

Insurance Times: Texas Mold Ruling Disappoints Insurers

December 11, 2001, Vol. XX No. 25

Mold Coverage To Stay But It Will Not Cover Costs Of Treating And Disposing Of Mold Beyond Immediate Damage

AUSTIN (AP) — Coverage for removing mold caused by water damage will remain in Texas home insurance policies, the state's top insurance regulator has ruled.

However, state Insurance Commissioner Jose Montemayor also decided that the policies will not cover the more expensive costs for testing, treating and disposing of mold beyond immediate damage.

Montemayor issued the ruling to try to solve a developing insurance crisis for Texas homeowners as some of the state's largest providers have stopped writing new comprehensive insurance policies.

Farmers Insurance Group, Allstate, and State Farm — the three biggest insurers in Texas — have quit selling comprehensive policies to new customers because of rising mold claims. Farmers also has said it will not renew comprehensive homeowners insurance policies for any of its 600,000 customers next year because of mold claims.

In approving the order, Montemayor decided against a proposal unpopular with both homeowners and the insurance industry to cap mold damage coverage at \$5,000 with the option to purchase more. The ruling will allow homeowners to buy additional coverage to handle the more expensive procedures that will be eliminated.

The order provides coverage for removal of mold that results from water discharge, leak or overflow that is sudden and accidental. The order also eliminates "stacking" of claims within the same policy year. Stacking is a process that allows homeowners to collect more than 100 percent of their policy limits by filing several separate mold-related claims.

Insurance companies may begin offering the coverage starting Jan. 1.

Current comprehensive homeowners insurance policies cover mold removal only if the mold results from another covered event, such as a leaking water pipe.

"This decision is a commonsense, middle-ground approach," Montemayor said. "It gives Texas homeowners basic protection plus the stability to purchase additional coverage if they so choose."

Consumer and industry groups were critical of the plan.

Jerry Johns at the Southwestern Insurance Information Service said the proposal could raise homeowners insurance rates as much as 60 percent to 80 percent for those who choose to purchase mold coverage.

"We commend the Texas Department of Insurance for its diligence and perseverance but the decision today will do nothing to solve the lingering problem of how insurers will address water-related mold claims in the future," Johns said. Johns said Montemayor instead should allow companies to offer various types of coverage and not force the consumer to buy the maximum type of coverage.

Rob Schneider, a staff attorney for Consumer Union's Southwest Regional Office, was critical of the order because he said it removes "testing and remediation" from the policy altogether, but gives consumers the option of buying it back. "Taking away coverage you have now and charging more if you want to buy it back essentially terminates the coverage," Schneider said.

Schneider said he was concerned that homeowners may have to fight insurance adjusters to get legitimate water claims completely addressed.

Farmers was still reviewing the order, but spokesman Bill Miller said the company applauded Montemayor's decision to give customers more choice in coverage options. But, the company was stopping short of giving the order a full endorsement because it does not offer companies flexibility in structuring coverage.