

# AIA Colorado HB20-1348 Testimony

5-26-20

My name is Nikolaus Remus, AIA and I offer this testimony on behalf off the Colorado chapter of the American Institute of Architects.

AIA Colorado opposes HB20-1348: Additional Liability Under Respondeat Superior. It is already common practice to name design professionals (architects and engineers) in construction defect lawsuits in Colorado whether or not there is evidence the defect was design-related. This has also been part of the reason affordable condominium projects were few and far between until recent years despite the demand. Many architecture firms simply did not want the higher risk of a lawsuit these projects carried. The firms that did design condominium projects needed to charge much higher fees to cover increased insurance costs and potential out-of-pocket legal expenses. Between recent legislation and court decisions in the state, we have reached a point where architecture firms can design multi-family housing projects without having to assume a lawsuit is inevitable.

If HB20-1348 passes, it will be a step backward for the entire construction industry. We anticipate additional claims against architects for negligence in every single defect lawsuit if there is no disincentive for the plaintiff's lawyers to do so. Architecture firms are at a high risk of being subject to the additional claims included in the bill, regardless of justification. There are three reasons for this:

1. Every building has an "architect-of-record" responsible for the overall design that seals the construction documents. In some firms, only principals will take this responsibility. In many others, licensed architect employees are the architects-of-record. We have a professional obligation to only stamp drawings where we have "responsible control" over the design.
2. Every building is designed by a team of professionals. This team is commonly subcontracted under the architect, who has the prime contract with the client. Every project potentially has a different design team. Architects typically assume responsibility for the coordination required amongst the team.
3. Insurance available to design professionals covers our own errors and omissions, but it **does not** cover decisions on hiring of employees or contracts with the design team.

Architects will essentially be sued twice for every alleged defect. We can't insure against the additional claims allowed by HB20-1348. Architecture firms are typically small businesses that do not have significant resources to fight these claims when we believe we're in the right. There is no safe harbor to rely upon to prevent negligence claims being filed. For these reasons, I ask the committee to vote against HB20-1348.

Thank you for your time,

Nikolaus Remus, AIA  
Advocacy Engagement Director, AIA Colorado