

Mold Bulletin!

For questions or comments,
please contact
mpietrykowski@gordonrees.com

SAN FRANCISCO

Embarcadero Center West
275 Battery Street
Suite 2000
San Francisco, CA 94111
Telephone: (415) 986-5900
Fax: (415) 986-8054

SAN DIEGO

101 West Broadway
Suite 1600
San Diego, CA 92101
Telephone: (619) 696-6700
Fax: (619) 696-7124

LOS ANGELES

300 South Grand Avenue
Suite 2075
Los Angeles, CA 90071
Telephone: (213) 576-5000
Fax: (213) 680-4470

ORANGE COUNTY

18881 Van Karman
Suite 1500
Irvine, CA 92612
Telephone: (949) 271-9331
Fax: (949) 271-9301

CALIFORNIA BILL SB 1763 TO CREATE DUTY TO DISCLOSE AND COVER MOLD RELATED CLAIMS

California State Senator Debra Ortiz, author of the Toxic Mold Protection Act of 2001, has introduced a new bill requiring insurers to disclose and cover mold related complaints. This bill has passed in the Senate and is currently being considered in the Assembly.

The bill adds a provision to section 790.20 of the California Insurance Code that if an insurer has reason to suspect that mold is present or likely to result from the claim, it shall immediately disclose all "relevant" information to the insured. The bill imposes a duty on the insurer to inform the insured whenever mold is reasonably believed to have developed from a covered loss.

The bill also adds a requirement that any property or liability insurance policy issued, amended, or renewed on or after January 1, 2003, cover mold as an ensuing loss, under Insurance Code section 2071.2. The bill further provides that insurers can exclude mold as a covered loss only if the insurer states the exclusion in clear, explicit and understandable terms.

The bill has passed the Senate Floor in a 21-11 vote and is now with the Assembly Insurance Committee, chaired by Assemblyman Tom Calderon and vice-chaired by Assemblyman Ken Maddox. The bill will be voted on in the coming weeks.

At the Senate hearing, the Insurance Commissioner testified that in the past 18 months he received over 200 requests from insurers to limit or to exclude mold coverage from their policies. Senator Ortiz claims that many insurers are denying all claims for mold damage, regardless of whether the mold was caused by a covered act, "such as a burst water pipe."

The attorneys at Gordon & Rees LLP are available to discuss the implications that this bill may have for you and your business. We are attorneys experienced in litigation and coverage issues specifically associated with mold.