

## FINAL BILL ANALYSIS

**BILL #:** CS/CS/CS/HB 949

**FINAL HOUSE FLOOR ACTION:**  
116 Y's      1 N's

**SPONSOR:** Rep. Smith

**GOVERNOR'S ACTION:** Approved

**COMPANION BILLS:** CS/CS/CS/SB 1290; CS/CS/HB 7215; CS/CS/SB 2076

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### SUMMARY ANALYSIS

CS/CS/CS/HB 949 passed the House on April 28, 2011, and subsequently passed the Senate on May 3, 2011. The bill was approved by the Governor on June 21, 2011, chapter 2011-192, Laws of Florida, and takes effect July 1, 2011. The bill revises statutory provisions related to pest control.

The Department of Agriculture and Consumer Services (department) regulates pest control businesses in the state. Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region. Under some circumstances, pest control contact centers provide licensees with a more efficient means of providing service to customers. Florida law currently requires pest control businesses doing business in the state to register and obtain a license to operate, but does not specifically address pest control contact centers. Therefore, a customer contact center must obtain a pest control license, even though they are only receiving phone calls and soliciting business.

The bill authorizes the department to issue a license to operate a customer contact center for the sole 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,<sup>1</sup> a biennial renewal fee,<sup>2</sup> and a late filing fee.<sup>3</sup> The bill also establishes a limited certification within the department for commercial wildlife management personnel, which authorizes persons to use nonchemical methods for controlling commensal rodents.<sup>4</sup> 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 specifies that persons licensed or certified by the department under chapter 482, F.S., and who practice accepted pest control methods are immune from liability under the animal cruelty provisions. Also, the bill specifies that persons licensed or certified under chapter 482, F.S., are not exempt from the rules, regulations, or orders of the Fish and Wildlife Conservation Commission.

The bill increases the minimum requirements for insurance coverage to conduct pest control businesses, which have not been increased since 1992. Lastly, the bill expands the methods by which a pest control licensee may contact the department in an emergency regarding the location where fumigation will be taking place to include notification by facsimile or other forms of electronic communication.

The bill will generate \$21,000 in FY 2011-12, \$15,000 in FY 2012-13, and \$21,200 in FY 2013-14 from fees associated with the pest control customer contact centers and the limited certification category for commercial wildlife management personnel. Expenditures associated with these programs are estimated to be \$16,957 in FY 2011-12, \$16,359 in FY 2012-13, and \$17,455 in FY 2013-14. The bill does not appear to have a fiscal impact on local governments.

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<sup>1</sup> The biennial license fee must be at least \$600 and not more than \$1,000.

<sup>2</sup> The renewal fee must be at least \$600 and not more than \$1,000.

<sup>3</sup> The late fee is \$150.

<sup>4</sup> As defined in s. 482.021(24), F.S., rodents include rats, mice, squirrels, or flying squirrels or other animals of the order Rodentia, including bats, which may become a pest in, on, or under a structure.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **Fumigation Notice**

##### Current Situation

Currently, to protect the health, safety and welfare of the public, a pest control licensee must give the department 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.

##### Effect of Proposed Changes

The bill allows a licensee in an emergency to contact the department regarding the location where fumigation will be taking place by facsimile or other form of electronic communication.

#### **Insurance Coverage**

##### Current Situation

Current law provides that a pest control licensee cannot operate a pest control business without carrying statutorily required insurance coverage. The minimum requirements for insurance coverage to conduct pest control businesses have not been increased since 1992. According to the Department of Agriculture and Consumer Services (department), these minimums need to be increased to reflect current levels of insurance offered by liability insurers and to provide better protection to Florida consumers.

##### Effect of Proposed Changes

The bill increases the required minimum insurance coverage for:

- Bodily injury from \$100,000 to \$250,000 per person; \$300,000 to \$500,000 per occurrence; and
- Property damage from \$50,000 to \$250,000 per occurrence; \$100,000 to \$500,000 in the aggregate.

For wood-destroying organism inspection licenses, the professional liability insurance limits are increased from \$50,000 to \$500,000 in the aggregate, and \$25,000 to \$250,000 per occurrence and the alternative of demonstrating equity or net worth is revised to increase the amount from \$100,000 to \$500,000.

#### **Pest Control Customer Contact Centers**

##### Current Situation

Some pest control companies operate regional customer contact centers that solicit business and receive calls for the appropriate state/area in the region. Under some circumstances, pest control contact centers provide licensees with a more efficient means of providing service to customers.

Florida law currently requires pest control businesses to register and obtain an annual license<sup>5</sup> for each location. In addition to being licensed, a pest control business must have at least one certified operator in charge at each location to provide oversight and training for the identification card holders who perform the actual pesticide application.<sup>6</sup> Currently, a customer contact center may not solicit business or receive calls from customers located in Florida without the requisite pest control license.<sup>7</sup>

### Effect of Proposed Changes

The bill authorizes the 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,<sup>8</sup> a biennial renewal fee,<sup>9</sup> and a late filing fee.<sup>10</sup> The department is authorized to deny or refuse to renew a license if:

- The pest control business licensees for whom it solicits business are not owned in common by a person or business entity recognized by the state.
- The applicant or licensee, or one or more of the applicant's or licensee's directors, officers, owners, or general partners, are or have been directors, officers, owners, or general partners of a pest control business that has gone out of business or sold the business to another party within 5 years immediately preceding the date of application or renewal and failed to reimburse the prorated value of its customers' remaining contract periods or failed to provide for another licensed pest control operator to assume its existing contract responsibility.
- A person who solicits pest control services or provides customer service in a licensed customer contact center performs pest control services such as: the use or application of a device or application to prevent or control any pest in, on, or under a structure, lawn, or ornamental; the identification of or inspection for infestation in, on, or under a structure, lawn, or ornamental; the use of pesticides, poisons, or devices for preventing or controlling insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental; or performing any phase of fumigation.

The department is given rule-making authority for implementing provisions related to the recordkeeping and monitoring of pest control customer contact centers. The bill also provides criteria for disciplinary action against a pest control customer contact center or a pest control business licensee of the contact center.

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<sup>5</sup> The license fee must be at least \$75 and not more than \$300.

<sup>6</sup> The certification fee for a certified operator is \$150 and the fee for and identification card holder is \$10.

<sup>7</sup> Under s. 501.604(27), F.S., a licensed operator or cardholder under ch. 482, soliciting within the scope of the chapter, is exempt from the separate license requirements for a commercial telephone seller or telephone salesperson in the Florida Telemarketing Act, ch. 501, Part IV, F.S.

<sup>8</sup> The license fee must be at least \$600 and not more than \$1,000.

<sup>9</sup> The renewal fee must be at least \$600 and not more than \$1,000.

<sup>10</sup> The late fee is \$150.

## **Certification for Commercial Wildlife Management Personnel**

### Current Situation

For several years, the Florida Fish and Wildlife Conservation Commission issued permits for persons engaged in the control of nuisance wildlife. Interest in the permitting system dwindled over the years and the permitting was discontinued 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.

Under current law, pest control is defined as 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. Pest is defined as an arthropod, wood-destroying organism, rodent (defined in statute to include: rats, mice, squirrels, flying squirrels, or other animals of the order Rodentia, including bats, which may become a pest in, on, or under a structure), or other obnoxious or undesirable living plant or animal organism. Persons practicing pest control are required to be licensed under chapter 482, F.S.

### Effect of Proposed Changes

The bill creates a limited certificate with the department authorizing individual commercial wildlife trappers to use nonchemical methods to control commensal rodents. The bill does not require individuals who trap these animals by nonchemical means to obtain the certificate, but those who choose to be certified are not required to obtain a separate pest control license.

The department can only issue the limited certification to an applicant who:

- Submits an application and examination fee of at least \$150, but not more than \$300, as prescribed by rule;
- Passes an examination given by the department; and
- Provides proof, including a certificate of insurance, that the applicant has met the minimum bodily injury and property damage insurance requirements required by statute.<sup>11</sup>

The department is required to provide appropriate reference materials for the examination and make the examination readily available to applicants at least quarterly or as necessary in each county. An application for recertification must be made annually and be accompanied by a recertification fee of at least \$75, but not more than \$150, as prescribed by rule. The application must also be accompanied by proof of completion of 4 classroom hours of acceptable continuing education and the required proof of insurance. After a 30 day grace period, the department must assess a late fee of \$50 in addition to the renewal fee. A certification automatically expires 180 days after the recertification date if the renewal fee has not been paid. After expiration, the department can only issue a new certificate if the applicant successfully passes a reexamination and pays the examination fee and late fee.

The certification does not authorize: the use of pesticides or chemicals to control rodents or other nuisance wildlife in, on, or under structures; operation of a pest control business; or supervision of an uncertified person using nonchemical methods to control rodents.

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<sup>11</sup> Section 482.071(4), F.S.

## Pest Control Liability Limitations and Relationship with FWCC Regulations

### Current Situation

Current statute does not specifically address liability of persons who practice accepted pest control methods as it relates to animal cruelty provisions.

Current statute also does not specifically address the relationship between persons licensed or certified by the department under Chapter 482, F.S., and the rules, regulations, or orders of the Fish and Wildlife Conservation Commission.

### Effect of Proposed Changes

The bill specifies that persons licensed or certified by the department under chapter 482, F.S., and who practice accepted pest control methods are immune from liability under the animal cruelty provisions.

The bill also provides that the provisions in chapter 482, F.S., related to pest control, do not exempt a person from any Fish and Wildlife Conservation Commission rule, regulation, or order.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:	2011-12	2012-13	2013-14
<u>Customer Contact Center</u>			
License*	\$ 6,000	-	\$ 6,000
<u>Limited Certification Wildlife</u>			
Limited Certification Exam**	15,000	7,500	7,500
Limited Certification Renewal***	-	7,500	7,500
	<u>\$ 21,000</u>	<u>\$15,000</u>	<u>\$ 21,000</u>

\*Based on 10 licenses issued per year at \$600 each, renewing biennially.

\*\*Based on 100 exams the first year, 50 the second and third years, at \$150 each.

\*\*\*Based on 100 renewals at \$75 each.

Service Charge to General Revenue 4%	<u>(\$ 840)</u>	<u>(\$ 600)</u>	<u>(\$ 840)</u>
Net Revenue to General Inspection Trust Fund	\$20,160	\$14,400	\$20,160

### 2. Expenditures:

Inspections*	\$ 15,860	\$ 15,860	\$ 15,860
License Issuance**	<u>1,097</u>	<u>499</u>	<u>1,595</u>
	\$ 16,957	\$ 16,359	\$ 17,455

\*FY 09-10 unit cost per inspection - \$793; 20 inspections.

\*\*FY 09-10 unit cost per license - \$9.97; 110 inspections the first year, 50 inspections the second year, and 160 inspections the third year.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None

**2. Expenditures:**

None

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Pest control businesses that choose to obtain the pest control customer contact center license or the limited certification for commercial wildlife management personnel license will incur fees associated with these licenses. Also, pest control businesses that do not currently have the proposed minimum insurance requirements will need to meet these requirements, resulting in additional costs.

**D. FISCAL COMMENTS:**

None