



PIFC

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21<sup>ST</sup> CENTURY  
SAFECO  
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NAMIC

## MEMORANDUM

Date: May 1, 2006

To: The Honorable Dave Jones, Chair  
Members, Assembly Judiciary Committee

From: Rex D. Frazier, Vice President & General Counsel  
Michael A. Gunning, Vice President  
Michael A. Paiva, Senior Legislative Advocate

RE: AB 2803 (Parra): Attorney Advertising: Residential Construction  
Assembly Judiciary Committee: May 9, 2006  
**PIFC Position: Support**

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The Personal Insurance Federation of California (PIFC), which represents insurers who provide Commercial General Liability (CGL) to subcontractors throughout the state of California, **supports AB 2803** authored by Assembly Member Parra.

AB 2803 requires that a direct mail solicitation that urges a homeowner to take an action that may lead to the filing of a claim for residential construction deficiencies must contain a disclosure that alerts the homeowner to the alternatives to litigation and the potential adverse consequences of litigation.

PIFC asserts that the current system of "sue first" dispute resolution that has existed over the past decades has caused insurance premiums for new home construction to soar and driven most of the carriers out of the state. In a point of fact, none of PIFC's three carriers who once wrote commercial general liability (CGL) insurance in California are writing that business today. According to the San Francisco Chronicle, for every \$1 insurers collected in 1998, they paid out nearly \$1.87. In 2000, insurers paid out about \$2.95 for every dollar in premiums. (*"Insurance nightmare. Flood of lawsuits alleging defective construction leaves builders scrambling to find coverage for new projects."* July 11, 2002)

PIFC member companies are not the only insurers who have stayed out of the California market. According to a recent California Department of Insurance Data Call, in the fall of 2002, of the 509 companies that were licensed to sell Residential Construction Defect Liability insurance, only 20 companies chose to underwrite this risk. Of those 20 companies, only 16 were actively writing new business and 4 were only renewing current business and were no longer offering new policies.

One factor associated with the rise in premiums and the decrease in the number of insurers willing to take on CGL risk is the proliferation of class action suits against builders.

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AB 2803 will help fully inform consumers about the ramifications of suing their builder or contractor. For example, there may be costs or fees associated with filing of the claim that are not fully contained within the contingency fee; a family may be displaced as a result of destructive testing that may result in making the home uninhabitable; and the defects that are found may be minor in nature and result in extended litigation that diminishes the value and quality of life of the homeowner without providing any appreciable value or improvement to the structure or to the dwelling. These facts, if disclosed to the homeowner, will, we believe, allow the homeowner to make an informed decision about their options.

For these reasons, PIFC believes that disclosure to consumers is well served in this environment and that by providing consumers with the opportunity to understand the full impact of their actions, they will make a more informed decision on how to proceed.

If you have any questions, please contact Michael Paiva at (916) 442-6646.

cc: Assembly Member Parra, Author  
Kevin Baker, Assembly Judiciary Committee  
Mark Redmond, Assembly Republican Caucus  
Cynthia Bryant, Deputy Legislative Secretary for the Governor  
Kathleen Webb, Office of the Insurance Advisor