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**Ohio House Insurance Committee
November 29, 2017
House Bill 380**

**Opponent - Written Testimony
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Chairman Brinkman, Ranking Member Bocchieri, and members of the House Insurance Committee, thank you for reading this testimony regarding House Bill 380. As the labor federation representing unions and working families, with a responsibility to advocate for safe workplaces and fight for injured workers' rights that goes back to the inception of Ohio's worker compensation law and the Bureau of Workers' Compensation, I write in opposition to HB380. Our opposition to this proposal is not only principle-based over human rights concerns, but centered on the consequence of incentivizing unsafe workplaces and a limited due process remedy.

The Workers' Compensation system that was created more than 100 years ago was forged of great compromise between business and labor that has stood the test of time. In exchange for relinquishing injured worker litigation rights the current system has provided needed medical care and benefits for injured workers and surviving families and has created an environment for better business-labor relations and safer workplaces. By changing the law to deny workers' compensation benefits to unauthorized workers, House Bill 380 represents a breach of this promise to those that do work here in Ohio and sets cracks in the foundation that this agreement was built upon.

I believe the vast majority of Ohio employers do want to play by the rules and are not recruiting and taking advantage of unauthorized workers. Unfortunately, we know that some do and this bill incentivizes such bad behavior. If these unscrupulous employers can simply claim they didn't know the worker was an illegal alien they will effectively skirt the law placing the true law abiding employers at a tremendous business disadvantage and leaving Ohio taxpayers subject to pick up the tab.

One high profile example that effectively makes this point was chronicled in a May 8, 2017 issue of *The New Yorker* magazine, titled, "Exploitation and Abuse at the Chicken Plant." The piece describes in detail how Case Farms, doing business in Stark County, was recruiting and exploiting immigrant workers from Guatemala, which of course they deny. One such worker, Oseil López Pérez, was seeking to get away from the gang violence that his family fell victim to. At seventeen, too young to legally work in the factory, Oseil got a job cleaning out the processing machines at Case Farms. One day, when there were not enough ladders to go around, he did exactly what his supervisor trained him to do in this situation: climb onto the machine, balance on the edge of a chute, and begin his work. In doing so, Oseil, slipped and fell into the chute legs-first, causing the turbines to turn on automatically. By the time Oseil got to the Mercy Medical Center, the doctors had no other choice but to amputate his left leg. Within a couple of days, as the inquiries mounted, Oseil and many other undocumented and underage workers at the plant were fired.

The report goes on at length describing how Case Farms built its business and profit margins by recruiting vulnerable immigrants and subjecting them to harsh and inhumane treatment. If HB 380 were to become law, Oseil would not be eligible for benefits, Case Farms experience rating and subsequently its premium payments into the system would not be adversely affected. I believe this is not the business model that the sponsors of this bill want to encourage but in practice I do believe it will have this undesired effect.

Additionally, to the point of concern related to legal due process, should the bill become amended as reported to allow for injured or killed unauthorized workers and families the right to go to court and seek a remedy, this will likely be of little consequence. The realities of such disadvantaged workers having an understanding of the law, and the resources to pursue legal remedy are remote. Should however, a case get to court the law would place the burden on the worker to first surpass the high threshold argument that the employer knew of their illegal status at the time of hire.

In closing, I thank the House Insurance Committee for taking time to consider our position to this legislation and urge Members to oppose the bill as it will make a fundamental shift to the Bureau of Workers' Compensation system and I believe incentivize the recruitment of unauthorized workers and unsafe workplaces. If there is any follow up information I can provide or questions you may have, please contact me at your convenience.