



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

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March 28, 1972

Honorable Vernon Walter
Chairman
Texas Structural Pest
Control Board
P. O. Box 13026, Capitol Station
Austin, Texas 78711

Opinion No. M-1107

Re: May the amount of license fees required by Section 7(a) of Article 135b-6, Vernon's Annotated Civil Statutes, be prorated for less than one year?

Dear Sir:

You have requested of this office an opinion as to whether the amount of license fees required by Section 7(a) of the Texas Structural Pest Control Act, Article 135b-6, Vernon's Annotated Civil Statutes, which Act became effective December 6, 1971, can be prorated for less than the full amount it specifies.

Section 6(b) of Article 135b-6, Vernon's Annotated Civil Statutes, is quoted below and shows the license durations to be for a period of one year.

"All licenses issued by the board shall expire on March 1 of each calendar year and may be renewed by submitting an application to the board and paying the required renewal fees." (Emphasis added.)

Initial licenses issued by the board after December 6, 1971, the effective date of the Act, expired on March 1, 1972. Renewal licenses thus became effective after that date.

Section 7(a) of Article 135b-6, is quoted in full below:

"An applicant for an initial or renewal license shall accompany his application with a fee of \$50 for each place of business located in the State and a fee of \$5 and \$15, as determined by the board, for each employee of the applicant who is engaged in structural pest control services. This is not to apply to those locations serving only as answering services for a licensed business." (Emphasis added.)

Thus, a reading of this Section shows that for the initial license as well as subsequent renewal application, the applicant must attach to the application a fee of \$50.00. As the Court held in State v. Wagner, 203 S.W.2d 795 (Tex.Civ. App. 1947, error ref.), at page 796:

"...There is no stronger mandatory term than the word 'shall'."

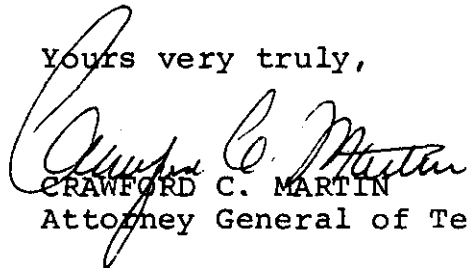
Since there is no provision in Article 135b-6 for the proration of fees collected or to be collected, it is the opinion of this office that the wording of the Texas Structural Pest Control Act makes it mandatory that a license fee of \$50.00 for each business location and a fee of \$5.00 or \$15.00 for each employee, accompany each initial or renewal application regardless of the date of the application. For a similar opinion construing a different statute see Attorney General Opinion M-580 (1970).

We answer your question in the negative.

S U M M A R Y

The Texas Structural Pest Control Board has no authority to prorate the amount of the license fees required by Section 7(a) of Article 135b-6, Vernon's Annotated Civil Statutes, regardless of the date of an application for either an initial or a renewal license.

Yours very truly,



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Prepared by Charles R. Lind
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APPROVED:
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