



Senate Committee on Judiciary & Ballot Measure 110 Implementation  
In Support of SB 213

March 22, 2021

Good morning Chair Prozanski, Vice Chair Thatcher and members of the Senate Committee on Judiciary and Ballot Measure 110 Implementation. My name is Shawn Kampmann, owner of Polaris Land Surveying LLC in Ashland, Oregon. We have been in business in Oregon since 1998 and I am writing today to strongly support the -2 amendment to Senate Bill 213.

Senate Bill 213 will bring fairness to professional services contracts by ending the inclusion of duty to defend clauses in public and private agreements. This duty to defend clause is onerous as it requires the design professional be responsible to defend an owner or other party against claims asserted by a third-party even if the design professional is not determined negligent, nor does their work product have any bearing or relationship with the claim being made. This duty to defend clause is not fair, equitable or inclusive. For example, a professional land surveyor should not be required to defend and accept liability because a plumbing contractor was negligent for a defective waterline installation or any other matter that has absolutely no relationship with the professional services which they were hired or contracted to do or perform.

This requirement in professional services contracts is not fair to design firms of any size, but it is especially damaging to emerging and small businesses that typically don't have the ability to advocate against these contract requirements. We find these duty to defend clauses to be a major deterrent to compete for certain projects, many of which are with governmental agencies. Also, the owner or prime contractor can withhold payment on work or services performed by the design professionals in matters that again, have no substantial relationship to the services provided by the professional.



I respectfully ask this committee to support the -2 amendment to SB 213 and send this bill to the Senate floor. This is good business policy that will assist firms across the state in being able to engage in construction projects, including many government-funded projects, by removing this onerous duty to defend clause.

Thank you for your service and we are happy to be a resource if you have additional questions.

Respectfully submitted,

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