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To Chairs Wilson and Beidle and Members of the House Economic Matters Committee and Senate Finance Committee:

I come before you to testify in favor of HB 465 / SB 436, a bill that would establish criminal penalties for employers that knowingly fail to classify workers properly as employees and address the problems of workplace fraud and wage theft.

The issue of the misclassification of employees as independent contractors, the practice of cash compensation, and the use of labor brokers have unfortunately become severe problems across occupations and industries in our economy. As a participant and researcher in the construction industry for nearly fifty years, I have witnessed and studied the negative consequences of the growth of the underground economy. I am the author of three books and numerous articles and reports, many of which detail the expansion of this business model over the last several decades.

Construction is a highly competitive and straightforward industry. Bids are submitted based on the use of materials and labor. Since materials costs are relatively similar for all contractors, the ability to save money on labor is an enticing and effective method to underbid competitors. The illegal and unethical business model that relies on misclassification offers savings up to 30% because of the simple ability to avoid legally required payments of state and federal taxes as well as workers compensation premiums, a sizable factor given the dangerous nature of the industry. The competitive advantage that this business model offers has diminished standards in the industry, both in terms of compensation and safety.

These practices run rampant in the industry, no longer limited to minor projects. A 2023 study by the Century Foundation found that between 1.1 and 2.1 million construction workers are either misclassified or paid in cash off the books.

This is not a victimless crime.

If these workers were properly treated as the employees that they are, they would be protected by state and federal laws governing employment status, such as minimum wage, overtime, and anti-discrimination laws. Wage theft is common in this underground economy environment. Workers are frequently paid less than they are owed and, on occasion, not paid at all for the work they perform. Responsible employers and their workforce are also victimized by this business model. Those employers who continue to fulfill their legal obligations find themselves regularly underbid by those who cheat, resulting in lost opportunities and declining revenue.

And even taxpayers are ultimately victimized. The Century Foundation report found that these unscrupulous employers shortchange the Social Security, unemployment insurance, and workers compensation systems to the tune of \$12 billion per year, costing taxpayers between \$5 and \$10 billion per year.

It will take years to undo the damage that has been done by the widespread abuses in the construction industry. HB 465 / SB 436 is not a silver bullet but will bring Maryland more in line with statutes in other states. But even if improved legislation is enacted, the Worker Classification Protection Unit of the Maryland Department of Labor has to have the resources and the clear direction to vigorously enforce

the laws of the land. For these reasons, I strongly urge the committee to give a favorable report to this bill.