

AMENDED IN SENATE APRIL 9, 2002

SENATE BILL

No. 1763

Introduced by Senator Ortiz

February 21, 2002

~~An act relating to insurance. An act to add Sections 790.20 and 2071.2 to the Insurance Code, relating to insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1763, as amended, Ortiz. Insurance: mold damage ~~study~~.

Existing law provides that the Department of Insurance is responsible for regulating the business of insurance in this state.

~~This bill would require the department, in consultation with the Department of Consumer Affairs and other specified parties, to conduct a study concerning mold and its impact on residential and commercial property owners and insurance companies in this state. The bill would require the department to report its findings and recommendations to the Legislature by July 1, 2003 any property or liability insurance policy issued, amended, or renewed on or after January 1, 2003, to cover mold as an ensuing loss. The bill would provide, however, that insurers could exclude mold as a noncovered peril if the insurer states the exclusion in clear, explicit, and understandable terms. The bill would require an insurer or its representative, agent, claims handler, expert, or adjuster to disclose immediately all relevant information to an insured if mold is implicated, likely is present, or result from a claim and to inform an insured when mold is reasonably believed to have ensued from a covered loss.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~—no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Department of Insurance, in consultation~~
2 SECTION 1. Section 790.20 is added to the Insurance Code,
3 to read:

4 790.20. (a) In addition to any other duty or obligation
5 required by law, if an insurer or its representative, agent, claims
6 handler, expert, or adjustor has reason to suspect that mold is
7 implicated or likely to be present or result from a given claim, it
8 shall immediately disclose all relevant information to the insured.

9 (b) In addition to any other duty or obligation required by law,
10 an insurer has a duty to inform the insured whenever mold is
11 reasonably believed to have ensued from a covered loss.

12 SEC. 2. Section 2071.2 is added to the Insurance Code, to
13 read:

14 2071.2. (a) Any property or liability insurance policy issued,
15 amended, or renewed on or after January 1, 2003, in this state by
16 any insurer shall cover mold as an ensuing loss.

17 (b) Insurers may exclude mold as a noncovered peril. However,
18 if an insurer intends to exclude mold as a noncovered peril, the
19 insurer shall state the exclusion clearly, explicitly, and in readily
20 understandable terms.

21 ~~with the Department of Consumer Affairs, representatives of~~
22 ~~tenants, property owners, commercial and residential landlords,~~
23 ~~realtors, insurers and attorneys, shall examine the availability and~~
24 ~~adequacy of available residential and commercial property~~
25 ~~insurance coverage for mold-related damage. The study shall~~
26 ~~include an examination of the availability of insurance coverage~~
27 ~~for mold-related damage, the scope of coverage for mold-related~~
28 ~~damage from available insurance policies, the basis for coverage~~
29 ~~or denial of mold-related claims, whether mold-related damage is~~
30 ~~covered when it is associated with covered damage, any stated~~
31 ~~limitations or capitations for mold-related damage, the need~~
32 ~~among property owners and other stakeholders for insurance~~
33 ~~coverage for mold-related damage, the average amount of~~
34 ~~mold-related insurance claims, the scope of mold-related claims~~
35 ~~and the adequacy of available insurance coverage for mold-related~~
36 ~~damage to protect the interest of California's property owners. The~~



- 1 ~~department shall report its findings and recommendations to the~~
- 2 ~~Legislature by July 1, 2003.~~

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