Statement of the Honorable Frederica Wilson (D-FL)
Ranking Member, Subcommittee on Workforce Protections
Legislative Hearing on *The Certainty in Enforcement Act of 2015* (H.R. 548); *The Litigation Oversight Enforcement Act of 2015* (H.R. 549); *EEOC Transparency and Accountability Act* (H.R. 550); and *Preserving Employee Wellness Program Act* (H.R. 1189)
March 24, 2015

Mr. Chairman, today we will examine four bills that would impact the Equal Employment Opportunity Commission (EEOC) in ways that, I fear, will compromise the enforcement of civil rights laws. Since 2014, we will have had three hearings regarding the EEOC. Yet, we have not once invited the Commissioners to testify about the bills that could severely impact their enforcement of employment civil rights laws.

The name of our Subcommittee is *Workforce Protections*, and by our name alone it is clear that we should be doing our best to protect workers. These four bills appear to be a grab bag for unscrupulous employers seeking to strip the EEOC of the tools needed to combat employment discrimination on the basis of race, color, religion, national origin, sex, pregnancy, age, disability, and genetic information.

Fifty-years after the creation of the enactment of the Civil Rights Act of 1965 and the creation of the EEOC – the job of the EEOC is far from complete. Despite many advances, Mr. Chairman, these four bills today ignore the fact that race, gender, disability, and age discrimination persist—and we should not be hindering the agencies charged with combatting unlawful discrimination. In Fiscal Year 2014, of the 88,778 discrimination charges filed with EEOC

- 35% were *based* on race,
- 29.% were based on sex,
- 29% were based on disability status,
- and 23.2% were based on age discrimination.

Mr. Chairman, I'm at a loss to understand why we would want to tie the hands of EEOC – an agency that has a backlog of 70,000-plus charges by:

1) One: Stripping the General Counsel's authority to make a determination about what charges the EEOC should pursue to protect American workers, given there is a policy in place to ensure novel legal questions and controversial matters must already be submitted to the Commission for approval;
2) Two: Limiting the EEOC' disparate impact examination of criminal background checks. Even Clarence Thomas, Commission Chair in 1987, adopted the agency's guidance which says that that criminal background checks, like other hiring requirements that could exclude certain people, should relate to the job;
3) Three: Granting liability exemption to employers who violate employee privacy and civil rights under the American with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA); and,
4) And finally, undermining the successful conciliation process by imposing legal hurdles to resolving cases, and opening the process to extensive litigation based on the adequacy of the conciliation process, rather than resolving the substance of whether or not there was

impermissible discrimination. EEOC's job should be about getting results, not providing full employment for law firms looking for new ways to frustrate resolution of a disputed discrimination case.

Mr. Chairman, I would ask that you call another hearing where we can review these four bills with all five of the EEOC Commissioners. We need to assess the implications of these bills, and determine whether there are unintended effects, such as piling on delays in resolving cases. We need to hear from the Commissioners to determine whether these bills will set up roadblocks for fair and timely resolution of claims by those who face race, sex, age, or disability-based discrimination. We want to determine if these bills, as drafted, will spawn unnecessary litigation and create more confusion.

I thank the witnesses for being here today and look forward to their testimony.

I now yield to the Chairman.