

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 725
HOUSE BILL 746

AN ACT TO AMEND THE STRUCTURAL PEST CONTROL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-65.24 reads as rewritten:

"§ 106-65.24. Definitions.

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

- (1) 'Animal' means all vertebrate and invertebrate species, including but not limited to man and other mammals, birds, fish, and shellfish.
- (1a) 'Applicant for a certified applicator's identification card' means any person making application to use restricted use pesticides in any phase of structural pest control.
- (2) 'Applicant for a license' means any person in charge of any individual, firm, partnership, corporation, association, or any other organization or any combination thereof, making application for a license to engage in structural pest control, control of structural pests or household pests, or fumigation operations, or any person qualified under the terms of this Article.
- (3) 'Attractants' means substances, under whatever name known, which may be toxic to insects and other pests but are used primarily to induce insects and other pests to eat poisoned baits or to enter traps.
- ~~(3a) 'Branch office' means and includes any place of doing business which has two or more employees engaged in the control of insect pests, rodents, or wood destroying organisms.~~
- (3b) 'Call office' means any office or telephone answering service other than a licensee's home office which is used by a licensee to conduct structural pest control work and which employs no more than one individual engaged in structural pest control work.
- (4) 'Certified applicator' means any individual who is certified under G.S. 106-65.25 as authorized to use or supervise the use of any pesticide which is classified for restricted use.
- (5) 'Commissioner' means the Commissioner of Agriculture of the State of North Carolina.
- (6) 'Committee' means the Structural Pest Control Committee.

- (6a) 'Deviation' means failure of the licensee or certified applicator or registered technician card holder to follow any rule adopted by the Committee under provisions of this Article.
- (7) 'Device' means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than man and other than bacteria, virus, or other microorganism on or in living man or other living animals); but not including equipment used for the application of pesticides when sold separately therefrom.
- (8) Repealed by Session Laws 1975, c. 570, s. 4.
- (8a) 'Director' means the Director of the Structural Pest Control Division of the Department of Agriculture.
- (9) 'Employee' means any person employed by a licensee with the exceptions of clerical, janitorial, or office maintenance employees, or those employees performing work completely disassociated with the control of insect pests, rodents or the control of wood-destroying organisms.
- (9a) 'Enforcement agency' means the Structural Pest Control Division of the Department of Agriculture.
- (10) 'Fumigants' means any substance which by itself or in combination with any other substance emits or liberates a gas or gases, fumes or vapors and which gas or gases, fumes or vapors when liberated and when used will destroy vermin, rodents, insects, and other pests; but may be lethal, poisonous, noxious, or dangerous to human life.
- (11) 'Fungi' means wood-decaying fungi.
- (11a) 'Home office' means the licensee's principal place of business.
- (12) 'Insect' means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes, and sowbugs.
- (13) 'Insecticides' means substances, not fumigants, under whatever name known, used for the destruction or control of insects and similar pests.
- (14) 'Label' means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
- (14a) The term 'labeling' means all labels and other written, printed, or graphic matter:
- a. Upon the pesticide (or device) or any of its containers or wrappers;
 - b. Accompanying the pesticide (or device) at any time;
 - c. To which reference is made on the label or in literature accompanying the pesticide (or device) except when accurate

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

- (15) 'Licensee' means the designated person in charge of the business establishment or business entity, whether it be individual, firm, partnership, corporation, association or any organization, or any combination thereof, engaged in pest control work covered under the provisions of this Article. Each branch office of a business establishment is to be in charge of a person who has a license herein provided for.
- (16) 'Person' means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.
- (17) 'Pest' means any living organism, including but not limited to, insects, rodents, birds, and fungi, which the Commissioner declares to be a pest.
- (18) 'Pesticide' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest.
- (19) 'Registered pesticide' means a pesticide which has been registered by federal and/or State agency responsible for registering pesticides.
- (19a) 'Registered technician' means any individual who is required to be registered with the Structural Pest Control Division under G.S. 106-65.31.
- (20) 'Repellents' means substances, not fumigants, under whatever name known, which may be toxic to insects and related pests, but are generally employed because of capacity for preventing the entrance or attack of pests.
- (21) ~~'Restricted use'~~ 'Restricted use pesticide' means a pesticide which has been designated as such by the federal and/or State agency responsible for registering pesticides.
- (22) 'Rodenticides' means substances, not fumigants, under whatever name known, whether poisonous or otherwise, used for the destruction or control of rodents.
- (23) 'Structural pest control' means the control of wood-destroying organisms or household pests (including, but not limited to, animals such as moths, cockroaches, ants, beetles, flies, mosquitoes, ticks, wasps, bees, fleas, mites, silverfish, millipedes, centipedes, sowbugs, crickets, termites, wood borers, etc.), including the identification of infestations or infections, the making of inspections, the use of pesticides, including insecticides, repellents, attractants, rodenticides, fungicides, and fumigants, as well as all other substances, mechanical devices or structural modifications under whatever name known, for

the purpose of preventing, controlling and eradicating insects, vermin, rodents and other pests in household structures, commercial buildings, and other structures (including household structures, commercial buildings and other structures in all stages of construction), and outside areas, as well as all phases of fumigation, including treatment of products by vacuum fumigation, and the fumigation of railroad cars, trucks, ships, and airplanes, or any one or any combination thereof.

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

Sec. 2. G.S. 106-65.25 reads as rewritten:

"§ 106-65.25. Phases of structural pest control; license required; exceptions.

(a) ~~Structural pest control is divided into the following phases:~~

- ~~(1) Control of wood destroying organisms by any method other than fumigation,~~
- ~~(2) Control of household pests by any method other than fumigation,~~
- ~~(3) Fumigation,~~

~~and a license is required for each such phase, and it shall be unlawful for any person, firm, corporation, association or any organization or combination thereof to engage in or supervise work as a manager, owner, or owner operator in any phase of structural pest control unless there shall first be secured a valid license therefor, issued by the Structural Pest Control Committee, and signed by the Commissioner of Agriculture.~~

~~(b) This Article shall not apply to any person doing work on his own property or to any regular employee of any person, firm or corporation doing work on the property of such person, firm or corporation, under the direct supervision of the person who owns or is in charge of the property on which work is being done unless a restricted use pesticide is being used. Any person, including agents or agencies of the federal, State or local governments, using a restricted use pesticide, whether it be on his own property or on the property of another in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments including warehouses and grain elevators and any other structures and adjacent areas, public or private, or for the protection of stored, processed, or manufactured products in any phase of structural pest control, must (i) qualify as a certified applicator for that phase of structural pest control, or (ii) be under the direct supervision of a certified applicator possessing a valid identification card for that phase of structural pest control.~~

~~(b1) Persons who (i) demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration and/or (ii) conduct field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides must possess a valid certified applicator's identification card. Included in the first group are such persons as extension specialists and county agents, commercial~~

~~representatives demonstrating pesticide products, and those individuals demonstrating methods used in public programs. The second group includes local, State, federal, commercial and other persons conducting field research on or utilizing restricted use pesticides.~~

~~The above standards do not apply to the following persons for purposes of these regulations:~~

- ~~(1) Persons conducting laboratory type research involving restricted use pesticides; and~~
- ~~(2) Doctors of medicine and doctors of veterinary medicine applying pesticides as drugs or medication during the course of their normal practice.~~

~~(e) Any person issued an original license after October 21, 1976, for any one or any combination of the three phases shall be deemed to be a 'certified applicator' to use or supervise the use of pesticides which are classified for restricted use so long as the pesticides are being used only in the phase of structural pest control for which the person is licensed.~~

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

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

~~(b) It shall be unlawful for any person to act in the capacity of a structural pest control licensee, advertise as, offer to engage in, or engage in or supervise work as a manager, owner, or owner-operator in any phase of structural pest control unless he is licensed as provided for in this Article. A license is required for each phase of structural pest control. No person may hold more than one license for each phase. The licensee shall be responsible for the supervision of the work performed under his license.~~

~~(c) A licensee may not establish any office other than his home office from which more than one employee is performing structural pest control work unless a separate licensee is placed in charge of that office.~~

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

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

- ~~(1) Qualify as a certified applicator for that phase of structural pest control; or~~
- ~~(2) Be under the direct supervision of a certified applicator possessing a valid identification card for that phase of structural pest control.~~

~~(f) Persons who demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration or conduct field research with~~

pesticides, and in doing so, use or supervise the use of restricted use pesticides must possess a valid certified applicator's identification card. Included in the first group are such persons as extension representatives demonstrating pesticide products and those individuals demonstrating methods used on public programs. The second group includes local, State, federal, commercial, and other persons conducting field research on or utilizing restricted use pesticides.

This subsection does not apply to the following persons:

- (1) Persons conducting laboratory-type research involving restricted use pesticides; or
- (2) Doctors of medicine and doctors of veterinary medicine applying restricted use pesticides as drugs or medication during the course of their normal practice.

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

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

Sec. 3. G.S. 106-65.27 reads as rewritten:

"§ 106-65.27. Examinations of applicants; fee; license not transferable.

(a) Certified Applicator. – All applicants for a certified applicator's identification card shall demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Competency shall be determined on the basis of written examinations to be provided and administered by the Committee and, as appropriate, performance testing. Testing shall be based upon examples of problems and situations appropriate to the particular phase or ~~subphase~~ ~~phases~~ of structural pest control for which application is made and shall include, ~~include~~ where relevant-relevant, the following areas of competency:

- (1) Label and labeling comprehension.
- (2) Safety factors associated with pesticides – toxicity, precautions, first aid, proper handling, etc.
- (3) Influence of and on the environment.
- (4) Pests – identification, biology, and habits.
- (5) Pesticides – types, formulations, compatibility, hazards, etc.
- (6) Equipment – types and uses.
- (7) Application techniques.
- (8) Laws and regulations.

An applicant for a certified applicator's identification card shall submit ~~with his application for examination~~ an examination fee of ten dollars (\$10.00) for each phase or subphase of the phases of structural pest control in which the applicant ~~he~~ chooses to be examined. An examination for more than one phase or subphase ~~one or more phases of~~

~~structural pest control may be taken at the same time. time at any regularly scheduled examination. If an applicant fails to pass an examination for one or more phases of structural pest control, he shall be entitled to take one additional examination, at a regularly scheduled examination, without the payment of another examination fee. Frequency of such examinations shall be in at the discretion of the Committee, consideration being given to the number of applications received, provided that a minimum of two examinations shall be given annually. The examination will cover each phase or subphase the phase or phases of structural pest control for which application is being made. The ten dollar (\$10.00) fee shall not apply to agents or agencies of the federal, State, or local governments.~~

(b) License. – Each applicant for an original license must demonstrate upon written examination, to be provided and administered by the Committee, his competency as a structural pest control operator for the phase or subphase ~~phases~~ in which he is applying for a license. Frequency of such examinations shall be at ~~in~~ the discretion of the Committee, ~~consideration being given to the number of applications received,~~ provided that a minimum of two examinations shall be given annually. The examination will cover each phase or subphase ~~the phase or phases~~ of structural pest control for which application is being made. All applicants for a license shall register with the Division on a prescribed form. A license examination fee of twenty-five dollars (\$25.00) shall be charged for each phase or subphase of structural pest control in which the applicant chooses to be examined. An examination for more than one phase or subphase of structural pest control may be taken at the same time.

~~An applicant shall submit with his application for examination an examination fee of twenty five dollars (\$25.00) for each of the phases of structural pest control in which he chooses to be examined. An examination for one or more phases of structural pest control may be taken at the same time. If an applicant fails to pass an examination for one or more phases of structural pest control, he shall be entitled to take one additional examination, at a regularly scheduled examination, without the payment of another examination fee. Agents or agencies of the federal, State or local governments are not exempt from this fee.~~

(c) ~~A license shall not be transferable. When there is a transfer of ownership, management or operation of a business of a licensee hereunder, there shall be not more than a total of 90 days during any 12 month period in which any individual, firm, partnership, corporation or other entity, shall not have a qualified licensee to operate said business; and further provided, during each of the periods specified under this section, the use of any restricted use pesticide by any person representing said business agent or agency shall be by or under the direct supervision of a person possessing a valid certified applicator's identification card. A new licensee shall be responsible for correcting all discrepancies committed by the preceding licensee of said business or anyone working under his license during the 12 month period next preceding his becoming the designated licensee and he shall further be responsible for correcting discrepancies for all existing contracts. A discrepancy shall mean failure of the licensee to follow any rule and regulation concerning treating procedures adopted by the Committee under provisions of this Article. A license, certified applicator's~~

identification card or registered technician's identification card is not transferable from one person to another. A licensee or certified applicator may change the name of his business or employer's business on his license certificate or certified applicator's identification card upon application to the Division.

(c1) When there is a transfer of ownership, management, or operation of a structural pest control business or in the event of the death or disability of a licensee there shall be not more than a total of 90 days during any 12-month period in which said business shall operate without a licensee assigned to it.

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

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

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

(d) The Committee shall by regulation provide for:

- (1) Establishing categories of certified applicators, along with such appropriate subcategories as are necessary, to meet the requirements of this Article;
- (2) All licensees licensed prior to October 21, 1976, to become qualified as certified applicators; and
- (3) Requalifying certified applicators thereafter as required by the federal government at intervals no more frequent than that specified by federal law and federal regulations."

Sec. 4. G.S. 106-65.28 reads as rewritten:

"§ 106-65.28. Revocation or suspension of license or identification card.

(a) Any license or certified applicator's identification card or ~~operator's~~ registered technician's identification card may be denied, revoked or suspended by a majority vote of the Committee for any one or more of the following causes:

- (1) Misrepresentation for the purpose of defrauding; deceit or fraud; the making of a false statement with knowledge of its falsity for the purpose of inducing others to act thereon to their damage; or the use of methods or materials which are not reasonably suitable for the purpose contracted.
- (2) Failure of the licensee or certified applicator to give the Committee, the Commissioner, or their authorized representatives, upon request,

true information regarding methods and materials used, or work performed.

- (3) Failure of the licensee or license holder ~~[or]~~ certified applicator to make registrations herein required or failure to pay the registration fees.
- (4) Any misrepresentation in the application for a license or certified applicator's identification card or ~~operator's~~ registered technician's identification card.
- (5) Willful violation of any rule or regulation adopted pursuant to this Article.
- (6) Aiding or abetting a licensed or unlicensed person or a certified applicator or a noncertified person to evade the provisions of this Article, combining or conspiring with such a licensed or unlicensed person or a certified applicator or noncertified person to evade the provisions of this Article, or allowing one's license, license or certified applicator's identification card or operator's registered technician's identification card, card to be used by any person other than the individual to whom it has been issued. ~~an unlicensed or noncertified person.~~
- (7) Impersonating any State, county or city inspector or official.
- (8) Storing or disposing of containers or pesticides by means other than those prescribed on the label or adopted regulations.
- (9) Using any ~~registered~~ pesticide in a manner inconsistent with its labeling.
- (10) Payment, or the offer to pay, by any licensee to any party to a real estate transaction of any commission, bonus, rebate, or other thing of value as compensation or inducement for the referral to such licensee of structural pest control work arising out of such transaction.
- (11) Falsification of records required to be kept by this Article or the rules and regulations of the Committee.
- (12) Failure of a licensee or certified applicator to pay the original or renewal license or identification card fee when due and continuing to operate as a licensee or a certified applicator.
- (13) Conviction of a felony or conviction of a violation of G.S. 106-65.28 within five years preceding the date of application for a license or a certified applicator's identification card or conviction of any said crimes while such license or card is in effect.

(b) Suspension of any license or certified applicator's identification card or ~~operator's registered technician's~~ identification card under the provisions of this Article shall not be for less than 10 days nor more than two years, in the discretion of the Committee.

(c) If a license or certified applicator's identification card or ~~operator's registered technician's~~ identification card is suspended or revoked under the provisions hereof, the licensee shall within five days of such suspension or revocation, surrender all licenses

and identification cards issued thereunder to the Commissioner or his authorized representative.

(d) Any licensee whose license or certified applicator or operator whose identification card is revoked under the provisions of this Article shall not be eligible to apply for a new license or certified applicator's identification card or ~~operator's registered technician's~~ identification card hereunder until two years have elapsed from the date of the order revoking said license or certified applicator's identification card or ~~operator's registered technician's~~ identification card or if an appeal is taken from said order of revocation, two years from the date of the order or final judgment sustaining said revocation.

(e) The lapsing of a State structural pest control license or certified applicator's identification card or ~~operator's registered technician's~~ identification card by operation of law or the voluntary surrender of said license or said card shall not deprive the Committee of jurisdiction to proceed with any investigation or disciplinary proceedings against such licensee or card holder or to render a decision suspending or revoking such license or card.

(f) The Committee may deny an application for a license, a certified applicator's identification card or a registered technician's identification card of any person whose license, certified applicator's identification card or equivalent thereto has been suspended or revoked in another state within two years prior to the application."

Sec. 5. G.S. 106-65.29 reads as rewritten:

"§ 106-65.29. Rules and regulations.

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

- (1) The amount and kind of training required of an applicant for a license and certified applicator's card to engage in any one or more of the three phases of structural pest control, and the amount and kind of training required of an applicant for ~~an operator's~~ a registered technician's identification card.
- (2) The type, frequency and passing score of any examination given an applicant for a license and certified applicator's card under this Article.
- (3) The amount, kind and frequency of continuing education required of a licensee and certified applicator.
- (4) The methods and materials to be used in performing any work authorized by the issuance of a license and certified applicator's card under this Article.
- (5) The business records to be made and maintained by licensees and certified applicators under this Article necessary for the Committee to determine whether the licensee and certified applicator is performing a high quality of workmanship.
- (6) The credentials and identification required of licensees and certified applicators, their employees and equipment, including service vehicles, when engaged in any work defined under this Article.

- (7) Safety methods and procedures for structural pest control work.
- (8) Fees for reinspection following a finding of a ~~discrepancy~~, deviation, as defined by the Committee.
- (9) Fees for training materials provided by the Committee or the Division. Such fees may be placed in a revolving fund to be used for training and continuing education purposes and shall not revert to the General Fund.
- (10) The policies and programs set forth in this Article."

Sec. 6. G.S. 106-65.30 reads as rewritten:

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

For the enforcement of the provisions of this Article the Commissioner is authorized to appoint one or more qualified inspectors and such other employees as are necessary in order to carry out and enforce the provisions of this Article. The inspectors shall be known as 'structural pest control inspectors.' The Commissioner shall enforce compliance with the provisions of this Article by making or causing to be made periodical and unannounced inspections of work done by licensees and certified applicators under this Article who engage in or supervise any one or more phases of structural pest control as defined in G.S. 106-65.25. The Commissioner shall cause the prompt and diligent investigation of all reports of violations of the provisions of this Article and all rules and regulations adopted pursuant to the provisions hereof; provided, however, no inspection shall be made by a representative of the Commissioner of any property without first securing the permission of the owner or occupant thereof.

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

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

Sec. 7. G.S. 106-65.31, as rewritten by Chapter 544, Session Laws of 1989, reads as rewritten:

"§ 106-65.31. Annual certified applicator card and license fee; registration of servicemen, salesmen, solicitors, and estimators; identification cards.

(a) Certified Applicator's Identification Card. – The fee for issuance or renewal of a certified applicator's identification card ~~for any one phase or more of structural pest control, as the same is defined in G.S. 106-65.25,~~ shall be thirty dollars ~~(\$30.00).~~ (\$30.00). Within 75 days after the employment of a certified applicator, the licensee shall apply to the Division for the issuance of a certified applicator's identification card. A certified Certified-applicator's identification card cards shall expire on June 30 of each year and shall be renewed annually. All certified applicators who fail or neglect to renew their certified-applicator's identification card issued under the provisions of this Article on or before June 30 of each year in which they hold a valid certified applicator's identification card but make application before January October 1 of the following that year may have their card shall be renewed without the applicant having to be reexamined unless under the provisions of this Article the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(e)(3). ~~(G.S. 106-65.27(d)(3)).~~ All applicants submitting applications for the renewal of their certified applicator's identification cards after June 30 and before October 1 of that year shall (i) not use or supervise the use of any restricted use pesticides after June 30 of that year until he has been issued a valid certified applicator's identification a new card has been issued. and (ii) pay, in addition to the annual certification fee, the sum of ten dollars (\$10.00) for each phase of structural pest control in which he is applying for certification before his certified applicator's identification card is renewed.

Any certified applicator whose employment is terminated with a licensee or agent prior to the end of any said license year may at any time prior to the end of the said license year be reissued a certified applicator's identification card for the remainder of the license year as an employee of another licensee or agency or as an individual for a fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or change in status of any certified applicator.

Any certified applicator whose identification card is lost or destroyed or changed in any way may be reissued a new secure a duplicate identification card for the remainder of the license year for a fee of five dollars (\$5.00).

~~The fees for a certified applicator's identification shall not apply to agents or agencies of the federal, State, or local governments.~~

(b) License. – The fee for the issuance or renewal of a license for any one phase of structural pest control control, as the same is defined in G.S. 106-65.25, shall be one hundred twenty-five dollars (\$125.00). ~~(\$125.00);~~ provided, that when or any time after the fee for a license for any one phase is paid, the holder of said license may secure a license for either or both of the other two phases for an additional fee of Each additional phase shall be fifty dollars (\$50.00). The fee for each subphase shall be ten dollars (\$10.00). ~~(\$50.00) per license phase.~~ Licenses shall expire on June 30 of each year and shall be renewed annually. All licensees Any licensee who fail fails or neglect neglects to renew their any license issued under the provisions of this Article on or before

~~August 1 of each year shall pay, in addition to the annual fee, the sum of fifteen dollars (\$15.00) for each phase before his license is renewed. —June 30, but who make application before January 1 of the following year, may have their license renewed without having to be reexamined, unless the applicant is scheduled for periodic reexamination under regulations adopted pursuant to G.S. 106-65.27(e)(3). No structural pest control work may be performed until the license has been renewed or until a new license has been issued.~~

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

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

~~A license holder shall register with the North Carolina Department of Agriculture within 75 days of employment the names of all certified applicators, estimators, salesmen, servicemen and solicitors (not common laborers) and shall pay a registration fee of twenty five dollars (\$25.00) for each name registered, which fee shall accompany the registration. This registration fee shall not apply to a certified applicator. All registrations expire when a license expires. Each employee of a licensee for whom registration is made and registration fee paid shall be issued an identification card which shall be carried on the person of the employee at all times when performing any phase of structural pest control work. An identification card shall be renewed annually by payment of a renewal fee of twenty five dollars (\$25.00). An identification card shall be displayed upon demand to the Commissioner, or his authorized representative, or to the person for whom any phase of structural pest control work is being performed. When an identification card is lost or destroyed, the licensee shall secure a duplicate identification card for which he shall pay a fee of one dollar (\$1.00). This one dollar (\$1.00) fee shall not apply to a certified applicator's identification card. The licensee shall be responsible for registering and securing identification cards for all employees who are estimators, salesmen, servicemen, and solicitors.~~

~~It shall be unlawful for an estimator, serviceman, salesman or solicitor to engage in the performance of any work covered by this Article without having first secured and having in his possession an identification card. It shall be unlawful for a licensee to direct or procure any salesman, serviceman or estimator to engage in the performance of any work covered by this Article without having first applied for an identification card for such employee or agent; provided, however, that the licensee shall have 75 days after employing a serviceman, salesman or estimator within which to apply for an identification card.~~

~~All registrations and applications for licenses and identification cards shall be filed with the North Carolina Department of Agriculture.~~

~~(b1) Registration. Within 75 days after the hiring of an employee who is either an estimator, salesman, serviceman, or solicitor, the licensee shall apply to the Division for the issuance of an identification card for such employee. The application must be accompanied by a fee of twenty-five dollars (\$25.00) for each card. The card shall be~~

issued in the name of the employee and shall bear the name of the employing licensee, the employer's license number and phases, the name and address of the employer's business, and such other information as the Committee may specify. The identification card shall be carried by the employee on his person at all times while performing any phase of structural pest control work. The card must be displayed upon demand by the Commissioner, the Committee, the Division, or any representative thereof, or the person for whom any phase of structural pest control work is being performed. A registered technician's identification card must be renewed annually on or before June 30 by payment of a renewal fee of twenty-five dollars (\$25.00). If a card is lost or destroyed the licensee may secure a duplicate for a fee of five dollars (\$5.00). The licensee shall notify the Division of the termination or change in status of any registered technician. All identification cards expire when a license expires.

When a license is reissued, the licensee shall be responsible for registering and securing identification cards for all existing employees who engage in structural pest control within 10 days of the reissuance of the license.

A certified applicator who is not an employee of a licensed individual shall register the names of all employees under his supervision who are engaged in the performance of structural pest control with the Division and shall purchase a registered technician's identification card for each such employee.

(b2) No person shall act as an estimator, serviceman, salesman, solicitor, or agent for any licensee under this Article nor shall any such person be issued an identification card by the ~~Structural Pest Control~~ Committee who has within three years of the date of application for an identification card been convicted of, plead guilty or nolo contendere, or forfeited bond in any ~~court~~ State or federal court for a felony ~~federal~~, to a crime involving moral turpitude or to any violation of the North Carolina Structural Pest Control Act or to any regulation promulgated by the ~~Structural Pest Control~~ Committee. This provision shall not apply to any person whose citizenship has been restored as provided by law.

(b3) No person or business shall advertise as a contractor for structural pest control services nor actually contract for such services unless that person or business advertises or contracts in the name of the company shown on the license certificate of the licensee or identification card of the certified applicator who will perform the services.

(c) Notwithstanding any other provision of this law, the Committee may adopt rules to provide for the issuance of licenses, certified applicator's cards, and ~~operator's~~ registered technician's identification cards with staggered expiration dates and may prorate renewal fees on a monthly basis to implement such rules."

Sec. 8. G.S. 106-65.41 reads as rewritten:

"§ 106-65.41. Civil penalties.

A civil penalty of not more than two thousand dollars (\$2,000) may be assessed by the Committee against any person for any one or more of the causes set forth in G.S. 106-65.28(a)(1) through (12). ~~(11).~~—In determining the amount of any penalty, the Committee shall consider the degree and extent of harm caused by the violation. No civil penalty may be assessed under this section unless the person has been given an

opportunity for a hearing pursuant to Chapter 150B of the General Statutes. Assessments may be collected, following judicial review, if any, of the Committee's final decision imposing the assessment, in any lawful manner for the collection of a debt."

Sec. 9. This act shall become effective October 1, 1989.

In the General Assembly read three times and ratified this the 3rd day of August, 1989.