECTION 40-10-60. Promulgation of rules and regulations.**

The board may adopt rules governing its proceedings and may promulgate regulations necessary to carry out the provisions of this chapter.

**SECTION 40-10-70. Powers and duties; complaints.**

In addition to the powers and duties provided in Chapter 1, the board may:

- (1) establish a time limit within which a complaint must be considered by the board;
- (2) order an entity or individual found in violation of this chapter, Chapter 1, or regulations promulgated under this chapter to take remedial action;
- (3) establish a procedure for receiving complaints that protects the anonymity of the person filing the complaint.

**SECTION 40-10-80. Investigation of complaints.**

The department shall investigate complaints and violations of this chapter as provided for in Section 40-1-80.

**SECTION 40-10-90. Presentation of results of investigation; conduct of hearing.**

The results of an investigation must be presented to the board and any subsequent hearing must be conducted in accordance with Section 40-1-90.

**SECTION 40-10-100. Cease and desist orders; administrative penalties; appeals.**

(A) The department may refer any reports of violations of this chapter, Chapter 1, or regulations promulgated under this chapter directly to the board or may issue administrative citations and cease and desist orders in person or by certified mail and may assess administrative penalties against an entity or individual, including unlicensed contractors, for these violations, as specified by the board.

(B) Separate citations may be issued and separate administrative penalties may be assessed for each violation; however, no more than two thousand five hundred dollars in administrative penalties may be assessed against an entity or an individual per day.

(C) Administrative penalties authorized under this section are separate from and in addition to all other remedies, either civil or criminal.

(D)(1) An administrative penalty assessed pursuant to this section may not exceed five hundred dollars for a first offense.

(2) A citation issued for a second offense in a five-year period must be referred to the board for action in accordance with Section 40-10-110.

(E) An entity or individual assessed an administrative penalty may appeal to the board within fifteen days of receipt of the citation. If an appeal is filed, the department shall schedule a hearing before the board, which shall make a determination in the matter. If no appeal is filed, the citation is deemed a final order and the administrative penalties must be paid within 30 days of receipt of the citation.

**SECTION 40-10-110. Offenses warranting disciplinary actions; civil penalties; revocation or cancellation of license; work in progress.**

(A) The board may impose any disciplinary action authorized by this chapter, Chapter 1, or any regulation promulgated under these chapters upon a licensee or qualifying party who is found guilty of any of the following:

- (1) engaging in the fire sprinkler business without a primary qualifying party;
- (2) failing or refusing to render service to a client as agreed between the parties and for which compensation has been paid or rendered in accordance with the agreement of the parties;
- (3) failing to maintain the required certificate of comprehensive general liability insurance;
- (4) obtaining a license or certificate by fraud or deceit or failing to disclose proper information on the license application, renewal, or qualifying party certificate application or renewal;

- (5) performing substandard work or engaging in negligence, incompetence, or misconduct in the practice as a fire sprinkler contractor;
- (6) abandoning a project or refusing to perform a project after submitting a contract on work without legal excuse for the abandonment or refusal;
- (7) violating any provision of this chapter or a regulation promulgated under this chapter;
- (8) being convicted in a court of competent jurisdiction of this or any other state, district, or territory of the United States, or of a foreign country of the offense of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, or conspiracy to defraud or other like offense related to fire sprinkler system work;
- (9) being convicted of a felony or pleading nolo contendere to any such offense; as used in this chapter, "felony" including any offense which, if committed in this State, would be deemed a felony, without regard to its designation elsewhere;
- (10) aiding or abetting an entity or certificate holder to evade the provisions of this chapter by combining or conspiring with an improperly registered or licensed entity or certificate holder or allowing one's license to be used by any entity to evade the requirements of this chapter or, acting as agent, partner, or associate, of an unregistered or unlicensed entity or obtaining a building permit or permit application in the registrant's, qualifying party's, or licensee's name and listing the registrant, qualifying party, or licensee as the entity or individual that will engage or supervise any contracting work or activity when the registrant or licensee does not have a proper contract with the property owner or does not have a proper registration, license, or certificate to engage in the work or activity or performing work for an entity that is not properly licensed;
- (11) failing to pay monies when due in excess of two hundred dollars for material or services rendered in connection with fire sprinkler system work without legal excuse or valid reason;
- (12) hiring an entity to perform work that is not properly licensed;
- (13) engaging or offering to engage in fire sprinkler system work or submitting a bid when not properly licensed or while a license is under suspension or revocation;
- (14) discovering facts which if known at the time of the issuance or renewal of a license or certification would have been grounds to deny the issuance or renewal of the license or certification;
- (15) failing to obtain a building permit if required by a local or state government before engaging in fire sprinkler system work;
- (16) failing to take appropriate corrective action as directed by the department, hearing officer, or board to comply with the provisions of this chapter or any regulations promulgated under this chapter without valid justification within a reasonable period of time after receiving the written directive;
- (17) failing to comply with an order of the board;
- (18) failing to provide pertinent records and documents as requested by the department or board;
- (19) failing to comply with a directive of the department or hearing officer;
- (20) failing to meet the requirements for a renewal application;
- (21) failing to work in accordance with plans, industry specifications, local or state building codes, or ordinances;
- (22) failing to notify the department or board of the end of employment of the licensee's qualifying party within the applicable time;
- (23) failing to obtain a substitute or a primary qualifying party as provided by this chapter;
- (24) attempting to serve in the capacity of the primary qualifying party while serving a jail sentence;
- (25) failing to notify the department of changes in information required in an original or renewal application;
- (26) committing a wrongful or fraudulent act as a contractor, including the failure to pay subcontractors or suppliers after drawing payment for work or materials performed or provided by those subcontractors or suppliers;
- (27) departing from an applicable building code or ordinance within the State or any of its political subdivisions;
- (28) failing to maintain a business address accessible to the public;



- (29) failing to properly prepare shop drawings;
  - (30) failing to submit shop drawings or fire sprinkler system specification sheets as required under this chapter;
  - (31) failing to properly test, size, or hydraulically calculate a fire sprinkler system;
  - (32) failing to have each branch office properly licensed;
  - (33) failing to have a primary qualifying party assigned to the licensee's main office or each branch office;
  - (34) failing to properly notify the proper authority having jurisdiction to inspect work.
- (B) Disciplinary action may be taken against an entity or individual who the board determines to be responsible for violations of this chapter regardless of changes in corporate identity or federal employer identification subsequent to the violation. In determining responsibility, the board may consider, but is not limited to, an individual's:
- (1) participation in management or supervision related to the violation;
  - (2) position as sole proprietor, partner, officer, or qualifying party.
- (C) The board may, in addition to all other disciplinary actions, require a licensee, certificate holder, or other entity or individual to pay a civil penalty of up to five thousand dollars for each violation of this chapter or of a regulation promulgated under this chapter and may order an unlicensed contractor to cease and desist from violating a provision of this chapter.
- (D) All costs, penalties, and fines imposed pursuant to this chapter must be paid in accordance with and are subject to the collection and enforcement provisions of Chapter 1 and of Chapter 56, Title 12, the "Setoff Debt Collection Act".
- (E) A license or certificate that is canceled by the department or revoked by the board must be returned to the department within fifteen days of notification by the department.
- (F) A person whose license or certificate has been revoked is eligible for licensure no sooner than one year after the date of revocation or such other time, if ever, as ordered by the board. An applicant seeking licensure or certification after having his license or certificate revoked shall complete an application for initial licensure, meet all requirements for initial licensure or certification, and appear before the board in support of the application.
- (G) The licensee may complete work in progress if the licensee's license is revoked or suspended in accordance with the following:
- (1) no new work may be bid or started after revocation or suspension of a license upon proper notification by the department;
  - (2) unless otherwise directed by the board, the revocation, suspension, or restriction of a license or certificate becomes effective following the delivery to the licensee or qualifying party of a written decision of the board. Service of a petition for a review of the decision does not stay the board's decision pending completion of the appellate process in accordance with the Administrative Procedures Act.
- (H) When a licensed contractor entity is dissolved for any reason, the department must cancel the entity's license.
- (I) The board may revoke, suspend, or restrict an individual license or certification without effect to other licenses, license classifications, or certifications.
- (J) It is a violation of this chapter for an entity to conduct work, submit a bid, or offer for any regulated fire sprinkler system work within this State on a project that requires licensure under this chapter if the entity is not properly licensed in accordance with this chapter.
- (K) If more than one violation is committed during the course of a single project, these multiple violations must be treated as one offense.

#### **SECTION 40-10-120. Disciplinary actions in another state or federal jurisdiction.**

- (A) Acts or omissions by a licensee causing the denial, revocation, suspension, or other discipline of a license, certification, or other authorization to practice in a construction related field in another state or federal jurisdiction supports the issuance of a formal complaint and the commencement of disciplinary

proceedings in this State, if the disciplinary action in the other jurisdiction is based upon grounds that would constitute misconduct in this State.

(B) Proof of acts or omissions in another state or federal jurisdiction may be shown by the copy of the transcript of record of the disciplinary proceedings in the other state or federal jurisdiction or a copy of the final order, consent order, or similar order stating the basis for the action taken.

(C) The licensee or qualifying party may present mitigating testimony to the board regarding the disciplinary action taken in another state or federal jurisdiction or evidence that the acts or omissions committed in the other jurisdiction do not constitute misconduct in this State.

(D) Upon the filing of a complaint alleging that a licensee or qualifying party has been disciplined in another state or federal jurisdiction, the licensee or qualifying party must produce for the board copies of all transcripts, documents, and orders used, relied upon, or issued in the other jurisdiction. Failure to produce these items within ninety days of the board's request for them automatically results in the immediate temporary suspension of the entity's license or qualifying party's certificate in this State until such time as the items have been provided to the board.

(E) In addition to the sanctions the board may impose against a person pursuant to this chapter, the board may take disciplinary action against a person as provided for in Section 40-1-120.

#### **SECTION 40-10-130. Basis for refusal to issue license.**

(A) As provided in Section 40-1-130, the department may refuse to issue a license or certification to an applicant who has:

- (1) had a fire sprinkler license or certification denied, suspended, revoked, or otherwise disciplined;
- (2) engaged in work as a fire sprinkler contractor without a valid license as required under this chapter;
- (3) submitted a bid without a valid license when one is required by law;
- (4) committed an act that would be grounds for disciplinary action under this chapter;
- (5) submitted false or misleading information;
- (6) aided or abetted a person in the violation of a provision of this chapter or regulations promulgated under this chapter;
- (7) been convicted of a crime involving unlawful breaking or entering, burglary, or larceny; or has a history of addiction to a narcotic drug; "conviction" means the entry of a plea of guilty or nolo contendere or a verdict rendered in open court by a judge or jury;
- (8) any outstanding monetary judgments related to being a fire sprinkler contractor; or
- (9) engaged in conduct that demonstrates bad faith, dishonesty, untrustworthiness, or incompetence as a fire sprinkler contractor.

(B) A license or certificate or registration may not be issued to an applicant:

- (1) for a minimum of one year after the date of revocation of a similar license or certificate issued by this State or any other state or jurisdiction;
- (2) who is presently under suspension by a professional licensing entity in this or any other state or jurisdiction; or
- (3) who has unresolved complaints or charges pending against him before this or any other professional licensing board in this or any other state.

#### **SECTION 40-10-140. Denial of license on basis of prior criminal record.**

A license may be denied based on a person's prior criminal record only as provided in Section 40-1-140.

#### **SECTION 40-10-150. Voluntary surrender of license.**

A licensee under investigation for a violation of this chapter or a regulation promulgated under this chapter voluntarily may surrender the license in accordance with Section 40-1-150.

**SECTION 40-10-160.** Review of final action of board.

A person aggrieved by a final action of the board may seek review of the decision in accordance with Section 40-1-160.

**SECTION 40-10-165.** Licensing of former licensee who left state with unpaid debts.

Notwithstanding any other provision of law, a person who is or has been licensed pursuant to this chapter who leaves this State with unpaid debts and subsequently returns to the State and seeks to become licensed in this State again, or to do business again in this State under the authority of a still-valid license previously issued under this chapter, shall file with the board a signed, notarized statement listing:

- (1) all outstanding debts the person, or any subsidiary of the person, owes with respect to having done business previously in this State; and
- (2) all bankruptcies that the person, or a subsidiary of the person, has been involved in at any time and place. The board is authorized to refuse to issue a license to the person, and is also authorized to revoke the person's still-valid license, as the case may be, based upon the information contained in the signed notarized statement required by this section.

**SECTION 40-10-170.** Investigation and prosecution costs.

A person found in violation of this chapter or regulations promulgated under this chapter may be required to pay costs associated with the investigation and prosecution of the case in accordance with Section 40-1-170.

**SECTION 40-10-180.** Collection of costs and fees.

All costs, fees, and fines provided in this chapter, except examination fees, must be paid to and collected by the department in accordance with and are subject to the collection and enforcement provisions of Section 40-1-180.

**SECTION 40-10-190.** Confidentiality.

Investigations and proceedings conducted under this chapter are confidential and all communications are privileged as provided in Section 40-1-190.

**SECTION 40-10-200.** Unauthorized practice; penalty; violations of chapter.

(A)(1) A person who practices or offers to practice in this State in violation of this chapter or who knowingly submits false information for the purpose of obtaining a license is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than five thousand dollars.

(2) The board may refer charges under this section by delivering evidence of a violation to a solicitor or a magistrate having jurisdiction.

(3) Upon conviction under this section, the fines and assessments imposed by a court must be administered pursuant to Sections 14-1-205, 14-1-206, 14-1-207, 14-1-208, and 14-1-209.

(B)(1) It is a violation of this chapter for an awarding authority, owner, contractor, or an agent of an authority, owner, or contractor to accept a bid, award a bid, sign or award a contract, allow an unlicensed contractor to begin work or issue or obtain any type of construction permit unless the bidder or fire sprinkler contractor has first obtained the proper license or certification as required by this chapter.

(2) Bids or contracts submitted by contractors may not be reconsidered or resubmitted to an awarding authority, contractor, or owner if the contractor was not licensed at the time the initial bid or contract was submitted or awarded.

(C) Contracts or written agreements for fire sprinkler system work within this State that have been accepted, approved, signed, or awarded by an awarding authority, owner, or contractor may not be reconsidered or submitted to an awarding authority, owner or contractor, if the entity that was awarded the project is not licensed at the time the contract or written agreement was submitted.

(D) An entity that is not licensed as required by this chapter must immediately withdraw his bid, offer, or contract and submit his resignation from the project. The entity may not benefit from a project in which the entity is in violation. The entity cannot submit another bid or perform work as a subcontractor to a licensed contractor on any project in which the entity has been in violation or obtain a license and go back on the same project in which he was in violation. If the contractor becomes licensed, the department may waive this requirement based upon the percentage of completion of the project or if it is determined to be detrimental to public interest.

#### **SECTION 40-10-210. Injunctive relief.**

The department, on behalf of the board and in accordance with Section 40-1-210, may petition an administrative law judge, in the name of the State, for injunctive relief against a person violating this chapter.

#### **SECTION 40-10-220. Actions to enforce contract.**

An entity that does not have a valid license as required by this chapter may not bring an action either at law or in equity to enforce the provisions of a contract. An entity that enters into a contract to engage in construction in a name other than the exact name that appears on its fire sprinkler contractor license may not bring an action either at law or in equity to enforce the provisions of a contract.

#### **SECTION 40-10-230. Contractors or persons to whom chapter not applicable.**

The provisions of this chapter do not apply to:

(1) licensed mechanical plumbing contractors holding a group four or five plumbing classification who install standpipe systems, including hose connections, hose cabinets, and related branch lines if they do not supply water to fire sprinkler systems. Under this exception for these systems, shop drawings must be submitted and approved by the State Fire Marshal's Office or his designee before installation, and the installation must comply with NFPA Standard 14;

(2) a manufacturer's factory trained and certified individual or entity performing maintenance or repair on fire pumps, fire pump control panels, and fire pump drivers; a manufacturer's factory trained and certified individual or entity shall contact the authority having jurisdiction to approve the work and witness any testing that is required by NFPA standards;

(3) licensed mechanical contractors holding a group four or five plumbing classification performing emergency repair work on a fire sprinkler system if the total cost of the labor does not exceed one thousand dollars per occurrence; the plumbing contractor shall contact the authority having jurisdiction to approve the work and witness any testing that is required by NFPA standards;

(4) persons engaged in emergency repair work of fire sprinkler systems on their own property or that of their full-time employer or persons engaged in the repair, maintenance, testing, or inspection of a fire sprinkler system, water spray system, or water foam system, who are employed by a public institution of the State, as defined in Section 59-103-5, to repair, maintain, test, or inspect fire sprinkler systems, water spray systems, or water foam systems on property owned by the public institution, provided that such work shall be conducted by persons under the direct control or supervision of a person holding certification in NICET Level III, Inspection and Testing of Water Based Systems; provided that the State

Fire Marshal may review inspection and maintenance records upon request; and provided that the public institution shall remain responsible for the actions or omissions of its employees exempted under this subsection;

(5) an individual or entity who is certified by and has successfully passed the Department of Health and Environmental Control (DHEC) approved backflow prevention assembly training seminar and who holds a current Tester Certification Certificate to test backflow prevention assemblies. The backflow test must be conducted in accordance with applicable NFPA Standards. DHEC's certified tester assumes full responsibility and liability when testing the backflow prevention assembly; the appropriate people must be notified including, but not limited to, the fire department, fire marshal, customer/owner, building official, or insurance company, when the backflow prevention assembly is shut down for testing; if repairs to the backflow prevention assembly are necessary, any such repair must be made by a DHEC certified backflow prevention assembly tester;

(6) licensed water and sewer line contractors holding a group four or five classification limitation installing underground water mains, hydrant mains, fire pumps, and fire hydrants, or fire protection sprinkler system underground mains to a flanged outlet 1'-0" above the finished floor in compliance with National Fire Protection Association Standard 24. The water and sewer line contractor shall use design or shop drawings approved by the State Fire Marshal's Office or his designee. Flushing and testing certificates must be delivered to the authority having jurisdiction and upon request to the performing licensed fire sprinkler contractor. General contractors in this license classification may not engage in water and sewer line work from the right-of-way to a residential structure unless the entity is a subcontractor to a licensee holding a plumbing classification;

(7) an individual who installs, repairs, trouble shoots, provides diagnostic analysis, or provides services in any manner to a backflow prevention assembly if the individual has current certification from the Department of Health and Environmental Control approved backflow assembly prevention training seminar and has completed some level of educational training or certification with backflow prevention assembly.

(8) properly licensed alarm and electrical contractors that connect to a fire sprinkler system for the purpose of monitoring the activation of the system.

#### **SECTION 40-10-240. Building code compliance.**

(A) Fire protection sprinkler systems must be designed and installed in accordance with the state building codes as adopted by the South Carolina Building Codes Council and the state Fire Codes as adopted by the State Fire Marshal.

(B) The following supplemental design codes and standards must be followed when applicable: NFPA 1, NFPA 16(a), NFPA 214, and NFPA 230.

(C) An agency shall accept full and complete compliance with the latest edition of a nationally recognized code that it is charged by statute or regulation with enforcing, unless it has promulgated amendments to that code pursuant to state law.

#### **SECTION 40-10-250. Fire Protection Sprinkler System Specification Sheet; completion of form; attachment to building permit applications.**

(A) A "Fire Protection Sprinkler System Specification Sheet" must be completed for every fire protection sprinkler system, and submitted on a form approved by the State Fire Marshal's Office to the authority having jurisdiction. The completed form must contain the following information at a minimum:

(1) the available static and residual water pressure from a flow test conducted less than one year before submittal;

(2) the volume per minute of the available water flow and duration;

(3) the source of water supply;

(4) the NFPA hazard classifications and details of storage arrangement, if applicable;

- (5) the occupancy use of the building, or the area to be sprinkled;
  - (6) the type of system to be installed;
  - (7) the applicable National Fire Protection Association standards to be followed for each component of the system;
  - (8) other state and local statutes, regulations, codes, or ordinances that must be followed;
  - (9) the name, address, title, and phone number of the person developing the fire sprinkler system specification sheet.
- (B) The form must be completed by:
- (1) a professional engineer licensed in this State bearing his professional seal and signature; or
  - (2) a fire sprinkler contractor licensed in this State with a qualifying party holding a NICET Level IV Technician Certification in "Fire Protection Engineering Technology Automatic Sprinkler System Layout" if a specific statute, regulation, or ordinance does not require the services of a licensed professional engineer. The qualifying party must be the individual completing the form, and he must place his name on the lower right hand corner on the first page of the form with the words "Qualifying Party" after his name and with his qualifying party certificate number.
- (C) When applying for building permits or other required permits, the Fire Sprinkler System Specification Sheet completed in accordance with subsections (A) and (B) must be made part of the bid documents and must be submitted to the authority having jurisdiction, along with the architectural or engineering, or both, drawings and specifications. The completed Fire Sprinkler System Specification Sheet must accompany the shop drawings when they are submitted for review.

**SECTION 40-10-260. Shop drawings; contents and review; certificates of occupancy.**

- (A) Shop drawings must be prepared for every fire sprinkler system and must meet the following requirements:
- (1) shop drawings and the attached specification sheet must contain sufficient information to show compliance with the National Fire Protection Association standards required in the Fire Sprinkler Specification Sheet; and
  - (2) shop drawings must bear the authorized signature and license number of the fire sprinkler contractor licensed in this State who prepared the drawings;
  - (3) shop drawings for the exceptions listed in Section 40-10-230(1) must be submitted and approved by the State Fire Marshal's Office or his designee before installation. The installation must comply with NFPA Standard 14.
- (B) Shop drawings must be reviewed in accordance with the following to determine compliance with the Fire Sprinkler Specification Sheet.
- (1) If a licensed engineer prepared a Fire Sprinkler System Specification Sheet for the shop drawings, the shop drawings must be submitted to that licensed engineer. After determination of compliance with the Fire Sprinkler System Specification Sheet, the shop drawings must be submitted to the State Fire Marshal's Office or to his designee for further review in accordance with subsection (C). In no case must the seal of a licensed professional engineer be required on shop drawings.
  - (2) If a licensed fire sprinkler contractor prepared a Fire Sprinkler System Specification Sheet for the shop drawings, the shop drawings must be submitted to the State Fire Marshal's Office or to his designee for review and determination of compliance with the Fire Sprinkler System Specification Sheet.
- (C) In addition to compliance review required by subsection (B), shop drawings for the fire sprinkler systems must be submitted as follows:
- (1) areas of the State that do not have a local authority to provide the review must be submitted to the State Fire Marshal's Office for review;
  - (2) the local authority having jurisdiction, the awarding authority, or the state agency having jurisdiction over the project may also require that the fire protection sprinkler system shop drawings be submitted for review of any additional requirements or may require that the shop drawings be submitted to the State Fire Marshal's Office or to his designee for review;

(3) in lieu of performing its own review of shop drawings, the State Fire Marshal's Office may accept the shop drawing review of an insurance underwriter, a licensed engineer, a local authority having jurisdiction, or his designee, if the review meets the standards established by the State Fire Marshal's Office;

(4) within thirty calendar days from the receipt of shop drawings, the State Fire Marshal's Office must publish a letter approving the shop drawings or listing the corrective action necessary for approval. This letter must be sent to the fire sprinkler contractor or licensed engineer that submitted the shop drawings. Any response regarding corrective action must be reviewed and answered within thirty calendar days of receipt by the State Fire Marshal's Office. If a letter is not issued by the State Fire Marshal's Office within this time frame approving the shop drawings or addressing the required corrections response from the fire sprinkler or licensed engineer, the plans must be deemed approved.

(D) Before a certificate of occupancy may be issued, completed certificates must be delivered to the owner of the building and to the authority having jurisdiction in accordance with the following:

(1) A Certificate of Compliance certifying that the fire sprinkler system was designed in accordance with the "Fire Sprinkler System Specification Sheet" must be completed by the individual conducting the review pursuant to subsection (B).

(2) The licensed fire sprinkler contractor responsible for the installation of the fire sprinkler system must complete the contractors' Material and Test Certificate for Above Ground Piping in accordance with NFPA within thirteen days.

(3) The licensed fire sprinkler contractor responsible for the installation of the fire sprinkler system must complete the contractors' Material and Test Certificate for Under Ground Piping in accordance with NFPA within thirteen days.

#### **SECTION 40-10-270. Comprehensive general liability insurance requirement.**

(A) A license may not be issued unless the applicant files with the department evidence of a policy of comprehensive general liability insurance providing the minimum coverage of one hundred thousand dollars due to bodily injury, death, or destruction of property as the result of the negligent act or acts of the principal insured.

(B) Fire sprinkler contractor employees are not required to obtain a certificate of comprehensive general liability insurance.

(C) A licensee shall notify the department upon the cancellation by a licensee of its policy of liability insurance or the cancellation by the insurance carrier of the licensee's policy of insurance within ten days of the cancellation date. The cancellation does not affect any liability on the policy that accrued before cancellation. The license must be revoked if the licensee fails to obtain a new policy within sixty days of cancellation.

(D)(1) Upon failure of the licensee to notify the department of cancellation of his liability insurance, the license may be revoked and may not be reinstated until a proper insurance certificate has been submitted to the department for approval. If a new liability insurance policy is not obtained within sixty days of the cancellation, the person seeking licensure shall submit an initial application.

(2) The policy must be purchased from an insurer licensed by the Department of Insurance to do business in this State.

(3) The South Carolina Contractors' Licensing Board must be named as the certificate holder.

#### **SECTION 40-10-280. Local authority; determination of compliance with chapter.**

(A) Nothing in this chapter limits the power of the State or a municipality or county to regulate the quality of work performed by contractors through a system of permits, fees, and inspections that are designed to ensure compliance with, and aid in the implementations of, state and local laws for the protection of the public health and safety. Nothing in this chapter limits the power of the State or a municipality or county to adopt a system of permits requiring submission to and approval by the State or municipality, or county

of plans and specifications for work to be performed by contractors before commencement of the work and requirements after the work is completed. The official authorized to issue building or other related permits or authorization to commence work must ascertain that the fire sprinkler contractor is licensed by requiring evidence of a valid fire sprinkler contractor license.

(B) Nothing in this chapter may alter or limit the State Fire Marshal's Office duties and responsibilities concerning fire sprinkler systems as provided in this chapter and in Sections 23-9-40 and 23-9-60.

(C) Private and public awarding entities and individuals are required to determine compliance with this chapter before awarding any contracts for fire sprinkler system work.

(D) This chapter applies to any fire sprinkler contractor performing work for the State or a municipality or county. Officials of the State or a municipality, or county are required to determine compliance with this chapter before awarding a contract for the planning, sale, installation, repair, alteration, addition, or inspection of a fire sprinkler system containing water spray or a water foam system.

#### **SECTION 40-10-290. Bankruptcy.**

A licensee who, voluntarily or involuntarily, is subjected to any provision of the laws of bankruptcy shall notify the board within fifteen days and provide any and all information pertinent to the bankruptcy that the board may require.

#### **SECTION 40-10-300. Severability.**

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.