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Homeowners could lose insurance coverage over Chinese-drywall woes

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Homeowners living in houses with suspect Chinese drywall are already in a bind: Their air conditioners stop working, a rotten-egg smell permeates their homes, they suffer a litany of health problems including troubled breathing, nosebleeds and headaches.

Now, some of them could lose their property insurance coverage.

Many homeowners have filed claims with their home insurers to repair the drywall damage. That's turning out to be a dead end: Most property insurers are denying the claims because homeowners policies don't cover contamination or building material defects.

But once an insurer knows there is drywall damage in a home, the existing damage could be the trigger for not renewing a policy unless repairs are made.

That's the dilemma for James and Maria Ivory. The couple retired to Punta Gorda, Fla., from Colorado in February, buying a home for \$109,000 that was built in 2006. The Ivories had to have the air conditioner replaced right away and noticed metals were corroding shortly after moving into their home, which had never been lived in.

They filed a claim with their insurer, Citizens Property Insurance, to rehabilitate the home, asking for the drywall to be ripped out and corroded items be replaced, among other repairs.

The Ivories' claim didn't specify a dollar amount, but some builders have estimated repair work generally can run at least one-third of the original construction costs.

The state-run insurer, the largest in Florida, denied the claim. Then last month, the couple received a notice from Citizens, saying their homeowners policy won't be renewed in March because it has no proof the damage the Ivories wanted their insurance money to pay for has been repaired.

"There's nothing that's ever happened to this home other than Chinese drywall," said David Durkee, a Coral Gables, Fla., attorney who is representing the couple. "He needed to go to Citizens because he couldn't get insurance elsewhere. That was supposed to be the safety net for residents in Florida."

Durkee, who is handling several lawsuits against builders and drywall suppliers, said this is the first time he has seen an insurer use drywall damage as a reason for dropping a policy.

Durkee has written to Florida Gov. Charlie Crist; U.S. Sen. Bill Nelson, D-Fla., and Rep. Robert Wexler, D-Fla., about Citizens.

"We cannot let that safety net have a hole in it, period," Durkee said.

For its part, Citizens has received about 20 drywall claims so far, and each is handled on a case by case basis, said John Kuczwanski, Citizens' spokesman. Not all the claims are resolved yet.

Thousands of homes in South Florida and tens of thousands nationwide are suspected of having the tainted imported drywall. Large amounts of drywall were imported into Florida to deal with demand from the home-building boom and reconstruction following hurricanes of 2004 and 2005.

So far, there is no scientific proof that the imports are causing the problems, but homeowners with the material have similar complaints of malfunctioning air conditioners metals, a chemical or rotten-egg smell and breathing trouble and nosebleeds, among other health problems.

The Ivorys aren't the only Florida residents who have had Chinese drywall claims denied by the homeowners insurance companies.

Many of Miami attorney Jeremy Alters clients have experienced the same thing.

"It's a shame because it's an immediate solution for the homeowners," Alters said. Instead, many are waiting on lawsuits to work their way through the legal system. But if insurers honored the claims, then they could go after the drywall manufacturers, instead of homeowners, he said.

Homeowners insurance policies are designed to cover "sudden accidental losses" such as the water damage caused by busted pipes or ripped out roof due to a hurricane, explained Dick Luedke, a spokesman for State Farm Insurance. However, homeowners policies generally exclude pollution or contamination damage or problems stemming from defects in building materials.

State Farm has had fewer than two dozen claims with drywall damage. Luedke says no policy so far has been canceled because of a drywall problem. But the company can re-evaluate a policy if the risk of insuring a home has increased dramatically.

The giant international reinsurer Swiss Re said in report issued last month that most homeowners insurance companies are using those two exclusions to deny claims from damage stemming from imported drywall.

Durkee says none of the claims he has reviewed has been denied improperly. Homeowners are turning to builders, drywall suppliers and manufacturers to recover remediation costs. Some builders, including Lennar and GL Homes, have taken on the cost of gutting and rebuilding homes and providing temporary living quarters until the repairs are done.

Earlier this week, a state Senate committee held its first hearing in Tallahassee to discuss potential remedies to help affected homeowners. Requiring home insurers to cover drywall claims hasn't been discussed.

Attorney Allison Grant of Boca Raton, Fla., sued American Home Insurance Company in federal district court in March on behalf of Fort Myers, Fla., residents Keith Baker and Linda Leri after the insurance company denied their insurance claim for damages related to Chinese drywall.

Although they said their 9,200-square-foot home was inspected after they filed their claim, it was denied because of a contamination exemption in their policy, the lawsuit says. American Home Insurance denies even inspecting the couple's home, in court documents, but says contamination or pollution exemptions would apply anyway.

"Most of the companies are doing the same thing," said Grant, who has a list of clients who have been denied help from their insurance companies. Grant said she's waiting to see what happens with this lawsuit before going after other insurance companies.

"With Chinese drywall, what's so unique about it, is that when these policies were written, they didn't know what Chinese drywall was," Grant said. "To exclude it, I think it's wrong."