

**STORAGE NAME:** h0355.ag.doc  
**DATE:** March 6, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
AGRICULTURE & CONSUMER AFFAIRS  
ANALYSIS**

**BILL #:** HB 355  
**RELATING TO:** Pest control  
**SPONSOR(S):** Representative(s) Heyman  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC)
- (2) BUSINESS REGULATION (SGC)
- (3) LOCAL GOVERNMENT & VETERAN AFFAIRS (SGC)
- (4) COUNCIL FOR COMPETITIVE COMMERCE
- (5)

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I. SUMMARY:

HB 355 allows local jurisdictions to adopt ordinances requiring annual inspections for termite infestations and damage, including Formosan termites. In addition, operators applying treatment are required to use the best available technology. The bill would also allow local governments and political subdivisions to provide programs that provide termite inspection or treatment services to private property owners, homeowners, associations, and others.

This legislation has no significant fiscal impact and takes effect upon enactment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

**Less Government:** The bill allows local governments to adopt ordinances relating to termite inspections and treatments.

B. PRESENT SITUATION:

Chapter 482, F.S., Florida's Structural Pest Control Act, authorizes the Department of Agriculture and Consumer Services (department) to regulate the pest control industry. The department establishes qualifications for pesticide applicators, approves applications for licenses of pest control applicators, and regulates the use of all pesticides. This chapter prohibits a local government or political subdivision of the state to enact or enforce an ordinance that regulates pest control, with certain specified exceptions.

Termites are a serious problem in Florida where the humidity is high and structures are built with wood-to-ground and wood-to-water contact. Termite treatment and damage costs \$500 million a year in Florida alone. Termites attack and damage any building material that contains cellulose, such as wood used in house and building construction, drywall covered with paper, or siding materials containing cellulose. House and other wood structures can be protected from termites only if they are constructed and maintained properly and a protective treatment is applied correctly.

Coptotermes formosanus, the Formosan termite, was introduced into the United States from East Asia in the 1940s. Since then it has spread through the Southeast, its range now extending from Texas to South Carolina. The Formosan termite is about the size of a grain of rice, but it is far more destructive than Florida's native termites. Each Formosan colony numbers in the millions, 10 times the size of a native termite colony, and can devour a pound of wood a day. First found in Florida 19 years ago in a Hallandale condominium, Formosans have moved into northern Miami-Dade County and southern Palm Beach County, as well as Orlando, Tampa, and Pensacola\*.

In 1988, the federal government banned chlordane, which was used to treat the soil prior to finishing the foundation as an effective means of controlling termites and protecting the wood in a structure. This product was replaced with pesticides considered to be safer for the environment and human health. However, these characteristics also made the products less effective for termite protection. While chlordane generally lasted more than 30 years, currently available materials last only five to 15 years, and require more precise application. House and condominiums built since 1988 have had a high incidence of termiticides failures.

\*Florida Trend, October 1999.

C. EFFECT OF PROPOSED CHANGES:

HB 355 allows local governments to require annual inspections of structures for termite activity or damage, including Formosan termites. It also requires using the best available pest control treatment technology when activity or damage is found. In addition, the bill allows local governments and political subdivisions to provide programs that provide termite inspection or treatment services to private property owners, homeowners, associations, and others.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amending s. 482.242, F.S., allowing local governments to adopt ordinances requiring annual inspections for termite activity or damage, as well as requiring treatment, with the best available technology, when activity or damage is found; authorizing local governments and political subdivisions to provide programs for property owners, homeowners associations, cooperative associations, and condominium associations to obtain termite inspection and treatment services by persons licensed under Chapter 482 or 487.

**Section 2:** Providing an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This legislation may result in increased costs for pest control operators to comply with varying local regulatory requirements around the state.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

**Florida Department of Agriculture and Consumer Services (department):**

The department fears regulation would be hampered if there were not a uniform set of requirements for treatments statewide, thus making inspections and enforcement actions more complex. The department has been working diligently to improve termite preventive and corrective treatments and has proposed legislation amending Chapters 482 and 487. These changes will strengthen enforcement capability and provide more authority to establish efficacy standards for termiticides. In addition, the department has been successful in proposing changes to the Florida Building Code that will improve termite preventive measures in new construction.

**Florida Pest Control Association and the Certified Pest Control Operators of Florida:**

Representatives of the Florida Pest Control Association and the Certified Pest Control Operators of Florida expressed concern with this legislation. As presently worded, local ordinances could (and would) vary as to requirements, making compliance for pest control operators difficult, which could lead to pest control companies limiting services in some areas.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

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Debbi Kaiser

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Susan Reese