

NEW MOLD LAW FACT SHEET

SB655

SB 655 applies to hotels, motels, apartment houses & dwellings (including houses and homes) regardless of date of construction. Non-dwellings are excluded from SB 655.

The California Department of Public Health (CDPH) had determined that the presence of water dampness, visible mold, or mold odor in schools, workplaces, residences, & other environments is unhealthy. It recommends addressing water damage, dampness, visible mold, and mold odor by (a) identifying and correcting the source of water that may allow microbial growth or contribute to other problems, (b) the rapid drying or removal of damp materials, and (c) the cleaning or removal of mold and moldy materials as rapidly and safely as possible¹.

SB 655 provides guidance to local code enforcement and other public officers that mold growth is a health and safety concern when it endangers the life, limb, health, property, safety, or welfare of the public or the building's occupants. Health officer or code enforcement officer must make this determination. Such 'qualified' mold is unlawful under State Housing Law². Local agencies are mandated to enforce State Housing Law³ and have authority to issue notices to property owners to abate qualified mold growth as routine housing code enforcement.

The presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use is exempt from enforcement under SB 655⁴. Such mold is a 'housekeeping' task that is the occupant's responsibility⁵.

Landlords are required to keep their units safe and habitable, and free from violations of State Housing Law⁶. This obligation may not be waived or bypassed any agreement to the contrary⁷. SB 655 amends landlord-tenant law so that landlords are not required to remediate mold unless they have notice of the mold or if the tenant is in violation of specific affirmative obligations⁸. *Regardless of this Civil Code provision, under SB 655 substandard buildings remain subject to code enforcement by local agencies under State Housing Law⁹, which requires enforcement agencies to give notice to owners¹⁰.* Dwellings with unlawful mold may be deemed uninhabitable and may be required to be vacated¹¹ and/or subject to other remedies including fines and penalties.

*Adapted from City of Fremont Community Dept., Building & Safety Division.

¹CDPH Statement on Building Dampness, Mold, and Health, September 2011

²Cal Health & Safety Code § 17920.3(a)(13)

³Cal Health & Safety Code § 17960

⁴Cal Health & Safety Code § 17920.3(a)(13)

⁵Cal. Civil Code § 1941.2

⁶Cal Civil Code § 1929 and § 1941

⁷Civil Code § 1942.1

⁸Civil Code § 1941, § 1942

⁹Cal. Health & Safety Code § 17920.3

¹⁰Cal. Health & Safety Code § 17980, § 17980.6

¹¹California Code of Regulations Title 25, Division 1, Chapter 1, Subchapter 1, Article 6, Section 54