

Submitter: DAVID MCILNAY  
On Behalf Of:  
Committee: Senate Committee On Judiciary  
Measure: SB1575

My name is David McILNAY representing DMARC-David McILNAY ARCHITECTS, located in Portland, Oregon.

As a licensed/registered Architect in the State of Oregon and owner of a small, sole proprietor practice, I am writing today to strongly support Senate Bill 1575.

Oregon's engineers, architects and land surveyors care deeply about our communities, which is why we invest in our local economies, creating jobs and housing for Oregonians. Right now, we are being forced into unfair contracting practices called "duty to defend" clauses, which require us to pay the legal expenses for those involved in construction projects even before fault is determined. Please keep in mind, as licensed professionals we already carry multiple thousands of dollars in annual liability insurance to protect clients, consultants, and workers. An increase in these costs is detrimental to all design firms but especially woman and minority owned firms and emerging small businesses. Because engineers, architects and land surveyors are being forced to shoulder legal liability and legal expense far beyond what is insurable, fewer projects are being designed and built in our communities. This includes low-income public housing to help address Oregon's homelessness crisis. As a firm, we have seen increased occurrences of duty to defend clauses in our contract requirements, particularly for public and institutional projects. When this occurs, we face the reality of not being able to pursue these projects which impacts our ability to do business. As a small business paying contract employees and consultants, these clauses can prohibit our involvement due to the risk involved. We respectfully ask this committee to support SB 1575. Passing this bill would eliminate misaligned contract practices. This is not about shirking responsibility – it's about ensuring that everyone involved in a project pays their fair share of legal expenses and can be adequately protected by their insurance.

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