

## Licensees' Renewal of Liability Insurance

The North Carolina Structural Pest Control Law requires all licensees to provide evidence of their financial ability to compensate persons who suffer harm from the use or application of pesticides. Licensees must show that they have adequate means to provide that compensation by having liability insurance or other means acceptable to the Committee.” (*N.C. Gen. Stat* § 106-65.37). The corresponding rule issued by the Structural Pest Control Committee, (02 NCAC 34.0902(b), establishes minimum coverage amounts for liability insurance policies:

- |     |                       |                           |
|-----|-----------------------|---------------------------|
| (1) | Single limit          |                           |
|     | Property Damage       | \$100,000 Each Occurrence |
|     | Bodily Injury         | \$300,000 Each Occurrence |
| (2) | Combined single limit | \$300,000 Each Occurrence |

Licensees are required to submit proof that they have adequate insurance in the form of a Certificate of Insurance to the Division. The Division cannot issue, reissue or renew a license until it has received a Certificate of Insurance from the licensee.

Only liability insurance policies issued to companies licensed, or otherwise approved to do business in North Carolina, by the NC Department of Insurance satisfy these requirements.

Licensees may not cancel or allow their liability insurance to lapse or allow a reduction in the available coverage under their policy or policies. Subparagraph (f) of this administrative rule provides that a license shall expire upon:

- (1) reduction of the available coverage under the policy below the minimum limits set forth in Paragraph (b) of this Rule;
- (2) cancellation of the policy; or
- (3) expiration of the policy.

If a license expires for one of these three reasons, it will be reinstated only if the licensee or his insurance company provides to the Division “satisfactory proof that the licensee has obtained the required financial responsibility coverage.”

Every year, the Structural Pest Control Section (SPCS) must pursue regulatory action before the Structural Pest Control Committee against licensed operators, who allow their liability insurance to lapse and continue to do business. Under 02 NCAC 34 .0902 a license expires when the insurance policy has lapsed. When that happens, the licensee must stop providing all services that require a license. The license is expired until such a time as the licensee, the licensee’s insurance company or the pest control company can prove to SPCS they have obtained or reinstated their insurance. Any structural pest control work done while there is a lapse in insurance coverage is a violation of the N.C. Structural Pest Control Law and the Structural Pest Control

Committee can revoke, refuse renewal or refuse reinstatement, and/or impose a civil money penalty for such a violation.

During the Committee meeting on May 15, 2008, the Committee discussed this problem and considered possible increased sanctions it might impose to curb this trend. Among the sanctions and penalties considered by the Committee were:

- Increase the payment the Committee would require to be paid under any agreement submitted to it by the Section and a licensee cited for operating without adequate insurance. The payment amount required will be based on amount of work done and/or the total time the insurance was lapsed.
- Require the licensee to contact the Insurance Company (they had prior to the lapse) to see if it is even feasible to get his policy reinstated with the carrier he previously had. We are advised that, in rare cases that Insurance Company will go back and put in force coverage during the lapse if it was a good client, they were not a pay problem in the past, there are no known claims, or some other possible reason. They may have to pay the rest of the policy's premium and sign a statement of no losses and that he did not let lapse deliberately. This is done only in special circumstances and happens rarely, but it is the best-case scenario if you can get it resolved this way. If they cannot do this to get coverage during the lapsed period, the licensee should then try to purchase coverage from an E&S (Excess Surplus lines) Insurance Company for the lapsed period. The premiums for E&S Markets are much more expensive and cost may depend on the amount of lapsed time, amount of work done during that period, size of the company, history of that company, and numerous other items. NOTE - If the original detection of any problem was made while the Insurance was lapsed, there still could be a situation where there is "no" coverage."
- Require licensee to re-inspect all WDIR 100's and termite work done during the lapse of insurance. The licensee would have to get inspection notices signed by the customer for each inspection and furnish copies to the Structural Pest Control Section. The licensee's insurance company may also require copies of these inspections.

Losing your license is a possibility but not the only likely cost of allowing your insurance to lapse. You can easily prevent this from happening, simply by taking those steps that will ensure you renew your insurance coverage on time each year.