

February 6, 2024

To: Senate Committee on Judiciary
From: Jay Raskin, FAIA

Re: Support for SB 1575 Fair Contracting - Duty to Defend in Professional Contracts

Small architectural firms who focus on rural communities, such as myself, care deeply about the communities we serve and contribute to the by creating jobs and participating in civic and cultural activities. We acknowledge our responsibility for any negligence or fault on our part and purchase professional liability insurance to cover this possibility. It is a significant expense, but doable. However, the cost of shouldering the legal liability for all those involved in construction projects even before fault is determined, is above the means of small firms (assuming it is available at all). This makes it difficult for small firms to compete with larger firms from metropolitan areas. We are faced with a choice of fees not covering expenses, if we are able to get professional liability insurance covering duty to defend, or going bare and putting our firm's and family's wellbeing at risk.

This bill is about ensuring fairness by:

- Requiring each part to a construction contract be responsible for their own negligence or fault. This means parties will pay damages based on actual liability, that than mere alleged liability.
- Ensuing whichever party is negligent would be able to purchase the proper insurance. This is not the case today and results in high-rich contract provisions that are unreasonable and uninsurable.
- Allow all design companies, small and large, to compete on an even playing field. This is not the case now as the contractually imposed duty to defend isa major prohibitive factor for many small, emerging, women and minority owned businesses considering construction projects.

Sincerely,



Jay Raskin, AIA

cc: File