



30 States and Counting: *Mold Legislation Continues to Sweep the Nation*



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From zero in 2000, to six in 2001, to 30 states and the federal government in 2003, mold legislation continues to sweep the nation. In 2001, California, Maryland, New Jersey, Nevada, Texas, and Washington introduced the first pieces of mold-related legislation in the United States, resulting in legislation in all states but Washington.¹ Since then, 24 additional states and the federal government have thrown their hat into this legislative ring. In 2003 alone, 16 states proposed mold legislation for the first time, and the United States Congress made a second attempt where its first (almost identical) attempt failed.

The recent flurry of mold legislation at the state and federal levels is keeping pace with the initiation of lawsuits alleging personal injuries as a result of exposure to mold. Undoubtedly, both are the result, at least in part, of the media craze which has transformed a natural substance essential to the earth's recycling process into the eighth deadliest sin. By now, every person with a television set (in other words, every potential juror) has seen a news magazine program discussing the horrors imposed by exposure to indoor molds, particularly "toxic molds" such as *Stachybotrys chartarum* (*atra*). These stories continue to air despite the fact that there is no scientific evidence which establishes that mold can yield toxic health effects in humans (as opposed to allergic effects). As demonstrated below, the state and federal governments continue their attempts to catch up with the media frenzy.

We follow with an update on the status of mold-related legislation in California and the federal government, as well as a brief summary of the recent attempts at legislation, both successful and unsuccessful, in 29 other states.

California

To date, California's legislature has made six attempts at enacting mold legislation: three have been enacted, two have failed, and one is pending.

Senate Bill 732: The Toxic Mold Protection Act – *Enacted*

On January 1, 2002, the Toxic Mold Protection Act of 2001 became law, and probably continues to be the most comprehensive mold-related legislation enacted (or even proposed) to date. This law first requires the California Department of Health Services (DHS) to convene a task force comprised of health and medical experts, mold abatement experts, government representatives, representatives from California employers and employees, affected consumers and affected industries. This task force, in conjunction with the DHS, is charged with developing permissible exposure limits to indoor molds, assessing the health threat posed by the presence of molds, and setting standards for assessment, identification and remediation of mold.

The primary impact of the law will be the new disclosure requirements on property owners. The new law will generally require a written disclosure to potential buyers, prospective tenants and renters from any person or public entity who sells, transfers or rents residential, commercial or industrial real property who, in specified instances, knows *or has reasonable cause to believe* that mold, both visible *and invisible or hidden*, is present that affects the unit or building, and the mold either exceeds the permissible exposure limits to molds or poses a health threat, according to the guidelines established by the bill. These disclosure requirements will take effect on the January 1 or July 1 that occurs at least six months after the DHS adopts the requisite standards and guidelines.

What is notably absent from this law, and what may very well trigger further expensive mold-related litigation, is any requirement to conduct air or surface tests to determine whether mold exceeds the permissible limits. Since the layperson cannot identify molds on sight and no person can identify levels of mold either on the surface or in the air without proper testing, then a layperson cannot be expected to have reason to believe that mold levels exceed any given standard or guideline. This void in the law may ultimately render the disclosure requirements irrelevant. Moreover, the law, as drafted, may discourage property owners from conducting testing or investigation under the appropriate circumstances.

Property owners do not need to be concerned just yet, however, since the task force, which was originally ordered to have its recommendations to the DHS by July of 2003, has yet to convene. According to the DHS, this is due to lack of funding, and the Department anticipates needing \$964,000 to initiate and complete the tasks set forth under this bill. For more information on the status of SB 732, readers may contact Pamela Davis at pdavis@library.ca.gov.

Assembly Bill 284 – Enacted

AB 284, which was passed in the 2001-2002 legislative session, directs the DHS to convene a task force and, together with it, establish a mold surveillance, monitoring and education program. Again, however, budget constraints have slowed the task force's recommendations. As of this writing, the DHS plans to have its recommendations out as soon as possible in 2004.

Assembly Bill 178 – Failed

AB 178 would have had the most significant effect to date on landlords of residential property. The bill, which would have amended California's existing Health and Safety Code relating to housing standards, would have required landlords of residential units to provide notice to prospective tenants or lessees of the presence of mold within a unit, to the extent that the mold "endangers life, limb, property, safety or welfare of the occupants or prospective occupants." The bill died in committee.

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Assembly Concurrent Resolution 75 – Passed

ACR 75, adopted on June 24, 2003, expresses the legislature's recognition that poor indoor air quality in schools exacerbates asthma symptoms in young children. The Assembly reports that in 2001, 667,000 children experienced asthma symptoms and 20% of those missed one or more days of school. Citing a report by the National Academy of Sciences Institute of Medicine entitled "Clearing the Air: Asthma and Indoor Air Exposures," the Assembly also reports that "children with allergic asthma may be particularly susceptible to exposure to indoor air pollution from biological contaminants including dust mites and mold. ..." This measure encourages California school districts to implement the Indoor Air Quality Tools for Schools Programs, which would help prevent, identify and remedy indoor air problems by using "common sense activities."

Assembly Bill 2684 – Failed

AB 2684 sought to limit liability which is typically imposed upon school districts for dangerous conditions that exist on their publicly owned property. Under this bill, liability would have been limited in the context of exposure to "toxic mold." The bill died at the desk.

Senate Bill 1763 – Pending

SB 1763, which was introduced in February

2002 by Senator Deborah Ortiz, the same senator who authored SB 732, California's Toxic Mold Protection Act, would have serious ramifications on the insurance industry. This bill seeks to amend sections 790.20 and 2071.2 of California's Insurance Code and would require all property and/or liability insurance policies to cover mold as an ensuing loss, provided they were issued, amended or renewed on or after January 1, 2003. Insurers would only be able to avoid mold coverage liability in situations where a policy excludes mold in "clear, explicit, and understandable terms." Additionally, insurers would be obligated by law to inform an insured "whenever mold is reasonably believed to have ensued from a covered loss."

SB 1763 was passed in the Senate on May 23, 2002, introduced into the Assembly, and thereafter amended in June 2002. There has been no action since November 2002, but the bill remains on active status.

Federal Legislation

Earlier this year, Congressman John Conyers, Jr. (D-Michigan) introduced a bill into the 108th Congress whose identical twin failed one year earlier. In 2002, House Resolution 5040, The United States Toxic Mold Safety and Protection Act (TMSPA), met its demise when it failed to make it out of committee. TMSPA was reintroduced as House Resolution 1268 on March 13, 2003, and is currently pending in several House committees.

If enacted, this comprehensive bill would have a tremendous impact on residential and commercial property owners and landlords in that it would require mold inspections for multi-unit residential properties and for all property that is purchased or leased using funds that are guaranteed by the federal government. For example, HR 1268 would require landlords of apartment complexes to conduct annual inspections for mold. It would also require a mold inspection prior to the private sale of a home (similar to the already-required property inspection). If the inspections reveal mold levels which exceed the permissible guidelines, remediation

PERSPECTIVES

Reference Chart: Mold-Related Legislation

State	Bill/Resolution	Year	Status
Arizona	HB 2341	2003	Enacted
	SB 1432	2002	Failed
California	ACR 75	2003	Enacted
	SB 1763	2002	Pending; still active
	AB 2684	2002	Failed
	AB 178	2001	Failed
	SB 732	2001	Enacted
Connecticut	HB 6426	2003	Enacted
	SB 1265	2002	Failed
Florida	SB 50	2003	Enacted
	HB 1433	2003	Failed
	HB 1659	2003	Failed
	HB 2746	2003	Failed
Georgia	SR 22	2003	Failed
	HR 52	2003	Failed
Illinois	HJR 12	2003	Passed
	HB 2297	2003	Failed
	SB 1191	2003	Failed
	SB 2138	2002	Failed
	SR 317	2002	Failed
	HB 3440	2001	Enacted
Indiana	HB 1704	2003	Enacted
	HB 1515	2003	Enacted
	HB 1856	2003	Failed
	HB 1253	2002	Failed
Louisiana	HB 943	2003	Enacted
	HB 1328	2003	Enacted
	HB 1681	2003	Enacted
Maryland	SB 173	2003	Failed
	HB 93	2003	Failed
	SB 592	2003	Failed
	SB 283	2001	Enacted 2001; Abrogated 2002
Massachusetts	HB 149	2003	Pending
	SB 657	2003	Pending
	SB 2353	2002	Failed
Michigan	SB 88	2003	Failed
	SB 172	2003	Failed
	SB 185	2003	Failed
	HB 4094	2003	Failed
Minnesota	HB 51	2003	Enacted
Mississippi	SB 2988	2003	Enacted
Montana	HB 536	2003	Enacted
Nebraska	LB 540	2003	Enacted
Nevada	SB 131	2003	Failed
	SB 132	2003	Failed
	SB 584	2001	Enacted
New Hampshire	HB 557	2003	Failed
	SB 167	2003	Failed
	HB 267	2003	Failed
	HB 329	2001	Enacted

would be required. In turn, this law provides for a tax credit of 60 percent of the money spent on the mandated inspections and/or remediations.

The bill also directs the Environmental Protection Agency (EPA) and Centers for Disease Control (CDC) to examine the effects of different molds on human health and develop accurate scientific information on the hazards presented by indoor mold. The bill would also direct the EPA and the Department of Housing and Urban Development (HUD), respectively, to establish guidelines that identify conditions that facilitate indoor mold growth and measures that can be implemented to prevent such growth. The guidelines will also address mold inspection, testing and remediation. The bill would further mandate that the EPA and HUD establish guidelines for certifying mold inspectors and remediators.

As to insurance issues, the bill would create a National Toxic Mold Insurance Program administered by the Federal Emergency Management Agency (FEMA) to protect homeowners from catastrophic losses in the event their insurance companies do not offer adequate coverage for this type of loss. Finally, the bill would require states to provide Medicaid coverage to “mold victims” who are unable to secure adequate health care.

Mold Legislation in Other States

Arizona

In April 2003, Arizona enacted House Bill 2341, which requires persons who perform “mold inspections” to obtain a license, and further sets forth specific requirements for “mold inspection reports.”

During the 2002 session, Senate Bill 1432 would have created a legislative study group to review the effects of indoor residential and commercial mold contamination. After referral to multiple committees in early 2002, the bill passed out of the Senate, but failed to pass in the House.

Connecticut

This year, Connecticut enacted House Bill 6426, which seeks to improve indoor air quality in public schools via reporting of “moldy” conditions and instituting oversight of building/construction plans for both new structures and after evaluation of certain environmental risks and conditions in existing structures. The bill also will require renovation or installation of new HVAC systems in schools and establishes a review process for indoor air quality remediation plans. Interestingly, several similar bills introduced this year in the Connecticut legislature were rejected.

Previously, in 2002, the Connecticut Insurance Department released guidelines to allow insurers to drop or limit mold coverage, after receiving a flood of requests from insurers regarding increasing mold claims from both businesses and homeowners. The same year, Senate Bill 1265, which would have provided increased funding for schools to improve indoor air quality, failed to pass.

Florida

Florida’s Senate Bill 50 was passed by both houses of the Florida legislature on May 27, 2003. The bill amends Florida’s Worker’s Compensation Act to state that an injury or disease caused by toxic mold is not compensable “absent clear and convincing evidence” of general causation. Other mold-related legislation considered this year by Florida was unsuccessful, including House Bill 1433, which would have created a task force to investigate “toxic molds.”

Georgia

While two resolutions, Senate Resolution 22 and House Resolution 52, were considered this year which would have created legislative committees to study insurance coverage for and health effects of mold, neither resolution passed before the close of the legislative session.

Illinois

House Bill 3440, which went into effect on July 1, 2001, provided appropriation to upgrade HVAC systems in state-run veterans’ homes.

Reference Chart: Mold-Related Legislation (continued)

State	Bill/Resolution	Year	Status
New Jersey	AB 3561	2003	Failed
	AB 3310	2003	Failed
	AB 3760	2003	Failed
	AB 3933	2001	Failed
	SR 77	2001	Passed
New Mexico	SB 489	2003	Failed
New York	SB 5252	2003	Pending
	AB 7221	2003	Pending
	AB 4387	2003	Pending
	SB 896	2003	Pending
	SB 5799	2002	Enacted
	AB 10610	2002	Enacted
Oklahoma	HCR 1011	2003	Passed
Oregon	SB 515	2003	Enacted
	SB 557	2003	Failed
	SB 562	2003	Failed
Pennsylvania	SB 218	2003	Pending
	HB 1187	2003	Pending
	HR 434	2002	Passed
	SR 171	2002	Passed
	HB 2652	2002	Failed
Rhode Island	SR 983	2003	Passed
Tennessee	HB 981	2003	Enacted
Texas	HB 329	2003	Enacted
	SB 127	2003	Enacted
	HB 730	2003	Enacted
	SB 242	2003	Failed
	HB 473	2003	Failed
	HB 1560	2003	Failed
	SB 129	2003	Failed
	SB 243	2003	Failed
	SB 123	2003	Failed
	HB 921	2003	Failed
	SB 114	2003	Failed
	HB 98	2003	Failed
	HB 934	2003	Failed
	SB 242	2003	Failed
	HB 473	2003	Failed
	HCR 11	2003	Failed
HB 2008	2001	Enacted	
Utah	SB 62	2003	Failed
Virginia	SR 357	2003	Passed
	SB 909	2003	Failed
	SB 908	2003	Failed
Washington State	SB 5867	2003	Failed
	HB 1688	2003	Failed
	SCR 8426	2002	Failed
	SB 5933	2001	Failed
Wisconsin	AB 660	2003	Pending
Federal	HR 1268	2003	Pending
	HR 5040	2002	Failed

More recently and importantly, House Joint Resolution 12, which passed in June 2003, creates a Joint Task Force on Mold in Indoor Environments to examine mold and make recommendations to the General Assembly regarding regulation of mold in indoor environments.

Two other bills considered this session, House Bill 2297 and Senate Bill 1191, which would have required public schools to institute an "Indoor Air Quality Management Program," did not make it out of the Rules Committee.

Indiana

Indiana passed its first pieces of mold-related legislation in April 2003. House Bill 1704 will allow the Indiana Department of Health to conduct indoor air quality inspections in public buildings occupied by a state or public agency. House Bill 1515 will require home inspectors to complete inspection reports which explicitly state that the inspection does not address mold or any environmental hazards.

Last year, House Bill 1253 would have established mold standards and directed the Department of Health to recommend toxic mold exposure limits. After referral to the House Public Health Committee, the bill passed, but after referral to the Senate Rules and Legislative Procedures Committee, the bill ultimately failed. A 2003 similar bill, House Bill 1856, did not make it out of committee before the session adjourned.

Louisiana

As of August 15, 2003, the newly signed House Bill 1328 will license persons who perform mold assessment and remediation services in the state. House Bill 943, also effective as of August 15, states that a builder's warranty will exclude coverage for "mold and mold damage" unless otherwise agreed by the parties. Additionally, House Bill 1681, effective as of July 2, 2003, requires the Louisiana Real Estate Commission to produce a mold information pamphlet to distribute to homebuyers by July 1, 2004.

Maryland

While Senate Bill 283, which established a Task Force on Indoor Air Quality, became effective on July 1, 2001 as a notable early piece of mold-related legislation, it was abrogated on July 31, 2002. Mold-related legislation which was pending this year in Maryland either died in committee or was withdrawn, including a Senate Bill which would have established an "Office of Indoor Air Quality" in the Department of the Environment.

However, as of June 2003, Maryland's new Insurance Commissioner announced that insurance companies cannot exclude coverage for liability related to toxic mold in personal or commercial policy lines, but can cap coverage at \$50,000.

Massachusetts

In 2002, Senate Bill 2353, the "Moulton Toxic Mold Protection Act," was introduced, which would have authorized a task force to consider indoor toxic mold exposure limits and assess health risks from mold. The bill was heard in committee in mid-2002, but ultimately failed. This year, Massachusetts has been considering House Bill 149 and Senate Bill 657, which would, respectively, establish an Office of Indoor Air Quality and require the Department of Health to convene a task force to study the health effects of "toxic mold." At the time this article was written, these bills were still pending.

Michigan

While many pieces of legislation on toxic mold were considered by Michigan during its past legislative session, none passed. The most notable introduction, Senate Bill 172, would have created the "Toxic Mold Disclosure Act," and would have required sellers of real property to disclose any known environmental problems, including "toxic mold" conditions.

Minnesota

Minnesota enacted its first piece of mold-related legislation this year with the passage of House Bill 51, which requires school districts to submit indoor air quality management plans to receive funding for indoor air quality issues and mold remediation.

Mississippi

On April 19, 2003, the Governor of Mississippi signed Senate Bill 2988, which will establish a fund to be used to assess and correct the presence of "black mold" at institutions of higher learning and state-owned buildings. This was Mississippi's first attempt to enact mold legislation.

Montana

Montana's Governor signed House Bill 536 on May 5, 2003, which permits (but does not require) a seller or landlord to provide a mold-disclosure statement with an offer for the purchase, sale, or rental of inhabitable property. The bill also instructs that sellers and landlords must disclose whether a building has been tested for mold, along with disclosure of all mold tests and/or remediation results.

Nebraska

In May of this year, over the Governor's veto, the Nebraska Legislature passed Legislative Bill 540, which amends funding provisions of schools to cover expenditures for indoor air quality or mold prevention, assessment and remediation. Previously, in 2002, the Nebraska Department of Insurance began to allow insurers to add mold exclusions to policies with some restrictions.

Nevada

Senate Bill 584, which went into effect as of June 14, 2001, authorized bonds to finance capital improvements for toxic mold prevention and remediation. Yet, Nevada's attempts at mold-related legislation since has been unsuccessful, including 2003's Senate Bill 131, which would have required study and recommendation of standards and procedures for inspection, testing and remediation of mold-contaminated building materials. This bill died in committee upon the close of the session.

New Hampshire

In 2001, New Hampshire enacted House Bill 329, which established strict air quality standards for public schools.

However, New Hampshire's attempts in 2003 to pass mold-related legislation were all

unsuccessful. House Bill 557 would have instructed that no homeowners' insurance policy could provide coverage for mold-related claims. Both Senate Bill 167 and House Bill 267 would have required investigations of indoor air quality in school buildings upon receipt of a complaint, and also would have instituted reporting on the "health" of public school buildings, building-related health problems and efforts to improve school indoor air quality.

New Jersey

On May 3, 2001, as a mold-legislation "early bird," New Jersey passed a Senate resolution which "urged" the state to research methods which can assist residents in the identification of mold as well as strategies to help mold prevention.

Since then, New Jersey has been unsuccessful in passing additional legislation. In late 2001, an assembly bill which would have defined and addressed "mold hazards" in an indoor environment was introduced, but expired when the Legislature concluded at the end of the year.

This session, New Jersey again left several bills pending in committee at the session's close. Assembly Bill 3561 would have required the development of a "mold hazard information pamphlet" to be provided to buyers or renters of residential housing, and have established a program to license mold remediators, require inspections of residential housing for mold, and promulgated standards to ensure that residential buildings and schools are constructed in a way that "minimizes" mold hazards. Assembly Bill 3310 would have required insurers to respond promptly to water damage claims, and Assembly Bill 3760 would have required the Department of Community Affairs to inspect common areas of all multi-family dwellings (i.e., condominiums) for "mold hazards" every five years.

New Mexico

In early 2003, New Mexico's Senate Bill 489 was considered, which would have required the Board of Education to formulate a program to ensure good indoor air quality in

schools. On March 24, 2003, however, action on the bill was postponed indefinitely.

New York

The New York Toxic Mold Protection Act, Senate Bill 5799 (enacted by Assembly Bill 10610, a substantially similar piece of legislation), creates a task force which will provide advice on toxic mold exposure limits, assessment standards and remediation. The passage of this bill in 2002 puts New York second in line to California for legislation which will ultimately result in the promulgation of exposure limits to "toxic mold." Both New York's and California's Acts use similar language and requirements for the development of permissible exposure limits to toxic mold.

Continuing its mold legislation impetus, New York is also presently considering Senate Bill 5252, the "Toxic Mold Protection Act of 2003," which would instruct the Department of Environmental Conservation to undertake a study of the health effects of indoor exposure to mold and "toxic mold." Finally, New York is still considering Assembly Bill 7221, which would require detection and remediation standards for mold to be promulgated, as well as require certain disclosures regarding mold in real estate transactions.

Oklahoma

Oklahoma's House Concurrent Resolution 1011 was adopted on May 23, 2003, and will create a joint legislative task force on mold and mold remediation in order to determine how best to educate state residents about mold. A report on the task force's findings thus far is due to the legislature by February 2, 2004.

Oregon

On June 12, 2003, Oregon's Governor signed Senate Bill 515, which requires sellers of real property to disclose the presence of mold to prospective buyers. Two other bills pending this year which were substantially similar, Senate Bill 557 and Senate Bill 562, were left to die in committee upon the end of the legislative session in August.

Pennsylvania

During the 2001-2002 session, both the House and Senate were successful in passing resolutions (House Resolution 434 and Senate Resolution 171, respectively) which "urge" the Department of Health to create a task force to study the health effects of toxic mold.

Senate Bill 218, the "Mold Public Information and Education Act," would establish a program to inform state residents about health effects of mold. The bill was referred to the Appropriations Committee in April 2003 where it is still pending at the time of the writing of this article. Also, Pennsylvania is currently considering House Bill 1187, which would create a task force to investigate and make recommendations on "toxic mold" in homes, schools and buildings. This bill is still pending in the Health and Human Services Committee.

Rhode Island

Rhode Island's Senate adopted Senate Bill 983, a resolution which creates a Senate commission to study the health effects of toxic mold, in May 2003. The commission is to issue recommendations, including on "safe" exposure limits for certain public buildings, including schools and hospitals.

Tennessee

The first mold-related legislation in Tennessee was signed by the Governor on June 12, 2003. House Bill 891 will establish a joint legislative committee to study mold remediation in public schools, with its findings and recommendations to be reported to the legislature by March 1, 2004.

Texas

Texas was also one of the first states other than California to enact mold-related legislation, which it did on November 28, 2001, when the Texas Insurance Commissioner ordered changes that retained coverage for mold removal related to certain water damage.

This year, on June 12, 2003, Governor Rick Perry signed House Bill 329, which protects homeowners from unlicensed mold remedia-

tors. The new law also prevents mold claims from being a factor in insurance underwriting. The same day, Governor Perry also signed Senate Bill 127, which provides the Texas Department of Insurance to require more timely responses to water damage claims and restricts use of water damage claims histories. The governor also signed House Bill 730 in June 2003, which requires adoption of building and performance standards which would prevent water intrusion, as well as standards for mold detection, management and remediation.

Additionally, the Texas Insurance Commissioner has proposed a new rule which would make it an unfair or deceptive practice for Texas insurers to refuse to sell a homeowners policy based on a prior mold or water damage claim without first conducting an inspection of the property at issue.

In 2003, Texas also contemplated Senate Bill 242 and House Bill 473, identical bills which would have established mandatory indoor air quality guidelines for public schools. The bills did not make it out of committee. House Concurrent Resolution 11, which would have asked the President and Congress to conduct research to quantify "health risks" associated with mold and develop exposure guidelines for molds which contribute to "sick buildings," was left pending in committee at the end of the session. Several other insurance-related bills introduced this year (largely dealing with water damage and mold claims) also failed to survive.

Utah

Utah's first proposed mold legislation, introduced this year, failed to pass the House. Senate Bill 62 would have excepted building inspectors from checking for the presence of mold, toxins and fungi.

Virginia

In 2003, Virginia passed Senate Joint Resolution 357, which will direct the Virginia Housing Study Commission to study issues of mold and mildew in commercial and residential real estate.

Washington

While insurers have now begun to restrict mold coverage in the aftermath of a \$32 million plaintiffs verdict in a mold-related bad faith case,² no affirmative mold legislation in Washington State has been passed to date. Prior attempts at legislation, including SCR 8426 in 2002, which would have established a "Joint Select Committee on Indoor Mold Contamination," have all failed.

Wisconsin

In November of 2003, the Wisconsin legislature became the 30th state to throw its hat into the ring. AB 660 was referred to the Committee on Public Health and would require the Wisconsin's Department of Health and Family Services (DHFS) to establish certification requirements for the performance of mold identification and remediation in residential and commercial buildings. The bill would prohibit the use of the terms "state-certified mold inspector" or "state-certified mold remediator" unless the individual is certified by the DHFS pursuant to this bill. Violation of this new law could result in the imposition of both civil and criminal penalties.

Conclusion

The flurry of mold-related legislation belies the absence of scientific and medical evidence that mold exposure can cause a toxic reaction. Nonetheless, the end result, at least in part, may actually prove beneficial to those involved in mold litigation, including potential defendants, experts and attorneys. The guidelines anticipated by California's Toxic Mold Protection Act, for example, may provide some guidance as to what actions property owners and managers should take when confronted with mold and water intrusion issues at their properties. Remediation contractors hired to develop and implement remediation plans may also benefit from the certainty the awaited standards will provide. Moreover, these guidelines may assist in refining the standard of care as to all potential defendants which, to date, has been vague and undefined as both sides attempt to assess liability in these cases.

That said, despite more than 100 attempts at mold-related legislation at the state and federal levels, we still have no standards which govern the assessment, identification and remediation of mold. This leaves all those involved wondering if the monumental efforts by our legislatures will ever actually result in laws by which we must live.

Endnotes

1. S.B. 732, 2001 Reg. Sess. (Cal. 2001); A.B. 284, 2001-02 Reg. Sess. (Cal. 2001); S.B. 283, 2001 Sess. (Md. 2001); S.R. 77, 2001 Sess. (N.J. 2001); S.B. 584, 2001 Sess. (Nev. 2001); A.B. 4887, H.B. 2008, 77th Leg. Sess. (Tx. 2001); S.B. 5933, 2001-02 Sess. (Wash. 2001).
2. See *Ballard v. Fire Ins. Exchange*, No. 99-05252 (Tex. Dist. Ct. Travis County, June 1, 2001).

