

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

CHAPTER 125
SENATE BILL 1290

AN ACT

AMENDING SECTION 32-2301, ARIZONA REVISED STATUTES; RENUMBERING SECTION 32-2302, ARIZONA REVISED STATUTES, AS SECTION 32-2303; AMENDING TITLE 32, CHAPTER 22, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2302; AMENDING 32-2303, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING SECTIONS 32-2304 AND 32-2305, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2306, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2306; AMENDING SECTION 32-2307, ARIZONA REVISED STATUTES; TRANSFERRING AND RENUMBERING SECTION 32-2308, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 32, CHAPTER 22, ARTICLE 3, ARIZONA REVISED STATUTES, AS SECTION 32-2323; AMENDING SECTION 32-2311, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 32-2311.01 AND 32-2311.02; REPEALING SECTION 32-2312, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2312; AMENDING SECTION 32-2313, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2314, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2314 AND SECTION 32-2315; AMENDING SECTION 32-2317, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2319, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2321, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; TRANSFERRING AND RENUMBERING SECTIONS 32-2323 AND 32-2324, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 32, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, AS SECTIONS 32-2332 AND 32-2333, RESPECTIVELY; AMENDING SECTION 32-2323, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING

TITLE 32, CHAPTER 22, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 32-2324; REPEALING SECTION 32-2324.01, ARIZONA REVISED STATUTES; AMENDING SECTION 32-2325, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-2326; AMENDING SECTION 32-2327, ARIZONA REVISED STATUTES; REPEALING SECTION 32-2329, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT, BY ADDING A NEW SECTION 32-2331; AMENDING SECTIONS 32-2332 AND 32-2333, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED BY THIS ACT; AMENDING SECTION 41-1092, ARIZONA REVISED STATUTES; REPEALING LAWS 2008, CHAPTER 309, SECTION 24, AS AMENDED BY LAWS 2011, CHAPTER 20, SECTION 5; AMENDING LAWS 2011, CHAPTER 20, SECTIONS 4 AND 7; RELATING TO PEST MANAGEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 32-2301, Arizona Revised Statutes, is amended to
3 read:

4 32-2301. Definitions

5 In this chapter, unless the context otherwise requires:

6 ~~1. "Acting director" means the person appointed pursuant to section~~
7 ~~32-2302 to serve as the acting director of the office.~~

8 ~~2.~~ 1. "Branch office" means any fixed place of business, other than
9 the primary office, where records are kept, mail is received, statements are
10 rendered, money is collected, requests for service or bids are received, ~~or~~
11 information pertaining to the business of ~~structural~~ pest ~~control~~ MANAGEMENT
12 is given ~~and from which the use of pesticides and devices is supervised by a~~
13 ~~licensed applicator or qualifying party~~ OR PESTICIDES ARE STORED OR DISPOSED
14 OF.

15 2. "BRANCH SUPERVISOR" MEANS A CERTIFIED APPLICATOR WORKING AT OR FROM
16 A BRANCH OFFICE WHO IS RESPONSIBLE FOR ENSURING THE TRAINING, EQUIPPING AND
17 SUPERVISION OF ALL APPLICATORS OF THE BRANCH OFFICE.

18 3. "Business license" means a license that is issued pursuant to this
19 chapter OR RULES ADOPTED PURSUANT TO THIS CHAPTER to a person and that
20 entitles that person and the person's employees to engage in the business of
21 ~~structural~~ pest ~~control~~ MANAGEMENT.

22 4. "Business of ~~structural~~ pest ~~control~~ MANAGEMENT" means engaging in,
23 offering to engage in, advertising for, soliciting or performing ~~structural~~
24 pest ~~control~~ MANAGEMENT, including any of the following:

25 (a) Identifying infestations or making inspections for the purpose of
26 identifying or attempting to identify infestations. ~~of households or other~~
27 ~~structures and the surrounding area by any of the following:~~

28 ~~(i) Public health pests.~~

29 ~~(ii) Aquatic pests.~~

30 ~~(iii) Household pests.~~

31 ~~(iv) Wood destroying insects.~~

32 ~~(v) Pests, including weeds, existing around structures, in ornamental~~
33 ~~shrubs and trees, on golf courses, along rights-of-way or in lawns and~~
34 ~~cemeteries.~~

35 ~~(vi) Fungi.~~

36 (b) Making written or oral inspection reports, recommendations,
37 estimates or bids with respect to infestations.

38 (c) The application of pesticides or the making of contracts or
39 submitting of bids for the application of pesticides or the use of devices
40 for the purpose of eliminating, exterminating, controlling or preventing
41 infestations.

42 5. "CERTIFIED APPLICATOR" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE
43 OFFICE TO PROVIDE PEST MANAGEMENT SERVICES IN ACCORDANCE WITH THIS CHAPTER.

44 6. "CERTIFIED QUALIFIED APPLICATOR" MEANS A CERTIFIED APPLICATOR WHO
45 IS ELIGIBLE TO ACT AS A QUALIFYING PARTY.

1 7. "CHILD CARE FACILITY" MEANS A FACILITY THAT IS REGULATED PURSUANT
2 TO TITLE 36, CHAPTER 7.1.

3 ~~5.~~ 8. "De minimis violation" means a violation that, although
4 undesirable, has no direct or immediate relationship to safety, health or
5 property damage.

6 ~~6.~~ 9. "Department" means, ~~through December 31, 2013,~~ the Arizona
7 department of agriculture.

8 ~~7.~~ 10. "Device" means any ~~mechanical, pesticide or electrical~~
9 ~~apparatus used in conjunction with, in place of or to supplement, disperse or~~
10 ~~dispense pesticides~~ INSTRUMENT OR CONTRIVANCE THAT IS INTENDED TO BE USED FOR
11 TRAPPING, DESTROYING, REPELLING OR MITIGATING ANY PEST OR OTHER FORM OF PLANT
12 OR ANIMAL LIFE.

13 ~~8.~~ 11. "Direct supervision" means THE use of a pesticide under the
14 instructions, control and responsibility of a ~~licensed~~ CERTIFIED applicator
15 who is available if needed for consultation or assistance even though the
16 ~~licensed~~ CERTIFIED applicator is not physically present at the time and place
17 the pesticide is used.

18 ~~9.~~ 12. "Director" means, ~~through December 31, 2013,~~ the director of
19 the Arizona department of agriculture.

20 ~~10.~~ 13. "Final grade treatment" means THE establishment of A COMPLETE
21 vertical ~~barriers~~ BARRIER at the exterior of foundation walls in stem wall OR
22 MONOLITHIC construction ~~or at the exterior of grade beams in monolithic~~
23 ~~construction.~~

24 ~~11.~~ "Fungi inspection report" means ~~a written inspection report on a~~
25 ~~form approved by the office.~~

26 14. "FINANCIAL SECURITY" MEANS LIABILITY INSURANCE, A DEPOSIT OF CASH
27 OR CERTIFIED MONIES, A SURETY BOND OR AN IRREVOCABLE AND UNCONDITIONAL LETTER
28 OF CREDIT FROM AN ARIZONA OR FEDERALLY CHARTERED FINANCIAL INSTITUTION.

29 ~~12.~~ 15. "Household pests" means pests, other than wood-destroying
30 ~~insects~~ ORGANISMS, that invade households or other structures, including
31 rodents, vermin and insects.

32 ~~13.~~ 16. "Immediate supervision" means THE use of a pesticide by an
33 ~~employee~~ INDIVIDUAL acting under the instructions, control and responsibility
34 of a ~~licensed~~ CERTIFIED applicator who is within the direct line of sight or
35 within hearing distance of the ~~employee~~ INDIVIDUAL and who is available for
36 consultation or assistance at the time and place the pesticide is used.

37 ~~14.~~ 17. "Initial ~~termite~~ corrective treatment" means the first
38 POSTCONSTRUCTION treatment of any kind performed by a licensee ~~after a~~
39 ~~treatment made prior to or during construction,~~ excluding a treatment
40 performed under warranty by a licensee who has performed the PRETREATMENT OR
41 NEW-CONSTRUCTION treatment ~~prior to or during construction.~~

42 ~~15.~~ 18. "Inquiry" means ~~information from the public or office staff~~ AN
43 INITIAL INVESTIGATION of possible violations of this chapter, ~~or rules~~
44 adopted pursuant to this chapter BASED ON INFORMATION RECEIVED FROM THE
45 PUBLIC OR OFFICE STAFF.

1 ~~16.~~ 19. "Integrated pest management" means a sustainable approach to
2 managing pests that combines biological, cultural, physical and ~~pesticide~~
3 ~~CHEMICAL~~ tools in a way that minimizes economic, health and environmental
4 risks.

5 ~~17. "License" means an approval granted by the office to act as an~~
6 ~~applicator or qualifying party or to operate a business of structural pest~~
7 ~~control in this state.~~

8 ~~18. "Licensed applicator" means a person who is licensed by the office~~
9 ~~to apply pesticides in accordance with this chapter.~~

10 20. "NEW-CONSTRUCTION TREATMENT" MEANS A TREATMENT THAT PROTECTS ALL
11 CELLULOSE COMPONENTS OF A STRUCTURE FROM SUBTERRANEAN TERMITES AND THAT IS
12 PERFORMED AFTER A PERMANENT CONCRETE SLAB FOUNDATION IS INSTALLED OR FOOTINGS
13 AND SUPPORTS FOR A RAISED FOUNDATION ARE INSTALLED, BUT BEFORE THE STRUCTURE
14 OR A FINAL GRADE TREATMENT IS COMPLETED.

15 ~~19.~~ 21. "Office" means the office of pest management established by
16 section ~~32-2302~~ 32-2303.

17 ~~20.~~ 22. "Other structures" includes railroad cars, boats, docks, motor
18 vehicles or airplanes and their contents.

19 ~~21.~~ 23. "Pest management":

20 (a) Means the management of ~~public~~ health-RELATED pests, aquatic pests,
21 household pests, wood-destroying ~~insects, fungi~~ ORGANISMS or other pests,
22 including weeds, that exist IN, near or around structures, in ornamental
23 shrubs and trees, ~~on golf courses,~~ along rights-of-way or in lawns or
24 cemeteries and all pesticide ~~application~~ APPLICATIONS that could be harmful
25 to public health or the environment. ~~Pest management~~

26 (b) INCLUDES THE MANAGEMENT BY PERSONS FOR HIRE OF HEALTH-RELATED
27 PESTS, AQUATIC PESTS, HOUSEHOLD PESTS, WOOD-DESTROYING ORGANISMS OR OTHER
28 PESTS, INCLUDING WEEDS, THAT EXIST ON GOLF COURSES.

29 (c) Does not include pesticide applications used directly in the
30 commercial production of crops and animals ~~if those applications are governed~~
31 ~~by the Arizona department of agriculture pursuant to title 3, chapter 2,~~
32 ~~articles 6 and 6.1~~ OR USED NOT FOR HIRE ON GOLF COURSES.

33 24. "PEST MANAGEMENT SERVICES" MEANS IDENTIFYING INFESTATIONS OR MAKING
34 INSPECTIONS FOR THE PURPOSE OF IDENTIFYING OR ATTEMPTING TO IDENTIFY
35 INFESTATIONS, MAKING WRITTEN OR ORAL INSPECTION REPORTS OR RECOMMENDATIONS
36 WITH RESPECT TO INFESTATIONS AND THE APPLICATION OF PESTICIDES OR THE USE OF
37 DEVICES NOT EXEMPT BY SECTION 32-2304, SUBSECTION B, PARAGRAPH 18 FOR THE
38 PURPOSE OF ELIMINATING, EXTERMINATING, CONTROLLING OR PREVENTING
39 INFESTATIONS.

40 ~~22.~~ 25. "Pesticide" means any substance or mixture of substances
41 intended to be used for ~~defoliating plants or for~~ preventing, destroying,
42 repelling or mitigating insects, fungi, bacteria, microbes, weeds, rodents,
43 predatory animals or any form of plant or animal life that is, OR THAT THE
44 DIRECTOR MAY DECLARE TO BE, a pest and THAT may infest or be detrimental to
45 vegetation, humans, animals or households or be present in any environment.

1 26. "POLITICAL SUBDIVISION" MEANS A STATE AGENCY, COUNTY, CITY, TOWN,
2 MUNICIPAL CORPORATION OR SCHOOL DISTRICT OR A SPECIAL DISTRICT FORMED
3 PURSUANT TO TITLE 48.

4 27. "POSTCONSTRUCTION TREATMENT" MEANS A TREATMENT TO CONTROL
5 WOOD-DESTROYING ORGANISMS IN OR AROUND AN EXISTING STRUCTURE PERFORMED AFTER
6 ALL SOIL DISTURBANCE ASSOCIATED WITH CONSTRUCTION IS COMPLETE AND AFTER AN
7 APPLICATOR HAS COMPLETED AN INSPECTION OF THE STRUCTURE AND A TREATMENT
8 PROPOSAL UNDER SECTION 32-2332, SUBSECTIONS A AND B.

9 28. "PRETREATMENT" MEANS A TERMITE TREATMENT THAT PROTECTS ALL
10 CELLULOSE COMPONENTS OF A STRUCTURE FROM SUBTERRANEAN TERMITES, THAT IS
11 PERFORMED BEFORE A PERMANENT CONCRETE SLAB FOUNDATION IS INSTALLED OR IN
12 CONJUNCTION WITH ESTABLISHING FOOTINGS AND SUPPORTS FOR A RAISED FOUNDATION
13 AND THAT ESTABLISHES THOROUGH AND COMPLETE HORIZONTAL AND VERTICAL TREATED
14 BARRIERS.

15 ~~23.~~ 29. "Prior violation" means any violation for which disciplinary
16 action was taken within a five-year period ~~prior to~~ BEFORE the date of the
17 violation for which current disciplinary action is sought.

18 ~~24.~~ 30. "Qualifying party" means ~~an individual who is licensed by the~~
19 ~~office to ensure the supervision and training~~ A CERTIFIED QUALIFIED
20 APPLICATOR REGISTERED WITH THE OFFICE AS THE INDIVIDUAL RESPONSIBLE FOR
21 ENSURING THE TRAINING, EQUIPPING AND SUPERVISION of all ~~employees~~ APPLICATORS
22 of a business licensee ~~in the business of structural pest control~~ OR SCHOOL
23 DISTRICT.

24 31. "SCHOOL" MEANS ANY PUBLIC OR NONPUBLIC INSTITUTION, OTHER THAN A
25 CHILD'S HOME, THAT IS ESTABLISHED FOR THE PURPOSE OF OFFERING INSTRUCTION TO
26 PUPILS IN PROGRAMS FOR PRESCHOOL CHILDREN WITH DISABILITIES, KINDERGARTEN
27 PROGRAMS OR ANY COMBINATION OF GRADES ONE THROUGH TWELVE AND THAT QUALIFIES
28 AS A SCHOOL PURSUANT TO SECTION 15-802.

29 32. "SERVICE VEHICLE" MEANS A MOTOR VEHICLE, INCLUDING A TRAILER
30 ATTACHED TO THE MOTOR VEHICLE, THAT IS USED TO TRANSPORT EQUIPMENT OR
31 PESTICIDES FOR THE BUSINESS OF PEST MANAGEMENT.

32 33. "STERILANT" MEANS A PRODUCT THAT IS DESIGNED FOR KILLING ALL LIVE
33 VEGETATION AND PREVENTING ALL VEGETATION GROWTH FOR TWELVE OR MORE MONTHS.

34 ~~25.~~ 34. "Weed" means any plant that grows where it is not wanted.

35 ~~26.~~ 35. "Wood-destroying insect inspection report" means a written
36 inspection report on a form approved by the ~~acting~~ director that is prepared
37 in connection with the sale or refinancing of real property whether or not
38 the report is used as part of the transaction.

39 ~~27.~~ 36. "Wood-destroying ~~insects~~ ORGANISMS" means ~~insects~~ ORGANISMS
40 that attack, damage or destroy wood or wood-derivative products, BUT DOES NOT
41 INCLUDE BIRDS OR MAMMALS.

42 Sec. 2. Renumber

43 Section 32-2302, Arizona Revised Statutes, is renumbered as section
44 32-2303.

45 Sec. 3. Title 32, chapter 22, article 1, Arizona Revised Statutes, is
46 amended by adding a new section 32-2302, to read:

1 (b) LICENSURE, CERTIFICATION AND REGISTRATION REQUIREMENTS AND
2 QUALIFICATIONS, INCLUDING TRAINING AND education requirements; ~~AND FINANCIAL~~
3 SECURITY STANDARDS.

4 (c) Health and safety provisions. ~~and provisions for~~

5 (d) DUTIES AND RESPONSIBILITIES.

6 (e) RECORDKEEPING AND PRODUCTION OF RECORDS REQUIREMENTS.

7 (f) LICENSEE INSPECTION AND TREATMENT REPORT REQUIREMENTS.

8 (g) DISCIPLINARY ACTION PROVISIONS.

9 (h) EQUIPMENT PROVISIONS.

10 (i) ADVERTISING REQUIREMENTS.

11 (j) The use, storage and application of pesticides and devices used in
12 ~~structural pest control~~ MANAGEMENT.

13 ~~2. Administer and enforce this chapter and rules adopted pursuant to~~
14 ~~this chapter.~~

15 ~~3.~~ 2. Notify the business licensee, applicator and qualifying party
16 in writing of any ~~complaint against~~ INQUIRY INTO POSSIBLE VIOLATIONS BY the
17 business licensee, APPLICATOR OR qualifying party ~~or employee of the business~~
18 ~~licensee~~ by the close of business on the tenth business day after the day on
19 which the ~~acting~~ director initiated the ~~complaint~~ INQUIRY IF THE DIRECTOR
20 ANTICIPATES AN ENFORCEMENT ACTION. IF IN THE COURSE OF THE INVESTIGATION THE
21 OFFICE IDENTIFIES ANY ALLEGED VIOLATIONS BY A DIFFERENT BUSINESS LICENSEE,
22 APPLICATOR OR QUALIFIED PARTY, THE DIRECTOR SHALL NOTIFY THE ADDITIONAL
23 ALLEGED VIOLATOR BY THE CLOSE OF BUSINESS ON THE TENTH BUSINESS DAY AFTER THE
24 DAY ON WHICH THE DIRECTOR INITIATED THE NEW INQUIRY.

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

29 ~~5.~~ 3. DEVELOP AND EITHER conduct or contract to conduct CERTIFIED
30 applicator ~~license~~ and ~~qualifying party license~~ CERTIFIED QUALIFIED
31 APPLICATOR tests at locations throughout this state. If the ~~acting~~ director
32 contracts for these tests, the contracts may provide for specific examination
33 fees or a reasonable range of fees determined by the ~~acting~~ director to be
34 paid directly to the contractor by the applicant. The ~~acting~~ director shall
35 make all efforts to contract with private parties to electronically
36 administer the ~~applicator and qualifying party license~~ tests.

37 ~~6.~~ 4. Maintain a computer system for the benefit and protection of
38 the public that includes the following information on ~~termite~~ PRETREATMENTS,
39 NEW-CONSTRUCTION TREATMENTS, FINAL GRADE treatments ~~that are done before or~~
40 ~~during construction~~, initial ~~termite~~ corrective ~~projects, preventative~~
41 ~~termite~~ treatments and wood-destroying insect inspection reports:

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

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

44 (c) The name of the pest management company.

45 (d) The name of the qualifying party.

46 (e) The applicator license numbers.

- 1 (f) The nature and date of the work performed.
2 (g) Any other information that is required by rule.
- 3 ~~7.~~ 5. Establish offices the acting director deems necessary to carry
4 out the purposes of this chapter.
- 5 ~~8.~~ 6. Subject to title 41, chapter 4, article 4, employ personnel the
6 acting director deems necessary to carry out the purposes of this chapter and
7 designate their duties.
- 8 ~~9. Investigate violations of this chapter and rules adopted pursuant~~
9 ~~to this chapter.~~
- 10 ~~10.~~ 7. Oversee the approval, content and method of delivery of
11 continuing education courses.
- 12 ~~11.~~ 8. Deny a license to any person who has had a license revoked for
13 a period of five years from the time of revocation.
- 14 ~~12.~~ 9. License applicators, ~~qualifying parties~~ AND QUALIFIED
15 APPLICATORS and LICENSE businesses in accordance with this chapter and rules
16 adopted pursuant to this chapter.
- 17 10. REGISTER QUALIFYING PARTIES, BRANCH SUPERVISORS AND BRANCH OFFICES
18 IN ACCORDANCE WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.
- 19 ~~13.~~ 11. Require the payment of a penalty for any late license renewal.
- 20 ~~14. Require either completion of the continuing education requirement~~
21 ~~or successful completion of the license examination for failure to renew a~~
22 ~~license on time.~~
- 23 ~~15. Suspend a license if a licensee fails to renew the license within~~
24 ~~thirty calendar days after the renewal date.~~
- 25 ~~16.~~ 12. Refuse to issue a business license in a name that is not
26 registered with the secretary of state or filed with the Arizona corporation
27 commission.
- 28 ~~17.~~ 13. Adopt a wood-destroying insect inspection report form for use
29 by business licensees.
- 30 ~~B. The acting director may charge to the holder of a business license~~
31 ~~the actual cost of providing mailed copies of rules, forms or policies that~~
32 ~~are proposed for adoption and for educational materials.~~
- 33 ~~C. The acting director shall administer and enforce this chapter and~~
34 ~~the rules adopted pursuant to this chapter.~~
- 35 ~~D.~~ B. The acting director may:
36 1. Compel attendance of witnesses, administer oaths or affirmations
37 and take testimony concerning all matters coming within the acting director's
38 jurisdiction.
- 39 ~~2. Require a person who seeks a license pursuant to this chapter to~~
40 ~~submit to the office a full set of fingerprints and the fees required by~~
41 ~~section 41-1750. The acting director shall submit the fingerprints and fees~~
42 ~~to the department of public safety for the purpose of obtaining a state and~~
43 ~~federal criminal records check pursuant to section 41-1750 and Public Law~~
44 ~~92-544. The department of public safety may exchange this fingerprint data~~
45 ~~with the federal bureau of investigation.~~

1 2. ISSUE SUBPOENAS FOR THE TAKING OF DEPOSITIONS, THE PRODUCTION OF
2 DOCUMENTS AND THINGS AND THE ENTRY ON LAND FOR INSPECTION AND MEASURING,
3 SURVEYING, PHOTOGRAPHING, TESTING OR SAMPLING THE PROPERTY OR ANY DESIGNATED
4 OBJECT OR OPERATION ON THE PROPERTY RELEVANT TO AN INQUIRY OR COMPLAINT.

5 3. CONTRACT AND enter into INTERAGENCY AND intergovernmental
6 agreements WITH ANY PRIVATE PARTY OR PUBLIC AGENCY.

7 4. With at least twenty-four hours' notice, ~~request specific records~~
8 ~~from~~ UNLESS THERE MAY BE AN IMMEDIATE RISK TO PUBLIC HEALTH AND SAFETY,
9 REQUIRE a business licensee, qualifying party or applicator ~~at the person's~~
10 ~~place of business during normal business hours~~ TO PRODUCE SPECIFIC
11 RECORDS. ON A SHOWING OF GOOD CAUSE BY THE BUSINESS LICENSEE, QUALIFYING
12 PARTY OR APPLICATOR, THE DIRECTOR MAY EXCUSE FAILURE TO TIMELY COMPLY.

13 5. Deny or revoke a license based on the information in the
14 application ~~or information that the acting director receives from the~~
15 ~~criminal background check.~~

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

18 ~~7.~~ 6. Issue advisory notices for de minimis violations.

19 ~~8. Require inspectors to be licensed applicators in all categories~~
20 ~~within their scope of work during their probationary period. Inspectors~~
21 ~~shall attend and complete an investigative training class that is prescribed~~
22 ~~by the acting director.~~

23 ~~9.~~ 7. Investigate alleged violations of ~~all applicable federal and~~
24 ~~state statutes,~~ THIS CHAPTER, rules ADOPTED PURSUANT TO THIS CHAPTER, CONSENT
25 AGREEMENTS, ~~or~~ orders ~~or alleged violations of~~ AND any condition imposed in
26 connection with a license.

27 8. REQUIRE THE PUBLIC TO PROVIDE NOTICES REGARDING ALLEGED VIOLATIONS
28 IN WRITING.

29 ~~10.~~ 9. Pursuant to section ~~32-2329~~ 41-1092.11, summarily suspend a
30 license issued under this chapter to protect the health, safety and welfare
31 of the public.

32 ~~11.~~ 10. Issue a corrective work order requiring a BUSINESS licensee OR
33 APPLICATOR to remedy deficiencies in treatment or to comply with this chapter
34 or any rules adopted pursuant to this chapter before or after a formal
35 hearing.

36 ~~12.~~ 11. Do at least one of the following in relation to unlicensed
37 pest management business operations, UNLESS THE OPERATIONS DO NOT REQUIRE
38 LICENSURE:

39 (a) Issue a cease and desist order requiring ~~an unlicensed pest~~
40 ~~management~~ THE business to immediately cease operations.

41 (b) ~~Except as provided in section 32-2311, subsection D,~~ Impose on an
42 ~~unlicensed pest management~~ THE OWNER OF THE business a civil penalty of not
43 more than one thousand dollars for the first occurrence and not more than two
44 thousand dollars for the second or subsequent occurrence.

45 ~~13. Refer all cases for formal hearing to the office of administrative~~
46 ~~hearings.~~

1 ~~14.~~ 12. Refuse to issue a business license in a name that is likely to
2 be misleading or to imply any distorted representation about the business.

3 ~~15.~~ 13. ~~Issue a renewable and revocable temporary qualifying party~~
4 ~~license to a licensed~~ REGISTER A CERTIFIED applicator who is a representative
5 of a business licensee AS A TEMPORARY QUALIFYING PARTY if the qualifying
6 party becomes disassociated with the business licensee.

7 ~~16.~~ 14. Provide and conduct classes to train ~~applicators and~~
8 ~~qualifying parties~~ INDIVIDUALS in preparation for ~~license~~ CERTIFIED
9 APPLICATOR AND CERTIFIED QUALIFIED APPLICATOR tests. The ~~acting~~ director may
10 assess a fee for each class. The ~~acting~~ director may contract with a
11 commercial enterprise or an accredited institution to conduct the class.

12 ~~17.~~ 15. Provide and conduct continuing education classes quarterly.
13 The ~~acting~~ director may assess a fee for each credit hour. The ~~acting~~
14 director may contract with a commercial enterprise or an accredited
15 institution to conduct the class under the supervision of office staff.

16 ~~18. Appoint an employee of the office to conduct an informal settlement~~
17 ~~conference with a licensee against whom an inquiry is received or a complaint~~
18 ~~is filed.~~

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

22 ~~20.~~ 16. Apply to the appropriate court, through the attorney general
23 or county attorney, for an order enjoining any act or practice that
24 constitutes a violation of this chapter or any rule adopted pursuant to this
25 chapter.

26 ~~21. Approve proposed consent orders.~~

27 17. ENTER INTO CONSENT AGREEMENTS AND ISSUE CONSENT ORDERS.

28 18. DESIGNATE BY RULE DEVICES THAT ARE EXEMPT FROM THE LICENSURE,
29 CERTIFICATION AND REGISTRATION REQUIREMENTS OF THIS CHAPTER.

30 19. CHARGE A PERSON FOR PROVIDING COPIES OF RULES, FORMS OR POLICIES
31 PROPOSED FOR ADOPTION AND FOR EDUCATIONAL MATERIALS.

32 20. REQUIRE A BUSINESS LICENSEE OR QUALIFYING PARTY TO REGISTER WITH
33 THE OFFICE OR OTHERWISE IDENTIFY ALL OF THE LICENSED OR UNLICENSED
34 APPLICATORS OF THE BUSINESS OR SUPERVISED BY THE QUALIFYING PARTY.

35 21. REQUIRE A BUSINESS LICENSEE TO PRODUCE RECORDS FOR THE PURPOSE OF
36 VERIFYING THAT AN INDIVIDUAL IS AN APPLICATOR OF THE BUSINESS LICENSEE.

37 22. CHARGE A HANDLING FEE IN ADDITION TO THE TRANSACTION AMOUNT FOR ANY
38 TRANSACTION THAT COULD HAVE BEEN COMPLETED ELECTRONICALLY AND WAS NOT.

39 23. DENY OR REFUSE TO RENEW A LICENSE OF A PERSON WHO OWES UNPAID FEES
40 OR CIVIL PENALTIES TO THE OFFICE.

41 ~~E. Each completed form for a termite treatment that is done before or~~
42 ~~during construction, initial termite corrective treatment project or~~
43 ~~wood-destroying insect inspection report shall be accompanied by a fee. The~~
44 ~~initial fee is eight dollars. The acting director may:~~

1 ~~1. Adjust the fee upward or downward to a level that is calculated to~~
2 ~~produce sufficient revenue to carry out the functions prescribed under this~~
3 ~~section.~~

4 ~~2. Establish tiered fees according to the means of submission to~~
5 ~~encourage electronic submission of the termite action registration form.~~

6 ~~3. Assess a penalty of not to exceed one hundred dollars per form for~~
7 ~~failing to submit the required form or fee, or both, within thirty calendar~~
8 ~~days.~~

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

17 ~~G. C. In the enforcement of this article, the acting~~ THE director or
18 any duly authorized agents may enter ~~with the authority of a warrant issued~~
19 ~~by a court of competent jurisdiction at reasonable times on~~ any private or
20 public property, INCLUDING A SERVICE VEHICLE, on which pesticides are located
21 or are reasonably believed to be located to be used for purposes related to
22 pest management OR ANY OFFICE OF A BUSINESS ENGAGED IN PEST MANAGEMENT. The
23 owner, managing agent or occupant of the property OR OFFICE shall permit
24 entry for the purpose of inspecting and investigating conditions relating to
25 the use, storage, application and disposal of pesticides, INCLUDING WORKER
26 SAFETY MATERIALS AND RECORDS PERTAINING TO PEST MANAGEMENT. IF A PERSON
27 REFUSES TO ADMIT THE DIRECTOR OR THE AUTHORIZED AGENT IN ACCORDANCE WITH THIS
28 SUBSECTION, THE DIRECTOR MAY OBTAIN A WARRANT FROM A COURT OF COMPETENT
29 JURISDICTION. IF A LICENSED OR CERTIFIED PERSON REFUSES TO ADMIT THE
30 DIRECTOR OR AN AUTHORIZED AGENT IN ACCORDANCE WITH THIS SUBSECTION DURING
31 REGULAR BUSINESS HOURS, THE DIRECTOR MAY IMPOSE DISCIPLINARY ACTION ON THE
32 PERSON.

33 D. THE DIRECTOR OR ANY DULY AUTHORIZED AGENTS MAY MONITOR COMPLIANCE
34 BY A PERSON WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER
35 WHILE THE PERSON IS PROVIDING PEST MANAGEMENT SERVICES.

36 Sec. 6. Section 32-2305, Arizona Revised Statutes, is amended to read:
37 32-2305. Pest management fund; exemption

38 A. ~~A~~ THE pest management fund is established FOR THE EXCLUSIVE
39 PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE OFFICE AND ITS
40 OBJECTIVES AS ESTABLISHED BY THIS CHAPTER.

41 B. Pursuant to sections 35-146 and 35-147, the ~~acting~~ director shall
42 deposit ten per cent of all fees in the state general fund and deposit the
43 remaining ninety per cent in the pest management fund. All monies collected
44 from civil penalties shall be deposited, pursuant to sections 35-146 and
45 35-147, in the state general fund.

1 C. Monies deposited in the pest management fund are exempt from the
2 provisions of section 35-190 relating to lapsing of appropriations.

3 Sec. 7. Repeal

4 Section 32-2306, Arizona Revised Statutes, is repealed.

5 Sec. 8. Title 32, chapter 22, article 1, Arizona Revised Statutes, is
6 amended by adding a new section 32-2306, to read:

7 32-2306. Pest management advisory committee; members

8 THE DIRECTOR SHALL ESTABLISH BY RULE A PEST MANAGEMENT ADVISORY
9 COMMITTEE TO ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR REGARDING THE
10 ADMINISTRATION AND IMPLEMENTATION OF THIS CHAPTER. THE DIRECTOR SHALL
11 APPOINT FIVE MEMBERS TO THE COMMITTEE, INCLUDING ONE PUBLIC MEMBER.

12 Sec. 9. Section 32-2307, Arizona Revised Statutes, is amended to read:

13 32-2307. Pesticide applications at schools and child care
14 facilities; notifications; exemptions

15 A. ONLY A CERTIFIED APPLICATOR MAY APPLY PESTICIDES AT A SCHOOL OR
16 CHILD CARE FACILITY.

17 ~~A-~~ B. A business licensee or ~~licensed~~ CERTIFIED applicator shall
18 notify a school or a child care facility at least seventy-two hours in
19 advance of any pesticide application in order to permit the school to comply
20 with section 15-152 and the child care facility to comply with section
21 36-898. The seventy-two hour advance notice shall include the date and time
22 the application is to occur. The seventy-two hour advance notice shall also
23 include the brand name, concentration, rate of application, pesticide label
24 and material safety data sheet and any use restrictions required by the
25 pesticide label. ~~Only an individual holding an applicator license may make~~
26 ~~pesticide applications at schools and child care facilities.~~

27 ~~B-~~ C. Immediately ~~prior to~~ BEFORE application of a pesticide, a
28 business licensee or ~~licensed~~ CERTIFIED applicator shall provide the school
29 or child care facility with a written preapplication notification containing
30 the following information:

31 1. The brand name, concentration and rate of application and any use
32 restrictions required by the label of the herbicide or specific pesticide.

33 2. The area or areas where the pesticide is to be applied.

34 3. The date and time the application is to occur.

35 4. The pesticide label and the material safety data sheet.

36 ~~C-~~ D. The pesticide label and material safety data sheet may be used
37 in place of ~~the~~ ANY information required pursuant to subsections ~~A and~~ B AND
38 C of this section if ~~all of~~ the information ~~required by those subsections~~ is
39 already contained on the PESTICIDE label or material safety data sheet.

40 ~~D-~~ E. The following pesticide applications are exempt from the
41 notification requirement prescribed ~~in~~ BY subsections ~~A and~~ B AND C of this
42 section:

43 1. Nonresidual pesticide applications performed or contracted by
44 public health agencies for adult vector control, provided that oral
45 notification is attempted at least seventy-two hours before the application,
46 when possible, to the school office or child care facility office with a

1 statement of the pest problem, treatment procedure, area to be treated and
2 approximate time of the application.

3 2. Emergency applications of a pesticide that has a toxicity category
4 of III or IV pursuant to 40 Code of Federal Regulations section 156.62 to
5 control harmful pests that pose an immediate threat to the public health.
6 Under the circumstances described in this paragraph or paragraph 1 of this
7 subsection, the business licensee or ~~licensed~~ CERTIFIED applicator shall do
8 all of the following:

9 (a) Notify the school office or child care facility office before the
10 application with a statement of the pest problem, treatment procedure, area
11 to be treated and approximate time of application.

12 (b) Immediately after the application has been completed, notify the
13 school office or the child care facility office of the name of the pesticide
14 applied, the formulation, the strength and dosage and the date and time of
15 application and provide the pesticide label.

16 (c) Post the treated area immediately after the application. The
17 posting shall be at least eight and one-half inches by eleven inches and
18 shall include the name of the pesticide, the registration number issued by
19 the United States environmental protection agency, the date and time of
20 application and the name and telephone number of the business licensee and
21 ~~licensed~~ CERTIFIED applicator. A copy of the posting shall also be placed at
22 the main entrance to the school or child care facility. The posting and the
23 copy of the posting shall remain in place for at least forty-eight hours
24 after the application.

25 3. Disinfectants or swimming pool chemicals.

26 4. Block, gel or paste-type bait that is a toxicity category III or IV
27 formulation of insecticide pursuant to 40 Code of Federal Regulations section
28 156.62 and that is either of the following:

29 (a) Secured in an enclosed, tamper-resistant bait station and placed
30 in an area that is inaccessible to children.

31 (b) Applied to a crack or crevice THAT IS inaccessible to children.

32 5. Block-type bait that is a toxicity level III or IV formulation of
33 rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and
34 that is secured in an enclosed, tamper-resistant bait station placed in an
35 area THAT IS inaccessible to children.

36 6. Personal repellants.

37 7. NONRESTRICTED USE SANITIZERS AND DEODORIZERS.

38 ~~7. Any pesticide exempt from regulation by the United States~~
39 ~~environmental protection agency pursuant to the federal insecticide,~~
40 ~~fungicide and rodenticide act (7 United States Code section 136w).~~

41 ~~E. The provisions of this chapter shall regulate and determine all~~
42 ~~requirements regarding licenses, fees, testing, education, and all other~~
43 ~~requirements regarding the business of pest control for persons licensed~~
44 ~~pursuant to this chapter.~~

45 ~~F. For the purposes of this section:~~

1 ~~1. "Child care facility" means a facility regulated pursuant to title~~
2 ~~36, chapter 7.1.~~

3 ~~2. "Pesticides" does not include nonrestricted use disinfectants,~~
4 ~~sanitizers or deodorizers.~~

5 ~~3. "School" means an educational institution that provides instruction~~
6 ~~in prekindergarten programs, kindergarten programs or any of grades one~~
7 ~~through twelve.~~

8 Sec. 10. Transfer and renumber

9 Section 32-2308, Arizona Revised Statutes, is transferred and
10 renumbered for placement in title 32, chapter 22, article 3, Arizona Revised
11 Statutes, as section 32-2323.

12 Sec. 11. Section 32-2311, Arizona Revised Statutes, is amended to
13 read:

14 32-2311. License and registration exemptions

15 A. THE PROVISIONS OF this chapter ~~does~~ REQUIRING LICENSURE AND
16 REGISTRATION DO not apply to:

17 ~~1. Persons licensed or certified pursuant to title 3, chapter 2,~~
18 ~~article 6.~~

19 ~~2.~~ 1. Persons applying NONRESTRICTED USE pesticides on RESIDENTIAL
20 property that they own and occupy OR THAT THEY OWN AND THAT IS NOT OCCUPIED.

21 ~~3.~~ 2. Authorized representatives of any educational institution
22 engaged in research in the study of pest management or a state agency engaged
23 in research or the study of pest management.

24 ~~4. Employees of political subdivisions or their designated agents~~
25 ~~while performing emergency response or rescue services.~~

26 ~~5.~~ 3. Persons using a nonrestricted, ready-to-use disinfectant,
27 sanitizer or deodorizer.

28 ~~6. Except as provided in section 32-2307, persons who are conducting~~
29 ~~lawn, garden, shrub or tree maintenance and who apply herbicides for the~~
30 ~~purpose of weed management. This exemption does not apply to:~~

31 ~~(a) The use of herbicides that are labeled with the words "restricted~~
32 ~~use" or "danger" and that are not commercially available to the general~~
33 ~~public.~~

34 ~~(b) The use of sterilants.~~

35 ~~(c) Persons who offer weed management as their primary service.~~

36 ~~(d) Persons who use application equipment that holds more than eight~~
37 ~~gallons of total mixed liquid herbicide.~~

38 ~~(e) Persons who use more than twenty-five pounds of a nonliquid~~
39 ~~herbicide.~~

40 ~~(f) Persons who do not follow label and labeling directions.~~

41 ~~7.~~ 4. A utility and the utility's employees if pest management
42 services are needed for an employee's health and safety in order for the
43 employee to continue performing work tasks.

44 ~~8. Except as provided in section 32-2307, volunteers of political~~
45 ~~subdivisions who apply herbicides for the purpose of the eradication and~~
46 ~~control of noxious weeds as defined in section 3-201 and who are under the~~

1 ~~immediate supervision of a licensed applicator. This exemption does not~~
2 ~~apply to:~~

3 ~~(a) The use of herbicides that are labeled with the words "restricted~~
4 ~~use" or "danger" and that are not commercially available to the general~~
5 ~~public.~~

6 ~~(b) The use of sterilants.~~

7 ~~(c) Volunteers of political subdivisions who use application equipment~~
8 ~~that holds more than eight gallons of total mixed liquid herbicide.~~

9 ~~(d) Volunteers of political subdivisions who use more than twenty-five~~
10 ~~pounds of a nonliquid herbicide.~~

11 ~~(e) Volunteers of political subdivisions who do not follow label and~~
12 ~~labeling directions.~~

13 ~~(f) Volunteers of political subdivisions who have not completed an~~
14 ~~office of pest management approved herbicide application training program~~
15 ~~conducted by the political subdivision.~~

16 5. PERSONS USING AN OVER-THE-COUNTER ANTIMICROBIAL TO TREAT A SWIMMING
17 POOL.

18 6. PERSONS USING A DEVICE THAT IS EXEMPT PURSUANT TO SECTION 32-2304,
19 SUBSECTION B, PARAGRAPH 18.

20 7. PERSONS WHO ARE EXEMPT PURSUANT TO SECTION 32-2318 OR 32-2319.

21 ~~B. An employee of a political subdivision who engages in pest~~
22 ~~management:~~

23 ~~1. Is not required to be licensed under section 32-2313 or 32-2314.~~

24 ~~2. Must be licensed as an applicator under section 32-2312, except as~~
25 ~~provided by subsection A, paragraph 4 of this section.~~

26 ~~C. A person who is exempt pursuant to subsection A, paragraph 6 of~~
27 ~~this section shall provide treatment records to each customer on application~~
28 ~~of herbicides for the purpose of weed management and shall retain records~~
29 ~~containing the same information provided to customers. For the purposes of~~
30 ~~this subsection, treatment records shall include all of the following:~~

31 ~~1. The address of the location of the herbicide application.~~

32 ~~2. The date of the herbicide application.~~

33 ~~3. The trade name or common name of the herbicide applied.~~

34 ~~D. If a person is exempt pursuant to subsection A, paragraph 6 of this~~
35 ~~section but does not comply with subsection C of this section or if a person~~
36 ~~is not licensed under this chapter and the person is not exempt pursuant to~~
37 ~~subsection A, paragraph 6 of this section as a result of doing something~~
38 ~~prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this~~
39 ~~section, the acting director shall:~~

40 ~~1. On a first violation, issue a written notice of correction that~~
41 ~~contains a warning and a copy of this section and that provides full notice~~
42 ~~of the exemption requirements.~~

43 ~~2. On a second violation, impose a civil penalty of not more than two~~
44 ~~hundred fifty dollars.~~

45 ~~3. On a third or any subsequent violation, impose a civil penalty of~~
46 ~~not more than five hundred dollars.~~

1 ~~E. Volunteers of political subdivisions who are not working under the~~
2 ~~immediate supervision of a licensed applicator may be subject to section~~
3 ~~32-2304, subsection D, paragraph 12.~~

4 ~~F. For the purposes of this section, "volunteers of political~~
5 ~~subdivisions" means persons who work without compensation other than~~
6 ~~reimbursement of actual expenses incurred or disbursement of meals or other~~
7 ~~incidental benefits.~~

8 B. AN INDIVIDUAL IS NOT REQUIRED TO HAVE A SEPARATE BUSINESS LICENSE
9 TO ENGAGE IN THE BUSINESS OF PEST MANAGEMENT ON BEHALF OF A BUSINESS LICENSEE
10 OR AS AN EMPLOYEE OF A POLITICAL SUBDIVISION.

11 C. THE DIRECTOR BY RULE MAY EXEMPT FROM SECTIONS 32-2313 AND 32-2314 A
12 CERTIFIED APPLICATOR WHO PERFORMS INSPECTIONS BUT DOES NOT MAKE
13 RECOMMENDATIONS, ESTIMATES, BIDS OR CONTRACTS FOR TREATMENT OR USE PESTICIDES
14 OR DEVICES FOR PEST MANAGEMENT AND MAY PRESCRIBE ALTERNATIVE REQUIREMENTS AND
15 CONDITIONS.

16 Sec. 12. Title 32, chapter 22, article 2, Arizona Revised Statutes, is
17 amended by adding sections 32-2311.01 and 32-2311.02, to read:

18 32-2311.01. Political subdivisions; exemptions; definition

19 A. A POLITICAL SUBDIVISION THAT USES PESTICIDES TO CONDUCT PEST
20 MANAGEMENT ON PROPERTY THAT IS OWNED, LEASED OR MANAGED BY THE POLITICAL
21 SUBDIVISION, INCLUDING EASEMENTS:

22 1. IS NOT REQUIRED TO BE LICENSED UNDER SECTION 32-2313.

23 2. MUST PROVIDE THE DEPARTMENT WITH THE NAME AND TELEPHONE NUMBER OF
24 THE PRIMARY CONTACT PERSON OR PERSONS RESPONSIBLE FOR RESPONDING TO
25 DEPARTMENT INQUIRIES OR CONCERNS REGARDING COMPLIANCE WITH THIS CHAPTER. THE
26 PRIMARY CONTACT PERSON OR PERSONS AT A MINIMUM SHALL DEMONSTRATE TO THE
27 DEPARTMENT:

28 (a) WHERE THE RECORDS ARE RETAINED.

29 (b) WHERE THE PERSONAL PROTECTIVE EQUIPMENT IS LOCATED.

30 (c) WHERE THE PESTICIDES ARE STORED.

31 (d) THAT ALL APPLICATORS ARE PROPERLY CERTIFIED.

32 B. A SCHOOL DISTRICT IS EXEMPT FROM SUBSECTION A, PARAGRAPH 2 OF THIS
33 SECTION, BUT SHALL HAVE A QUALIFYING PARTY WHO IS REGISTERED IN THE
34 APPROPRIATE CATEGORIES.

35 C. AN EMPLOYEE OF A POLITICAL SUBDIVISION WHO PROVIDES PEST MANAGEMENT
36 SERVICES MUST BE A CERTIFIED APPLICATOR EXCEPT AS PROVIDED BY SUBSECTION D OF
37 THIS SECTION.

38 D. THE FOLLOWING INDIVIDUALS ARE EXEMPT FROM THE CERTIFICATION
39 REQUIREMENTS OF THIS CHAPTER:

40 1. AN EMPLOYEE OF A POLITICAL SUBDIVISION WHO APPLIED PESTICIDES FOR
41 THE POLITICAL SUBDIVISION FOR THE FIRST TIME NO MORE THAN NINETY DAYS BEFORE
42 CERTIFICATION. THIS EXEMPTION DOES NOT APPLY TO AN EMPLOYEE WHO APPLIES
43 PESTICIDES AT A SCHOOL OR CHILD CARE FACILITY.

44 2. AN EMPLOYEE OF A POLITICAL SUBDIVISION OR DESIGNATED AGENT WHILE
45 PERFORMING EMERGENCY RESPONSE OR RESCUE SERVICES.

1 3. A VOLUNTEER OF A POLITICAL SUBDIVISION WHILE APPLYING HERBICIDES
2 FOR THE PURPOSE OF THE ERADICATION AND CONTROL OF NOXIOUS WEEDS AS DEFINED IN
3 SECTION 3-201 AND WHO IS UNDER THE IMMEDIATE SUPERVISION OF A CERTIFIED
4 APPLICATOR. THIS EXEMPTION DOES NOT APPLY TO A VOLUNTEER OF A POLITICAL
5 SUBDIVISION WHO:

6 (a) APPLIES HERBICIDES AT A SCHOOL OR CHILD CARE FACILITY.

7 (b) USES HERBICIDES THAT ARE LABELED WITH THE WORDS "RESTRICTED USE"
8 OR "DANGER".

9 (c) USES STERILANTS.

10 (d) USES APPLICATION EQUIPMENT THAT HOLDS MORE THAN FOUR GALLONS OF
11 TOTAL MIXED LIQUID HERBICIDE.

12 (e) HAS NOT COMPLETED AN HERBICIDE APPLICATION TRAINING PROGRAM
13 CONDUCTED BY THE POLITICAL SUBDIVISION AND APPROVED BY THE OFFICE.

14 E. FOR THE PURPOSES OF THIS SECTION, "VOLUNTEER" MEANS A PERSON WHO
15 WORKS WITHOUT COMPENSATION OTHER THAN REIMBURSEMENT OF ACTUAL EXPENSES
16 INCURRED OR DISBURSEMENT OF MEALS OR OTHER INCIDENTAL BENEFITS.

17 32-2311.02. Landscapers; records; civil penalties

18 A. THE PROVISIONS OF THIS CHAPTER REQUIRING LICENSURE, AND
19 REGISTRATION DO NOT APPLY TO A PERSON WHO CONDUCTS LAWN, GARDEN, SHRUB OR
20 TREE MAINTENANCE AND WHO APPLIES HERBICIDES FOR THE PURPOSE OF WEED
21 MANAGEMENT, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

22 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE LICENSURE,
23 CERTIFICATION AND REGISTRATION REQUIREMENTS OF THIS CHAPTER APPLY TO A PERSON
24 WHO:

25 1. USES HERBICIDES THAT ARE LABELED WITH THE WORDS "RESTRICTED USE" OR
26 "DANGER".

27 2. USES STERILANTS OR PREEMERGENT HERBICIDES.

28 3. OFFERS WEED MANAGEMENT AS THE PERSON'S PRIMARY SERVICE OR
29 ADVERTISES WEED MANAGEMENT SERVICES.

30 4. USES APPLICATION EQUIPMENT THAT COLLECTIVELY HOLDS MORE THAN FOUR
31 GALLONS OF TOTAL MIXED LIQUID HERBICIDE AT AN ADDRESS OR PROJECT ON THE SAME
32 DAY.

33 5. USES MORE THAN TWENTY-FIVE POUNDS OF NONLIQUID HERBICIDE AT AN
34 ADDRESS OR PROJECT ON THE SAME DAY.

35 6. USES OR IS PART OF A CREW OF TWO OR MORE HERBICIDE APPLICATORS AT
36 AN ADDRESS OR PROJECT ON THE SAME DAY.

37 7. USES AN HERBICIDE AT A SCHOOL OR CHILD CARE FACILITY.

38 8. USES AN HERBICIDE AT AN ADDRESS OR PROJECT WITHOUT PERFORMING LAWN,
39 GARDEN, SHRUB OR TREE MAINTENANCE AT THAT ADDRESS OR PROJECT ON THE SAME DAY.

40 C. A PERSON WHO IS EXEMPT FROM LICENSURE, CERTIFICATION AND
41 REGISTRATION PURSUANT TO THIS SECTION SHALL PROVIDE TREATMENT RECORDS TO EACH
42 CUSTOMER ON APPLICATION OF HERBICIDES FOR THE PURPOSE OF WEED MANAGEMENT AND
43 SHALL RETAIN RECORDS CONTAINING THE SAME INFORMATION PROVIDED TO CUSTOMERS
44 FOR AT LEAST SIX MONTHS AFTER THE DATE OF THE TREATMENT. FOR THE PURPOSES OF
45 THIS SUBSECTION, TREATMENT RECORDS MUST INCLUDE THE FOLLOWING:

46 1. THE ADDRESS OF THE LOCATION OF THE HERBICIDE APPLICATION.

1 2. THE DATE OF THE HERBICIDE APPLICATION.
2 3. THE TRADE NAME OR COMMON NAME OF THE HERBICIDE APPLIED.
3 4. THE AMOUNT OF THE HERBICIDE APPLIED.
4 5. THE NAME OF THE INDIVIDUAL WHO PERFORMED THE TREATMENT.
5 D. IF A PERSON IS EXEMPT FROM LICENSURE, CERTIFICATION AND
6 REGISTRATION PURSUANT TO SUBSECTION A OF THIS SECTION BUT DOES NOT COMPLY
7 WITH SUBSECTION C OF THIS SECTION, THE DIRECTOR SHALL:
8 1. ON A FIRST VIOLATION, ISSUE A WRITTEN NOTICE OF CORRECTION THAT
9 CONTAINS A WARNING AND A COPY OF THIS SECTION.
10 2. ON A SECOND VIOLATION, IMPOSE A CIVIL PENALTY OF AT LEAST FIFTY
11 DOLLARS.
12 3. ON A THIRD OR ANY SUBSEQUENT VIOLATION, IMPOSE A CIVIL PENALTY OF
13 NOT MORE THAN ONE THOUSAND DOLLARS.
14 E. IF A PERSON IS NOT EXEMPT FROM LICENSURE, CERTIFICATION AND
15 REGISTRATION BUT USES AN HERBICIDE FOR THE PURPOSE OF WEED MANAGEMENT, THE
16 DIRECTOR MAY:
17 1. ISSUE A CEASE AND DESIST ORDER AND AN ADMINISTRATIVE WARNING.
18 2. ON A FIRST VIOLATION, IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE
19 THOUSAND DOLLARS.
20 3. ON A SECOND OR ANY SUBSEQUENT VIOLATION, IMPOSE A CIVIL PENALTY OF
21 NOT MORE THAN TWO THOUSAND DOLLARS.
22 Sec. 13. Repeal
23 Section 32-2312, Arizona Revised Statutes, is repealed.
24 Sec. 14. Title 32, chapter 22, article 2, Arizona Revised Statutes, is
25 amended by adding a new section 32-2312, to read:
26 32-2312. Applicator certification; categories
27 A. AN APPLICATION FOR APPLICATOR CERTIFICATION SHALL BE IN A FORM
28 PRESCRIBED BY THE DIRECTOR AND BE ACCOMPANIED BY THE PRESCRIBED FEE.
29 B. AN INDIVIDUAL MAY APPLY FOR CERTIFICATION AS AN APPLICATOR OR
30 QUALIFIED APPLICATOR IN ANY ONE OR A COMBINATION OF THE FOLLOWING CATEGORIES:
31 1. INDUSTRIAL, INSTITUTIONAL, STRUCTURAL AND HEALTH RELATED PEST
32 MANAGEMENT.
33 2. WOOD-DESTROYING ORGANISM MANAGEMENT.
34 3. ORNAMENTAL AND TURF PEST MANAGEMENT.
35 4. RIGHT-OF-WAY PEST MANAGEMENT.
36 5. AQUATIC PEST MANAGEMENT.
37 6. FUMIGATION.
38 7. OTHER CATEGORIES OR SUBCATEGORIES ESTABLISHED BY RULE.
39 Sec. 15. Section 32-2313, Arizona Revised Statutes, is amended to
40 read:
41 32-2313. Business license; financial security
42 A. A person who ~~wishes to engage~~ ENGAGES in the business of pest
43 management shall ~~first~~ obtain a VALID business license from the office ~~as~~
44 ~~provided in this article~~. A person who is not exempt under this ~~article~~
45 CHAPTER and who advertises for, solicits or ~~holds himself out as~~ CLAIMS TO BE

1 willing to engage in the business of pest management is presumed to be
2 **ENGAGING** in the business of pest management.

3 B. An application for **AN ORIGINAL OR** a **RENEWAL** business license shall:

4 1. Be in a form **AND INCLUDE THE INFORMATION** prescribed by the **acting**
5 director.

6 2. Be accompanied by the prescribed fee.

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

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

12 ~~C. A business licensee shall register each primary and branch office~~
13 ~~with the acting director before it opens for business.~~

14 ~~D. An applicant shall furnish the following to the acting director:~~

15 **3. INCLUDE THE FOLLOWING PROOF OF FINANCIAL SECURITY:**

16 ~~1. (a) Proof of financial responsibility consisting of~~ Either a
17 deposit of money, liability insurance, self-insured retention, a surety bond
18 or a certified check protecting persons who may suffer ~~legal damages~~ **BODILY**
19 **INJURY OR PROPERTY DAMAGE** as a result of the operations of the applicant.
20 The **acting** director shall not accept a bond or a liability insurance policy
21 unless **IT IS** issued by an insurer that holds a valid certificate of authority
22 or that is permitted to transact surplus lines insurance in this state. The
23 amount of the deposit, insurance, self-insured retention or bond shall be at
24 least five hundred thousand dollars and shall be maintained at not less than
25 that amount at all times during the licensing period. The license of a
26 business licensee whose financial security falls below the minimum five
27 hundred thousand dollars shall be suspended by the **acting** director and shall
28 remain suspended until the security meets the minimum financial security
29 requirement. The financial security need only cover those particular
30 operations in which the licensee is engaged at any time. If the financial
31 security is in the form of liability insurance or a surety bond, the licensee
32 shall furnish the **acting** director with a certificate of coverage that
33 indicates the coverages and endorsements required by this subsection on a
34 form prescribed by the **acting** director.

35 ~~2. (b) Either of the following if the business licensee performs~~
36 ~~termite treatments:~~

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

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

44 ~~3. (c) If the business licensee provides wood-destroying insect~~
45 ~~inspection reports or fungi inspection reports, proof of a surety bond or a~~
46 ~~liability insurance policy rider in the amount of one hundred thousand~~

1 dollars per business license for actual damages plus reasonable costs of
2 collection suffered by persons as a result of errors and omissions contained
3 in the reports.

4 ~~4-~~ C. If an insurance policy provides for a deductible, the
5 deductible amount shall not exceed one per cent of the total financial
6 security for each occurrence. If the deductible amount is in excess of one
7 per cent of the total financial security for each occurrence, the business
8 licensee shall provide other security as provided in this ~~subsection~~ SECTION
9 or other evidence of financial security for the excess deductible amount.

10 ~~5-~~ D. If the financial security is in the form of liability
11 insurance, a licensee shall maintain a coverage endorsement for pesticides
12 and herbicides, fumigation, care, custody and control, rights-of-way,
13 wood-destroying insect inspection report errors and omissions, ~~fungi~~
14 ~~inspection report errors and omissions~~ and pollution transit for its
15 applicable license categories.

16 E. If the proof of financial security on file with the office expires,
17 the business license is automatically suspended until a current certificate
18 of insurance or proof of financial responsibility is furnished to the ~~acting~~
19 director.

20 ~~F. Except as provided in section 32-4301, each business licensee shall~~
21 ~~renew the business license and each office registration on or before the~~
22 ~~expiration date of the license by filing renewal forms prescribed by the~~
23 ~~acting director and paying the prescribed renewal fees. If a business~~
24 ~~licensee fails to renew the business license as required by this subsection,~~
25 ~~the licensee shall not engage in the business of pest management.~~

26 ~~G. Each branch office of a business licensee shall be supervised by a~~
27 ~~licensed applicator or qualifying party who is licensed in all categories in~~
28 ~~which the branch office operates.~~

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

32 Sec. 16. Repeal

33 Section 32-2314, Arizona Revised Statutes, is repealed.

34 Sec. 17. Title 32, chapter 22, article 2, Arizona Revised Statutes, is
35 amended by adding a new section 32-2314 and section 32-2315, to read:

36 32-2314. Qualifying party; registration

37 A. A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF PEST MANAGEMENT IN ANY
38 CATEGORY WITHOUT A QUALIFYING PARTY REGISTERED IN THAT CATEGORY.

39 B. TO BE A QUALIFYING PARTY, AN INDIVIDUAL MUST:

40 1. BE A CERTIFIED QUALIFIED APPLICATOR.

41 2. REGISTER AS A QUALIFYING PARTY WITH THE OFFICE USING A FORM AND
42 INCLUDING THE INFORMATION PRESCRIBED BY THE DIRECTOR.

43 32-2315. Branch office; branch supervisor

44 A. A BUSINESS LICENSEE SHALL REGISTER EACH BRANCH OFFICE WITH THE
45 DIRECTOR BEFORE THE BRANCH OFFICE OPENS FOR BUSINESS.

1 B. EACH BRANCH OFFICE SHALL BE SUPERVISED BY A REGISTERED BRANCH
2 SUPERVISOR.

3 Sec. 18. Section 32-2317, Arizona Revised Statutes, is amended to
4 read:

5 32-2317. Fees

6 A. The ~~acting~~ director shall establish BY RULE and collect APPLICATION
7 AND RENEWAL fees ~~that may include service charges allowed pursuant to section~~
8 ~~32-2304 for persons who pay with alternative payment methods, including~~
9 ~~credit cards, charge cards, debit cards and electronic transfers, but that~~
10 ~~may not exceed the following amounts~~ FOR THE FOLLOWING:

11 ~~1. Qualifying party license application fee, one hundred fifty~~
12 ~~dollars.~~

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

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

16 ~~4. Temporary qualifying party license application fee, twenty-five~~
17 ~~dollars.~~

18 ~~5. 1. A business license, application fee, one hundred dollars.~~

19 ~~6. Business license renewal fee, one hundred dollars.~~

20 ~~7. 2. A branch office registration application fee, fifty dollars.~~

21 ~~8. Branch office registration renewal fee, fifty dollars.~~

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

23 3. A BRANCH SUPERVISOR REGISTRATION.

24 ~~10. 4. A qualifying party license status change, inactive to active~~
25 ~~REGISTRATION, one hundred twenty-five dollars.~~

26 5. A TEMPORARY QUALIFYING PARTY REGISTRATION.

27 6. TEMPORARY QUALIFYING PARTY RENEWAL REGISTRATION.

28 ~~11. 7. Applicator license application, thirty CERTIFICATION dollars.~~

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

30 8. A QUALIFIED APPLICATOR CERTIFICATION.

31 9. AN APPLICATOR REGISTRATION.

32 ~~13. 10. A duplicate license identification card, ten dollars.~~

33 B. THE DIRECTOR MAY CHARGE AND COLLECT LATE FEES IN ADDITION TO THE
34 FEES LISTED IN SUBSECTION A OF THIS SECTION.

35 C. THE DIRECTOR MAY ESTABLISH TIERED FEES FOR BUSINESS LICENSES.

36 ~~B.~~ D. The ~~office~~ DIRECTOR may charge and collect additional fees for
37 services that the ~~acting~~ director considers to be appropriate to carry out
38 the intent and purpose of this chapter. These additional fees shall not
39 exceed the costs of rendering the services.

40 Sec. 19. Repeal

41 Section 32-2319, Arizona Revised Statutes, is repealed.

42 Sec. 20. Section 32-2321, Arizona Revised Statutes, is amended to
43 read:

44 32-2321. Disciplinary action; grounds; procedure

45 A. ~~After an opportunity for a formal hearing or pursuant to a consent~~
46 ~~order,~~ IF THE DIRECTOR FINDS THAT A PERSON HAS VIOLATED THIS CHAPTER, A RULE

1 ADOPTED PURSUANT TO THIS CHAPTER OR A WRITTEN ORDER OF THE DIRECTOR, the
2 ~~acting~~ director may ISSUE A NOTICE OF VIOLATION AND A CEASE AND DESIST ORDER
3 TO THE PERSON AND, AFTER AN OPPORTUNITY FOR A HEARING, take any of the
4 following disciplinary actions, in combination or alternatively:

- 5 1. Revoke a license OR REGISTRATION.
- 6 2. Suspend a license OR REGISTRATION.
- 7 3. Refuse to renew a license OR REGISTRATION.
- 8 4. Impose probation requirements that require a ~~business licensee,~~
9 ~~licensed applicator or qualifying party~~ PERSON to comply with one or more
10 specific provisions of this chapter or rules adopted pursuant to this chapter
11 and that require reporting by or monitoring of the ~~business licensee,~~
12 ~~licensed applicator or qualifying party~~ PERSON.
- 13 5. Impose a civil penalty in an amount of not more than one thousand
14 dollars for each violation except for grounds prescribed in ~~subsection B,~~
15 ~~paragraphs 8 and 9 of this~~ section 32-2325, SUBSECTION B, PARAGRAPHS 8 AND 9.
- 16 6. Require a qualifying party to report to the ~~acting~~ director the
17 qualifying party's role in the management of a business license.

18 ~~7. Issue an administrative warning.~~

19 7. REQUIRE AN INDIVIDUAL TO TAKE SUPPLEMENTAL CONTINUING EDUCATION
20 WITHIN A TIME PERIOD SET BY THE DIRECTOR.

21 B. INSTEAD OF TAKING DISCIPLINARY ACTION FOR A VIOLATION PURSUANT TO
22 SUBSECTION A OF THIS SECTION, THE DIRECTOR MAY ISSUE AN ADMINISTRATIVE
23 WARNING.

24 ~~B. The following acts are grounds for disciplinary action:~~

25 ~~1. Violating this chapter, rules adopted pursuant to this chapter or a~~
26 ~~written order of the acting director.~~

27 ~~2. Making false or fraudulent records or reports.~~

28 ~~3. Misrepresenting a material fact in obtaining a license.~~

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

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

37 ~~6. Authorizing, directing or abetting the publication, advertisement,~~
38 ~~distribution or circulation of any false statement or material~~
39 ~~misrepresentation concerning a business of pest management.~~

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

42 ~~8. Conviction of a felony.~~

43 ~~9. Having had a license, or the equivalent, to apply pesticides or~~
44 ~~engage in the business of pest management suspended or revoked in another~~
45 ~~jurisdiction for cause.~~

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

4 ~~11. Three or more de minimis violations of this chapter or rules~~
5 ~~adopted under this chapter.~~

6 ~~12. Failure to provide the acting director with a current certificate~~
7 ~~of insurance or proof of financial responsibility.~~

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

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

14 ~~15. Failure to make and maintain true and accurate records of~~
15 ~~treatments performed, including those performed under warranty or guarantee,~~
16 ~~for at least three years from date of treatment except any record of a~~
17 ~~termite treatment, a wood destroying insect inspection report or a fungi~~
18 ~~inspection report, which shall be made and maintained for at least five years~~
19 ~~from the date of treatment or inspection.~~

20 ~~16. Failure to make treatment records available within three business~~
21 ~~days on request of the property owner, the property owner's authorized agent~~
22 ~~or a representative of the office.~~

23 C. Except as provided in section ~~32-2329~~ 41-1092.11, the acting
24 director may ~~proceed~~ TAKE DISCIPLINARY ACTION against a business licensee
25 pursuant to subsection A, ~~paragraphs 1 through 5~~ of this section only
26 if, ~~after an opportunity for a hearing, it has been shown that~~ any of the
27 following applies:

28 1. The business licensee has committed a prior violation of the same
29 type, including any violation by any ~~employee~~ APPLICATOR of the business
30 licensee.

31 2. The business licensee failed to follow a written order of the
32 acting director directing it to correct a deficiency or problem within the
33 time specified.

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

38 4. The business licensee is convicted of a felony.

39 5. The business licensee is determined by the acting director to have
40 committed a violation in connection with a PRETREATMENT, NEW-CONSTRUCTION
41 TREATMENT OR FINAL GRADE treatment ~~before or during construction.~~

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

44 ~~(a) Report to the acting director within thirty calendar days the~~
45 ~~status of all warranties issued by the licensee.~~

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

3 6. THE BUSINESS LICENSEE USES APPLICATORS TO PROVIDE PEST MANAGEMENT
4 SERVICES THAT ARE NOT REGISTERED PURSUANT TO THE REQUIREMENTS ESTABLISHED
5 UNDER SECTION 32-2304, SUBSECTION B, PARAGRAPH 20.

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

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

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

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

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

30 11. The business licensee fails within thirty calendar days after
31 completion of a ~~termite~~ PRETREATMENT, A NEW-CONSTRUCTION TREATMENT, A FINAL
32 GRADE treatment ~~that is done before or during construction~~, an initial
33 ~~termite~~ corrective treatment project or a wood-destroying insect inspection
34 report to file with the office, in a form approved by the ~~acting~~ director,
35 ~~all data required by the acting director. The data shall include: THE~~
36 TERMITE ACTION REPORT FORM AND PRESCRIBED FEE.

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

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

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

40 ~~(d) The name of the business licensee.~~

41 ~~(e) The name of the qualifying party.~~

42 ~~(f) The applicator's license number.~~

43 ~~(g) Any other information required by rule.~~

44 12. The business licensee, within twelve months after completion of a
45 termite PRETREATMENT OR NEW-CONSTRUCTION treatment ~~that is done before or~~
46 ~~during construction~~, fails either to file a supplemental termite action

1 report in a form provided by the ~~acting~~ director that indicates the
2 completion of the final grade treatment or to report in writing why the
3 treatment has not been completed and when it will be completed.

4 13. THE BUSINESS LICENSEE'S APPLICATOR APPLIES A PESTICIDE THAT CAUSES
5 HARM TO THE PUBLIC, THE ENVIRONMENT OR A NONTARGET ANIMAL.

6 14. THE BUSINESS LICENSEE FAILS WITHIN THIRTY CALENDAR DAYS TO PAY
7 CIVIL PENALTIES IMPOSED UNDER THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS
8 CHAPTER.

9 15. THE BUSINESS LICENSEE ENGAGES IN THE BUSINESS OF PEST MANAGEMENT
10 WHILE THE BUSINESS LICENSE IS SUSPENDED.

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

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

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

23 ~~1. Pay renewal fees.~~

24 ~~2. Pay civil penalties.~~

25 ~~3. Demonstrate the completion of required continuing education.~~

26 ~~G. The holder of a license suspended under subsection F of this~~
27 ~~section must apply to the acting director for reinstatement.~~

28 ~~H. Licenses suspended under subsection F of this section are~~
29 ~~automatically revoked without a hearing after one year of suspension.~~
30 ~~Licenses revoked under this section are not subject to section 32-2304,~~
31 ~~subsection A, paragraph 11.~~

32 ~~I. All complaints shall be in writing.~~

33 ~~J. If the acting director appoints an employee of the office to~~
34 ~~conduct an informal settlement conference with the complaining party pursuant~~
35 ~~to section 32-2304, the purpose of the informal settlement conference is to~~
36 ~~reach agreement as to the disposition of all or a portion of the complaint,~~
37 ~~including any agreement providing for repairing or rectifying the conditions~~
38 ~~specified in the complaint. The settlement conference shall be conducted~~
39 ~~informally and the rules of evidence do not apply. The settlement conference~~
40 ~~shall not be recorded. Participants in the settlement conference may ask~~
41 ~~questions of the complainant and may review any materials or reports compiled~~
42 ~~by the office with respect to the complaint.~~

43 ~~K. If the office prepares a consent order pursuant to section 32-2304,~~
44 ~~after either an informal settlement conference conducted pursuant to~~
45 ~~subsection J of this section or a formal hearing by the office conducted~~
46 ~~pursuant to title 41, chapter 6, article 10, the consent order shall only set~~

1 ~~forth the general nature of the inquiry or complaint, the specific action to~~
2 ~~be taken by the licensee or business licensee, the penalty, if any, and the~~
3 ~~time for compliance, if any, for any corrective action to be taken.~~

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

7 M. D. The acting director shall ~~consider only~~ COMMENCE an inquiry
8 ~~received or complaint filed~~ ONLY within five years after the date of the
9 alleged act or omission.

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

15 ~~O. If the office finds a violation or the office enters into a consent~~
16 ~~agreement, the office:~~

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

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

22 ~~P. Only this chapter applies to, regulates and determines all~~
23 ~~requirements regarding licensure, licensure fees, testing and education~~
24 ~~related to pest management in this state. Only this chapter applies to,~~
25 ~~regulates and determines all requirements regarding the business of pest~~
26 ~~management, including the application or notification of use or disposal of~~
27 ~~pesticides for pest management in this state.~~

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

31 F. THE LICENSE OF A PERSON WHO DOES NOT RENEW THE LICENSE AND WHO HAS
32 BEEN ADVISED IN WRITING THAT AN INVESTIGATION OR COMPLAINT IS PENDING AT THE
33 TIME THE LICENSE IS DUE TO EXPIRE OR TERMINATE DOES NOT EXPIRE OR TERMINATE
34 UNTIL THE INVESTIGATION OR COMPLAINT IS RESOLVED. THE LICENSE IS SUSPENDED
35 ON THE DATE IT WOULD OTHERWISE EXPIRE OR TERMINATE UNTIL THE PERSON RENEWS
36 THE LICENSE OR THE INVESTIGATION OR COMPLAINT IS RESOLVED.

37 G. THE DIRECTOR MAY SUMMARILY SUSPEND A PERSON'S LICENSE WHILE THERE
38 IS A PENDING CRIMINAL CHARGE AGAINST THE PERSON FOR A FELONY OR A MISDEMEANOR
39 INVOLVING MORAL TURPITUDE.

40 Sec. 21. Title 32, chapter 22, Arizona Revised Statutes, is amended by
41 adding article 4, to read:

42 ARTICLE 4. WOOD-DESTROYING ORGANISMS

43 Sec. 22. Transfer and renumber

44 Sections 32-2323 and 32-2324, Arizona Revised Statutes, are transferred
45 and renumbered for placement in title 32, chapter 22, article 4, Arizona

1 Revised Statutes, as added by this act, as sections 32-2332 and 32-2333,
2 respectively.

3 Sec. 23. Section 32-2323, Arizona Revised Statutes, as transferred and
4 renumbered by this act, is amended to read:

5 32-2323. Joint responsibility; burden of proof

6 A. A business licensee, qualifying party, BRANCH SUPERVISOR or
7 applicator may be held jointly responsible for the acts or omissions of
8 another person who is under the supervision of the business licensee,
9 qualifying party, BRANCH SUPERVISOR or applicator if the supervising licensee
10 fails to properly train, equip or supervise the other person or fails to
11 maintain records of proper training, equipping or supervising.

12 B. Failure to timely and fully respond to requests by the ~~acting~~
13 director for information relating to training, equipping and supervising is a
14 prima facie showing of a failure to properly train, equip or supervise. ~~The~~
15 ~~A supervising licensee has the burden of proof by a preponderance of the~~
16 ~~evidence that the~~ business licensee, qualifying party, BRANCH SUPERVISOR or
17 applicator HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE THAT
18 THE SUPERVISING PERSON has fulfilled the required duties as prescribed by
19 this chapter, rules adopted pursuant to this chapter or a written order of
20 the ~~acting~~ director.

21 Sec. 24. Title 32, chapter 22, article 3, Arizona Revised Statutes, is
22 amended by adding a new section 32-2324, to read:

23 32-2324. Civil penalties; suspension

24 A. THE OFFICE MAY SUSPEND A LICENSE, CERTIFICATION OR REGISTRATION
25 WITHOUT A HEARING IF THE LICENSEE FAILS WITHIN THIRTY CALENDAR DAYS TO PAY
26 CIVIL PENALTIES IMPOSED UNDER THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS
27 CHAPTER.

28 B. A LICENSEE WHOSE LICENSE IS SUSPENDED UNDER SUBSECTION A OF THIS
29 SECTION MUST APPLY TO THE DIRECTOR FOR REINSTATEMENT.

30 C. A LICENSE, CERTIFICATION OR REGISTRATION SUSPENDED UNDER SUBSECTION
31 A OF THIS SECTION SHALL BE REVOKED WITHOUT A HEARING AFTER ONE YEAR OF
32 SUSPENSION. REVOCATIONS UNDER THIS SUBSECTION ARE NOT SUBJECT TO SECTION
33 32-2304, SUBSECTION A, PARAGRAPH 8.

34 D. THE OFFICE SHALL NOT RENEW A LICENSE, CERTIFICATION OR REGISTRATION
35 OR BROADEN A CERTIFICATION UNTIL THE PERSON SUSPENDED UNDER SUBSECTION A OF
36 THIS SECTION IS REINSTATED.

37 Sec. 25. Repeal

38 Section 32-2324.01, Arizona Revised Statutes, is repealed.

39 Sec. 26. Section 32-2325, Arizona Revised Statutes, is amended to
40 read:

41 32-2325. Unlawful acts

42 A. A person shall not:

43 1. Engage in the business of pest management without ~~holding~~ a
44 business license issued pursuant to this chapter, UNLESS THE PERSON IS
45 OTHERWISE EXEMPT PURSUANT TO THIS CHAPTER.

1 2. Engage in the business of pest management in any category without a
2 qualifying party ~~licensed~~ WHO IS REGISTERED in that category.

3 3. Operate a branch office without ~~employing a licensed applicator or~~
4 ~~qualifying party~~ A REGISTERED BRANCH SUPERVISOR under whose direct
5 supervision pesticide applications are made out of that office.

6 4. Apply pesticides in any category other than ~~the control of~~
7 wood-destroying ~~insects~~ ORGANISM MANAGEMENT OR FUMIGATION unless the person
8 is an applicator ~~or qualifying party licensed~~ CERTIFIED in that category
9 ~~pursuant to this chapter~~ or applies the pesticides under the direct
10 supervision of an applicator ~~or qualifying party licensed~~ CERTIFIED in that
11 category ~~pursuant to this chapter~~.

12 5. Apply pesticides ~~for the management~~ IN THE CATEGORY of
13 wood-destroying ~~insects~~ ORGANISM MANAGEMENT, AQUATIC PEST MANAGEMENT OR
14 FUMIGATION unless ~~both of the following apply:~~

15 ~~(a)~~ the person is an applicator ~~or qualifying party licensed~~ CERTIFIED
16 in that category ~~pursuant to this chapter~~ or the person applies the
17 pesticides under the immediate supervision of ~~a licensed~~ AN applicator
18 CERTIFIED IN THAT CATEGORY.

19 ~~(b) The person has received at least five hours of instruction from~~
20 ~~the office or the former structural pest control commission or an in-house~~
21 ~~education program of a business licensee on the subject of management of~~
22 ~~wood-destroying insects that is appropriate for the specific type of~~
23 ~~application performed. An examination on the instruction is not required. A~~
24 ~~business licensee shall keep a record of completion of the training and shall~~
25 ~~make it available on the acting director's request.~~

26 6. Make recommendations regarding pest management unless the person is
27 a ~~licensed~~ CERTIFIED applicator ~~or qualifying party~~.

28 7. Deny to an authorized inspector the right to be present on a
29 jobsite in connection with a contemporaneous pest management treatment ~~for~~
30 ~~the purpose of taking samples~~, including FOR THE PURPOSE OF TAKING pesticide
31 samples and soil samples.

32 B. THE FOLLOWING NONEXCLUSIVE ACTS ARE GROUNDS FOR DISCIPLINARY
33 ACTION:

34 1. VIOLATING THIS CHAPTER, RULES ADOPTED PURSUANT TO THIS CHAPTER OR A
35 WRITTEN ORDER OF THE DIRECTOR.

36 2. MAKING FALSE OR FRAUDULENT RECORDS OR REPORTS.

37 3. MISREPRESENTING A MATERIAL FACT IN OBTAINING A LICENSE.

38 4. APPLYING PESTICIDES IN A MANNER THAT IS INCONSISTENT WITH THE LABEL
39 AND LABELING OF THE PESTICIDE OR THAT MAY CAUSE HARM TO THE PUBLIC, THE
40 ENVIRONMENT OR NONTARGET ANIMALS.

41 5. MISUSING A PESTICIDE IF THE MISUSE IS DUE TO THE FAILURE OF THE
42 PERSON TO PROPERLY TRAIN OR SUPERVISE. PROPER TRAINING INCLUDES TRAINING TO
43 READ AND UNDERSTAND THE LABEL AND LABELING AND TO UNDERSTAND THE PROPER USE
44 OF APPLICATION EQUIPMENT. PROPER SUPERVISION INCLUDES OVERSIGHT OF
45 APPLICATORS TO ENSURE GENERAL COMPLIANCE WITH THE LABEL AND LABELING AND ALL
46 APPLICABLE LAWS.

1 6. AUTHORIZING, DIRECTING OR ABETTING THE PUBLICATION, ADVERTISEMENT,
2 DISTRIBUTION OR CIRCULATION OF ANY FALSE STATEMENT OR MATERIAL
3 MISREPRESENTATION CONCERNING A BUSINESS OF PEST MANAGEMENT.

4 7. ENGAGING IN THE BUSINESS OF PEST MANAGEMENT OR PROVIDING PEST
5 MANAGEMENT SERVICES UNDER A SUSPENDED LICENSE.

6 8. BEING CONVICTED OF A FELONY, A MISDEMEANOR ARISING FROM OR IN
7 CONNECTION WITH A LICENSE ISSUED PURSUANT TO THIS CHAPTER AFTER ISSUANCE OF
8 THE LICENSE OR A MISDEMEANOR INVOLVING MORAL TURPITUDE.

9 9. HAVING HAD A LICENSE, OR THE EQUIVALENT, TO APPLY PESTICIDES OR
10 ENGAGE IN THE BUSINESS OF PEST MANAGEMENT SUSPENDED OR REVOKED IN ANOTHER
11 JURISDICTION FOR CAUSE.

12 10. MAKING A FRAUDULENT STATEMENT OR AN INTENTIONAL MATERIAL
13 MISREPRESENTATION IN CONNECTION WITH A WOOD TREATMENT PROPOSAL OR A
14 WOOD-DESTROYING INSECT INSPECTION REPORT.

15 11. HAVING THREE OR MORE DE MINIMIS VIOLATIONS OF THIS CHAPTER OR RULES
16 ADOPTED UNDER THIS CHAPTER.

17 12. FAILING TO PROVIDE THE DIRECTOR WITH A CURRENT CERTIFICATE OF
18 INSURANCE OR PROOF OF FINANCIAL RESPONSIBILITY.

19 13. FAILING TO PROVIDE A PROPER FINAL GRADE TREATMENT WITHIN TWELVE
20 MONTHS AFTER THE ORIGINAL PRETREATMENT OR NEW-CONSTRUCTION TREATMENT.

21 14. PROVIDING IMMEDIATE SUPERVISION OF MORE UNCERTIFIED APPLICATORS AT
22 A TIME THAN IS AUTHORIZED BY RULE.

23 15. FAILING TO MAKE AND MAINTAIN TRUE AND ACCURATE RECORDS OF
24 TREATMENTS PERFORMED OR WOOD-DESTROYING INSECT INSPECTION REPORTS, INCLUDING
25 THOSE PERFORMED UNDER WARRANTY OR GUARANTEE, FOR AT LEAST THREE YEARS AFTER
26 THE DATE OF TREATMENT OR INSPECTION.

27 16. FAILING TO MAKE TREATMENT RECORDS AVAILABLE ON REQUEST OF THE
28 PROPERTY OWNER OR THE PROPERTY OWNER'S AUTHORIZED AGENT WITHIN THREE BUSINESS
29 DAYS.

30 17. FAILING TO PERMIT THE DIRECTOR OR ANY DULY AUTHORIZED AGENT TO
31 PROMPTLY INSPECT RECORDS PERTAINING TO PEST MANAGEMENT LOCATED AT AN OFFICE
32 OF A BUSINESS LICENSEE WHEN AN EMPLOYEE OR THE OWNER OF THE BUSINESS LICENSEE
33 IS PRESENT AT THE BUSINESS OFFICE AND HAS ACCESS TO THE RECORDS.

34 18. FAILING TO TIMELY PRODUCE SPECIFIC RECORDS REQUESTED PURSUANT TO
35 SECTION 32-2304, SUBSECTION B, PARAGRAPH 4.

36 19. VIOLATING THE TERMS OF A CONSENT AGREEMENT OR WRITTEN ORDER OF THE
37 DIRECTOR.

38 Sec. 27. Title 32, chapter 22, article 3, Arizona Revised Statutes, is
39 amended by adding section 32-2326, to read:

40 32-2326. Business license; principals; definition

41 A. THE OFFICE SHALL DENY AN APPLICATION FOR A NEW BUSINESS LICENSE OR
42 A RENEWAL OF AN EXISTING BUSINESS LICENSE IF A PRINCIPAL OF THE APPLICANT WAS
43 ALSO A PRINCIPAL OF ANOTHER BUSINESS THAT CURRENTLY OWES PAST DUE TERMITE
44 ACTION REGISTRATION FORM FEES, OWES CIVIL PENALTIES TO THE OFFICE OR HAS HAD
45 ITS BUSINESS LICENSE SUSPENDED OR REVOKED WITHIN THE LAST FIVE YEARS AND WAS

1 A PRINCIPAL AT THE TIME THE FEES BECAME DUE OR THE ACTS RESULTING IN THE
2 DISCIPLINARY ACTION OCCURRED.

3 B. FOR THE PURPOSES OF THIS SECTION, "PRINCIPAL" MEANS A PERSON WHO
4 OWNS AT LEAST A TEN PER CENT INTEREST IN A BUSINESS. PRINCIPAL INCLUDES AN
5 OWNER THAT IS ITSELF A BUSINESS AS WELL AS OWNERS OF A PRINCIPAL.

6 Sec. 28. Section 32-2327, Arizona Revised Statutes, is amended to
7 read:

8 32-2327. Injunctive relief

9 In addition to all other remedies, the ~~acting~~ director, either through
10 the attorney general or the county attorney, may apply to the appropriate
11 court for an order enjoining any act or practice that appears to constitute a
12 violation of this chapter or rules adopted pursuant to this chapter. On a
13 proper showing, a temporary restraining order, a preliminary injunction or a
14 permanent injunction shall be granted without bond.

15 Sec. 29. Repeal

16 Section ~~32-2329~~, Arizona Revised Statutes, is repealed.

17 Sec. 30. Title 32, chapter 22, article 4, Arizona Revised Statutes, as
18 added by this act, is amended by adding a new section 32-2331, to read:

19 32-2331. Termite action report form; exemption

20 A. WITHIN THIRTY CALENDAR DAYS AFTER COMPLETION OF A PRETREATMENT, A
21 NEW-CONSTRUCTION TREATMENT, A FINAL GRADE TREATMENT, AN INITIAL CORRECTIVE
22 TREATMENT OR A WOOD-DESTROYING INSECT INSPECTION REPORT, A BUSINESS LICENSEE
23 OR CERTIFIED APPLICATOR SHALL FILE WITH THE OFFICE IN A FORM APPROVED BY THE
24 DIRECTOR A TERMITE ACTION REPORT FORM AND THE PRESCRIBED FEE.

25 B. THE TERMITE ACTION REPORT FORM SHALL INCLUDE:

- 26 1. THE ADDRESS OR LOCATION OF THE WORK OR PROJECT.
- 27 2. THE TYPE AND DATE OF THE WORK.
- 28 3. THE NAME OF THE BUSINESS LICENSEE.
- 29 4. ANY OTHER INFORMATION REQUIRED BY RULE.

30 C. THE DIRECTOR MAY:

31 1. ADJUST THE FEE UPWARD OR DOWNWARD TO A LEVEL THAT IS CALCULATED TO
32 PRODUCE SUFFICIENT REVENUE TO CARRY OUT THE FUNCTIONS OF WOOD DESTROYING
33 ORGANISM REGULATION.

34 2. ESTABLISH TIERED FEES ACCORDING TO THE MEANS OF SUBMISSION TO
35 ENCOURAGE ELECTRONIC SUBMISSION OF THE TERMITE ACTION REPORT FORM.

36 3. ASSESS A PENALTY OF NOT MORE THAN ONE HUNDRED DOLLARS PER FORM FOR
37 FAILING TO SUBMIT THE REQUIRED FORM OR FEE, OR BOTH, WITHIN THIRTY CALENDAR
38 DAYS.

39 D. IF THE BUSINESS LICENSEE WHO PERFORMS AN INITIAL CORRECTIVE
40 TREATMENT PERFORMED THE PRETREATMENT OR NEW-CONSTRUCTION TREATMENT AT THE
41 SAME SITE AND FILED A TERMITE ACTION REPORT FORM WITH THE OFFICE DOCUMENTING
42 THE PRETREATMENT OR NEW-CONSTRUCTION TREATMENT, THE BUSINESS LICENSEE IS
43 EXEMPT FROM THIS SECTION WITH RESPECT TO THE INITIAL CORRECTIVE TREATMENT.

44 Sec. 31. Section 32-2332, Arizona Revised Statutes, as transferred and
45 renumbered by this act, is amended to read:

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

4 ~~G. Within thirty calendar days after completion of a termite treatment
5 or on the next business day after the thirty calendar days, a business
6 licensee shall file with the office in a form or format approved by the
7 acting director a complete and accurate termite action registration form and
8 a fee as prescribed by the acting director. The termite action registration
9 form shall include information prescribed in section 32-2321, subsection C,
10 paragraph 11 and this section. This subsection only applies to the
11 following:~~

12 ~~1. Any treatments done before or during construction, including final
13 grade treatments.~~

14 ~~2. The first preventative or corrective termite treatment by a
15 business licensee to a site. If the business licensee who performed this
16 termite treatment performed the before or during construction treatment at
17 the same site and filed a termite action report form with the office
18 documenting the before or during construction treatment, the business
19 licensee is exempt from this paragraph.~~

20 ~~3. A wood-destroying insect inspection report.~~

21 G. THIS SECTION DOES NOT APPLY TO THE APPLICATION OF PESTICIDES
22 DIRECTLY TO STRUCTURAL COMPONENTS OF WOOD OR WOOD PRODUCTS, WHICH ARE NOT
23 PART OF AN EXISTING STRUCTURE NORMALLY HABITABLE BY PERSONS, TO PREVENT OR
24 MANAGE WOOD DEGRADATION BY WOOD-DESTROYING ORGANISMS.

25 Sec. 32. Section 32-2333, Arizona Revised Statutes, as transferred and
26 renumbered by this act, is amended to read:

27 32-2333. Wood-destroying insect inspection reports

28 A. Wood-destroying insect inspection reports may ~~only~~ be completed
29 ONLY by an applicator ~~or qualifying party~~ who is ~~licensed~~ CERTIFIED in the
30 ~~categories of management~~ CATEGORY of wood-destroying ~~insects and~~
31 ~~wood-destroying insect inspection~~ ORGANISM MANAGEMENT and who has received at
32 least five hours of instruction from ~~the office or the former structural pest~~
33 ~~control commission or~~ an in-house education program of ~~a~~ THE business
34 licensee on the subject of wood-destroying insect inspection reports. An
35 examination on the instruction is not required. The business licensee shall
36 keep a record of completion of the training and shall make the record
37 available on the ~~acting~~ director's request. THE INSTRUCTION REQUIREMENT DOES
38 NOT APPLY TO CERTIFIED QUALIFIED APPLICATORS.

39 B. Wood-destroying insect inspection reports shall be on file in the
40 office of the business licensee within seven calendar days after the
41 completion of an inspection. The business licensee shall retain a copy of
42 all completed wood-destroying insect inspection reports for ~~five~~ THREE years
43 and make the reports available on the ~~acting~~ director's request.

44 C. Wood-destroying insect inspection reports are evidence of BOTH the
45 existence or absence of wood-destroying insects AND CONDITIONS CONDUCIVE TO
46 WOOD-DESTROYING INSECTS that were visible and accessible to an inspector ~~on~~

1 ~~the date~~ AT THE TIME the inspection was made. A business licensee remains
2 responsible for the accuracy of the inspection and the report as evidence of
3 the presence or absence of infestation AND CONDITIONS CONDUCIVE TO
4 INFESTATION on the date of inspection, except that a wood-destroying insect
5 inspection report shall not be construed as a guarantee as to the presence or
6 absence of wood-destroying insects AND CONDITIONS CONDUCIVE TO
7 WOOD-DESTROYING INSECTS in a structure after the date of inspection.

8 D. IF A CERTIFIED APPLICATOR IS EXEMPT FROM THE BUSINESS LICENSE
9 REQUIREMENT WITH RESPECT TO WOOD-DESTROYING INSECT INSPECTIONS PURSUANT TO
10 RULES ESTABLISHED BY THE DIRECTOR, THE CERTIFIED APPLICATOR SHALL FULFILL THE
11 RESPONSIBILITIES PLACED ON BUSINESS LICENSEES IN THIS SECTION.

12 E. A PERSON SHALL NOT COMPLETE A WOOD-DESTROYING INSECT INSPECTION
13 REPORT FOR A PROPERTY THAT THE PERSON OWNS OR OCCUPIES.

14 Sec. 33. Section 41-1092, Arizona Revised Statutes, is amended to
15 read:

16 41-1092. Definitions

17 In this article, unless the context otherwise requires:

18 1. "Administrative law judge" means an individual or an agency head,
19 board or commission that sits as an administrative law judge, that conducts
20 administrative hearings in a contested case or an appealable agency action
21 and that makes decisions regarding the contested case or appealable agency
22 action.

23 2. "Administrative law judge decision" means the findings of fact,
24 conclusions of law and recommendations or decisions issued by an
25 administrative law judge.

26 3. "Appealable agency action" means an action that determines the
27 legal rights, duties or privileges of a party and that is not a contested
28 case. Appealable agency actions do not include interim orders by
29 self-supporting regulatory boards, rules, orders, standards or statements of
30 policy of general application issued by an administrative agency to
31 implement, interpret or make specific the legislation enforced or
32 administered by it or clarifications of interpretation, nor does it mean or
33 include rules concerning the internal management of the agency that do not
34 affect private rights or interests. For the purposes of this paragraph,
35 administrative hearing does not include a public hearing held for the purpose
36 of receiving public comment on a proposed agency action.

37 4. "Director" means the director of the office of administrative
38 hearings.

39 5. "Final administrative decision" means a decision by an agency that
40 is subject to judicial review pursuant to title 12, chapter 7, article 6.

41 6. "Office" means the office of administrative hearings.

42 7. "Self-supporting regulatory board" means any one of the following:

43 (a) The Arizona state board of accountancy.

44 (b) The state board of appraisal.

45 (c) The board of barbers.

46 (d) The board of behavioral health examiners.

- 1 (e) The Arizona state boxing and mixed martial arts commission.
- 2 (f) The state board of chiropractic examiners.
- 3 (g) The board of cosmetology.
- 4 (h) The state board of dental examiners.
- 5 (i) The state board of funeral directors and embalmers.
- 6 (j) The Arizona game and fish commission.
- 7 (k) The board of homeopathic and integrated medicine examiners.
- 8 (l) The Arizona medical board.
- 9 (m) The naturopathic physicians medical board.
- 10 (n) The state board of nursing.
- 11 (o) The board of examiners of nursing care institution administrators
- 12 and adult care home managers.
- 13 (p) The board of occupational therapy examiners.
- 14 (q) The state board of dispensing opticians.
- 15 (r) The state board of optometry.
- 16 (s) The Arizona board of osteopathic examiners in medicine and
- 17 surgery.
- 18 (t) The Arizona peace officer standards and training board.
- 19 (u) The Arizona state board of pharmacy.
- 20 (v) The board of physical therapy ~~examiners~~.
- 21 (w) The state board of podiatry examiners.
- 22 (x) The state board for private postsecondary education.
- 23 (y) The state board of psychologist examiners.
- 24 (z) The board of respiratory care examiners.
- 25 (aa) The office of pest management.
- 26 (bb) The state board of technical registration.
- 27 (cc) The Arizona state veterinary medical examining board.
- 28 (dd) The acupuncture board of examiners.
- 29 (ee) The Arizona regulatory board of physician assistants.
- 30 (ff) The board of athletic training.
- 31 (gg) The board of massage therapy.

32 Sec. 34. Repeal

33 Laws 2008, chapter 309, section 24, as amended by Laws 2011, chapter

34 20, section 5, is repealed.

35 Sec. 35. Laws 2011, chapter 20, section 4 is amended to read:

36 Sec. 4. Repeal

37 ~~A. Sections 32-2301 and 32-2302, Arizona Revised Statutes, are~~

38 ~~repealed from and after December 31, 2013.~~

39 ~~B.~~ Laws 2008, chapter 309, sections 23, 25 and 26 are repealed.

40 Sec. 36. Laws 2011, chapter 20, section 7 is amended to read:

41 Sec. 7. Interim succession

42 ~~A.~~ As provided by sections 32-2301 and ~~32-2302~~ 32-2303, Arizona

43 Revised Statutes, as amended by this act, the director of the Arizona

44 department of agriculture succeeds to the administrative supervision of the

45 office of pest management, ~~including supervision of the pest management~~

1 ~~advisory committee established by Laws 2008, chapter 309, section 24, for the~~
2 ~~period from the effective date of this act through December 31, 2013.~~

3 ~~B. On the effective date of this act the office of pest management~~
4 ~~shall vacate its current office facilities and relocate to quarters furnished~~
5 ~~by the Arizona department of agriculture. Notwithstanding section 41-791.02,~~
6 ~~Arizona Revised Statutes, the office of pest management is relieved of any~~
7 ~~further obligation for payment of rent to the department of administration on~~
8 ~~the vacated premises.~~

9 ~~C. The directors of the Arizona department of agriculture and the~~
10 ~~department of administration may enter into any necessary memoranda of~~
11 ~~understanding and other agreements necessary to accomplish the relocation,~~
12 ~~transfer and succession of administration provided by this act.~~

13 Sec. 37. Exemption from rule making

14 For the purpose of this act, the Arizona department of agriculture and
15 the office of pest management are exempt from rule making requirements of
16 title 41, chapter 6, Arizona Revised Statutes, until July 1, 2014.

17 Sec. 38. Delayed enforcement; registered qualifying parties of
18 school districts

19 The office of pest management shall not take disciplinary action
20 against a school district for failure to comply with section 32-2311.01,
21 subsection B, Arizona Revised Statutes, as added by this act, before January
22 1, 2015.

23 Sec. 39. Office of pest management; continuing fee authority

24 Notwithstanding any other law, through the effective date of the rules
25 adopted by the director of the Arizona department of agriculture pursuant to
26 this act, the office of pest management is authorized to collect the
27 following fees:

- 28 1. Qualifying party license application fee, one hundred fifty
29 dollars.
- 30 2. Qualifying party license renewal fee, one hundred fifty dollars.
- 31 3. Qualifying party license renewal fee, inactive status, twenty-five
32 dollars.
- 33 4. Temporary qualifying party license application fee, twenty-five
34 dollars.
- 35 5. Business license application fee, one hundred dollars.
- 36 6. Business license renewal fee, one hundred dollars.
- 37 7. Branch office registration application fee, fifty dollars.
- 38 8. Branch office registration renewal fee, fifty dollars.
- 39 9. Late renewal penalty fee, double the prescribed renewal fee.
- 40 10. Qualifying party license status change fee, inactive to active, one
41 hundred twenty-five dollars.
- 42 11. Applicator license application fee, thirty dollars.
- 43 12. Applicator license annual renewal fee, twenty-five dollars.
- 44 13. Duplicate license identification card fee, ten dollars.

S.B. 1290

APPROVED BY THE GOVERNOR APRIL 17, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2013.