

Nate Biscotti

From: Martin LaLonde
Sent: Monday, February 2, 2026 7:13 PM
To: Nate Biscotti
Subject: Fw: [External] Support H.589 - Statute of repose for design and construction claims

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Representative, Chittenden 12, South Burlington, VT
Chair, House Judiciary Committee
Chair, House Ethics Panel
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From: Tom BurseyDesigns <tomburseydesigns@gmail.com>
Sent: Monday, February 2, 2026 6:03 PM
To: Martin LaLonde <MLaLonde@leg.state.vt.us>; Nate Biscotti <Nate.Biscotti@vtleg.gov>
Cc: Thomas Chittenden <TChittenden@leg.state.vt.us>; Virginia Lyons <VLyons@leg.state.vt.us>; Kesha Ram Hinsdale <kramhinsdale@leg.state.vt.us>; Shawn Sweeney <ssweeney@leg.state.vt.us>
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[External]

Dear House Judiciary Committee Chair Rep. Martin LaLonde (mlalonde@leg.state.vt.us) and Committee Assistant Nate Biscotti (Nate.Biscotti@leg.state.vt.us); as well as Senators Chittenden, Lyons, Ram-Hinsdale, and Representative Sweeney,

I am writing to urge the House Judiciary Committee to support 2026 House Bill H.589, establishing a statute of repose for architects, engineers, and construction professionals in Vermont.

Vermont lacks a general statute of repose for claims arising from improvements to real property. That omission leaves Vermont (along with New York) as a national outlier and exposes design and construction professionals, especially small firms, to open-ended liability for projects that may long outlive the codes, norms, technologies, and records of their era. Vermont's statutes of limitation generally run from the time an injury occurs or is discovered; without repose tied to substantial completion, there is no fixed outer deadline after which claims can no longer be brought. H.589 supplies that missing clarity while preserving accountability by excluding fraudulent misrepresentation and fraudulent concealment.

This is not about eliminating legitimate claims. It is about creating a fair and workable legal framework that recognizes the realities of buildings and time. Structures last for generations. The professionals who designed them retire, pass away, dissolve partnerships, merge firms, and lose access to drawings and files through ordinary attrition. Codes change. Renovations alter original conditions. At some point,

responsibility must shift fully to those who own, operate, maintain, renovate, and control the property today.

Three real-world examples show why Vermont needs this reform:

1. Vermont State House: Close to home; evolving norms are not “negligence.”

The Vermont State House was designed by Thomas Silloway in 1857–1858 for a legislature that was entirely male (Edna Beard became the first woman elected to the Vermont legislature in 1921). It is unsurprising that the original restroom layout reflects the social norms and occupancy assumptions of that time. Today, those facilities are widely recognized as inadequate by modern expectations and would not align with current plumbing and occupancy standards. This is not a historical “design defect”; it is the predictable result of changing society and codes. A statute of repose recognizes that buildings outlive their original assumptions and that responsibility for updating them must eventually rest with current owners and stewards, not long-deceased designers or distant successors.

2) Billings Library: the fog of time makes liability impossible to assign.

Billings Library at the University of Vermont was designed in 1883 by H.H. Richardson, a renowned American Architect, who died in 1886. His practice later evolved and splintered through many reorganizations and successor claims, and the building itself has been altered repeatedly over more than a century. If an injury occurred today and a plaintiff alleged an original design defect, who should be sued... a long-deceased architect’s family, any of the many firm that exists with links to Richardson, or the myriads of later professionals involved in renovations? Vermont’s lack of repose allows litigation to reach back into a period where witnesses, records, firm identities, and even building conditions cannot be reliably reconstructed. Even if such claims ultimately fail, the cost of defending them is real and avoidable.

3) Record-keeping reality: even the State cannot preserve everything forever.

The Montpelier flood of 2023 damaged or destroyed state records, illustrating a basic truth: indefinite preservation of documents and institutional knowledge is not realistic. The same is true for design firms; staff retire or pass away, firms merge or dissolve, paper degrades, and digital formats become obsolete. Without repose, professionals can be forced to defend claims involving projects so old that no drawings, specifications, or personnel remain. You heard one such example in recent testimony where the designers involved had passed away before the suit was brought.

Why H.589 is reasonable: a clear repose period reflects the time window when most construction issues typically surface and prevents lawsuits from becoming speculative exercises decades later. Importantly, H.589 does not protect fraud or concealment. It simply ensures that after a reasonable period, responsibility rests with those who control and maintain the building today.

A repose statute does not prevent injuries, and it does not prevent people who are injured from seeking justice within a reasonable timeframe. It simply ensures that responsibility for a building’s condition and safety eventually rests with those who control and maintain it today, rather than with professionals who

have no ability to inspect, maintain, or modify the property decades later. Vermont's design and construction professionals want to continue contributing to the safety, beauty, and resilience of our built environment. A statute of repose gives them the legal clarity they need to do that work with confidence.

For these reasons, I respectfully ask the Committee to **support H.589 and move it forward with a favorable recommendation**. This reform would improve fairness, reduce needless litigation, and bring Vermont's law into alignment with national norms while supporting Vermont's professional and small-business community.

Thank you for your time and service to our state.

Sincerely,

Tom Bursey, AIA, NCARB, CSI

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