Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

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CHAPTER 208

HOUSE BILL 2399

AN ACT

AMENDING SECTIONS 32-2304, 32-2313, 32-2317, 32-2321, 32-2323, 32-2324, 32-2324.01, ARIZONA REVISED STATUTES; RELATING TO THE STRUCTURAL PEST CONTROL COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-2304, Arizona Revised Statutes, is amended to read:

32-2304. Powers and duties; executive director

A. The commission shall:

1. Adopt rules that are necessary or proper for the administration of this chapter, including administrative provisions, health and safety provisions and provisions for the use, storage and application of pesticides and devices used in structural pest control.

2. Administer and enforce this chapter and rules adopted pursuant to this chapter.

3. Maintain a record of its acts and proceedings, including the issuance, refusal, renewal, suspension or revocation of licenses.

4. At least thirty calendar days before adoption of a rule, form or policy, mail a copy of notice of a proposed rule, form or policy adoption, including the text of the proposed rule, form or policy, to each business licensee who has made a request to the commission, except that if the commission finds that adoption of a rule is necessary for immediate preservation of the public peace, health and safety and that notice is impractical, unnecessary or contrary to public interest it may adopt a rule without prior notice. Within thirty calendar days after the adoption of a statute by the legislature or approval of a rule by the governor's regulatory review council, the commission shall notify all business licensees in writing.

5. Hire inspectors as needed, considering recommendations of the executive director.

6. Notify the business licensee, applicator and qualifying party in writing of any complaint against the business licensee, ~~a~~ qualifying party or ~~an~~ employee of the business licensee by the close of business on the tenth business day after the day on which the commission initiated the complaint.

7. Receive and appropriately respond to any inquiry.

8. Issue subpoenas for the taking of depositions, the production of documents and things and the entry on land for inspection and measuring, surveying, photographing, testing or sampling the property or any designated object or operation on the property relevant to the complaint.

9. List any complaint, inquiry, issue or matter it plans to discuss at a public meeting in the agenda for the meeting.

10. Make applicator license and qualifying party license test study materials available, at the commission's actual costs, to any interested person.

11. Conduct or contract to conduct applicator license and qualifying party license tests at locations throughout this state. If the commission contracts for these tests, the contracts may provide for specific examination fees or a reasonable range of fees determined by the commission to be paid directly to the contractor by the applicant. The commission shall make all

efforts to contract with private parties to electronically administer the applicator and qualifying party license tests.

12. Refer all cases of termite treatments that are done before or during construction and that involve alleged criminal fraud to the criminal fraud division of the attorney general's office and refer any case the commission determines to contain information relating to a possible felony to the proper law enforcement agency.

13. Maintain a computer system for the benefit and protection of the public that includes the following information on termite treatments that are done before or during construction, initial termite corrective projects, preventative termite treatments and wood-destroying insect inspection reports:

(a) The name of the individual who performed the work.

(b) The address or location of the work or project.

(c) The name of the pest control company.

(d) The name of the qualifying party.

(e) The applicator license numbers.

(f) The nature and date of the work performed.

(g) Any other information that is required by the commission in its rules.

14. Establish ~~an office~~ OFFICES it deems necessary to carry out the purposes of this chapter.

15. Employ an executive director and other permanent or temporary personnel it deems necessary to carry out the purposes of this chapter and designate their duties.

16. Investigate violations of this chapter and rules adopted pursuant to this chapter.

17. Oversee the approval, content and method of delivery of continuing education courses.

18. Deny a license to any person who has had a license revoked for a period of five years from the time of revocation.

19. License applicators, qualifying parties and businesses in accordance with this chapter and rules adopted pursuant to this chapter.

20. Prepare guidelines for an integrated pest management program for structural pest control practices at schools. On or before December 1 of each year, the commission shall report on the progress of preparing the guidelines to the governor, the president of the senate and the speaker of the house of representatives and shall provide a copy of the report to the secretary of state and the director of the Arizona state library, archives and public records. The guidelines shall include the following:

(a) The identification of pests.

(b) The establishment of a monitoring and record keeping system for regular sampling and assessment of pest populations.

(c) The determination of the pest population levels that can be tolerated based on aesthetic, economic and health concerns and setting action

thresholds if pest populations or environmental conditions warrant remedial action.

(d) A plan to prevent pest problems through improved sanitation, waste management, physical barriers and the modification of habitats that attract or harbor pests.

(e) The reliance on nontoxic, biological, cultural or natural control agents.

(f) The use of pesticides, if necessary, with preference for products that are the least harmful to human health and the environment.

21. Require the payment of a penalty for any late license renewal.

22. Require either completion of the continuing education requirement or successful completion of the license examination for failure to renew a license on time.

23. Suspend a license if a licensee fails to renew the license within thirty calendar days of the renewal date.

24. Refuse to issue a business license in a name that is not registered with the secretary of state or filed with the Arizona corporation commission.

25. Adopt a wood-destroying insect inspection report form for use by business licensees.

B. The commission may:

1. Compel attendance of witnesses, administer oaths or affirmations and take testimony concerning all matters coming within its jurisdiction.

2. Require a person who seeks a license pursuant to this chapter to submit to the commission a full set of fingerprints and the fees required by section 41-1750. The commission shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

3. Enter into intergovernmental agreements.

4. With at least twenty-four hours' notice, request specific records from a business licensee, qualifying party or applicator at the person's place of business during normal business hours.

5. Deny or revoke a license based on the information in the application or information that the commission receives from the criminal background check.

6. On a showing of good cause by the business licensee, excuse a failure to timely comply with a records request.

7. Charge to the holder of a business license the actual cost of providing mailed copies of rules, forms or policies that are proposed for adoption.

8. Hire independent contractors to conduct inspections and take pesticide samples, soil samples or any other samples for purposes of testing the type and quantity of pesticides that are used in connection with pest control treatment.

9. Issue advisory notices for de minimis violations.

10. Notify a business licensee, qualifying party or ~~certified~~ LICENSED applicator of all requests for review of the business licensee's, qualifying party's or ~~certified~~ LICENSED applicator's records within ten business days of the request.

11. Require inspectors to be licensed applicators in all categories within their scope of work during their probationary period. Inspectors shall attend and complete an investigative training class that is prescribed by the commission within their probationary period.

12. Investigate alleged violations of all applicable federal and state statutes and rules adopted or orders issued by the commission or alleged violations of any condition imposed by the commission in connection with a license.

13. Provide general technical advice, support and information concerning structural pest control to the public and the licensees.

14. Pursuant to section 32-2329, summarily suspend a license issued under this chapter to protect the health, safety and welfare of the public.

15. Issue a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this chapter or any rules adopted pursuant to this chapter before or after a formal hearing.

16. Do at least one of the following in relation to unlicensed structural pest control business operations:

(a) Issue a cease and desist order requiring an unlicensed structural pest control business to immediately cease operations.

(b) Impose on an unlicensed structural pest control business a civil penalty of not more than one thousand dollars for the first ~~offense~~ OCCURRENCE and ~~of~~ not more than two thousand dollars for the second or subsequent ~~offense~~ OCCURRENCE.

17. Refer all cases for formal hearing to the office of administrative hearings.

18. Refuse to issue a business license in a name that is likely to be misleading or to imply any distorted representation about the business.

19. Issue a renewable and revocable temporary qualifying party license to a licensed applicator who is a representative of a business licensee if the qualifying party becomes disassociated with the business licensee.

20. Provide and conduct classes to train applicators and qualifying parties in preparation for license tests. The commission may assess a fee for each class. The commission may contract with a commercial enterprise or an accredited institution to conduct the class.

21. Provide and conduct continuing education classes quarterly. The commission may assess a fee for each credit hour. The commission may contract with a commercial enterprise or an accredited institution to conduct the class under the supervision of commission staff.

22. Appoint a member or employee of the commission to conduct an informal settlement conference with a licensee against whom an inquiry is received or a complaint is filed.

23. Prepare a consent order only after either an informal settlement conference is conducted pursuant to section 32-2321 or a formal hearing is conducted pursuant to title 41, chapter 6, article 10.

24. Apply to the appropriate court, through the attorney general or county attorney, for an order enjoining any act or practice that constitutes a violation of this chapter or any rule adopted pursuant to this chapter.

25. Approve proposed consent orders.

26. Annually prepare a strategic plan.

C. Each completed form for a termite treatment that is done before or during construction, initial termite corrective treatment project or wood-destroying insect inspection report shall be accompanied by a fee. The initial fee is eight dollars. The commission may adjust the fee upward or downward to a level that is calculated to produce sufficient revenue to carry out the functions prescribed under this section. The commission may establish tiered fees according to the means of submission to encourage electronic submission of the termite action registration form. The commission may assess a penalty of not to exceed one hundred dollars per form for failing to submit the required form or fee, or both, within thirty calendar days.

D. The executive director serves at the pleasure of the commission. Compensation for the executive director and employees shall be determined pursuant to section 38-611.

E. Subject to the limitations of section 41-2544, the executive director may enter into agreements for the purpose of enabling the commission to accept payment for fees imposed under this chapter by alternative payment methods, including credit cards, charge cards, debit cards and electronic funds transfers. Before the monies are transferred to the executive director pursuant to section 32-2305, the person collecting the fees shall deduct any amount charged or withheld by a company providing the alternative payment method under an agreement with the commission.

F. In the enforcement of this article, the commission or any of its duly authorized agents may enter with the authority of a warrant issued by a court of competent jurisdiction at reasonable times on any private or public property on which pesticides are located or are reasonably believed to be located to be used for purposes related to structural pest control. The owner, managing agent or occupant of the property shall permit entry for the purpose of inspecting and investigating conditions relating to the use, storage, application and disposal of pesticides.

G. The commission shall not delegate to its staff the powers and duties listed under:

1. Subsection A, paragraphs 1, 2, 12, 14, 18, 19, 20, 23 and 25 of this section.

2. Subsection B, paragraphs 3, 5, 7, 8, 14, 17, 18, 24 and 25 of this section.

Sec. 2. Section 32-2313, Arizona Revised Statutes, is amended to read:

32-2313. Business license; renewal; financial security; definition

A. A person who wishes to engage in the business of structural pest control shall first obtain a business license from the commission as provided in this article. A person who is not exempt under this article and who advertises for, solicits or holds himself out as willing to engage in the business of structural pest control is presumed to be in the business of structural pest control.

B. An application for a business license shall:

1. Be in a form prescribed by the commission.

2. Be accompanied by the prescribed fee.

3. Include the name and address of the qualifying party and written documentation of how the qualifying party will be active in the day-to-day management of the business licensee.

4. List all owners with more than a ten per cent ownership interest in the company, all corporate officers and members of the board of directors.

C. A business licensee shall register each primary and branch office with the commission before it opens for business.

D. An applicant shall furnish the following to the commission:

1. Proof of financial responsibility consisting of either a deposit of money, liability insurance, a surety bond or a certified check protecting persons who may suffer legal damages as a result of the operations of the applicant. The commission shall not accept a bond or a liability insurance policy unless issued by an insurer ~~holding~~ THAT HOLDS a valid certificate of authority or that is permitted to transact surplus lines insurance in this state. The amount of the deposit, insurance or ~~bonds~~ BOND shall be at least three hundred thousand dollars for property damage and public liability insurance, each separately, and shall be maintained at not less than that amount at all times during the licensing period. The license of a business licensee who permits the security of either property damage or public liability insurance to fall below the sum of three hundred thousand dollars shall be suspended by the commission and shall remain suspended until the security meets the minimum financial requirement. The property damage and public liability insurance need only cover those particular operations in which the licensee is engaged at any time. If the financial security is in the form of liability insurance or a surety bond, the insurer or surety shall provide a certificate of coverage that indicates the coverages and endorsements required by this subsection.

2. Either of the following if the business licensee performs termite treatments:

(a) Proof of a surety bond in the amount of one hundred thousand dollars per business license for actual damages including reasonable costs of collection suffered by persons as a result of termite damage due to negligent treatment.

(b) Proof of a liability insurance policy rider in the amount of one hundred thousand dollars per business license that covers termite damage due to negligent treatment.

3. If the business licensee provides wood-destroying insect inspection reports or fungi inspection reports, proof of a surety bond or a liability insurance policy rider in the amount of one hundred thousand dollars per business license for actual damages plus reasonable costs of collection suffered by persons as a result of errors and omissions contained in the reports.

4. If an insurance policy provides for a deductible, the deductible amount shall be limited to ten thousand dollars for each occurrence. If the deductible amount is in excess of ten thousand dollars for each occurrence, the business licensee shall provide other security as provided in this subsection or other evidence of financial security for the excess deductible amount.

5. If the financial security is in the form of liability insurance, a licensee shall maintain a coverage endorsement for pesticides and herbicides, fumigation, care, custody and control, rights-of-way, wood-destroying insect inspection report errors and omissions, fungi inspection report errors and omissions and pollution transit for its applicable license categories.

E. If the financial security is in the form of liability insurance, the business license is automatically suspended until a current certificate of insurance or proof of financial responsibility is furnished to the commission.

F. Each business licensee shall annually renew the business license and each office registration on or before January 1 by filing renewal forms prescribed by the commission and paying the prescribed renewal fees. If a business licensee fails to renew the business license as required by this subsection, the licensee shall not engage in the business of structural pest control.

G. Each branch office of a business licensee shall be supervised by a ~~certified~~ LICENSED applicator or qualifying party who is ~~certified or qualified~~ LICENSED in all categories in which the branch office operates.

H. For the purposes of this section, "financial security" means liability insurance, a deposit of cash or certified monies, a surety bond or other equivalent item.

Sec. 3. Section 32-2317, Arizona Revised Statutes, is amended to read:

32-2317. Fees

A. The commission shall establish and collect fees that may include service charges allowed pursuant to section 32-2304 for persons who pay with

alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers, but that may not exceed the following amounts:

1. ~~Initial~~ Qualifying party license APPLICATION fee, one hundred fifty dollars.

2. Qualifying party license renewal fee, one hundred fifty dollars.

3. Qualifying party license renewal fee, inactive status, twenty-five dollars.

4. Temporary qualifying party license APPLICATION FEE, twenty-five dollars.

5. ~~Initial~~ Business license APPLICATION fee, one hundred dollars.

6. Business license renewal fee, one hundred dollars.

7. ~~Initial~~ Branch office registration APPLICATION fee, fifty dollars.

8. Branch office registration renewal fee, fifty dollars.

9. Late renewal penalty fee, double the prescribed renewal fee.

10. Qualifying party license status change, inactive to active, one hundred twenty-five dollars.

11. Applicator license application, thirty dollars.

12. Applicator license annual renewal, twenty-five dollars.

13. Duplicate license identification card, ten dollars.

B. The commission may charge additional fees for services that the commission deems appropriate to carry out its intent and purpose. These additional fees shall not exceed the costs of rendering the services.

Sec. 4. Section 32-2321, Arizona Revised Statutes, is amended to read:

32-2321. <u>Disciplinary action; grounds; procedure; judicial review</u>

A. After a formal hearing or pursuant to a consent order, the commission may take any of the following disciplinary actions, in combination or alternatively:

1. Revoke a license.

2. Suspend a license.

3. Refuse to renew a license.

4. Impose probation requirements that require a business licensee, licensed applicator or qualifying party to comply with one or more specific provisions of this chapter or rules adopted pursuant to this chapter and that require reporting by or monitoring of the business licensee, licensed applicator or qualifying party.

5. Impose a civil penalty in an amount of not more than one thousand dollars for each violation except for grounds prescribed in subsection B, paragraphs 8 and 9 of this section.

6. Issue an administrative warning.

7. Require a qualifying party to report to the commission the qualifying party's role in the management of a business license.

B. The following acts are grounds for disciplinary action:

1. Violating this chapter, rules adopted pursuant to this chapter or a written order of the commission.

2. Making false or fraudulent records or reports.

3. Misrepresenting a material fact in obtaining a license.

4. Applying pesticides in a manner that is inconsistent with the label requirements of the pesticide or that may cause undue harm to the public.

5. Misuse of a pesticide if the misuse is due to training received or not received or lack of appropriate supervision. Proper training includes training to read and understand the label and labeling and to understand the proper use of application equipment. Proper supervision includes oversight of applicators to ensure general compliance with the label, labeling and all applicable laws.

6. Authorizing, directing or abetting the publication, advertisement, distribution or circulation of any false statement or material misrepresentation concerning a business of structural pest control.

7. Conviction of a felony or misdemeanor arising from or in connection with a license issued pursuant to this chapter after issuance of the license.

8. Conviction of a felony.

9. Having had a license, or the equivalent, to apply pesticides or engage in the business of structural pest control suspended or revoked in another jurisdiction for cause.

10. Making a fraudulent statement or an intentional material misrepresentation in connection with a wood treatment proposal or a wood-destroying insect inspection report.

11. Repeated de minimis violations of this chapter or rules adopted under this chapter.

12. Failure to provide the commission with a current certificate of insurance or proof of financial responsibility.

13. Failure to establish a complete vertical barrier at the exterior of foundation walls in stem wall construction or exterior of grade beams in monolithic construction within twelve months of the original treatment made before or during construction.

14. Immediately supervising more than one unlicensed applicator at a time.

15. Failure to make and maintain true and accurate records of treatments performed, including those performed under warranty or guarantee, for at least ~~five~~ THREE years from date of treatment ~~and~~ EXCEPT ANY RECORD OF A TERMITE TREATMENT, A WOOD-DESTROYING INSECT INSPECTION REPORT OR A FUNGI INSPECTION REPORT, WHICH SHALL BE MADE AND MAINTAINED FOR AT LEAST FIVE YEARS FROM THE DATE OF TREATMENT OR INSPECTION.

16. Failure to make ~~these~~ TREATMENT records available within three business days on request of the property owner, THE property owner's authorized agent or a commission representative.

C. Except as provided in section 32-2329, the commission may proceed against a business licensee pursuant to subsection A, paragraphs 1 through

5 of this section only if, after a hearing, it has been shown that any of the following applies:

1. The business licensee has committed a prior violation of the same type including any violation by any employee of the business licensee.

2. The business licensee failed to follow a written order of the commission directing it to correct a deficiency or problem within the time specified.

3. The business licensee has knowingly assumed operations for a business licensee whose license has been revoked and during the first three years after revocation allows the former licensee to play an active role in company policy, decisions, sales or supervision of employees.

4. The business licensee is convicted of a felony.

5. The business licensee is determined by the commission to have committed a violation in connection with a treatment before or during construction.

6. The business licensee changes its name or majority ownership of the business and fails to:

(a) Report to the commission within thirty calendar days the status of all warranties issued by the licensee.

(b) Notify within thirty calendar days all persons who hold warranties issued by the licensee regarding the change.

7. The business licensee fails to provide written notice immediately following a pest control treatment in or around residential structures of four or fewer units to the person requesting the treatment or to the person's designated agent. The notice shall include the specific pesticide by trade name used in the treatment.

8. The business licensee performing pest control treatments on an ongoing basis to locations other than residential structures of four or fewer units fails to provide written notice to the person who requested the treatments or the person's designated agent. Notice shall be given before the first application of the pesticide and when new or additional pesticides are used or immediately after each treatment.

9. If the treatments are performed in the interior of residential units, the licensee ~~shall~~ FAILS TO leave a notice in the interior of each treated unit immediately after each treatment. The notice shall include the pesticide by trade name and any other information as required by the pesticide label or local ordinance.

10. A statement of precaution does not accompany each notification of treatment required in paragraphs 7, 8 and 9 of this subsection. Each statement of precaution shall be printed conspicuously, in not less than eight point type, and shall include the words:

> Warning--pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated or aerated. For more information contact [business license name and business license number] at [telephone number].

11. The business licensee fails within thirty calendar days of completion of a termite treatment that is done before or during construction, an initial termite corrective treatment project or a wood-destroying insect inspection report, to file with the commission, in a form approved by the commission, all data required by the commission. The data shall include:

(a) The name of the individual who performed the work.

(b) The address or location of the work or project.

(c) The type and the date of the work.

(d) The name of the business licensee.

(e) The name of the qualifying party.

(f) The applicator's license number.

(g) Any other information required by the commission in its rules.

12. The business licensee, within twelve months of completion of a termite treatment that is done before or during construction, fails either to file a supplemental termite action report in a form provided by the commission that indicates the completion of the final grade treatment or to report in writing why the treatment has not been completed and when it will be completed.

D. Nothing in subsection C, paragraph 3 of this section shall be deemed to prohibit a business licensee from directly purchasing accounts from a licensee whose license has been revoked if the purchase is made within such time after the revocation as the commission by rule may establish.

E. Before taking any action pursuant to this section, the commission shall notify in writing interested persons and the licensee before the date of the hearing pursuant to title 41, chapter 6, article 10 either personally or by certified mail at the last address known to the commission. The written notice shall contain the nature of the charge or charges against the licensee and the time and place of the hearing before the commission on the charges.

F. A license may be suspended without a hearing as prescribed in section 32-2329 or if its holder fails within thirty calendar days to:

1. Pay renewal fees.

2. Pay civil penalties.

3. Demonstrate the completion of required continuing education.

G. The holder of a license suspended under subsection F of this section must apply to the commission for reinstatement.

H. Licenses suspended under subsection F of this section are automatically revoked without a hearing after one year of suspension. Licenses revoked under this section are not subject to section 32-2304, subsection A, paragraph 18.

I. All complaints shall be in writing.

J. If the commission appoints a member or employee of the commission to conduct an informal settlement conference with the complaining party pursuant to section 32-2304, the purpose of the informal settlement conference is to reach agreement as to the disposition of all or a portion

of the complaint, including any agreement providing for repairing or rectifying the conditions specified in the complaint. The settlement conference shall be conducted informally and the rules of evidence do not apply. The settlement conference shall not be recorded. Participants in the settlement conference may ask questions of the complainant and may review any materials or reports compiled by the commission with respect to the complaint.

K. If the commission prepares a consent order pursuant to section 32-2304, after either an informal settlement conference conducted pursuant to subsection J of this section or a formal hearing by the commission conducted pursuant to title 41, chapter 6, article 10, the consent order shall only set forth the general nature of the inquiry or complaint, the specific action to be taken by the licensee or business licensee, the penalty, if any, and the time for compliance, if any, for any corrective action to be taken.

L. Except as provided in section 41-1092.08, subsection H, final decisions of the commission are subject to judicial review pursuant to title 12, chapter 7, article 6.

M. The commission shall consider only an inquiry received or complaint filed within five years of the date of the alleged act or omission.

N. The commission may issue an advisory notice stating de minimis violations of statutes or rules that carry no penalty, unless the person subject to this chapter wilfully and repeatedly violates the statute or rule. For wilful and repeated violations, the commission may take disciplinary action against the person for a violation.

O. If the commission finds a violation or the commission enters into a consent agreement, the commission:

1. Shall not delete the record of the complaint for at least five years following the filing of the complaint.

2. Shall include information from the inquiry in the record of complaint. If no violation is found, the information from the inquiry shall be deleted.

P. Only this chapter applies to, regulates and determines all requirements regarding licensure, licensure fees, testing and education related to structural pest control in this state. Only this chapter applies to, regulates and determines all requirements regarding the business of structural pest control, including the application or notification of use or disposal of pesticides for structural pest control in this state.

Q. For purposes of filing or submitting all documents or fees required under this chapter, service is considered complete if postmarked on the proper date and delivered by first class mail or a higher class.

Sec. 5. Section 32-2323, Arizona Revised Statutes, is amended to read:

32-2323. <u>Wood-destroying insects; treatment proposal</u>

A. A business licensee shall not commence work on a contract or sign, issue or deliver any documents expressing an opinion or making a statement

relating to the presence or absence of wood-destroying insects in a structure until an inspection is made.

B. Only an applicator licensed in the categories of wood-destroying ~~insects~~ INSECT CONTROL and wood-destroying insect inspection shall prepare a treatment proposal on a form approved by the commission and shall deliver a copy of the treatment proposal to the person requesting the proposal, or the person's designated agent, before beginning treatment. The ~~structural~~ treatment proposal shall include the following information:

1. The address of the property to be treated.

2. A statement describing that the work is preventative or corrective.

3. A statement describing the evidence of infestation or damage.

4. A diagrammatic description showing the nature and location of evidence of infestation or damage, or both, if applicable.

5. A statement describing the treatment or repair method, including the name of the pesticide, agent or device to be used and a diagrammatic description showing where the treatment or repair will be rendered.

6. The price for the work.

7. The terms for the service agreement provided by the business licensee.

8. The signature and license number of the person who made the inspection of the structure to be treated.

C. A licensee shall also give to the person requesting a proposal a written recommendation that verifies a particular problem and, in addition to the licensee's recommendation for treatment, shall advise the person of alternative treatments and methods, including integrated pest management methods ~~as provided in section 32-2304, subsection A, paragraph 21,~~ to alleviate the problem.

D. A treatment proposal shall not be in the same form or be construed as a wood-destroying insect inspection report. A treatment proposal that does not identify infestation by wood-destroying insects is not a binding statement as to the presence or absence of wood-destroying insects.

E. A treatment proposal shall be prepared by a licensed applicator who has received at least five hours of instruction from the commission or an in-house education program of a business licensee on the subject of wood-destroying insect inspections. An examination on the instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the commission's request.

F. If a business licensee performs a treatment pursuant to a treatment proposal, the business licensee shall maintain for five years a record of the treatment and the name and quantity of the pesticide used.

G. WITHIN THIRTY CALENDAR DAYS AFTER COMPLETION OF A TERMITE TREATMENT OR ON THE NEXT BUSINESS DAY AFTER THE THIRTY CALENDAR DAYS, A BUSINESS LICENSEE SHALL FILE WITH THE COMMISSION IN A FORM OR FORMAT APPROVED BY THE COMMISSION A COMPLETE AND ACCURATE TERMITE ACTION REGISTRATION FORM AND A FEE AS PRESCRIBED BY THE COMMISSION. THE TERMITE ACTION REGISTRATION FORM SHALL

INCLUDE INFORMATION PRESCRIBED IN SECTION 32-2321, SUBSECTION C, PARAGRAPH 11 AND THIS SECTION. THIS SUBSECTION ONLY APPLIES TO THE FOLLOWING:

1. ANY TREATMENTS DONE BEFORE OR DURING CONSTRUCTION, INCLUDING FINAL GRADE TREATMENTS.

2. THE FIRST PREVENTATIVE OR CORRECTIVE TERMITE TREATMENT BY A BUSINESS LICENSEE TO A SITE. IF THE BUSINESS LICENSEE WHO PERFORMED THIS TERMITE TREATMENT PERFORMED THE BEFORE OR DURING CONSTRUCTION TREATMENT AT THE SAME SITE AND FILED A TERMITE ACTION REPORT FORM WITH THE COMMISSION DOCUMENTING THE BEFORE OR DURING CONSTRUCTION TREATMENT, THE BUSINESS LICENSEE IS EXEMPT FROM THIS PARAGRAPH.

3. A WOOD-DESTROYING INSECT INSPECTION REPORT.

Sec. 6. Section 32-2324, Arizona Revised Statutes, is amended to read:

32-2324. Wood-destroying insect inspection reports

A. Wood-destroying insect inspection reports may only be completed by an applicator who is licensed in the ~~category~~ CATEGORIES of control of wood-destroying insects and wood-destroying insect inspection and who has received at least five hours of instruction from the commission or an in-house education program of a business licensee on the subject of wood-destroying insect inspection reports. An examination on the instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the commission's request.

B. Wood-destroying insect inspection reports shall be on file in the office of the business licensee within seven calendar days after the completion of an inspection. The business licensee shall retain a copy of all completed wood-destroying insect inspection reports for ~~three~~ FIVE years and make the reports available on the commission's request.

C. Wood-destroying insect inspection reports are evidence of the existence or absence of wood-destroying insects that were visible and accessible to an inspector on the date the inspection was made. A business licensee remains responsible for the accuracy of the inspection and the report as evidence of the presence or absence of infestation on the date of inspection, except that a wood-destroying insect inspection report shall not be construed as a guarantee as to the presence or absence of wood-destroying insects in a structure after the date of inspection.

Sec. 7. Section 32-2324.01, Arizona Revised Statutes, is amended to read:

32-2324.01. Fungi inspection reports

A. Fungi inspection reports may only be completed by a licensed applicator who is licensed in the fungi category and who has received at least eight hours of instruction from the commission or an in-house education program of a business licensee on the subject of fungi inspection and inspection reports. An examination on the instruction is not required. The business licensee shall keep a record of the completion of the training and shall make the record available on the commission's request.

B. Fungi inspection reports shall be on file in the office of the business licensee within seven calendar days after the completion of an inspection. The business licensee shall retain a copy of all completed fungi inspection reports for ~~three~~ FIVE years and make the reports available on the commission's request.

C. Fungi inspection reports are evidence of the existence or absence of fungi that was visible and accessible to an inspector on the date the inspection was made. A business licensee remains responsible for the accuracy of the inspection and the report as evidence of the presence or absence of fungi on the date of inspection, except that a fungi inspection report shall not be construed as a guarantee as to the presence or absence of fungi in a structure after the date of inspection.

D. Licensees who are licensed in the wood-destroying organism category by ~~the effective date of this section~~ SEPTEMBER 18, 2003, are permitted to perform the business of structural pest control in the fungi category until June 30, 2004. After that date, any person performing a fungi inspection shall be licensed in the fungi category.

E. ~~By December 31, 2003,~~ The commission shall approve a fungi inspection report for use in fungi inspections.

APPROVED BY THE GOVERNOR MAY 10, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2004.