

**COMMERCIAL GENERAL LIABILITY COVERAGE FOR DEFECTIVE WORK
STATE-BY-STATE SURVEY
MARCH 15, 2007**

STATE	IS DEFECTIVE WORK AN OCCURRENCE?		PROPERTY DAMAGE EXCLUSIONS APPLIED?
	Status	Case Law	Case Law
California	Yes	<i>Anthem Elec., Inc. v. Pac. Employers Ins. Co.</i> , 302 F.3d 1049 (9th Cir. 2002); ⁱ <i>Hogan v. Midland Nat'l. Ins. Co.</i> , 476 P.2d 825 (Cal. 1970); ⁱⁱ **Vandenberg v. Centennial Ins. Co. , 21 Cal.4th 815, 982 P.2d 229 (1999). ⁱⁱⁱ	**Maryland Cas. Co. v. Reeder , 221 Cal. App.3d 961, 270 Cal. Rptr. 719 (1990). ^{iv}

ⁱ **California:** *Anthem Elec., Inc. v. Pac. Employers Ins. Co.*, 302 F.3d 1049 (9th Cir. 2002). The unexpected and unintended failure of circuit boards due to defective work was an occurrence.

ⁱⁱ **California:** *Hogan v. Midland Nat'l Ins. Co.*, 476 P.2d 825 (Cal. 1970). Damages resulting from a defective saw that cut timber too narrowly was an accident since the damages resulting from rejected undercut lumber were not foreseeable or expected.

ⁱⁱⁱ ****California:** *Vandenberg v. Centennial Ins. Co.*, 21 Cal.4th 815, 982 P.2d 229 (1999). The nature of the damage and the risk involved, i.e., whether there has been an occurrence of property damage, rather than the nature of the cause of action, i.e., whether in tort or contract, determines whether a claim falls within the insuring agreement of a CGL policy.

^{iv}****California:** *Maryland Cas. Co. v. Reeder*, 221 Cal. App.3d 961, 270 Cal. Rptr. 719 (1990). The subcontractor exception of the BFPDE applied to preserve coverage for an insured developer for property damage arising out of work of soils engineers, graders and roofers. The products exclusion could not be applied to a construction project so as to eliminate the coverage afforded by the subcontractor exception.