

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1233
Committee Substitute Favorable 6/29/99

Short Title: Structural Pest Control Amendments.

(Public)

Sponsors:

Referred to:

April 15, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE STRUCTURAL PEST CONTROL ACT.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 106-65.23 reads as rewritten:

5 "**§ 106-65.23. Structural Pest Control Division of Department of Agriculture and**
6 **Consumer Services recreated; Director; powers and duties of**
7 **Commissioner; Structural Pest Control Committee created; appointment;**
8 **terms; powers and duties; quorum.**

9 (a) There is recreated, within the North Carolina Department of Agriculture and
10 Consumer Services, a Division to be known as the Structural Pest Control Division. The
11 Commissioner of Agriculture may appoint a Director of the ~~Division~~Division, chosen
12 from a list of nominees submitted to him by the Structural Pest Control Committee
13 created in this section, whose duties and authority shall be determined by the
14 Commissioner.~~Commissioner~~ in consultation with the Committee. The Director shall be
15 responsible for and answerable to the Commissioner of Agriculture and the Structural
16 Pest Control Committee as to the operation and conduct of the Structural Pest Control
17 Division. The Director shall act as secretary to the Structural Pest Control ~~Committee~~
18 ~~created in this section.~~Committee.

1 (b) The Commissioner shall have the following powers and duties under this
2 Article:

- 3 (1) To administer and enforce the provisions of this Article and the rules
4 adopted thereunder by the Structural Pest Control Committee. In order
5 to carry out these powers and duties, the Commissioner may delegate to
6 the Director of the Structural Pest Control Division the powers and
7 duties assigned to him under this Article.
- 8 (2) To assign the administrative and enforcement duties assigned to him in
9 this Article.
- 10 (3) To direct, in consultation with the Structural Pest Control Committee,
11 the work of the personnel employed by the Structural Pest Control
12 Committee and the work of the personnel of the Department assigned to
13 perform the administrative and enforcement functions of this Article.
- 14 (4) To develop, for the Structural Pest Control Committee's consideration
15 for adoption, proposed rules, policies, new programs, and revisions of
16 existing programs under this Article.
- 17 (5) To monitor existing enforcement programs and to provide evaluations
18 of these programs to the Structural Pest Control Committee.
- 19 (6) To attend all meetings of the Structural Pest Control Committee, but
20 without the power to vote unless the Commissioner attends as the
21 designee on the Committee from the Department of Agriculture and
22 Consumer Services.
- 23 (7) To keep an accurate and complete record of all meetings of the
24 Structural Pest Control Committee and to have legal custody of all
25 books, papers, documents, and other records of the Committee.
- 26 (8) To perform such other duties as may be assigned to him by the
27 Structural Pest Control Committee.

28 (c) There is hereby created a Structural Pest Control Committee to be composed of
29 the following members. The Commissioner shall appoint one member of the Committee
30 who is not in the structural pest control business for a four-year term. The Commissioner
31 of Agriculture shall designate an employee of the Department of Agriculture and
32 Consumer Services to serve on the Committee at the pleasure of the Commissioner. The
33 dean of the School of Agriculture of North Carolina State University at Raleigh shall
34 appoint one member of the Committee who shall serve for one term of two years and who
35 shall be a member of the entomology faculty of the University. The vacancy occurring on
36 the Committee by the expired term of the member from the entomology faculty of the
37 University shall be filled by the dean of the School of Agriculture of North Carolina State
38 University at Raleigh who shall designate any person of the dean's choice from the
39 entomology faculty of the University to serve on the Committee at the pleasure of the
40 dean. The Secretary of Health and Human Services shall appoint one member of the
41 Committee who shall be an epidemiologist and who shall serve at the pleasure of the
42 Secretary. The Governor shall appoint two members of the Committee who are actively
43 engaged in the pest control industry, who are licensed in at least two phases of structural

1 pest control as provided under G.S. 106-65.25(a), and who are residents of the State of
2 North Carolina but not affiliates of the same company.

3 One member of the Committee shall be appointed by the General Assembly upon the
4 recommendation of the Speaker of the House of Representatives in accordance with G.S.
5 120-121, and one member of the Committee shall be appointed by the General Assembly
6 upon the recommendation of the President Pro Tempore of the Senate in accordance with
7 G.S. 120-121. Vacancies in such appointments shall be filled in accordance with G.S.
8 120-122.

9 The initial Committee members from the pest control industry shall be appointed as
10 follows: one for a two-year term and one for a three-year term. The Governor shall
11 appoint one member of the Committee who is a public member and who is unaffiliated
12 with the structural pest control industry, the pesticide industry, the Department of
13 Agriculture and Consumer Services, the Department of Health and Human Services and
14 the School of Agriculture at North Carolina State University at Raleigh. The initial public
15 member shall be appointed for a term of two years, commencing July 1, 1991. After the
16 initial appointments by the Governor, all ensuing appointments by the Governor shall be
17 for terms of four years. Appointments made by the General Assembly shall be for terms
18 of two years. Any vacancy occurring on the Committee by reason of death, resignation,
19 or otherwise shall be filled by the Governor or the Commissioner of Agriculture, as the
20 case may be, for the unexpired term of the member whose seat is vacant.

21 (d) The Structural Pest Control Committee shall have the following powers and
22 duties:

23 (1) To adopt rules and make policies as provided in this Article.
24 (2) To issue, deny, suspend, revoke, modify, or restrict licenses, certified
25 applicator cards, and registered technician cards under the provisions of
26 this Article. In all matters affecting licensure, the decision of the
27 Committee shall constitute the final agency decision.
28 ~~make final decisions under this Article concerning licenses, certified applicator cards, and~~
29 ~~identification cards. The Committee shall~~

30 (3) To report annually to the Board of Agriculture the action taken in the
31 Committee's final decisions and the financial status of the Structural
32 Pest Control Division.

33 ~~The Director shall be responsible for and answerable to the Commissioner of~~
34 ~~Agriculture as to the operation and conduct of the Structural Pest Control Division.~~

35 (e) Each member of the Committee who is not an employee of the State shall
36 receive as compensation for services per diem and necessary travel expenses and
37 registration fees in accordance with the provisions as outlined for members of
38 occupational licensing boards and currently provided for in G.S. 93B-5. Such per diem
39 and necessary travel expenses and registration fees shall apply to the same effect that
40 G.S. 93B-5 might hereafter be amended.

41 Five members of the Committee shall constitute a quorum but no action at any
42 meeting of the Committee shall be taken without four votes in accord. The chairman shall
43 be entitled to vote at all times.

1 The Committee shall meet at such times and such places in North Carolina as the
2 chairman shall direct; provided, however, that four members of the Committee may call a
3 special meeting of the Committee on five days' notice to the other members thereof.

4 Except as otherwise provided herein, all members of the Committee shall be
5 appointed or designated, as the case may be, prior to and shall commence their respective
6 terms on July 1, 1967.

7 At the first meeting of the Committee they shall elect a chairman who shall serve as
8 such at the pleasure of the Committee.

9 Section 2. G.S. 106-65.24 reads as rewritten:

10 **"§ 106-65.24. Definitions.**

11 ~~For the purposes of this Article, the following terms, when used in the Article or the~~
12 ~~rules and regulations, or orders made pursuant thereto, shall be construed respectively to~~
13 ~~mean:~~ As used in this Article:

- 14 (1) 'Animal' means all vertebrate and invertebrate species, including but not
15 limited to man and other mammals, birds, fish, and shellfish.
- 16 (1a) 'Applicant for a certified applicator's identification card' means any
17 person making application to use restricted use pesticides in any phase
18 of structural pest control.
- 19 (2) 'Applicant for a license' means any person in charge of any individual,
20 firm, partnership, corporation, association, or any other organization or
21 any combination thereof, making application for a license to engage in
22 structural pest control, control of structural pests or household pests, or
23 fumigation operations, or any person qualified under the terms of this
24 Article.
- 25 (3) 'Attractants' means substances, under whatever name known, which
26 may be toxic to insects and other pests but are used primarily to induce
27 insects and other pests to eat poisoned baits or to enter traps.
- 28 (3a) Repealed by Session Laws 1989, c. 725.
- 29 (3b) 'Branch Office' means any office under the management of a licensee
30 that is not a home office. ~~'Call office' means any office or telephone~~
31 ~~answering service other than a licensee's home office which is used by a~~
32 ~~licensee to conduct structural pest control work and which employs no~~
33 ~~more than one individual engaged in structural pest control work.~~
- 34 (4) 'Certified applicator' means any individual who is certified under G.S.
35 106-65.25 as authorized to use or supervise the use of any pesticide
36 which is classified for restricted use.
- 37 (5) 'Commissioner' means the Commissioner of Agriculture of the State of
38 North Carolina.
- 39 (6) 'Committee' means the Structural Pest Control Committee.
- 40 (6a) 'Deviation' means failure of the licensee or certified applicator or
41 registered technician card holder to follow any rule adopted by the
42 Committee under provisions of this Article.

- 1 (7) 'Device' means any instrument or contrivance (other than a firearm)
2 which is intended for trapping, destroying, repelling, or mitigating any
3 pest or any other form of plant or animal life (other than man and other
4 than bacteria, virus, or other microorganism on or in living man or other
5 living animals); but not including equipment used for the application of
6 pesticides when sold separately therefrom.
- 7 (8) Repealed by Session Laws 1975, c. 570, s. 4.
- 8 (8a) 'Director' means the Director of the Structural Pest Control Division of
9 the Department of Agriculture and Consumer Services.
- 10 (9) 'Employee' means any person employed by a licensee with the
11 exceptions of clerical, janitorial, or office maintenance employees, or
12 those employees performing work completely disassociated with the
13 control of insect pests, rodents or the control of wood-destroying
14 organisms.
- 15 (9a) 'Enforcement agency' means the Structural Pest Control Division of the
16 Department of Agriculture and Consumer Services.
- 17 (10) 'Fumigants' means any substance which by itself or in combination with
18 any other substance emits or liberates a gas or gases, fumes or vapors
19 and which gas or gases, fumes or vapors when liberated and when used
20 will destroy vermin, rodents, insects, and other pests; but may be lethal,
21 poisonous, noxious, or dangerous to human life.
- 22 (11) 'Fungi' means wood-decaying fungi.
- 23 (11a) 'Home office' means the ~~licensee's principal place of business.~~ office
24 identified to the enforcement agency by a licensee as his or her principal
25 place of business.
- 26 (12) 'Insect' means any of the numerous small invertebrate animals generally
27 having the body more or less obviously segmented, for the most part
28 belonging to the class Insects, comprising six-legged, usually winged
29 forms, as for example, beetles, bugs, bees, flies, and to other allied
30 classes of arthropods whose members are wingless and usually have
31 more than six legs, as for example, spiders, mites, ticks, centipedes, and
32 sowbugs.
- 33 (13) 'Insecticides' means substances, not fumigants, under whatever name
34 known, used for the destruction or control of insects and similar pests.
- 35 (14) 'Label' means the written, printed, or graphic matter on, or attached to,
36 the pesticide or device or any of its containers or wrappers.
- 37 (14a) The term 'labeling' means all labels and other written, printed, or
38 graphic matter:
- 39 a. Upon the pesticide (or device) or any of its containers or
40 wrappers;
- 41 b. Accompanying the pesticide (or device) at any time;
- 42 c. To which reference is made on the label or in literature
43 accompanying the pesticide (or device) except when accurate

1 nonmisleading reference is made to current official publications
2 of the United States Department of Agriculture or Interior, the
3 United States Public Health Service, state experiment stations,
4 state agricultural colleges, or other similar federal institutions or
5 official agencies of this State or other states authorized by the
6 law to conduct research in the field of pesticides.

7 (15) 'Licensee' means ~~the designated person in charge of the business~~
8 ~~establishment or business entity, whether it be individual, firm,~~
9 ~~partnership, corporation, association or any organization, or any~~
10 ~~combination thereof, engaged in pest control work covered under the~~
11 ~~provisions of this Article. Each branch office of a business~~
12 ~~establishment is to be in charge of a person who has a license herein~~
13 ~~provided for. any person qualified for and holding a license for any~~
14 ~~phase of structural pest control pursuant to this Article.~~

15 (16) 'Person' means any individual, partnership, association, corporation, or
16 any organized group of persons whether incorporated or not.

17 (17) 'Pest' means any living organism, including but not limited to, insects,
18 rodents, birds, and fungi, which the Commissioner declares to be a pest.

19 (18) 'Pesticide' means any substance or mixture of substances intended for
20 preventing, destroying, repelling, or mitigating any pest.

21 (19) 'Registered pesticide' means a pesticide which has been registered by
22 federal and/or State agency responsible for registering pesticides.

23 (19a) 'Registered technician' means any individual who is required to be
24 registered with the Structural Pest Control Division under G.S. 106-
25 65.31.

26 (20) 'Repellents' means substances, not fumigants, under whatever name
27 known, which may be toxic to insects and related pests, but are
28 generally employed because of capacity for preventing the entrance or
29 attack of pests.

30 (21) 'Restricted use pesticide' means a pesticide which has been designated
31 as such by the federal and/or State agency responsible for registering
32 pesticides.

33 (22) 'Rodenticides' means substances, not fumigants, under whatever name
34 known, whether poisonous or otherwise, used for the destruction or
35 control of rodents.

36 (23) 'Structural pest control' means the control of wood-destroying
37 organisms or household pests (including, but not limited to, animals
38 such as moths, cockroaches, ants, beetles, flies, mosquitoes, ticks,
39 wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs,
40 crickets, termites, wood borers, etc.), including the identification of
41 infestations or infections, the making of inspections, the use of
42 pesticides, including insecticides, repellents, attractants, rodenticides,
43 fungicides, and fumigants, as well as all other substances, mechanical

1 devices or structural modifications under whatever name known, for the
2 purpose of preventing, controlling and eradicating insects, vermin,
3 rodents and other pests in household structures, commercial buildings,
4 and other structures (including household structures, commercial
5 buildings and other structures in all stages of construction), and outside
6 areas, as well as all phases of fumigation, including treatment of
7 products by vacuum fumigation, and the fumigation of railroad cars,
8 trucks, ships, and airplanes, or any one or any combination thereof.

9 (24) 'Under the direct supervision of a certified applicator' means, unless
10 otherwise prescribed by its labeling, a pesticide shall be considered to
11 be applied under the direct supervision of a certified applicator if it is
12 applied by a competent person acting under the instructions and control
13 of a certified applicator who is available if and when needed, even
14 though such certified applicator is not physically present at the time and
15 place the pesticide is applied."

16 Section 3. G.S. 106-65.25 reads as rewritten:

17 "§ 106-65.25. Phases of structural pest control; prohibited acts; license required;
18 exceptions.

19 (a) The Committee shall classify license phases to be issued under this Article.
20 Separate phases or subphases shall be specified for:

- 21 (1) Control of household pests by any method other than fumigation ('P'
22 phase);
23 (2) Control of wood-destroying organisms by any method other than
24 fumigation ('W' phase); and
25 (3) Fumigation ('F' phase).

26 (b) It shall be unlawful for any person ~~to act in the capacity of a structural pest~~
27 ~~control licensee, to:~~

28 (1) ~~advertise~~ Advertise as, offer to engage in, or engage in or supervise work
29 as a manager, owner, or owner-operator in any phase of structural pest
30 control or otherwise act in the capacity of a structural pest control
31 licensee unless he the person is licensed as provided for in pursuant to
32 this Article. Article or has engaged the services of a licensee as a full-
33 time regular employee who is responsible for the structural pest control
34 performed by the company. A license is required for each phase of
35 structural pest control. ~~No person may hold~~

36 (2) Hold more than one license for each phase. phase of structural pest
37 control. The licensee shall be responsible for the supervision of the
38 work performed under his license.

39 (3) Use a restricted use pesticide in any phase of structural pest control,
40 whether it be on the person's own property or on the property of another,
41 unless the person:

42 a. Qualifies as a certified applicator for that phase of structural pest
43 control; or

1 b. Is under the direct supervision of a certified applicator who
2 possesses a valid certified applicator's identification card for that
3 phase of structural pest control.

4 (4) Use or supervise the use of restricted use pesticides in demonstrating or
5 supervising a demonstration to the public of the proper use and
6 techniques of the application of pesticides or conducting field research
7 with pesticides unless:

8 a. The person possesses a valid certified applicator's identification
9 card;

10 b. The person is conducting laboratory research involving restricted
11 use pesticides; or

12 c. The person is a doctor of medicine or a doctor of veterinary
13 medicine applying restricted use pesticides as drugs or
14 medication during the course of his or her normal professional
15 practice.

16 This subdivision applies to all persons, including cooperative extension
17 specialists demonstrating pesticide products, individuals demonstrating
18 methods used in public programs, and local, State, federal, commercial,
19 and other persons conducting field research on or using restricted use
20 pesticides.

21 (c) ~~A licensee may not establish any office other than his home office from which~~
22 ~~more than one employee is performing structural pest control work unless a separate~~
23 ~~licensee is placed in charge of that office. It shall be unlawful for any licensee to do any~~
24 ~~of the following:~~

25 (1) Establish, be in charge of, or manage any branch office in excess of the
26 number of branch offices that may be established, supervised, or
27 managed by a licensee as set forth in rules adopted by the Committee.

28 (2) Fail to supervise the structural pest control performed out of the
29 licensee's home office or any branch office under the licensee's
30 management.

31 (3) Allow his or her license to be used by any person or company for which
32 he or she is not a full-time regular employee actively and personally
33 engaged in the supervision of the structural pest control performed
34 under the license.

35 (4) Use any pesticide, material, or device prohibited by the Committee or
36 use any approved pesticide, material, or device in a manner prohibited
37 by the Committee.

38 (5) Use or supervise the use of restricted use pesticides in a phase of
39 structural pest control for which the person is not licensed or qualified
40 as a certified applicator unless the person's use is under the supervision
41 of a licensee or certified applicator certified in that phase of structural
42 pest control.

1 (c1) The Committee shall adopt rules that permit a licensee to establish branch
2 offices in addition to a home office. In no event shall the rules adopted restrict the
3 number of branch offices a licensee can establish, supervise, or manage to fewer than two
4 branch offices. The rules shall include provisions to ensure that the licensee can
5 adequately supervise all structural pest control performed from the offices and under his
6 or her license.

7 (d) A license is not required for any person (or ~~his~~ the person's full-time regular
8 employees) doing structural pest control ~~work on his~~ the person's own property; ~~provided,~~
9 ~~however, that no~~ property. No fee may be charged for structural pest control ~~work~~
10 performed by any such person.

11 (e) ~~Any person who uses a restricted use pesticide in any phase of structural pest~~
12 ~~control, whether it be on his own property or on the property of another, must:~~

13 (1) ~~Qualify as a certified applicator for that phase of structural pest control;~~

14 ~~or~~

15 (2) ~~Be under the direct supervision of a certified applicator possessing a~~
16 ~~valid identification card for that phase of structural pest control.~~

17 (f) ~~Persons who demonstrate to the public the proper use and techniques of~~
18 ~~application of pesticides or supervise such demonstration or conduct field research with~~
19 ~~pesticides, and in doing so, use or supervise the use of restricted use pesticides must~~
20 ~~possess a valid certified applicator's identification card. Included in the first group are~~
21 ~~such persons as extension representatives demonstrating pesticide products and those~~
22 ~~individuals demonstrating methods used on public programs. The second group includes~~
23 ~~local, State, federal, commercial, and other persons conducting field research on or~~
24 ~~utilizing restricted use pesticides.~~

25 This subsection does not apply to the following persons:

26 (1) ~~Persons conducting laboratory type research involving restricted use~~
27 ~~pesticides; or~~

28 (2) ~~Doctors of medicine and doctors of veterinary medicine applying~~
29 ~~restricted use pesticides as drugs or medication during the course of~~
30 ~~their normal practice.~~

31 (g) Any person issued a license for any one or any combination of the phases of
32 structural pest control shall be deemed to be a 'certified applicator' to use or supervise the
33 use of restricted use pesticides so long as the pesticides are being used only in the ~~phase(s)~~
34 phase of structural pest control for which the person is licensed.

35 (h) Licenses and certified applicator's identification cards may only be issued to
36 individuals. License certificates and certified applicator's identification cards shall be
37 issued in the name of the individual, shall bear the name and address of ~~his~~ the
38 individual's business or employer's business and shall indicate the phase or phases for
39 which the individual is qualified and such other information as the Committee may
40 specify."

41 Section 4. G.S. 106-65.26(d) reads as rewritten:

42 "(d) All applicants for license must have practical experience and knowledge of
43 practical and scientific facts underlying the practice of structural pest control, control of

1 wood-destroying ~~organisms~~ organisms, or fumigation. ~~No person who has within five years~~
2 ~~of his application been convicted of or has entered a plea of guilty or a plea of nolo contendere to~~
3 ~~a crime involving moral turpitude, or who has forfeited bond to a charge involving moral~~
4 ~~turpitude, shall be entitled to take an examination or the issuance of a license under the~~
5 ~~provisions of this Article. No applicant is entitled to take an examination for the issuance of~~
6 ~~a license pursuant to this Article who has within five years of the date of application been~~
7 ~~convicted, entered a plea of guilty or of nolo contendere, or forfeited bond in any State or~~
8 ~~federal court for a violation of G.S. 106-65.25(b), any felony, or any crime involving~~
9 ~~moral turpitude."~~

10 Section 5. G.S. 106-65.27(c1) reads as rewritten:

11 "(c1) When there is a transfer of ownership, management, operation of a structural
12 pest control business or in the event of the death or disability of a licensee there shall be
13 not more than a total of 90 days during any 12-month period in which said business shall
14 operate without a licensee assigned to ~~it~~; provided that, in the event of the death or
15 disability of a licensee, the Committee shall have the authority to grant up to an
16 additional 90 days within the 12-month period in which a business may operate without a
17 licensee assigned to it.

18 The owner, partnership, corporation, or other entity operating said business shall,
19 within 10 days of such transfer or disability or within 30 days of death, designate in
20 writing to the Division a certified applicator who shall be responsible for and in charge of
21 the structural pest control operations of said business during the 90-day period. If the
22 owner, partnership, corporation, or other entity operating the business fails to designate a
23 certified applicator who shall be responsible for the operation of the business during the
24 90-day period, the business shall cease all structural pest control activities upon
25 expiration of the applicable notification period and shall not resume operations until a
26 certified applicator is so designated.

27 During the 90-day period the use of any restricted use pesticide shall be by or under
28 the direct supervision of the certified applicator designated in writing to the Division.
29 The designated certified applicator shall be responsible for correcting all deviations on all
30 existing contracts and for all work performed under his supervision.

31 The new licensee shall be responsible for correcting all deviations on all existing
32 contracts and for all work performed under his supervision."

33 Section 6. G.S. 106-65.28 is amended by adding a new subsection to read:

34 "(g) Any pesticide, material, or device for which such information is requested by
35 the Committee pursuant to G.S. 106-65.29(9a) and denied by the registrant or
36 manufacturer shall not be used in any structural pest control performed for compensation
37 and may only be used by an individual performing structural pest control on the
38 individual's own property."

39 Section 7. G.S. 106-65.29 reads as rewritten:

40 "**§ 106-65.29. Rules and regulations.**

41 In order to ensure that persons licensed and certified under this Article are capable of
42 performing a high quality of workmanship, the Committee ~~is hereby authorized and~~
43 ~~empowered to make~~ may adopt rules and regulations with respect to:

- 1 (1) The amount and kind of training required of an applicant for a license
2 and certified applicator's card to engage in any one or more of the three
3 phases of structural pest control, and the amount and kind of training
4 required of an applicant for a registered technician's identification card.
- 5 (2) The type, frequency and passing score of any examination given an
6 applicant for a license and certified applicator's card under this Article.
- 7 (3) The amount, kind and frequency of continuing education required of a
8 licensee and certified applicator.
- 9 (4) The methods and materials to be used in performing any work
10 authorized by the issuance of a license and certified applicator's card
11 under this Article.
- 12 (5) The business records to be made and maintained by licensees and
13 certified applicators under this Article necessary for the Committee to
14 determine whether the licensee and certified applicator is performing a
15 high quality of workmanship.
- 16 (6) The credentials and identification required of licensees and certified
17 applicators, their employees and equipment, including service vehicles,
18 when engaged in any work defined under this Article.
- 19 (7) Safety methods and procedures for structural pest control work.
- 20 (8) Fees for reinspection following a finding of a deviation, as defined by
21 the Committee.
- 22 (9) Fees for training materials provided by the Committee or the Division.
23 Such fees may be placed in a revolving fund to be used for training and
24 continuing education purposes and shall not revert to the General Fund.
- 25 (9a) Efficacy data and other technical information to be submitted by
26 registrants and manufacturers of pesticides and other materials or
27 devices for review and approval, in order for the Committee and the
28 enforcement agency to ensure the efficacy of pesticides and other
29 materials or devices used in structural pest control in this State. This
30 subdivision does not require either the Committee or the enforcement
31 agency to disclose any information that is confidential information
32 within the meaning of G.S. 132-1.2.
- 33 (10) The policies and programs set forth in this Article."

34 Section 8. G.S. 106-65.30 reads as rewritten:

35 "**§ 106-65.30. Inspectors; inspections and reports of violations; designation of**
36 **resident agent.**

37 (a) For the enforcement of the provisions of this Article the Commissioner is
38 authorized to appoint one or more qualified inspectors and such other employees as are
39 necessary in order to carry out and enforce the provisions of this Article. The inspectors
40 shall be known as "structural pest control inspectors."The Commissioner ~~shall~~ may
41 enforce compliance with the provisions of this Article by making or causing to be made
42 periodical and unannounced inspections of work done by licensees and certified
43 applicators under this Article who engage in or supervise any one or more phases of

1 structural pest control as defined in G.S. 106-65.25. The Commissioner shall cause the
2 prompt and diligent investigation of all reports of violations of the provisions of this
3 Article and all rules and regulations adopted pursuant to the provisions hereof; provided,
4 however, no inspection shall be made by a representative of the Commissioner of any
5 property without first securing the permission of the owner or occupant thereof.

6 (b) Prior to the issuance or renewal of a license or certified applicator's identification
7 card, every nonresident owner of a business performing any phase of structural pest
8 control work shall designate in writing to the Commissioner or his authorized agent a
9 resident agent upon whom service of notice or process may be made to enforce the
10 provisions of this Article and rules and regulations adopted pursuant to the provisions
11 hereof or any civil or criminal liabilities arising hereunder.

12 (c) The Commissioner shall have authority to appoint personnel of the Structural
13 Pest Control Division as special inspectors and said special inspectors are hereby vested
14 with the authority to arrest with a warrant, or to arrest without a warrant when a violation
15 of this Article is being committed in their presence or they have reasonable grounds to
16 believe that a violation of this Article is being committed in their presence. Said special
17 inspectors shall take offenders before the several courts of this State for prosecution or
18 other proceedings. The provisions of this section do not apply to any person holding a
19 valid structural pest control license, or a certified applicator's identification card, or a
20 registered technician's identification card as issued under the provisions of this Article.
21 Special inspectors shall not be entitled to the benefits of the Law Enforcement Officers'
22 Benefit and Retirement Fund or the benefits of the Law Enforcement Officers' and Others
23 Death Benefit Act as provided for in Articles 12 and 12A of Chapter 143 of the General
24 Statutes, respectively."

25 Section 9. G.S. 106-65.31(b) reads as rewritten:

26 "(b) License. – The fee for the issuance or renewal of a license for any one phase of
27 structural pest control shall be ~~one hundred twenty five dollars (\$125.00).~~ one hundred fifty
28 dollars (\$150.00). Each additional phase shall be ~~fifty dollars (\$50.00).~~ sixty-five dollars
29 (\$65.00). The fee for each subphase shall be ~~ten dollars (\$10.00).~~ fifteen dollars (\$15.00).
30 Licenses shall expire on June 30 of each year and shall be renewed annually. All
31 licensees who fail or neglect to renew their license on or before June 30, but who make
32 application before January 1 of the following year, may have their license renewed
33 without having to be reexamined, unless the applicant is scheduled for periodic
34 reexamination under regulations adopted pursuant to G.S. 106-65.27(d)(3). No structural
35 pest control work may be performed until the license has been renewed or until a new
36 license has been issued.

37 Any licensee whose employment is terminated by his employer or any licensee who is
38 transferred to another company or location other than the company or location shown on
39 his license certificate, may at any time, have his license reissued for the remainder of the
40 license year for a fee of ten dollars (\$10.00).

41 Any licensee whose license is lost or destroyed may secure a duplicate license for a
42 fee of ten dollars (\$10.00)."

43 Section 10. G.S. 106-65.33 reads as rewritten:

1 **"§ 106-65.33. Violation of Article, falsification of records, or misuse of registered**
2 **pesticide a misdemeanor.**

3 (a) Any person who shall be adjudged to have violated any provision of this
4 Article or who falsifies any records required to be kept by this Article or by the rules and
5 regulations pursuant to this Article or who uses a registered pesticide in a manner
6 inconsistent with its labeling shall be guilty of a Class 2 misdemeanor. In addition, if any
7 person continues to violate or further violates any provision of this Article after written
8 notice from the Committee, the court may determine that each day during which the
9 violation continued or is repeated constitutes a separate violation subject to the foregoing
10 penalties.

11 (b) Nothing in this Article shall be construed to require the Committee or the
12 Commissioner to initiate, or attempt to initiate, any criminal or administrative
13 proceedings under this Article for a minor violation of this Article whenever the
14 Committee or Commissioner determines that the public interest will be adequately served
15 in the circumstances by a suitable written notice or warning."

16 Section 11. G.S. 106-65.41 reads as rewritten:

17 **"§ 106-65.41. Civil penalties.**

18 A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the
19 Committee against any person for any one or more of the causes set forth in G.S. 106-
20 65.28(a)(1) through ~~(12)~~-(12) and G.S. 106-65.28(a)(14) and (15), or who violates or
21 directly causes a violation of any provision of this Article or any rule adopted pursuant to
22 this Article. In determining the amount of any penalty, the Committee shall consider the
23 degree and extent of harm caused by the violation. No civil penalty may be assessed
24 under this section unless the person has been given an opportunity for a hearing pursuant
25 to Chapter 150B of the General Statutes. Assessments may be collected, following
26 judicial review, if any, of the Committee's final decision imposing the assessment, in any
27 lawful manner for the collection of a debt.

28 The clear proceeds of civil penalties assessed pursuant to this section shall be remitted
29 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

30 Section 12. This act becomes effective October 1, 1999.