



January 6, 2009

U.S. House of Representatives  
Washington, DC 20515

Dear Representative:

On behalf of Associated Builders and Contractors (ABC) and its 25,000 contractors, subcontractors, material suppliers and construction related firms across the nation, I am writing in strong opposition to H.R. 11, "*The Ledbetter Fair Pay Act*" and H.R. 12, "*The Paycheck Fairness Act*." **Due to the grave concerns with the provisions contained in these two bills, ABC may consider final passage of both H.R. 11 and H.R. 12 "KEY VOTES" for our 111th Congressional Scorecard.**

ABC members across the country strongly oppose unlawful discrimination of any kind. However, ABC opposes the unprecedented impact of H.R. 11 as it would effectively eliminate the statute of limitations from employment discrimination claims. The consequences of H.R. 11 are massive and would result in countless claims being filed based on alleged acts that could have occurred decades ago, well after memories have faded, documents and witnesses have disappeared and businesses have changed hands or no longer exist. Unwarranted, frivolous litigation is already an issue under current discrimination laws. In fact, the Equal Employment Opportunity Commission reported that it found reasonable cause in only 5.3% of the over 75,000 charges of discrimination that it received in FY2006 and found absolutely no cause for discrimination in over 60% of the charges (amounting to 45,500 "no cause" charges). Permitting plaintiffs to raise stale claims where evidence has often vanished will exacerbate this situation.

ABC members believe that the current statute of limitations for filing a discrimination complaint (either 180 or 300 days) is intended to promote prompt reporting and resolution of alleged illegal activities. Protections already exist to ensure that plaintiffs have additional time to file a claim through equitable tolling and estoppel where the discrimination was not readily apparent or the employer deliberately concealed it. This current system protects all parties involved by encouraging employees to quickly file a claim and creating an opportunity where employers can immediately remedy a situation when an act of discrimination has occurred, while also providing the courts with a vehicle to extend the time to file a claim.

ABC also has significant concerns with many provisions contained in H.R.12. This legislation would make unlimited punitive and compensatory damages available for violations of the Equal Pay Act (EPA). It is one thing to require employers to correct improper wage differentials, but quite another to impose unlimited punitive damages for unintentional conduct. Appropriate remedies for intentional discrimination, including punitive and compensatory damages, are available under Title VII of the Civil Rights Act of 1964.

H.R. 12 includes changes to the EPA that would make it easier to file large class actions against employers and to make it more difficult for employers to justify legitimate pay disparities. It would also force the Labor Department to return to debunked statistical models and inaccurate survey tools in an effort to enforce civil rights laws among federal contractors.

Not only are these pieces of legislation over reaching, but both are being hastily brought directly to the House floor for a vote, circumventing regular order and bypassing committee action. Rushing these bills to the floor is depriving members of congress the opportunity to carefully review these bills that will have a profound impact on our nation's businesses and economy.

Due to the broad and over-reaching aspects of both H.R. 11, "*The Ledbetter Fair Pay Act*," and H.R.12, "*The Paycheck Fairness Act*," ABC strongly encourages you to oppose both pieces of legislation.

Sincerely,

Brewster B. Bevis  
Senior Director, Legislative Affairs