

FIRST REGULAR SESSION

SENATE BILL NO. 397

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time March 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1716S.011

AN ACT

To amend chapter 320, RSMo, by adding thereto nine new sections relating to fire sprinkler contractor regulation.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 320, RSMo, is amended by adding thereto nine new sections, to be known as sections 320.400, 320.402, 320.404, 320.406, 320.408, 320.410, 320.412, 320.414, and 320.416, to read as follows:

320.400. 1. As used in sections 320.400 to 320.416, the following terms shall mean:

(1) "Advisory council", the fire sprinkler advisory council established in section 320.404;

(2) "Certificate of registration", the document issued to a contractor under sections 320.400 to 320.416 authorizing such organization to conduct business in this state;

(3) "Contractor", an organization that offers to undertake, represents itself as being able to undertake, or does undertake the design, planning, installation, or servicing of a fire sprinkler system or any part of such a system for pay;

(4) "Fire sprinkler system", a suppression system which requires individual calculation and layout in accordance with nationally recognized standards, such as those of the National Fire Protection Association, to protect the interior or exterior of a specific building, structure, or special hazard from fire by conveying water, with or without other agents, to dispersal openings or devices. Such systems also include any overhead and underground fire mains beginning at the point of service, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines,

21 thermal systems used in connection with fire sprinkler systems, and
22 tanks and pumps connected to fire sprinkler systems;

23 (5) "Inspection", a visual examination of a fire sprinkler system
24 or portion thereof to verify that it appears to be in operating condition
25 and is free of physical damage;

26 (6) "Installation", the initial placement of fire sprinkler
27 equipment or the extension, modification, or alteration of equipment
28 after the initial placement, and includes the inspection and testing of
29 equipment attendant to the placement or alteration of fire sprinkler
30 equipment;

31 (7) "NICET"; National Institute of Certification in Engineering
32 Technologies;

33 (8) "Organization", a corporation, a partnership or other business
34 association, a sole proprietorship, a governmental entity, or any other
35 legal or commercial entity;

36 (9) "Person", a natural person, including an owner, manager,
37 officer, employee, or occupant;

38 (10) "Point of service", the point at which the underground piping
39 for a sprinkler system using water as the extinguishing agent becomes
40 used exclusively for the sprinkler system;

41 (11) "Registered firm", an organization holding a valid certificate
42 of registration issued under sections 320.400 to 320.416;

43 (12) "Service", to inspect, test, or repair fire sprinkler equipment
44 in order to furnish or return the fire sprinkler system to operational
45 condition, and including maintenance contracts;

46 (13) "Special agent fire suppression system", an approved system,
47 and components thereof, which requires individual calculations and
48 layout in accordance with the manufacturer's instructions to determine
49 the flow rates, nozzle pressures, quantities of extinguishing agent, and
50 number and types of nozzles for protecting one or more hazards by
51 suppressing or extinguishing fire. These systems include kitchen hood
52 fire suppression systems, dry chemical systems, carbon dioxide systems,
53 halogenated and gaseous agent systems, foam systems, and wet
54 chemical systems not connected to fire sprinkler systems. Special agent
55 fire suppression systems shall not include a fire sprinkler system.

320.402. 1. Any contractor who engages in the installation of fire
2 sprinkler systems or services fire sprinkler systems shall register with

3 the state fire marshal.

4 2. The provisions of sections 320.400 to 320.416 and the rules and
5 regulations promulgated under sections 320.400 to 320.416 shall have
6 uniform force and effect throughout the state. A municipality, county,
7 or any other local governmental body or jurisdiction may enact or
8 enforce additional registration or licensing requirements that meet or
9 exceed the registration required by sections 320.400 to 320.416.

10 3. Notwithstanding any other provisions of sections 320.400 to
11 320.416, a municipality, county, or any other local governmental body
12 or jurisdiction may require a contractor to obtain a permit and pay a
13 fee for the installation of a fire sprinkler system and require the
14 installation of such system in conformance with the building code or
15 other construction requirements of the municipality, county, or any
16 other local governmental body or jurisdiction.

17 4. Sections 320.400 to 320.416 do not apply to:

18 (1) A person or organization that only sells or supplies products
19 or materials used in fire sprinkler systems;

20 (2) Inspection activities performed by a government official as
21 part of code enforcement activities; or

22 (3) A person or organization who designs, plans, sells, places, or
23 maintains special agent fire suppression systems.

24 5. Nothing in sections 320.400 to 320.416 shall be deemed to limit
25 or restrict the practice of engineering by licensed professional
26 engineers.

 320.404. 1. There is hereby established the "Fire Sprinkler
2 Advisory Council", which shall guide, advise, and make
3 recommendations to the state fire marshal and assist the state fire
4 marshal in carrying out the provisions of sections 320.400 to 320.416.

5 2. The advisory council shall consist of seven members. Four
6 members shall be qualified to hold a certificate of registration and have
7 at least five years of experience with fire sprinkler systems preceding
8 their appointment. For such members, the largest fire sprinkler
9 contractor association in the state shall nominate four persons, of
10 which two shall be chosen by the state fire marshal as members, and
11 the second largest fire sprinkler association in the state shall nominate
12 four persons, of which two shall be chosen by the state fire marshal as
13 members. The state fire marshal shall also appoint: one member who

14 is an insurance claims adjuster with at least five years experience in
15 investigating residential and commercial property losses caused by fire,
16 one member who is a licensed professional engineer, and one member
17 who is a representative of the state fire marshal's office, who shall
18 serve as secretary for the council, in addition to being a voting
19 member.

20 3. Beginning with the appointments made after August 28, 2011,
21 three members shall be appointed for four-year terms, two members
22 shall be appointed for three-year terms, and two members shall be
23 appointed for two-year terms. As the initial term of a member expires,
24 the state fire marshal shall appoint a member to fill the vacancy for a
25 term of four years. A vacancy in the membership of the advisory
26 council for any reason shall be filled by appointment by the state fire
27 marshal for the balance of the unexpired term.

28 4. The state fire marshal may remove a council member for
29 misconduct, incompetence, or neglect of official duties after giving the
30 council member written notice of the reasons and allowing the council
31 member an opportunity to be heard. Members may also be terminated
32 for the following reasons: change of legal residence by moving out of
33 the state; missing three consecutive meetings; or having their
34 certificate of registration revoked or suspended.

35 5. As soon as practicable after August 28, 2011, the advisory
36 council shall meet to elect officers from its membership. A majority of
37 the advisory council shall constitute a quorum. No member of the
38 advisory council shall be paid a salary as such member, but each shall
39 receive necessary expenses while attending advisory council meetings
40 and reimbursement, including travel in performance of his or her
41 duties, as provided in state law.

320.406. 1. The advisory council is authorized to promulgate
2 rules and regulations regarding:

3 (1) The content of applications and the procedures for filing an
4 application for an initial or renewal certificate of registration in this
5 state;

6 (2) Educational or experience requirements for a certificate of
7 registration;

8 (3) The standards and methods to be used in assessing
9 competency as a contractor;

10 **(4) All applicable fees, set at a level to produce revenue which**
11 **shall not exceed the cost and expense of administering the provisions**
12 **of sections 320.400 to 320.416;**

13 **(5) Establishment of procedures for granting reciprocity with**
14 **other states.**

15 **2. Any rule or portion of a rule, as that term is defined in section**
16 **536.010 that is created under the authority delegated in this section**
17 **shall become effective only if it complies with and is subject to all of**
18 **the provisions of chapter 536 and, if applicable, section 536.028. This**
19 **section and chapter 536 are nonseverable and if any of the powers**
20 **vested with the general assembly pursuant to chapter 536 to review, to**
21 **delay the effective date, or to disapprove and annul a rule are**
22 **subsequently held unconstitutional, then the grant of rulemaking**
23 **authority and any rule proposed or adopted after August 28, 2011, shall**
24 **be invalid and void.**

320.408. 1. One of the following requirements shall be fulfilled
2 **in order to obtain a certificate of registration from the state fire**
3 **marshal:**

4 **(1) The applicant shall demonstrate a thorough knowledge of the**
5 **design and installation of fire sprinkler systems in general, and**
6 **specifically backflow devices, assemblies, and methods relating to fire**
7 **suppression systems. Such knowledge shall require a minimum of five**
8 **years of experience as a bona fide fire sprinkler system contractor or**
9 **other experience or training as the advisory council determines to be**
10 **equivalent;**

11 **(2) The applicant shall employ as a full-time employee a person**
12 **with a bachelors of science degree in fire protection engineering from**
13 **an accredited university, from which the employee shall have received**
14 **training in design, planning, and installation of fire sprinkler systems,**
15 **and such employee shall be a professional engineer licensed in the state**
16 **of Missouri;**

17 **(3) The applicant shall employ as a full-time employee a person**
18 **with a NICET Level IV certification in the automatic sprinkler system**
19 **layout subfield demonstrating the certified person has received**
20 **training in design, planning, and installation of fire sprinkler systems,**
21 **or equivalent certification as approved by the advisory council, and**
22 **such employee shall have at least three years of such experience in a**

23 **supervisory capacity;**

24 **(4) The applicant shall employ as a full-time employee a person**
25 **with a NICET Level III certification in the automatic sprinkler system**
26 **layout subfield demonstrating the certified person has received**
27 **training in design, planning, and installation of fire sprinkler systems,**
28 **or equivalent certification as approved by the advisory council, and**
29 **such employee shall have at least five years of such experience in a**
30 **supervisory capacity; or**

31 **(5) The applicant's credentials have been reviewed and approved**
32 **by the advisory council as to qualifications and experience. Under such**
33 **circumstances, the applicant is required to provide proof of knowledge,**
34 **training, and experience through transcripts from employers and other**
35 **documents as requested by the advisory council.**

36 **2. Any organization that holds a certificate of registration in this**
37 **state under sections 320.400 to 320.416 may use the title "certified fire**
38 **sprinkler contractor". No other person or organization may use the**
39 **title "certified fire sprinkler contractor". No other person or**
40 **organization shall assume any title or use any abbreviation or any**
41 **other words, letters, signs, or devices to indicate that the person or**
42 **organization using the same is a certified fire sprinkler contractor.**

43 **3. A certificate of registration shall be valid for a period of two**
44 **years from the date of issue and is renewable biennially on payment of**
45 **a fee; provided however, that the initial certificates of registration**
46 **issued on or after August 28, 2011, may be issued for periods of less**
47 **than two years and the fee shall be prorated proportionally.**

48 **4. A fee shall be charged by the state fire marshal for any request**
49 **for a duplicate certificate of registration or any request requiring**
50 **change to a certificate of registration. The fee shall be set by the fire**
51 **marshal, after consultation with the advisory council.**

52 **5. Each certificate of registration issued under sections 320.400**
53 **to 320.416 shall be posted in a conspicuous place in the contractor's**
54 **place of business.**

55 **6. All plans, bids, proposals, offers, and installation drawings for**
56 **fire sprinkler systems shall prominently display the contractor's**
57 **certificate of registration number.**

58 **7. A certificate of registration issued under sections 320.400 to**
59 **320.416 shall not be transferable.**

60 8. The state fire marshal shall collect the fees established by
61 advisory council rule. There is hereby created in the state treasury the
62 "Fire Sprinkler Contractor Registration Fund", which shall consist of
63 money collected under sections 320.400 to 320.416. The state treasurer
64 shall be custodian of the fund and may approve disbursements from the
65 fund in accordance with sections 30.170 and 30.180. Upon
66 appropriation, money in the fund shall be used solely for the
67 administration of sections 320.400 to 320.416. Any money remaining in
68 the fund at the end of the biennium shall revert to the credit of the
69 general revenue fund. The state treasurer shall invest moneys in the
70 fund in the same manner as other funds are invested. Any interest and
71 moneys earned on such investments shall be credited to the fund.

 320.410. 1. As provided in subsection 3 of section 320.408, each
2 renewal of a certificate of registration issued under sections 320.400 to
3 320.416 is valid for a period of two years. The certificate of registration
4 fee is payable on renewal.

5 2. An unexpired certificate of registration may only be renewed
6 by paying the required renewal fee to the state fire marshal before the
7 expiration date of the certificate of registration. If a certificate of
8 registration has been expired for not longer than ninety days, the
9 certificate of registration may be renewed by paying the required
10 renewal fee and a fee that is one-half of the original fee for the
11 certificate of registration. If a certificate of registration has been
12 expired for longer than ninety days but less than one hundred and
13 eighty days, the certificate of registration may be renewed by paying
14 to the state fire marshal all unpaid renewal fees and a fee that is equal
15 to the original fee for the certificate of registration. If a certificate of
16 registration has been expired for one hundred and eighty days or
17 longer, the certificate of registration may not be renewed. A new
18 certificate of registration may be obtained by complying with the
19 requirements and procedures for obtaining an initial certificate of
20 registration. This section shall not be construed to prevent the state
21 fire marshal from denying or refusing to renew a certificate of
22 registration under applicable law or rules of the state fire marshal.

23 3. At least thirty days before the expiration of a certificate of
24 registration, the state fire marshal shall send written notice of the
25 impending certificate of registration expiration to the registrant at the

26 last known address.

27 4. The state fire marshal may, by rule, adopt a system under
28 which certificates of registration expire on various dates during the
29 year. When the certificate of registration expiration date is less than
30 two years from its issuance or anniversary date, the fee shall be
31 prorated on a monthly basis so that each registrant shall pay only that
32 portion of the fee that is allocable to the number of months during
33 which the registration is valid. On each subsequent renewal, the total
34 renewal fee is payable.

 320.412. The state fire marshal shall not issue a certificate of
2 registration under sections 320.400 to 320.416 unless the applicant files
3 evidence of a general liability insurance policy that includes products
4 and completed operations coverage. The limits of insurance coverage
5 required by this section shall be in an amount not less than one million
6 dollars aggregate for all occurrences per policy year. The general
7 liability policy shall be conditioned to pay on behalf of the insured
8 those amounts that the insured is legally obligated to pay as damages
9 because of bodily injury and property damage caused by an occurrence
10 involving the insured or the insured's servant, officer, agent, or
11 employee in the conduct of any business registered under sections
12 320.400 to 320.416.

 320.414. 1. The state fire marshal may refuse to issue any
2 certificate of registration or renew any certificate of registration
3 required by one or any provisions of sections 320.400 to 320.416 for one
4 or any combination of reasons stated in subsection 2 of this
5 section. The state fire marshal shall notify the applicant in writing of
6 the reasons for the refusal and shall advise the applicant of the right
7 to file a complaint with the administrative hearing commission as
8 provided in chapter 621.

 2. The state fire marshal may cause a complaint to be filed with
10 the administrative hearing commission as provided in chapter 621
11 against the holder of any certificate of registration required by sections
12 320.400 to 320.416 or any person or organization who has failed to
13 renew or has surrendered their certificate for any one or any
14 combination of the following causes:

15 (1) Use of fraud, deception, misrepresentation, or bribery in
16 securing a certificate issued pursuant to the provisions of sections

17 **320.400 to 320.416;**

18 **(2) Impersonation of any organization holding a certificate or**
19 **allowing any person or organization to use his or her certificate;**

20 **(3) Disciplinary action against the holder of a certificate by**
21 **another state, territory, federal agency, or country upon grounds for**
22 **which revocation or suspension is authorized in this state;**

23 **(4) Issuance of a certificate based upon a material mistake of**
24 **fact;**

25 **(5) The person or organization has been finally adjudicated and**
26 **found guilty, or entered a plea of guilty or nolo contendere, in a**
27 **criminal prosecution under the laws of any state or of the United**
28 **States, for any offense reasonably related to the qualifications,**
29 **functions, or duties of any profession regulated under sections 320.400**
30 **to 320.416, for any offense an essential element of which is fraud,**
31 **dishonesty or an act of violence, or for any offense involving moral**
32 **turpitude, whether or not sentence is imposed;**

33 **(6) Incompetence, misconduct, gross negligence, fraud,**
34 **misrepresentation, or dishonesty in the performance of the functions**
35 **or duties of the profession that is regulated by sections 320.400 to**
36 **320.416;**

37 **(7) Violation of, or assisting or enabling any person or**
38 **organization to violate, any provision of sections 320.400 to 320.416, or**
39 **any lawful rule or regulation adopted pursuant to such sections;**

40 **(8) A person is finally adjudged insane or incompetent by a court**
41 **of competent jurisdiction;**

42 **(9) Operating without at least one million dollars in liability**
43 **insurance coverage.**

44 **3. After the filing of a complaint pursuant to subsection 2 of this**
45 **section, the proceedings shall be conducted in accordance with the**
46 **provisions of chapter 621. Upon a finding by the administrative**
47 **hearing commission that the grounds, provided in subsection 2 of this**
48 **section, for disciplinary action are met, the advisory council may,**
49 **singly or in combination, censure or place the person or organization**
50 **named in the complaint on probation on such terms and conditions as**
51 **the advisory council deems appropriate for a period not to exceed five**
52 **years, or may suspend, for a period not to exceed three years, or revoke**
53 **the certificate of registration of the person or organization. An**

54 individual whose certificate of registration has been revoked shall wait
55 three years from the date of revocation to apply for another
56 certificate. Certification shall be at the discretion of the advisory
57 council after compliance with all requirements of sections 320.400 to
58 320.416 relative to the certification of an applicant for the first time.

59 4. The state fire marshal shall maintain an information file
60 containing each complaint filed with the advisory council relating to
61 a holder of a certificate of registration.

320.416. 1. Upon proper application by the state fire marshal, a
2 court of competent jurisdiction may grant an injunction, restraining
3 order, or other order as may be appropriate to enjoin a person or
4 organization from:

5 (1) Offering to engage or engaging in the performance of any acts
6 or practices for which a certificate of registration is required by
7 sections 320.400 to 320.416 upon a showing that such acts or practices
8 were performed or offered to be performed without a certificate of
9 registration; or

10 (2) Engaging in any practice or business authorized by a
11 certificate of registration issued under sections 320.400 to 320.416 upon
12 a showing that the holder presents a probability of serious danger to
13 the health, safety, or welfare of any resident of the state.

14 2. Any such actions shall be commenced either in the county in
15 which such conduct occurred or in the county in which the defendant
16 resides.

17 3. Any action brought under this section shall be in addition and
18 not in lieu of any penalty provided by law and may be brought
19 concurrently with other actions to enforce sections 320.400 to 320.416.

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