

# ***HOMEOWNERS FOR BETTER BUILDING***

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## **A Public Statement regarding the mold issue and the Texas Department of Insurance staff recommendation.**

**HomeOwners for Better Building is opposed to the Texas Department of Insurance (TDI) staff recommendations for mold coverage.** This recommendation, if implemented, will do nothing to solve the "Mold Crisis" in Texas. If TDI promotes limited liability for the insurance industry and added premiums for a choice of optional limited mold coverage on homeowner policies, the following results will occur:

- Families will continue to suffer the devastating health and financial consequences of mold.
- Health care costs will most certainly increase.
- Foreclosures of homes with mold contamination will reach an all-time high.
- Home Mortgage Lenders will inherit the financial burden of mold contamination.
- Mortgage lenders may require full (100%) mold coverage that will be prohibitive for the average homeowner and future homebuyers.
- Future homebuyers will find it harder to qualify for home loans because of the drastic increase in cost of mold coverage.
- Ultimately, higher rates along with high numbers of foreclosures, will adversely affect the real estate market for both existing and new homes.

## **The cause? Normal accidental water occurrences have led to the Mold Crisis.**

The insurance industry has enjoyed steady profits over the years from homeowners insurance. However, changes in the manufacturing of building materials that contribute to the rapid growth of mold results in greater consequential damages that are eating away at the profits of the insurers.

Complications from faulty construction, faulty air conditioning, careless building practices and the use of defective building materials that predispose structures to the growth of mold have all been identified as major contributing factors to extensive consequential damages when water intrusion or leaks occur.

## **The result? The Consumers hands are tied.**

Tort Reform and contractual advantage requirements by the Home Building Industry prevent homeowners from suing the builder, leaving them with only their insurance coverage to turn to for help. Homeowners have no recourse, and if the insurance industry has its way consumers will remain the victims.

Unlike other professions, homebuilders are not licensed or regulated in the state of Texas, resulting in a lack of accountability throughout the industry. Without this accountability, quality control of materials and workmanship in homes will continue to suffer, and mold will continue to cause health and financial problems for everyone.

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## **Immediate Solution: Recognition that Mold has created Health Issues.**

### **Texas Insurance Commissioner Montemayor should:**

- 1. Encourage insurance companies to subrogate claims to recover losses from the manufacturers of building materials that predispose to the growth of mold, and from the homebuilders who use these defective products during construction of homes.**
- 2. Encourage the insurance industry to approach the mold issue from the standpoint of prevention as they did many years ago with the manufacturing of automobiles that resulted in seatbelts, airbags, and crash testing to assure car safety.**
- 3. Encourage the insurance industry to review their policy of "Products Liability Coverage" for manufacturers of products that are known to have a predilection for the growth of mold, such as masonite types of sidings, EIFS, and sheetrock. Such actions would ultimately encourage manufactures to produce safer and better products.**
- 4. Take disciplinary actions against insurance companies that do not handle claims in a timely manner.**
- 5. Ask for the cooperation of the Texas Attorney General to ban the use of building materials that have been found to be defective in civil suits.**

## **Long Term Solutions: Recognition and prevention of the cause of mold growth.**

HomeOwners for Better Building is calling on the insurance industry to recognize that the mold issue has become a health issue and to concentrate on preventing the causes of mold growth.

If mold is recognized as the cause of a variety of medical disorders, a solution should be imminent. Would the insurance industry dare to launch a campaign to exclude open-heart surgery from their health policies simply because it is too costly? Would they dare to stop all bypass surgery coverage, and refuse to pay for medications to reduce blood pressure and cholesterol levels, simply because people are overweight? To the contrary, the insurance industry *promotes* better health care for the prevention of heart disease. Yet, when it comes to mold infestation, the insurance industry wants to exclude mold coverage and limit their exposure, even though molds have been proven to cause a variety of debilitating medical conditions.

Since it understands the causes of extensive consequential damage from mold, the insurance industry is in the best position to evaluate the situation. Indeed, it has an obligation to find ways to subrogate their losses. They have the ability, knowledge, and expertise to identify the causes and solve the mold crisis.

## **State action to ensure homebuilder responsibility for construction defects.**

- Interim hearings by legislators on mold, on the products that contribute to the growth of mold, and on the homebuilding industry.
- A State Licensing and Bond Requirement for Homebuilders.
- Adoption of a State Building Code.
- Adoption of a Texas Home Lemon Law.

Respectfully submitted,

Janet Ahmad  
President