

## DISCLAIMER

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**COALITION**  
FOR FAIRNESS IN CONSTRUCTION

**The TRUTH about S.B. 241: Fact versus Fiction**

**FICTION**

S.B. 241 unwinds prior legislative settlements.

**FACT**

Chapter 40 has produced many unintended consequences. This law causes lawsuits instead of allowing homes to be repaired, hurting homeowners across our state. We need to reform this law.

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**FICTION**

S.B. 241 takes away homeowners' rights.

**FACT**

S.B. 241 does not take away any homeowner rights. It does create a better option for homeowners – enabling the homeowner to work with the builder to get repairs made within 150 days, rather than filing a lawsuit. If the homeowner is not completely satisfied with all repairs made, they retain their right to sue the builder.

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**FICTION**

S.B. 241 is unnecessary because home sales are at a record high.

**FACT**

S.B. 241 is about getting homes fixed for homeowners. A homeowner in a lawsuit does not care how many homes are being sold, they just want their house fixed. Chapter 40 does not allow that to happen.

ASSEMBLY JUDICIARY

DATE: 5-8-03 ROOM 3138 EXHIBIT G

SUBMITTED BY: Coalition for Fairness in Construction

G-1084

**FICTION**

The proposed definition of a construction defect in S.B. 241 will give builders immunity from liability until a tragedy occurs.

**FACT**

A better definition of a construction defect will make it clear that all projects must be built to code, that all components must function as they are intended to function and that any damage or loss of a home's value due to a defect is the responsibility of the contractor.

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**FICTION**

Builders are trying to dodge the responsibility of soils settling by calling it "normal".

**FACT**

Section 25 of S.B. 241 is copied from NRS 40.640 and has been a part of the law since 1995. This provision of the law simply acknowledges that normal wear and tear, shrinkage and settlement are not construction defects.

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**FICTION**

S.B. 241 delays a homeowner an additional 150 days before they can file a lawsuit.

**FACT**

Homeowners want their homes fixed. The right to repair process in S.B. 241 allows homes to get fixed within strict timelines. If these deadlines are not met, or if the contractor does not make repairs to the satisfaction of the homeowner, the homeowner may immediately sue the builder.

**FICTION**

The homeowner must be an expert to comply with the right to repair methods outlined in S.B. 241.

**FACT**

Homeowners must only notify their contractor and subcontractors of problems in their homes under S.B. 241. From there, contractors have the responsibility to fix the problems within strict timeframes. If a homeowner ever feels uncomfortable with the process, the Contractors Board may be called on for assistance.

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**FICTION**

The Contractors Board is biased toward the construction industry and does not have the personnel to help with the repair process.

**FACT**

The contractors' board holds the license of every contractor in the state and revokes the licenses of bad contractors on a regular basis. Contractor fees will provide the funds required to provide any additional skilled personnel that the Board must hire. The Board is the right organization to help homeowners work with their contractor.

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**FICTION**

S.B. 241 discriminates against lower income homeowners by eliminating contingency fees.

**FACT**

S.B. 241 does not do away with contingency fees, it simply asks that judges analyze what fees are reasonable before awarding those fees. Currently, attorney fees are routinely higher than the amount awarded by the jury to make repairs to homes.

**FICTION**

S.B. 241 limits the ability of homeowners' associations to file lawsuits.

**FACT**

Owners of townhomes and condominiums deserve the right to have a voice about whether to become involved in a lawsuit. A small minority should not be permitted to cast a cloud over an owner's home. Association boards should be required to get a simple majority of owners to approve the start of litigation.

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**FICTION**

Builders have never made offers to repair before or after Chapter 40 notice has been served.

**FACT**

Prior to Chapter 40 notices, many builders have repaired problems and satisfied their customers. Once Chapter 40 notices have been sent and lawsuits are filed, lawyers and the current law prevent repairs from taking place. If the law is reformed, repairs can be made and homeowners won't have to go through years of litigation.

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**FICTION**

Builders are not trying to improve the quality of construction.

**FACT**

Homeowners in Nevada actually have a high level of satisfaction. Recent national surveys conducted by JD Power and Associates attest to the fact that homebuyer satisfaction in Las Vegas has ranked amongst the best in the country over the past several years (3<sup>rd</sup> in 2002, 2<sup>nd</sup> in 2001). Additionally the industry continues to institute quality improvement programs such as the nationally recognized Quality Assurance program for contractors and subcontractors developed by the National Housing Research Center in cooperation with the Southern Nevada Home Builders Association.