

FIRST REGULAR SESSION

# HOUSE BILL NO. 769

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WELLS (Sponsor), FUNDERBURK, DIECKHAUS, MCGHEE,  
RUZICKA, JONES (89) AND KELLY (24) (Co-sponsors).

1718L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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  
2 known as sections 320.400, 320.402, 320.404, 320.406, 320.408, 320.410, 320.412, 320.414,  
3 and 320.416, to read as follows:

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

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

4 (2) "Certificate of registration", the document issued to a contractor under sections  
5 320.400 to 320.416 authorizing such organization to conduct business in this state;

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 thermal systems used in connection with fire sprinkler systems, and tanks and pumps  
17 connected to fire sprinkler systems;

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

20 (6) "Installation", the initial placement of fire sprinkler equipment or the  
21 extension, modification, or alteration of equipment after the initial placement, and includes  
22 the inspection and testing of equipment attendant to the placement or alteration of fire  
23 sprinkler equipment;

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

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

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

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

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

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

37 (13) "Special agent fire suppression system", an approved system, and components  
38 thereof, which requires individual calculations and layout in accordance with the  
39 manufacturer's instructions to determine the flow rates, nozzle pressures, quantities of  
40 extinguishing agent, and number and types of nozzles for protecting one or more hazards  
41 by suppressing or extinguishing fire. These systems include kitchen hood fire suppression  
42 systems, dry chemical systems, carbon dioxide systems, halogenated and gaseous agent  
43 systems, foam systems, and wet chemical systems not connected to fire sprinkler systems.  
44 Special agent fire suppression systems shall not include a fire sprinkler system.

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

3 2. Any city, town, village, county, or city not within a county may enact an order,  
4 ordinance, rule, or regulation requiring a person or organization to obtain a certificate of  
5 registration or license from the city, town, village, county, or city not within a county.

6 3. Notwithstanding any other provisions of sections 320.400 to 320.416, a  
7 municipality, county, or any other local governmental body or jurisdiction may require a

8 contractor to obtain a permit and pay a fee for the installation of a fire sprinkler system  
9 and require the installation of such system in conformance with the building code or other  
10 construction requirements of the municipality, county, or any other local governmental  
11 body or jurisdiction.

12 **4. Sections 320.400 to 320.416 do not apply to:**

13 **(1) A person or organization that only sells or supplies products or materials used**  
14 **in fire sprinkler systems;**

15 **(2) Inspection activities performed by a government official as part of code**  
16 **enforcement activities; or**

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

19 **5. Nothing in sections 320.400 to 320.416 shall be deemed to limit or restrict the**  
20 **practice of engineering by licensed professional engineers.**

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

5 **2. The advisory council shall consist of seven members. Four members shall be**  
6 **qualified to hold a certificate of registration and have at least five years of experience with**  
7 **fire sprinkler systems preceding their appointment. For such members, the largest fire**  
8 **sprinkler contractor association in the state shall nominate four persons, of which two shall**  
9 **be chosen by the state fire marshal as members, and the second largest fire sprinkler**  
10 **association in the state shall nominate three persons, of which two shall be chosen by the**  
11 **state fire marshal as members. Of the members chosen by the state fire marshal, one**  
12 **member shall be an insurance claims adjuster with at least five years experience in**  
13 **investigating residential and commercial property losses caused by fire, one member shall**  
14 **be a licensed professional engineer, and one member shall be a representative of the state**  
15 **fire marshal's office, who shall serve as secretary for the council, in addition to being a**  
16 **voting member.**

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

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

29           **5. As soon as practicable after the effective date of sections 320.400 to 320.416, the**  
30 **advisory council shall meet to elect officers from its membership. A majority of the**  
31 **advisory council shall constitute a quorum. No member of the advisory council shall be**  
32 **paid a salary as such member, but each shall receive necessary expenses while attending**  
33 **advisory council meetings and reimbursement, including travel in performance of his or**  
34 **her duties, as provided in state law.**

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

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

5           **(2) Educational or experience requirements for a certificate of registration;**

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

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

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

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

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

3           **(1) The applicant shall demonstrate a thorough knowledge of the design and**  
4 **installation of fire sprinkler systems in general, and specifically backflow devices,**  
5 **assemblies, and methods relating to fire suppression systems. Such knowledge shall**  
6 **require a minimum of five years of experience as a bona fide fire sprinkler system**

7 contractor or other experience or training as the advisory council determines to be  
8 equivalent;

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

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

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

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

28 2. Any organization that holds a certificate of registration in this state under  
29 sections 320.400 to 320.416 may use the title "certified fire sprinkler contractor". No other  
30 person or organization shall use the title "certified fire sprinkler contractor". No other  
31 person or organization shall assume any title or use any abbreviation or any other words,  
32 letters, signs, or devices to indicate that the person or organization using the same is a  
33 certified fire sprinkler contractor.

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

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

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

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

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

47           **8. The state fire marshal shall collect the fees established by advisory council rule.**  
48 **There is hereby created in the state treasury the "Fire Sprinkler Contractor Registration**  
49 **Fund", which shall consist of money collected under sections 320.400 to 320.416. In**  
50 **accordance with sections 30.170 and 30.180, the state treasurer may approve**  
51 **disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the**  
52 **fund shall be used solely for the administration of sections 320.400 to 320.416. Any money**  
53 **remaining in the fund at the end of the biennium shall revert to the credit of the general**  
54 **revenue fund. The state treasurer shall invest moneys in the fund in the same manner as**  
55 **other funds are invested. Any interest and moneys earned on such investments shall be**  
56 **credited to the fund.**

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

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

18           **3. At least thirty days before the expiration of a certificate of registration, the state**  
19 **fire marshal shall send written notice of the impending certificate of registration expiration**  
20 **to the registrant at the last known address.**

21           **4. The state fire marshal may, by rule, adopt a system under which certificates of**  
22 **registration expire on various dates during the year. When the certificate of registration**

23 expiration date is less than two years from its issuance or anniversary date, the fee shall  
24 be prorated on a monthly basis so that each registrant shall pay only that portion of the fee  
25 that is allocable to the number of months during which the registration is valid. On each  
26 subsequent renewal, the total renewal fee is payable.

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

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

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

12 (1) Use of fraud, deception, misrepresentation, or bribery in securing a certificate  
13 issued under the provisions of sections 320.400 to 320.416;

14 (2) Impersonation of any organization holding a certificate or allowing any person  
15 or organization to use such person's or organization's certificate;

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

19 (4) Issuance of a certificate based upon a material mistake of fact;

20 (5) The person or organization has been finally adjudicated and found guilty, or  
21 entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any  
22 state or of the United States, for any offense reasonably related to the qualifications,  
23 functions, or duties of any profession regulated under sections 320.400 to 320.416, for any

24 offense an essential element of which is fraud, dishonesty or an act of violence, or for any  
25 offense involving moral turpitude, whether or not sentence is imposed;

26 (6) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or  
27 dishonesty in the performance of the functions or duties of the profession that is regulated  
28 by sections 320.400 to 320.416;

29 (7) Violation of, or assisting or enabling any person or organization to violate, any  
30 provision of sections 320.400 to 320.416, or any lawful rule or regulation adopted under  
31 such sections;

32 (8) A person is finally adjudged insane or incompetent by a court of competent  
33 jurisdiction;

34 (9) Operating without at least one million dollars in liability insurance coverage.

35 3. After the filing of a complaint under subsection 2 of this section, the proceedings  
36 shall be conducted in accordance with the provisions of chapter 621. Upon a finding by  
37 the administrative hearing commission that the grounds, provided in subsection 2 of this  
38 section, for disciplinary action are met, the advisory council may, singly or in combination,  
39 censure or place the person or organization named in the complaint on probation on such  
40 terms and conditions as the advisory council deems appropriate for a period not to exceed  
41 five years, or may suspend, for a period not to exceed three years, or revoke the certificate  
42 of registration of the person or organization. An individual whose certificate of  
43 registration has been revoked shall wait three years from the date of revocation to apply  
44 for another certificate. Certification shall be at the discretion of the advisory council after  
45 compliance with all requirements of sections 320.400 to 320.416 relative to the certification  
46 of an applicant for the first time.

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

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

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

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

11           **2. Any such actions shall be commenced either in the county in which such conduct**  
12 **occurred or in the county in which the defendant resides.**

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

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