

Resolution No. 7

Date: September 14, 1995

City: Honolulu, Hawaii

NAHB Resolution

Title: Independent Contractor
Original Sponsor: Taxation Subcommittee of the Federal Government Affairs
Committee

WHEREAS, the home building industry (as well as the non-residential construction industry) is characterized by extensive subcontracting of the actual construction work;

WHEREAS, the construction of a home entails transporting to a job site a wide variety of different materials that are assembled and/or fabricated by a host of different trades;

WHEREAS, the construction of single-family homes is basically the coordination of the work of many different subcontractors;

WHEREAS, under current law, worker classification as an employee or independent contractor for federal income and employment tax purposes is made by applying a 20-factor common law test to the facts and circumstances of each case;

WHEREAS, the Internal Revenue Service often takes the position that a subcontractor who performs certain services that it believes constitute "common labor" is an employee rather than an independent contractor;

WHEREAS, current law allows the flexibility necessary for building industry workers to function in a changing economy and recognizes the unique characteristics of the home building business;

WHEREAS, the current rules under Sec. 530 of the Revenue Act of 1978 provide adequate relief for taxpayers who become involved in disputes over worker reclassification;

WHEREAS, a rigid application of static rules would result in the improper classification of legitimate independent subcontractors as employees, and thereby unfairly burden both builder and worker; and

WHEREAS, legislation (H.R. 1972) has been introduced that would prohibit the Internal Revenue Service from classifying subcontractors as employees if certain requirements are met and would not repeal Sec. 530 of the Revenue Act of 1978,

NOW, THEREFORE, BE IT RESOLVED that the National Association of Home Builders urge Congress to enact legislation that would facilitate qualification of workers in the home building and remodeling industries as independent contractors, and

BE IT FURTHER RESOLVED that NAHB oppose any effort to enact legislation that would restrict the ability of subcontractors complying with current law to qualify as independent contractors.

Board of Directors Action:	Approved
Joint Executive/Resolutions Committee Action:	Recommends Approval
Resolutions Committee Action:	Recommends Approval
Federal Governmental Affairs Committee Action:	Recommends Approval
Taxation Subcommittee of the Federal Governmental Affairs Committee Action:	Recommends Approval