



17 January 2022

The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Letter of Support for SB 0161
Courts – Prohibited Indemnity and Defense Liability Agreements

Dear Chairman Smith and members of the Judicial Proceedings Committee:

On behalf of AIA Maryland and the nearly 2,000 Architects we represent, we ask for your support of this bill to prohibit contract provisions in contracts for professional services between design professionals and their clients that requires the design professional to indemnify or hold harmless certain parties unless the design professional is at fault for causing the loss, damage, or expense indemnified; prohibiting provisions in contracts with a design professional for professional services that requires the design professional to defend certain parties against liability or certain claims.

Other states have found this type of provision is against public policy. Some units of state government have amended their contracts to preclude this type of language. This type of contract language often places design professionals in a position where they must defend a client regardless of their responsibility for a potential claim, and in some cases where they are not the party at fault.

We support this because we believe that this legislation provides for more equity in the design professionals contract with the various public, quasi-public and private clients who we serve throughout the state.

Further we believe this will help level the field for our MBE members and small firm colleagues as these indemnity and defense liability requirements are typically passed thru agreements from prime to consultants. This pass thru extends the unfair burden from the prime design professional to their consultants. This results in the onerous nature of these provisions being placed upon MBE and other firms who are not have the resources needed to meet these requirements.

AIA Maryland and its membership encourages steps to improve the quality of Maryland's built environment, eliminating these types of contract provisions are in the interest of good public policy. AIA Maryland is happy to support this bill.

Sincerely,

A handwritten signature in red ink, appearing to read "L. Frank", written over a faint red line.

Laurence A. Frank, AIA
Director, Past President