



# Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

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## MEMORANDUM

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Date: April 20, 2005

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

From: Dan C. Dunmoyer, President  
Rex D. Frazer, Vice President & General Counsel  
Michael A. Gunning, Senior Legislative Advocate  
Michael A. Paiva, Senior Legislative Advocate

RE: AB 941 (Canciamilla): Pre litigation Procedure  
Assembly Judiciary Committee Hearing: April 26, 2005  
**PIFC Position: Support**

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 941** authored by Assembly Member Canciamilla.

AB 941 would establish a construction dispute resolution process for homes constructed after January 1, 2003. Under AB 941 a homeowner who believes that their home has a construction defect would be required to contact the builder in order to inform the builder of the nature and location of the defect and allow the builder to inspect the defect. The goal of AB 941 is to expedite the repair process and to reduce the need for lengthy and expensive litigation.

According to the Wall Street Journal in a February 27, 2002 article, home builders in the western United States are curtailing construction because they cannot obtain liability insurance or can no longer afford such insurance. (*Construction Defect Litigation and the Mysterious Insurance Crisis*) The same article points out that for every \$1 that California insurers collected in 1998, they paid out nearly \$1.87 for claims. In 2000, California insurers paid out about \$2.95 for every dollar in premiums. PIFC has learned that by the end of 2003, some insurers were paying out close to \$5 for every one dollar collected.

As a result of rising loss ratios for CGL, many insurers have abandoned the California marketplace. 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.

AB 941 establishes a process whereby the injured party, in this case the homeowner, can get the repairs he or she needs as quickly and efficiently as possible. In this sense, AB 941 is similar to SB 800 (Burton, Statutes of 2002). SB 800, The Homebuilder “Fix It” Construction Dispute Resolution Law, established a mechanism where the homebuilder is given an absolute right to repair prior to the initiation of a lawsuit. The goal of SB 800 is to expedite home repairs and lessen the need for costly and time-consuming lawsuits. Unfortunately, SB 800 does not cover claims on homes constructed prior to January 1, 2003. As a result, many insurers are forced to litigate so-called “long-tail” claims, i.e. claims on homes built prior to January 1, 2003. Insurers have no way of knowing the level of exposure related to the “long-tail” and as a result, are reluctant to take on additional exposure in a market that has proved so unpredictable and so unprofitable in the past.

PIFC is hopeful that if enacted, AB 941 will enable homeowners to get the repairs that they need without having to resort to lengthy and costly litigation. This in turn will provide insurers with a degree of confidence that litigation costs associated with homes built prior to January 1, 2003 will stabilize.

For the reasons listed above, **PIFC supports AB 941** and urges an aye vote on the bill when it is heard in committee. If you have any questions, please do not hesitate to contact Michael Paiva at (916) 442-6646 or via email at [mpaiva@pifc.org](mailto:mpaiva@pifc.org)

cc: Assembly Member Canciamilla, Author  
Kevin Baker, Assembly Judiciary Committee  
Mark Redmond, Assembly Republican Caucus  
Cynthia Bryant, Office of the Governor  
Scott Reid, Office of the Insurance Advisor