



The Honorable Arthur J. Corvese, Chair
House Labor Committee
Rhode Island General Assembly

March 27, 2024

Re: House Bill 7788 relating to employee classification

Dear Representative Corvese and Distinguished Members of the Committee,

On behalf of the American Council of Life Insurers (ACLI),¹ the Rhode Island Chapter of the National Association of Insurance and Financial Advisors (NAIFA),² the Securities Industry and Financial Markets Association (SIFMA),³ and the Financial Services Institute (FSI),⁴ thank you for the opportunity to provide comments on House Bill 7788, which would modify the definition of “employee” for purposes of wages, workers' compensation insurance, temporary disability insurance, and unemployment insurance.

The rise of the gig economy, especially the explosion of ride sharing companies that use independent drivers, has caused some federal and state policymakers to re-examine the distinction between an employee and an independent contractor. While we take no position on the classification of gig economy workers, we want to stress the importance of ensuring that any

¹ The American Council of Life Insurers is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 275 member companies represent 93 percent of industry assets in the United States. For more information, visit www.acli.com.

² Founded in 1890 as The National Association of Life Underwriters, NAIFA is the oldest, largest, and most prestigious association representing the interests of financial professionals from every Congressional district in the United States. Our mission – empowering financial professionals and consumers with world-class advocacy and education – is the reason NAIFA has consistently and resoundingly stood up for agents and called upon members to grow their knowledge while following the highest ethical standards in the industry. For more information, visit www.naifa.org.

³ SIFMA is the leading trade association for broker-dealers, investment banks, and asset managers operating in the U.S. and global capital markets. On behalf of our industry's one million employees, we advocate on legislation, regulation, and business policy affecting retail and institutional investors, equity and fixed income markets, and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association. For more information, visit www.sifma.org.

⁴ The Financial Services Institute is an advocacy association comprised of members from the independent financial services industry and is the only organization advocating solely on behalf of independent financial advisors and independent financial services firms. Since 2004, through advocacy, education, and public awareness, FSI has been working to create a healthier regulatory environment for these members so they can provide affordable, objective financial advice to hard-working Main Street Americans. For more information, visit www.financialservices.org.

statutory changes continue to fully recognize the independent contractor status of certain financial services professionals.

Insurance producers (which are agents licensed to sell, solicit, or negotiate insurance) and independent financial advisors have historically been independent contractors and not employees for purposes of determining the applicability of federal and state wage and benefit provisions. These individuals are highly trained, highly educated, highly regulated professionals who want to own their own small businesses and assume the risks and rewards of doing so. They maintain their own offices, purchase their own insurance, hire employees, pay employment taxes, and purchase workers' compensation insurance for their employees. They enter into written agreements with insurance companies and/or independent broker-dealers that carefully set forth the terms of their independent contractor status. It would be enormously disruptive to obviate these many thousands of agreements in place across the country and create unintended consequences for the financial services industry.

Insurance producers and independent financial advisors have a long history of appropriate classification as independent contractors and are not involved in the worker classification problems found in other industries. They are not employees for purposes of determining applicability of federal (ERISA and EEO1) reporting requirements and state wage and benefit provisions. Compensation practices in the securities industry are carefully recorded in compliance with applicable federal and state laws and IRS Form 1099 reporting is universally required. As a result, the problems of cash payments and unreported income that may exist in other industries do not exist in the securities and insurance professions. Furthermore, the insurance industry and independent broker-dealers are highly regulated: insurance producers by state insurance departments; and broker-dealers and affiliated independent financial advisors by the SEC, FINRA, and state securities regulators.

In 2019, California enacted Assembly Bill No. 5, which codified the "ABC" independent contractor test adopted by the California Supreme Court in 2018. The same "ABC" test is used in House Bill 7788. In recognition of the historical independent nature of their roles, California wisely chose to explicitly exempt persons or organizations licensed by the insurance department and securities broker-dealers, investment advisers, and their agents and representatives from the "ABC" test in its law.

In addition, on March 6, 2022, the National Council of Insurance Legislators (NCOIL) unanimously adopted a "Resolution Supporting Independent Contractor Status for Insurance Agents and Other Licensed Financial Professionals" to "encourage states and federal entities that are debating worker classification policies and that are considering adopting a strict ABC test and/or other similar worker classification laws to continue issuing exemptions for, or exempting out, licensed insurance agents and other financial professionals."⁵

We respectfully request that Rhode Island follow the lead of Congress, NCOIL, and states such as California by exempting licensed insurance producers and independent financial advisors from the scope of H. 7788. Specifically, we request you add language making clear that the bill does not apply to: (1) any person or organization that is licensed by the insurance department; or (2) any securities broker-dealer or investment adviser or any agent or representative thereof that is

⁵ [NCOIL-IC-Status-Resolution-Adopted-3-6-22.pdf](#)

registered with the Securities and Exchange Commission or Financial Industry Regulatory Authority or licensed by the State of Rhode Island.

Insurance producers and independent financial advisors are vital to ensuring that millions of Americans have access to important financial benefits. These professionals are deeply rooted in their communities and are best positioned to understand the needs of consumers. To reclassify and force them into an employment relationship drastically limits not only their autonomy, but the availability of products they can provide their clients.

Thank you for the opportunity to provide comments on H. 7788. We would be happy to answer any questions you may have.

Respectfully Submitted,



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