

Submitter: Jan Fillingier  
On Behalf Of:  
Committee: Senate Committee On Judiciary  
Measure: SB1575

The “duty to defend” language is legally problematic, expensive, and an onerous and dangerous barrier to entry for a small, emerging firm, such as ours, and makes us uninsurable by many professional liability insurance carriers. We purchase liability insurance to protect ourselves from legal harm. However, there is limited affordable professional liability insurance available to us that covers the legal expenses for others involved in construction projects. This leaves us stuck in an unfair situation with no way to protect ourselves other than to unfairly assume the risk and hope for the best or forgo designing projects. When architects are compelled to sign these agreements, we are committing our business assets to pay these costs, regardless of fault.

The proposed bill will ensure fairness by:

1. Requiring each party to a construction contract be responsible for their own negligence or fault.
2. Ensuring whichever party is negligent would be able to purchase the proper insurance.
3. Allowing all design companies, small and large, to compete on an even playing field.