

**CHAPTER 294**

**H.B. No. 625**

**AN ACT**

relating to the regulation of structural pest control practitioners.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Section 2(b), Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), is amended by adding Subdivision (10) to read as follows:

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(10) "Technician" means an individual employed by a business licensee to engage in supervised pesticide applications, maintain or utilize structural pest control devices, make sales presentations, or identify pest infestation or damage. The term does not include an individual whose duties are solely clerical or janitorial, or are otherwise completely disassociated with pest control.

SECTION 2. Section 4, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. (a) The board shall develop standards and criteria for licensing individuals engaged in the business of structural pest control. The board may require individuals to pass an examination demonstrating their competence in the field in order to qualify for a Certified Applicator's License. Not later than the 30th day after the day on which a person completes an examination administered by the board, the board shall send to the person his examination results. If requested in writing by a person who fails the examination, the board shall send to the person not later than the 30th day after the day on which the request is received by the board an analysis of the person's performance on the examination.

(b) The board shall develop standards and criteria for issuing Structural Pest Control Business Licenses to persons engaged in the business of structural pest control. Persons engaged in the business of structural pest control must possess a Structural Pest Control Business License for each place of said business, including each branch office. Each structural pest control business licensee shall have in his employment at all times a certified applicator.

(c) *The board shall develop standards and criteria for issuing technician licenses. The board may designate different classes or categories for technicians, and shall require special training or testing before issuing a technician license.*

(d) The board shall promulgate rules and regulations governing the methods and practices of structural pest control when it determines that the public's health and welfare necessitates such regulations in order to prevent adverse effects on human life and the environment. The rules and regulations relating to the use of economic poisons shall comply with applicable standards of the federal government and the state commissioner of agriculture governing the use of such substances.

(e) [(4)] The board may waive all or part of any examination requirement on a reciprocal basis with any other state or federal agency which has substantially the same standards as those prescribed by the board.

~~[(e) The board shall coordinate its computer, administrative, and licensing functions with the Department of Agriculture if the board determines that the coordination would result in the more practical and efficient performance of those functions.]~~

(f) The board may not promulgate rules restricting advertising or competitive bidding by licensees except to prohibit false, deceptive, or misleading practices by the licensee.

(g) If a written complaint is filed with the board relating to a licensee under this Act, the board, at least as frequently as quarterly, shall notify the complainant of the status of the complaint until the complaint is finally resolved or until litigation has been initiated. All records of complaints shall be filed in the offices of the board.

~~(h) [The board must within 31 days from the date of filing of the complaint determine whether a hearing shall be held on such complaint or whether such complaint shall be dismissed and shall notify both the person who filed the complaint and the person against whom the complaint has been filed of the board's decision.]~~

[(4)] If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if

the rule has already taken effect, the rule is repealed effective on the date the board receives the committees' statements.

(i) ~~(g)~~ In each written contract in which a licensee under this Act agrees to perform structural pest control services in this state, the licensee shall include the mailing address and telephone number of the board and a statement that the board has jurisdiction over individuals licensed under this Act.

(j) ~~(4)~~ The board shall establish a public information program for the purpose of informing the public about the practice and regulation of structural pest control in this state. As part of the program, the board shall prescribe and distribute in a manner that it considers appropriate a standard complaint form and shall make available to the general public and other appropriate state agencies the information compiled as part of the program. The program shall inform prospective applicants for licensing under this Act about the qualifications and requirements for licensing.

SECTION 3. Section 5, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5. (a) No person ~~except an individual under the direct supervision of a certified applicator,~~ may engage in the business of structural pest control after the effective date of this Act unless he meets the standards set by the board and possesses a valid Structural Pest Control Business License issued by the board.

(b) *An individual* ~~[A person]~~ without a license may, on his own premises *or on premises in which he owns a partnership or joint venture interest,* or on the premises of an employer by whom he was hired primarily to perform other services, use insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices designed to prevent, control, or eliminate pest infestations unless that use is prohibited by rule of the United States Environmental Protection Agency or unless the substance used is labeled as a restricted-use pesticide or a state-limited-use pesticide.

SECTION 4. Section 6(b), Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) ~~[All licenses issued by the board before 1981 shall expire on March 1 of each calendar year.]~~ Licenses issued by the board ~~[during or after 1981]~~ expire on December 31 of each year or on various dates of the year as the board may determine as part of a staggered license renewal system. The board may issue a license for a period of less than one year if necessary to conform the license to a renewal system authorized by this subsection. If the board issues a license for a period of less than one year, the board shall prorate the fee for the license on a monthly basis. A person may renew a license by submitting an application to the board and paying the required renewal fees.

SECTION 5. Subsections (a), (c), and (d), Section 7, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) An applicant for an initial or renewal Structural Pest Control Endorsement of License, Business License, or a Certified Applicator's License shall accompany his application with a fee of not more than \$112.50 each, as determined by the board, and a fee of not more than \$30, as determined by the board, *for the license of each technician employed by* ~~[employee of]~~ the applicant ~~[who is engaged in structural pest control services].~~

(c) The board may retroactively grant a Structural Pest Control Business License, ~~[or]~~ a Certified Applicator's License, *or a technician license* to the applicant for a renewal license if such applicant pays a late renewal fee of \$37.50 and if his application is filed with the board not more than 30 days after the expiration of his license. If such application is received between 30 and 60 days after the expiration of the applicant's license, the board may retroactively grant the renewal license when said application is accompanied by a renewal fee of \$75. An applicant who applies for a renewal license more than 60 days after the expiration of his license must be reexamined by the board to obtain a license.

(d) Each time an applicant *applies to take* ~~[takes]~~ a test for a license, he shall pay the board a testing fee of not more than \$37.50, as determined by the board, for each

category of test to be taken. *Except as provided by board rule, a testing fee is not refundable.*

SECTION 6. Subsections (a) and (b), Section 7A, Texas Structural Pest Control Act (Article 135b-6, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The board may not issue or renew a Structural Pest Control Business License until the license applicant:

(1) files with the board a policy or contract of insurance, approved as sufficient by the board, in an amount of not less than \$25,000 *for [in] bodily injury [coverage] and [\$5,000 in] property damage coverage, with a minimum total aggregate of \$50,000 for all occurrences*, insuring him against liability for damages to persons or property occurring as a result of operations performed in the course of the business of structural pest control to premises or any other property under his care, custody, or control; or

(2) files with the board a certificate or other evidence from an insurance company, in the case of an applicant who has an unexpired and uncanceled insurance policy or contract on file with the board, stating that the policy or contract insures the applicant against liability for acts and damage as described in Subdivision (1) of this subsection and that the amount of insurance coverage is *in an amount approved as sufficient by the board, but not less than the amount specified by Subdivision (1) of this subsection* [~~\$25,000 in bodily injury coverage and \$5,000 in property damage coverage~~].

(b) The policy or contract shall be maintained at all times in an amount *approved as sufficient by the board, but not less than \$25,000 in bodily injury [coverage] and [\$5,000 in] property damage coverage, with a minimum total aggregate of \$50,000 for all occurrences*. Failure to renew the policy or contract or maintain it in the required amount is a ground for suspension or revocation of a Structural Pest Control Business License, *and is a violation of this section*.

SECTION 7. This Act takes effect September 1, 1987.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 22, 1987, by a non-record vote. Passed by the Senate on May 28, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 11, 1987.

Effective Sept. 1, 1987.