



## **Support Letter from the Portland Chapter of the National Organization of Minority Architects to the Oregon State House of Representatives Regarding HB1575A**

**To:** Oregon State House of Representatives

**From:** Portland Chapter of the National Organization of Minority Architects (NOMAPDX)

**Date:** February 28, 2024

**Subject:** Support for HB1575A - Banning "Duty to Defend" Clauses in Construction Contracts

The Portland Chapter of the National Organization of Minority Architects (NOMAPDX) writes in strong support of House Bill 1575A, which would prohibit the use of "duty to defend" clauses in construction contracts in the state of Oregon.

### **Why We Support HB1575A:**

"Duty to defend" clauses unfairly shift the burden of legal defense from the party responsible for causing harm to the innocent party, often placing a significant financial and emotional strain on architects and other design professionals, particularly those from minority backgrounds. These clauses can:

- **Discourage participation:** Minority-owned firms, which are already disproportionately impacted by financial disparities and limited access to capital, may be discouraged from bidding on projects due to the potential financial risks associated with "duty to defend" clauses.
- **Exacerbate financial hardship:** Even minor claims can trigger "duty to defend" clauses, leading to expensive legal fees and diverting resources away from core business operations. This can be particularly detrimental to smaller firms and those just starting out.
- **Create an uneven playing field:** Larger firms with greater financial resources may be better equipped to handle the costs associated with "duty to defend" clauses, putting minority-owned firms at a disadvantage in the bidding process.
- **Hinder innovation and risk-taking:** The fear of potential legal ramifications due to "duty to defend" clauses can discourage architects from taking innovative approaches or proposing creative solutions, ultimately hindering progress in the construction industry.

**Impact on Minority-Owned Firms:**

NOMAPDX believes that "duty to defend" clauses disproportionately impact minority-owned architecture firms. These firms are already facing numerous challenges, including limited access to capital, mentorship, and networking opportunities. "Duty to defend" clauses add another layer of difficulty, making it even harder for these firms to compete and succeed.

**Call to Action:**

We urge the Oregon House of Representatives to pass HB1575A without delay. This legislation will help to create a more equitable and just playing field for all architects in the state, allowing minority-owned firms to thrive and contribute their unique perspectives and talents to the construction industry.

Thank you for your time and consideration.

Sincerely,

**Karina Ruiz, AIA NOMA**  
NOMA PDX President

**Octavio Gutierrez**  
NOMAPDX Vice-President