

February 19, 2023

TO: Senate Committee on Judiciary

FROM: Jay Raskin, FAIA

RE: Support for SN 848

My name is Jay Raskin representing Jay Raskin Architect, sole practitioner, whose project are primarily on the Oregon coast. I have been in business in Oregon since 1994 and have employed up to six people. I am writing today to strongly support Senate Bill 848.

Oregon's engineers, architects and land surveyors care deeply about our communities, which is why we invest in our local economy, 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. This is detrimental to all design firms but especially women, minority and emerging small businesses. Because engineers, architects and land surveyors are being forced to shoulder all the legal liability and legal expense far beyond what they're able to get insured for, fewer projects are being designed and built in our communities. This includes low-income public housing to help address Oregon's homelessness crisis.

Our firm's experience with duty to defend has been with institutional and civic projects which require professional liability insurance covering errors and omissions for architectural design services. It is expensive for a small architectural practice, but doable. The cost for insuring legal expenses for the proposed "duty to defend" clauses would have placed such projects out of reach. It is difficult enough for design professionals to compete with larger firms from metropolitan areas without this new burden. Small communities would lose firms who have a local perspective, are active in the communities and contribute to the local economy.

We respectfully ask this committee to support SB 848. Passing this bill would eliminate bad and unfair contract practices and ensure everyone involved in a project pays their fair share of legal expenses. This isn't about shirking responsibility – it's about ensuring fairness so everyone is paying their own way and adequately protected by their insurance.

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

Sincerely,



Jay Raskin, FAIA