

## Nate Biscotti

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**From:** Barbara Rachelson  
**Sent:** Monday, January 26, 2026 4:35 PM  
**To:** Nate Biscotti  
**Cc:** Martin LaLonde  
**Subject:** Fw: [External] H.589

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Martin asked me to send this to you to post.

Much thanks!  
Barbara



**Representative Barbara Rachelson**

**Chittenden 14, Burlington**

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**From:** Bob Duncan <[bobd@duncanwisniewski.com](mailto:bobd@duncanwisniewski.com)>

**Sent:** Sunday, January 25, 2026 11:24 AM

**To:** Barbara Rachelson <[BRachelson@leg.state.vt.us](mailto:BRachelson@leg.state.vt.us)>

**Subject:** [External] H.589

**[External]**

Dear Barbara,

I hope this finds you well as you begin the second year of the session. Not that any year is easy, but you certainly have your work cut out for you this year!

I wasn't able to be at the House Judiciary Committee hearing on either last Thursday or Friday, but I hope there'll be another hearing, and I hope to be able to testify at it. I appreciated your thoughtful questions. You may remember the last time this was brought up in the legislature, in 2015, when the bill started in the Senate Judiciary Committee, sponsored by Tim Ashe. It didn't make it out of committee after a last minute "sky is falling" argument from the legal lobby, even after I thought the majority of the committee members were supportive after the first hearing.

I know you and others had questions about consumer protections if a statute of repose bill were to come into effect, and I don't think any of us architects or builders out there want to see consumers left unprotected. There are certainly bad actors out there who do not have their clients' best interests at heart, and it's important to make sure that in those cases there are rules and consequences to support folks who have been wronged by poor design or construction. And it seems to me that somewhere around 6 years is plenty of time for those defects to reveal themselves and allow Vermonters to pursue legal action if problem(s) can't be resolved any other way.

I was very sympathetic for the situation Matt Bushey found himself in: presented with a lawsuit that claimed his predecessors erred in construction review services, when they hadn't even been engaged to do that, and the project occurred so long ago that the responsible people were either retired or dead. I was very surprised to learn that a subsequent homeowner could get a contract between the previous homeowner and their architect assigned to the subsequent homeowner. That very unusual situation doesn't really line up with how I assume most people think liability should work. It took exhaustive research time to discover that Truex Cullins hadn't even reviewed the construction. And having to spend \$35K in legal fees to have the claim dismissed is appalling. You may know that Michael and I have transferred ownership of Duncan Wisniewski to two new owners, Taryn Barrett and Sam Beall, who will continue the focus on community projects and affordable housing. The Truex Cullins experience would be akin to Taryn and Sam being sued for a project Michael or I did long before they came to work for us, and therefore something they knew nothing about. A \$35K legal bill in a small firm of 10 people would be a very big deal.

Michael Goodrich was very on point when he noted that the statute of repose in Vermont is "infinity", i.e., no end date of responsibility, including the very absurd notion that even the heirs of an architect/engineer or builder can be sued for work their parent did! I'm not aware of any instances of that, but it's theoretically possible.

In just about every other aspect of our lives, there are limits to warranty and responsibility: TVs, cars, appliances, snowblowers and lawnmowers, etc. *Darn Socks* is probably one of the few exceptions to limited warranties! In the medical profession, my understanding is the statute of repose is seven years. In the building trades, certain components have extended warranties: roofs often can have up to 25 year warranties, some exterior siding systems have 15 year finish warranties and even longer material warranties, even your kitchen faucet will have a one year warranty, etc. But the main point is this: no other aspect of our lives has an infinite warranty or obligation on the professional or the manufacturer. So I think a fundamental point of establishing a statute of repose for architects and builders is about clarity and fairness, not avoiding responsibility - a reasonable start and end date so everyone knows the rules going in.

Another reason to pass a statute of repose is that true design or construction defects usually show up early, most often during the construction process (where they can be corrected), or shortly thereafter (which may be more difficult to correct, but still should be the responsibility of whomever is at fault); after that, problems tend to be maintenance and weather, not professional or contractor error.

As you know, we now have a Contractor Registry which offers some guidance at least to consumers, though we think, at least anecdotally, is not fully utilized by contractors. But at least pairing a statute of repose with Vermont's contractor registration and consumer education efforts should make consumer protections actually stronger, not weaker.

In conclusion, for me this is ultimately an issue of fairness and respect, the same respect that's offered to other professionals whose liability is limited by the State. I hope this correspondence answers your questions, but please feel free to reach back to me if you'd like to discuss any of this. As I said above, I'd be happy to testify at the next hearing, or meet you for a coffee in your copious free time, (or both)!

Best regards, and thanks for your hard work on behalf of Burlingtonians and all Vermonters,

Bob

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“Every moment is a key moment.” Frederich Buechner

As of 1/1/2025, I have retired from regular employment at Duncan Wisniewski Architecture.

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