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January 9, 2026

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Virginia Foxx
Chair, Committee on Rules
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Jim McGovern
Ranking Member, Committee on Rules
U.S. House of Representatives
Washington, D.C. 20515

Dear Speaker Johnson, Leader Jeffries, Chair Foxx, and Representative McGovern:

I am writing on behalf of the members of the Signatory Wall and Ceiling Contractors Alliance (SWACCA) to express our opposition to H.R. 4366, the "Save Local Business Act." Rather than benefitting our nation's entrepreneurs, the changes this legislation makes to the "joint employment" standard under both the National Labor Relations Act (NLRA) and the Fair Labor Standards Act (FLSA) will place law-abiding employers competing on the basis of quality services, efficient execution, worker training, and innovation, at a competitive disadvantage to businesses that thrive at the expense of honest job creators, American workers, and the nation's taxpayers.

SWACCA is a national trade association that advocates for the interests of signatory wall and ceiling construction industry employers. SWACCA represents approximately 400 wall and ceiling construction contractors who perform commercial framing, drywall, and interior systems work nationwide. Our members employ thousands of carpenters, drywall finishers, plasterers, and other skilled building trades professionals throughout the United States.

In today's economy, our members increasingly find themselves competing with companies that seek to reduce their costs by relieving themselves of the traditional obligations of being an employer. The COVID-19 pandemic accelerated the push for contractors to reduce costs by structuring operations to evade paying minimum wage, overtime, unemployment insurance, and other significant expenses in the labor-intensive construction industry. H.R. 4366 seeks to provide a safe harbor for proponents of this false employer model built on a cadre of labor brokers providing an entire workforce of subcontractors on job after job. It is a workforce that gets no benefits and for whom every tier of a construction contracting chain claims to have no responsibility for paying overtime, workers' compensation, employment taxes, or unemployment insurance. Even under the law as it exists today, general contractors and higher-tier subcontractors find it worth the risk to claim that the workforces provided by such labor brokers are either independent contractors or just the workforce of the labor brokers. We are therefore concerned that in redefining "joint employer" under the NLRA and FLSA, H.R. 4366 would make it even less likely that the fictions upon which this business model rests will ever be challenged.

Academic research confirms the costs this construction industry business model imposes on honest contractors, workers, and taxpayers.[1] Worker misclassification and other types of payroll fraud in construction allow employers to evade $2.98 billion per year in Social Security and Medicare taxes for workers.[2] It also causes an estimated $1.74 billion annual shortfall in state workers' compensation programs. Construction industry misclassification results in annual state unemployment insurance program shortfalls of over $700 million.[3] Under the "most conservative" estimates, misclassified construction workers lose over $800 million per year in overtime.[4] As SWACCA has noted in past testimony before the Subcommittee on Workforce Protections, construction companies relying on layers of labor brokers using misclassified workers can save almost 50% compared to companies that honor their obligations as employers.[5] The expanding scope of this problem in the construction industry was reconfirmed during an April 19, 2023, House Education and Workforce Committee, Subcommittee on Workforce Protections hearing.[6]

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H.R. 4366 is ostensibly a response to the NLRB's 2015 decision in the *Browning-Ferris Industries of California, Inc.* case and the Biden Labor Department's (DOL) rescission of the first Trump Administration's joint employer guidance. But it is far more radical than a mere attempt to undo *Browning-Ferris* and to reinstate the rescinded DOL interpretation. Instead, the bill's narrow definition of joint employment under both the NLRA and FLSA would provide complete safety for business models built upon the misclassification of construction workers as independent contractors. As such, the "Save Local Business Act" is not about protecting companies making hard calls applying unclear law to vague facts. It represents an effort to advantage one business model over another and an endorsement of a model promoting profits over the interests of America's workers, taxpayers, and construction companies working hard to create middle class jobs and train the next generation of skilled construction craft workers. In sum, this legislation exemplifies the wrong choices as our nation seeks to rebuild and expand its infrastructure and encourage more young men and women to choose a career in the skilled trades.

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[1] Russell Ormiston, Dale Belman and Mark Erlich, *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry* (2020), available at https://stoptaxfraud.net/wp-content/uploads/2020/03/National-Carpenters-Study-Methodology-for-Wage-and-Tax-Fraud-Report-FINAL.pdf (last visited July 22, 2025).
[2] *Id.* at 5.
[3] *Ibid.*
[4] *Ibid.*
[5] Hearing on "Misclassification of Employees: Examining the Costs to Workers, Businesses, and the Economy" Before the Workforce Protections Subcommittee, House Education and Labor Committee, 116th Congress (Sept. 26, 2019) (Statement of Matt Townsend, President of the Signatory Wall and Ceiling Contractors Alliance at 3, available https://www.congress.gov/116/meeting/house/110019/witnesses/HHRG-116-ED10-Wstate-TownsendM-20190926.pdf (last visited July 22, 2025).
[6] Hearing on "Examining Biden's War on Independent Contractors" Before the Workforce Protections Subcommittee, House Education and Labor Committee, 118th Congress (April 19, 2023) (Statement of David Long, CEO of the National Electrical Contractors Association, available at https://edworkforce.house.gov/uploadedfiles/long_testimony.pdf) (last visited July 22, 2025).

For these reasons, SWACCA strongly urges the House to reject H.R. 4366. Congress should not advance legislation that rewards labor misclassification, undermines fair competition, and shifts costs onto workers and taxpayers. We stand ready to work with lawmakers on bipartisan solutions that support responsible employers, uphold labor standards, and strengthen the construction workforce. Thank you for your consideration.

Sincerely,

Shawn Burnum
President

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