

1                                    AMENDMENT TO HOUSE BILL 273

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 273 by replacing  
3 everything after the enacting clause with the following:

4            "Section 1. Short title. This Act may be cited as the  
5 Fire Sprinkler Contractor Licensing Act.

6            Section 5. Legislative intent. It is declared that  
7 within the State of Illinois there are, and may continue to  
8 be, locations where the improper installation or repair of  
9 fire sprinkler systems creates conditions that may adversely  
10 affect the public health and general welfare. Therefore, the  
11 purpose of this Act is to protect, promote, and preserve the  
12 public health and general welfare by providing for the  
13 establishment of minimum standards for licensure of fire  
14 sprinkler installation contractors.

15            Section 10. Definitions. As used in this Act, unless the  
16 context otherwise requires:

17            "Designated certified person" means an individual who has  
18 met the qualifications set forth under Section 20 of this  
19 Act.

20            "Fire sprinkler contractor" means a person who holds  
21 himself or herself out to be in the business of or contracts

1 with a person to install or repair a fire sprinkler system.

2 "Fire sprinkler system" means any water-based automatic  
3 fire extinguishing system employing fire sprinklers,  
4 including accessory fire pumps and associated piping, fire  
5 standpipes, or underground fire main systems starting at the  
6 point of service as defined herein and ending at the most  
7 remote fire sprinkler. "Fire sprinkler system" includes but  
8 is not limited to a fire sprinkler system in a residential,  
9 commercial, institutional, educational, public, or private  
10 occupancy.

11 "Licensee" means a person or business organization  
12 licensed in accordance with this Act.

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

15 "Person" means an individual, group of individuals,  
16 association, trust, partnership, corporation, person doing  
17 business under an assumed name, the State of Illinois, or  
18 department thereof, any other state-owned and operated  
19 institution, or any other entity.

20 "Point of service" means the point of connection to the  
21 water service after the approved backflow device is installed  
22 under the requirements of the Illinois Plumbing Code.

23 "Supervision" means the direction and management by a  
24 designated certified person of the activities of  
25 non-certified personnel in the installation or repair of fire  
26 sprinkler systems.

27 Section 12. License; enforcement; failure to pay tax.  
28 No person shall act as a fire sprinkler contractor, or  
29 advertise or assume to act as such, or use any title implying  
30 that such person is engaged in such practice or occupation  
31 unless licensed by the State Fire Marshal.

32 No firm, association, or corporation shall act as an  
33 agency licensed under this Act, or advertise or assume to act  
34 as such, or use any title implying that the firm,

1 association, or corporation is engaged in such practice,  
2 unless licensed by the State Fire Marshal.

3 The State Fire Marshal, in the name of the People and  
4 through the Attorney General, the State's Attorney of any  
5 county, any resident of the State, or any legal entity within  
6 the State may apply for injunctive relief in any court to  
7 enjoin any person who has not been issued a license or whose  
8 license has been suspended, revoked, or not renewed from  
9 practicing a licensed activity, and upon the filing of a  
10 verified petition, the court, if satisfied by affidavit or  
11 otherwise, that such person is or has been practicing in  
12 violation of this Act may enter a temporary restraining order  
13 or preliminary injunction, without bond, enjoining the  
14 defendant from such further activity. A copy of the verified  
15 complaint shall be served upon the defendant and the  
16 proceedings shall thereafter be conducted as in other civil  
17 cases. If it is established that the defendant has been or  
18 is practicing in violation of this Act, the court may enter a  
19 judgment perpetually enjoining the defendant from such  
20 further activity. In case of violation of any injunctive  
21 order or judgment entered under the provisions of this  
22 Section, the court may summarily try and punish the offender  
23 for contempt of court. Such injunctive proceeding shall be  
24 in addition to all penalties and other remedies in this Act.

25 The State Fire Marshal may refuse to issue a license to,  
26 or may suspend the license of, any person who fails to file a  
27 return, to pay the tax, penalty, or interest shown in a filed  
28 return, or to pay any final assessment of tax, penalty, or  
29 interest, as required by any tax Act administered by the  
30 Illinois Department of Revenue, until such time as the  
31 requirements of any such tax Act are satisfied.

32 Section 15. Licensing requirements.

33 (a) It shall be unlawful for any person or business to

1 engage in, advertise, or hold itself out to be in the  
2 business of installing or repairing fire sprinkler systems in  
3 this State after 6 months after the effective date of this  
4 Act, unless such person or business is licensed by the State  
5 Fire Marshal. This license must be renewed every year.

6 (b) In order to obtain a license, a person or business  
7 must submit an application to the State Fire Marshal, on a  
8 form provided by the State Fire Marshal containing the  
9 information prescribed, along with the application fee.

10 (c) A business applying for a license must have a  
11 designated certified person employed at the business location  
12 and the designated certified person shall be identified on  
13 the license application.

14 (d) A person or business applying for a license must  
15 show proof of having liability and property damage insurance  
16 in such amounts and under such circumstances as may be  
17 determined by the State Fire Marshal. The amount of  
18 liability and property damage insurance, however, shall not  
19 be less than the amount specified in Section 35 of this Act.

20 (e) A person or business applying for a license must  
21 show proof of having workers' compensation insurance covering  
22 its employees or be approved as a self-insurer of workers'  
23 compensation in accordance with the laws of this State.

24 (f) A person or business so licensed shall have a  
25 separate license for each business location within the State  
26 or outside the State when the business location is  
27 responsible for any installation or repair of fire sprinkler  
28 systems performed within the State.

29 (g) When an individual proposes to do business in her or  
30 his own name, a license, when granted, shall be issued only  
31 to that individual.

32 (h) If the applicant requesting licensure to engage in  
33 contracting is a business organization, such as a  
34 partnership, corporation, business trust, or other legal

1 entity, the application shall state the name of the  
2 partnership and its partners, the name of the corporation and  
3 its officers and directors, the name of the business trust  
4 and its trustees, or the name of such other legal entity and  
5 its members and shall furnish evidence of statutory  
6 compliance if a fictitious name is used. Such application  
7 shall also show that the business entity employs a designated  
8 certified person as required under Section 20. The license,  
9 when issued upon application of a business organization,  
10 shall be in the name of the business organization and the  
11 name of the qualifying designated certified person shall be  
12 noted thereon.

13 (i) A separate license shall be issued to a person or  
14 business that is engaged in the installation of fire  
15 sprinkler systems only in one or 2 family residential  
16 dwellings. Any person or business that obtains this license  
17 shall not be required to meet the requirements of the  
18 designated certified person pursuant to Section 20 of this  
19 Act.

20 Section 20. Designated certified person requirements.

21 (a) A designated certified person must either be a  
22 current Illinois licensed professional engineer or hold a  
23 valid NICET level 3 or higher certification in "fire  
24 protection technology, automatic sprinkler system layout".  
25 The designated certified person for a person or business  
26 installing fire sprinkler systems in one or 2 family  
27 dwellings shall hold a valid NICET level 2 or higher  
28 certification.

29 (b) At least one member of every firm, association, or  
30 partnership and at least one corporate officer of every  
31 corporation engaged in the installation and repair of fire  
32 sprinkler systems must be a designated certified person.

33 (c) A designated certified person must be employed by

1 the licensee at a business location with a valid license.

2 (d) A designated certified person must perform his or  
3 her normal duties at a business location with a valid  
4 license.

5 (e) A designated certified person may only be the  
6 designated certified person for one business location and one  
7 business entity.

8 (f) A designated certified person must be directly  
9 involved in supervision. The designated certified person  
10 does not, however, have to be at the site of the installation  
11 or repair of the fire sprinkler system at all times.

12 Section 25. Change of a designated certified person.  
13 When a licensee is without a designated certified person, the  
14 licensee shall notify the State Fire Marshal in writing  
15 within 30 days and shall employ a designated certified person  
16 no later than 180 days from the time the position of  
17 designated certified person becomes vacant. Failing to fill  
18 the vacant position shall cause the license of the person or  
19 of the business organization to expire without further  
20 operation of law.

21 Section 30. Requirements for the installation and repair  
22 of fire protection systems.

23 (a) Equipment shall be listed by a nationally recognized  
24 testing laboratory, such as Underwriters Laboratories, Inc.  
25 or Factory Mutual Laboratories, Inc., or shall comply with  
26 nationally accepted standards. The State Fire Marshal shall  
27 adopt by rule procedures for determining whether a laboratory  
28 is nationally recognized, taking into account the  
29 laboratory's facilities, procedures, use of nationally  
30 recognized standards, and any other criteria reasonably  
31 calculated to reach an informed determination.

32 (b) Equipment shall be installed in accordance with the

1 applicable standards of the National Fire Protection  
2 Association and the manufacturer's specifications.

3 (c) Each piece of equipment supplied shall be guaranteed  
4 for a period of one year against defects in material or  
5 operations.

6 (d) The contractor shall furnish the user with operating  
7 instructions for all equipment installed, together with a  
8 diagram of the final installation.

9 (e) All fire sprinkler systems shall have a backflow  
10 prevention device installed by a licensed plumber before the  
11 point of service.

12 Section 35. Fees and required insurance.

13 (a) The fees for an original license and each renewal  
14 and for duplicate copies of licenses shall be determined by  
15 the State Fire Marshal by rule.

16 (b) Any person who fails to file a renewal application  
17 by the date of expiration of a license shall be assessed a  
18 late filing charge, which shall be determined by the State  
19 Fire Marshal by rule.

20 (c) All fees shall be paid by check or money order. Any  
21 fee required by this Act is not refundable in the event that  
22 the original application or application for renewal is  
23 denied.

24 (d) Every application for an original license shall be  
25 accompanied by a certificate of insurance issued by an  
26 insurance company authorized to do business in the State of  
27 Illinois or by a risk retention or purchasing group formed  
28 pursuant to the federal Liability Risk Retention Act of 1986,  
29 which provides primary, first dollar public liability  
30 coverage of the applicant or licensee for personal injuries  
31 for not less than \$500,000 per person or \$1,000,000 per  
32 occurrence, and, in addition, for not less than \$1,000,000  
33 per occurrence for property damage. The insurance policy

1 shall be in effect at all times during the license year and a  
2 new certificate of insurance shall be filed with the State  
3 Fire Marshal within 30 days after the renewal of the  
4 insurance policy.

5 Section 40. Deposit of fines and fees; appropriation.  
6 All administrative civil fines and fees collected pursuant to  
7 the Act shall be deposited into the Fire Prevention Fund, a  
8 special fund in the State treasury. The General Assembly  
9 shall appropriate the amount annually collected as  
10 administrative civil fines and fees to the State Fire Marshal  
11 for the purposes of administering this Act.

12 Section 45. Home rule. A home rule unit may not  
13 regulate the installation and repair of fire sprinkler  
14 systems in a manner less restrictive than the regulation by  
15 the State on the installation and repair of fire sprinkler  
16 systems under this Act. This Section is a limitation under  
17 subsection (i) of Section 6 of Article VII of the Illinois  
18 Constitution on the concurrent exercise by home rule units of  
19 powers and functions exercised by the State.

20 Section 50. Powers and duties of the State Fire Marshal.  
21 The State Fire Marshal has all of the following powers and  
22 duties:

23 (a) To prescribe and furnish application forms,  
24 licenses, and any other forms necessary under this Act.

25 (b) To suspend, revoke, or refuse to issue or renew  
26 licenses for cause.

27 (c) To conduct hearings concerning the suspension,  
28 revocation, or refusal to issue or renew licenses.

29 (d) To levy and collect fines pursuant to this Act.

30 (e) To promulgate rules and regulations necessary for  
31 the administration of this Act.



1 Section 55. Rules; public hearing. Subject to the  
2 requirement for public hearings as provided in this Section,  
3 the State Fire Marshal shall promulgate, publish, and adopt,  
4 and may, from time to time, amend such rules as may be  
5 necessary for the proper enforcement of this Act, to protect  
6 the health and safety of the public. The State Fire Marshal  
7 shall hold a public hearing prior to the adoption or  
8 amendment of rules required under this Act. The State Fire  
9 Marshal may, when necessary, utilize the services of any  
10 other State agency to assist in carrying out the purposes of  
11 this Act.

12 Section 60. Grounds for disciplinary action. The  
13 following constitute grounds for disciplinary action by the  
14 State Fire Marshal:

15 (1) Violation of any provision of this Act or of any  
16 rule adopted pursuant thereto.

17 (2) Violation of the applicable building codes or laws  
18 of this State or any municipality or county thereof.

19 (3) Diversion of funds or property received for  
20 prosecution or completion of a specified construction project  
21 or operation when, as a result of the diversion, the  
22 contractor is, or will be, unable to fulfill the terms of her  
23 or his obligation or contract.

24 (4) Disciplinary action by any municipality or county,  
25 which action shall be reviewed by the State Fire Marshal  
26 before taking any disciplinary action.

27 (5) Failure to supervise the installation of the fire  
28 protection system covered by the installation permit signed  
29 by the contractor.

30 (6) Rendering a fire protection system, standpipe  
31 system, or underground water supply main connecting to the  
32 system inoperative except when the fire protection system,  
33 standpipe system, or underground water supply main is being

1 inspected, serviced, tested, or repaired or pursuant to court  
2 order.

3 (7) Improperly servicing, repairing, testing, or  
4 inspecting a fire protection system, standpipe system, or  
5 underground water supply main connecting to the system.

6 (8) Failing to provide proof of insurance to the State  
7 Fire Marshal or failing to maintain in force the insurance  
8 coverage required by this Act.

9 (9) Failing to obtain, retain, or maintain one or more  
10 of the qualifications for a designated certified person as  
11 specified in this Act.

12 (10) Making a material misstatement or misrepresentation  
13 or committing a fraud in obtaining or attempting to obtain a  
14 license.

15 (11) Failing to notify the State Fire Marshal, in  
16 writing, within 30 days after a change of residence address,  
17 principal business address, or name.

18 (12) Failure to supply within a reasonable time, upon  
19 request from the State Fire Marshal or its authorized  
20 representative, true information regarding material used,  
21 work performed, or other information essential to the  
22 administration of this Act.

23 (13) Aiding or abetting a person to violate a provision  
24 of this Act, conspiring with any person to violate a  
25 provision of this Act, or allowing a license to be used by  
26 another person.

27 Section 65. Notice; suspension, revocation, or refusal  
28 to renew a license.

29 (a) Whenever the State Fire Marshal determines that  
30 there are reasonable grounds to believe that a licensee has  
31 violated a provision of this Act or the rules adopted under  
32 this Act, the State Fire Marshal shall give notice of the  
33 alleged violation to the person whom the license was issued.

1 The notice shall (i) be in writing; (ii) include a  
2 statement of the alleged violation which necessitates  
3 issuance of the notice; (iii) contain an outline of remedial  
4 action that, if taken, will effect compliance with the  
5 provisions of this Act and the rules adopted under this Act;  
6 (iv) prescribe a reasonable time, as determined by the State  
7 Fire Marshal, for the performance of any action required by  
8 the notice; and (iv) be served upon the licensee. The  
9 notice shall be deemed to have been properly served upon the  
10 person when a copy of the notice has been sent by registered  
11 or certified mail to his or her last known address as  
12 furnished to the State Fire Marshal or when he or she has  
13 been served the notice by any other method authorized by law.

14 (b) If the person to whom the notice is served does not  
15 comply with the terms of the notice within the time  
16 limitations specified in the notice, the State Fire Marshal  
17 may proceed with action to suspend, revoke, or refuse to  
18 issue a license as provided in this Section.

19 (c) Other requirements of this Act notwithstanding, when  
20 the State Fire Marshal determines that reasonable grounds  
21 exist to indicate that a violation of this Act has been  
22 committed and the violation is the third separate violation  
23 by that person in an 18-month period, the notice requirement  
24 of subsection (a) of this Section is waived and the State  
25 Fire Marshal may proceed immediately with action to suspend,  
26 revoke, or refuse to issue a license.

27 (d) In any proceeding to suspend, revoke, or refuse to  
28 issue a license, the State Fire Marshal shall first serve or  
29 cause to be served upon the licensee a written notice of the  
30 State Fire Marshal's intent to take action. The notice shall  
31 specify the way in which the person has failed to comply with  
32 this Act or any other rules or standards of the State Fire  
33 Marshal.

34 (e) In the case of revocation or suspension, the notice

1 shall require the person to remove or abate the violation or  
2 objectionable condition specified in the notice within 5  
3 days. The State Fire Marshal may specify a longer period of  
4 time as it deems necessary. If the person fails to comply  
5 with the terms and conditions of the revocation or suspension  
6 notice within the time specified by the State Fire Marshal,  
7 the State Fire Marshal may revoke or suspend the license.

8 (f) In the case of refusal to issue a license, if the  
9 person fails to comply with the Act or rules or standards  
10 promulgated under the Act, the State Fire Marshal may refuse  
11 to issue a license.

12 Section 70. Administrative hearing. The State Fire  
13 Marshal shall give written notice by certified or registered  
14 mail to an applicant or licensee of the State Fire Marshal's  
15 intent to suspend, revoke, or refuse to issue a license or to  
16 assess a fine. Such person has a right to a hearing before  
17 the State Fire Marshal. A written notice of a request for a  
18 hearing shall be served on the State Fire Marshal within 10  
19 days of notice of the refusal, suspension, or revocation of a  
20 license or imposition of a fine. The hearing shall be  
21 conducted by the State Fire Marshal or a hearing officer  
22 designated in writing by the State Fire Marshal. A  
23 stenographic record shall be made of the hearing and the cost  
24 of the hearing shall be borne by the State Fire Marshal. A  
25 transcript of the hearing shall be made only upon request of  
26 the applicant or licensee and shall be transcribed at the  
27 cost of that person.

28 Section 75. Subpoena powers; administration of oath. The  
29 State Fire Marshal or hearing officer may compel by subpoena  
30 or subpoena duces tecum the attendance and testimony of  
31 witnesses and the production of books and papers. All  
32 subpoenas issued by the State Fire Marshal or hearing officer

1 may be served as provided for in a civil action. The fees of  
2 witnesses for attendance and travel shall be the same as the  
3 fees for witnesses before the circuit court and shall be paid  
4 by the party at whose request the subpoena is issued. If such  
5 subpoena is issued at the request of the State Fire Marshal,  
6 the witness fee shall be paid as an administrative expense.

7 In the case of refusal of a witness to attend or testify  
8 or to produce books or papers concerning any matter upon  
9 which he or she might be lawfully examined, the circuit court  
10 of the county where the hearing is held, upon application of  
11 any party to the proceeding, may compel obedience by a  
12 proceeding for contempt.

13 The State Fire Marshal or hearing officer has the  
14 authority to administer oaths to witnesses.

15 Section 80. Deposition of witnesses; testimony at hearing  
16 recorded. In the event of the inability of any party or the  
17 State Fire Marshal to procure the attendance of witnesses to  
18 give testimony or produce books and papers, the party or the  
19 State Fire Marshal may take the deposition of witnesses in  
20 accordance with the laws of this State. All testimony taken  
21 at a hearing shall be reduced to writing and all such  
22 testimony and other evidence introduced at the hearing shall  
23 be a part of the record of the hearing.

24 Section 85. Certification of record. The State Fire  
25 Marshal is not required to certify any record or file any  
26 answer or otherwise appear in any proceeding for judicial  
27 review unless the party filing the complaint deposits with  
28 the clerk of the court the sum of one dollar per page  
29 representing the costs of the certification. Failure on the  
30 part of the plaintiff to make the deposit shall be grounds  
31 for dismissal of the action.

1           Section    90.    Injunction.    Faulty   fire   sprinkler  
2   installation and repair is declared a violation of this Act  
3   and inimical to the public health, welfare, and safety and a  
4   deceptive business practice. The State Fire Marshal, in the  
5   name of the people of the State, through the Attorney General  
6   or the State's Attorney of the county in which the violation  
7   occurs may, in addition to other remedies herein provided,  
8   bring an action for an injunction to restrain such violation  
9   or enjoin the future performance of the person who committed  
10   the violation until compliance with the provisions of this  
11   Act has been obtained.

12           Section 95. Penalty. Any person who violates this Act or  
13   any rule adopted by the State Fire Marshal, or who violates  
14   any determination or order of the State Fire Marshal under  
15   this Act shall be guilty of a Class A misdemeanor and shall  
16   be fined a sum not less than \$100.

17           Each day's violation constitutes a separate offense. The  
18   State's Attorney of the county in which the violation  
19   occurred or the Attorney General shall bring such actions in  
20   the name of the people of the State of Illinois.

21           Section 100. Administrative civil fines. The State Fire  
22   Marshal is empowered to assess administrative civil fines  
23   against a licensee for violations of this Act or its rules.  
24   These fines shall not be greater than \$1,000 for each  
25   offense. These fines shall be in addition to, or in lieu of,  
26   license suspensions and revocations. Rules to implement this  
27   Section shall be adopted by the State Fire Marshal within 6  
28   months after the effective date of this Act.

29           The hearing officer shall, upon determination that a  
30   violation of the Act or rules has occurred, determine the  
31   amount of these fines. Any fine assessed and not paid within  
32   60 days after receiving notice of the fine from the State

1 Fire Marshal may be submitted to the Attorney General's  
2 office for collection. Failure to pay a fine shall also be  
3 grounds for immediate suspension or revocation of a license  
4 issued under this Act.

5 Section 105. Judicial review of final administrative  
6 decision. The Administrative Review Law and the rules adopted  
7 under the Administrative Review Law apply to and govern all  
8 proceedings for judicial review of final administrative  
9 decisions of the State Fire Marshal under this Act. Such  
10 judicial review shall be had in the circuit court of the  
11 county in which the cause of the action arose. The term  
12 "administrative decision" is defined in Section 3-101 of the  
13 Code of Civil Procedure.

14 Section 110. Illinois Administrative Procedure Act. The  
15 provisions of the Illinois Administrative Procedure Act are  
16 hereby expressly adopted and shall apply to all  
17 administrative rules and procedures of the State Fire Marshal  
18 under this Act, except that, in the case of conflict between  
19 the Illinois Administrative Procedure Act and this Act, the  
20 provisions of this Act shall control, and except that Section  
21 5-35 of the Illinois Administrative Procedure Act relating to  
22 procedures for rule-making does not apply to the adoption of  
23 any rule required by federal law in connection with which the  
24 State Fire Marshal is precluded by law from exercising any  
25 discretion.

26 Section 115. Severability clause. If any part of this  
27 Act is adjudged invalid, such adjudication shall not affect  
28 the validity of the Act as a whole or of any other part.

29 Section 120. Grandfather clause. Any person or business  
30 that, as of the effective date of this Act, is installing or

1 repairing fire sprinkler systems in the State of Illinois and  
2 has a minimum of 3 years of experience in fire sprinkler  
3 contracting is exempt from having a designated certified  
4 person as required in Section 20.

5 Section 999. Effective date. This Act takes effect upon  
6 becoming law.".