

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

**BILL:** CS/CS/CS/SB 1290

**INTRODUCER:** Budget Subcommittee on General Government Appropriations, Environmental Preservation and Conservation Committee, Agriculture Committee, and Senator Dean

**SUBJECT:** Pest Control

**DATE:** April 13, 2011      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Spalla</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u>Wiggins</u>	<u>Yeatman</u>	<u>EP</u>	<u>Fav/CS</u>
3.	<u>Blizzard</u>	<u>DeLoach</u>	<u>BGA</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This bill makes changes to the Florida Structural Pest Control Act. It authorizes the Department of Agriculture and Consumer Services (department) to issue a license to operate a customer contact center for the purpose of soliciting pest control business and coordinating services to consumers for one or more business locations. The bill also provides that a person cannot operate a customer contact center for a pest control business that is not licensed by the department and establishes a licensing fee and biennial renewal fee.

The bill establishes a limited certification for commercial wildlife management personnel within the department, authorizing persons to use nonchemical methods for controlling rodents. The certification process includes successful completion of an examination, an examination fee, annual recertification, late fees (when appropriate), continuing education classes, and proof of a certificate of insurance for minimum financial responsibility.

The bill increases the minimum requirements for insurance coverage to conduct pest control businesses. In addition, the bill expands the methods by which a pest control licensee may

contact the department regarding the location where fumigation will be taking place, to include notification by facsimile or other forms of electronic communication.

The bill will increase revenue to the General Inspection Trust Fund within the department by \$21,000 in Fiscal Year 2011-2012, from fees generated through the pest control customer contact centers and through the limited certification for commercial wildlife management personnel.

This bill substantially amends the following sections of the Florida Statutes: 482.051, 482.071, and 482.226.

This bill creates sections 482.072 and 482.157, Florida Statutes.

## **II. Present Situation:**

The practice of commercial pest control in Florida is regulated under the provisions of ch. 482, F.S., known as the Structural Pest Control Act, and Rule Chapter 5E-14, F.A.C. These regulations are administered and enforced by the Pest Control Section of the Bureau of Entomology and Pest Control within the Department of Agriculture and Consumer Services.

Pest control includes one or more of the following activities:

- The use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on, or under a structure, lawn, or ornamental;
- The identification of or inspection for infestations or infections in, on, or under a structure, lawn, or ornamental;
- The use of any pesticide, economic poison, or mechanical device for preventing, controlling, eradicating, identifying, inspecting for, mitigating, diminishing, or curtailing insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental;
- All phases of structural fumigation (includes boxcars, trucks, ships, airplanes, docks, warehouses, and common carriers); and
- The advertisement of, the solicitation of, or the acceptance of remuneration for any work, but does not include the solicitation of a bid from a licensee to be incorporated in an overall bid by an unlicensed primary contractor to supply services to another.<sup>1</sup>

### **Fumigation**

Currently, to protect the health, safety, and welfare of the public, a pest control licensee must give the department an advance notice of at least 24 hours of the location where general fumigation will be taking place. In emergency cases, when a 24-hour notice is not possible, a licensee may provide notice by means of a telephone call and then follow up with a written confirmation providing the required information.

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<sup>1</sup> <http://www.flaes.org/aes-ent/licenseandcert.html>.

### **Insurance Requirements**

A pest control business licensee may not operate a pest control business without carrying the required insurance coverage and furnishing the department with a certificate of insurance that meets the requirements for minimum financial responsibility, as follows.

- Bodily injury: \$100,000 for each person and \$300,000 for each occurrence.
- Property damage: \$50,000 each occurrence and \$100,000 in the aggregate.<sup>2</sup>

These requirements have not been increased since 1992.

### **Customer Contact Centers**

For structural pest control, the law provides that each pest control business location must be licensed by the department and that a Florida certified operator must be in charge of the pest control operations of the business location. Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state or area in the region. Florida law currently requires pest control businesses doing business in the state to register and obtain a license to operate, but does not address pest control contact centers. Therefore, a customer contact center must obtain a pest control license, even though they are only receiving telephone calls and soliciting business.

### **Control of Rodents**

In most cases of rodent infestation, the pest animals can be controlled without the use of poisons. Currently, there is no provision for a limited certification for commercial wildlife trapper personnel to use nonchemical methods to control rodents. For several years, the commission issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years, resulting in the discontinuation of permitting in 2008. Several persons still engaged in the control of nuisance wildlife have contacted the department asking to have a certification process reinstated, to assure that the nuisance animals are being handled humanely and the public is protected.

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 482.051, F.S., to authorize that, in the event of an emergency requiring fumigation, pest control operators may provide notice of the fumigation location to the department by facsimile or other form of electronic communication.

**Section 2** amends s. 482.071, F.S., to increase the minimum insurance requirements for a pest control licensee from \$100,000 to \$250,000. This change reflects the current levels of insurance offered by liability insurers.

**Section 3** creates s. 482.072, F.S., to allow the establishment, inspection, and regulation of centralized pest control customer contact centers. This will allow licensed centers to solicit pest control business and provide service to customers for one or more business locations. It provides

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<sup>2</sup> s. 482.071(4), F.S.

for the biennial renewal of the license. It also establishes a licensure fee of at least \$600, but not more than \$1,000 and renewal fees of at least \$600, but not more than \$1,000. This section also provides for the expiration of a license not renewed within 60 days of a renewal deadline. A license automatically expires if a licensee changes its customer contact center business location and requires issuance of a new license upon payment of a \$250 fee. It authorizes the department to adopt rules establishing requirements and procedures for recordkeeping and monitoring customer contact center operations. It provides for disciplinary action for violations of ch. 482, F.S., or any rule adopted hereunder.

**Section 4** creates s. 482.157, F.S., to establish a limited certification category for individual commercial wildlife trapper personnel engaged in the nonchemical control of wildlife to also control rodents, as defined in chapter 482, F.S. It requires an exam and establishes certification fees of at least \$150, but not to exceed \$300. This section also provides for recertification fees, classes, and late fees. The bill limits the scope of work permitted by certificate holders and clarifies that individuals who are licensed or certified to practice accepted nonchemical pest control methods are immune from liability for violating animal cruelty laws. However, licensees and certificate holders are not exempt from the rules, orders, or regulations of the commission.

For clarity purposes, the bill includes the word “commensal” to describe rodent. According to Pest Management Professionals, “commensal” pets are species of wildlife which have adapted to and become partially dependent on the human-built environment for food, water, and sometimes shelter.<sup>3</sup>

**Section 5** amends s. 482.226, F.S., to increase the minimum insurance requirements for a pest control licensee that performs wood-destroying organism inspections from \$50,000 to \$500,000. This change reflects the current levels of insurance offered by liability insurers.

**Section 6** provides that this act shall take effect July 1, 2011.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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<sup>3</sup> IPM for Commensal Rodents-Curriculum for Bio-Integral Resource Center Pest Management Professionals, Global Environmental Options, March 2005, at <http://www.birc.org/Rodent%20Curriculum.pdf>.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

Refer to Private Sector and Government Sector Impacts.

**B. Private Sector Impact:**

Pest control businesses that choose to obtain the license for a customer service center will incur the fees established by the bill. Pest control businesses that do not currently have the proposed minimum insurance requirements will be required to increase their insurance coverage and will incur additional costs.

Individuals who conduct wildlife management services and wish to obtain limited certification to control rodents will incur the fees associated with the limited certification.

**C. Government Sector Impact:**

The bill will increase revenue to the General Inspection Trust Fund by an estimated \$21,000 in the 2011-2012 fiscal year, from fees generated through the pest control customer contact centers and through the limited certification category for commercial wildlife management personnel. The department estimates expenditures associated with the inspection and licensing of these programs to be \$16,957 in the 2011-2012 fiscal year.

The department has indicated that the workload and cost to implement the provisions in this bill can be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS/CS by General Government Appropriations on April 13, 2011:**

The committee substitute clarifies that individuals who are licensed or certified to practice accepted nonchemical pest control methods are immune from liability for violating animal cruelty laws.

**CS/CS by the Environmental Preservation and Conservation Committee on March 30, 2011:**

The CS/CS removes the option of using glue boards to control rodents. The CS/CS includes the word “commensal” to describe rodents. The CS/CS clarifies that the FWC’s

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rules related to the taking of nuisance wildlife must be followed and does not allow the intentional taking of bats.

**CS by the Agriculture Committee on March 21, 2011:**

This CS makes technical changes to the bill that does not make any substantive changes.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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