

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



16th CONGRESS
First Regular Session

HOUSE BILL NO. 4282

Introduced by Representative REGINA ONGSIAKO REYES
Lone District, Marinduque

EXPLANATORY NOTE

Our Constitution provides a gamut of provisions protecting and promoting the welfare of workers and laborers here in the Philippines. To start off, a few of the primordial ones provide,

Article II, Section 18 – "The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare."

Article XII, Section 14 - "The sustained development of a reservoir of national talents consisting of Filipino scientists, entrepreneurs, professionals, managers, high-level technical manpower and skilled workers and craftsmen in all fields shall be promoted by the State."

Article XIII, Section 3 - "The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane

conditions of work and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law. xxx"

Corollary to these provisions, the State has continuously enacted laws to protect the welfare of salaried employees. Their rights and interests have been consistently promoted and secured.

It must be stressed however, and has to be emphasized, that workers and laborers do not pertain solely and are not limited to salaried employees. In reality, there are also workers who are not classified as salaried employees. Rather, they are considered self-employed, non-regular and contingent workers whose services are engaged by individuals, institutions, corporations and other entities.

In fact, studies show that self-employed individuals actually compose the second largest sector in the country. Around 54.9% of the entire Philippine population is composed of wage and salary workers, 28.8% are self-employed, 6.4% are unemployed and 19.1% are underemployed.

Unlike the wage and salary workers who have long been protected by an array of laws passed by Congress, contingent, non-regular and self-employed workers do not have a single law that is duly dedicated to protecting their rights and interests. No law specifically addresses the rights that these workers are entitled to despite the express provisions of the Constitution.

This Bill will address that need. This Bill ensures and recognizes the welfare of these workers by expressly mandating their equal right to the same benefits granted to and enjoyed by salaried employees.

In view of the foregoing, the enactment of this bill into law is earnestly sought.


REGINA ONGSIAKO REYES

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AN ACT
TO FURTHER STRENGTHEN THE STANDARD OF
PROTECTION AND ENHANCEMENT OF THE WELFARE OF
SELF-EMPLOYED WORKERS AND CRAFTSMEN AND
THE PROMOTION OF ENTREPRENEURSHIP, THEREBY
AMENDING FOR THIS PURPOSE, SECTION 8 OF REPUBLIC
ACT 8282, OTHERWISE KNOWN AS THE
SOCIAL SECURITY ACT OF 1997

Be it enacted by the Senate and House of Representatives
of the Philippines in Congress assembled:

SECTION 1. Short Title. – This Act shall be known as
the **"SELF-EMPLOYED WORKERS PROTECTION AND**
ENHANCEMENT ACT".

SECTION 2. Declaration of Policy. – The State shall
promote self-employment as a primary tool for poverty alleviation.
The State shall recognize and protect the rights of self-employed
workers and the organizations that they may form under existing
law. The State shall ensure their fair treatment and humane
conditions of work, including the basic right to a decent living
wage. The State shall respect the principle of subsidiarity,
promote self-reliance and the spirit of enterprise. The State shall
further promote their right to self-organization including but not

limited to craft unions, guilds, workers cooperatives and other forms of group entrepreneurship.

SECTION 3. Guiding Principles. – Self-employed workers are entitled to occupational continuity, decent living wage, and basic social benefits. These basic rights can be enhanced and strengthened through legitimate organizations duly organized under existing laws which are dedicated to protecting their rights and interests.

Guilds, craft unions, chambers, leagues, self-help associations, workers cooperatives and other forms of group entrepreneurship should be promoted as they foster industrial stability. These organizations shall be used to ameliorate and upgrade their economic rights in relation with the users of their occupational skills and knowledge in industry and commerce.

SECTION 4. Definition of Terms –

As used in this Act, the following terms shall be defined as:

- a. Craft Union - refers to a labor union with membership limited to workers of the same craft.
- b. Entrepreneurship – refers to the self- organization and management of a business or enterprise by an individual.
- c. Group Entrepreneurship – refers to the association of different entrepreneurial organizations of common interests.
- d. Guild - refers to an association of people with similar interests or pursuits.
- e. Self-employed worker – refers to a person who has his own occupational capacity put to productive use by applying his own capital raised by himself or together with other self employed persons pursuing related occupational and entrepreneurial interest. A self-employed individual earns from his labor as well as from his own capital. He may be a contingent, non-regular or an overseas worker.

f. Workers cooperative – refers to a cooperative owned and controlled by the workers themselves. It is organized by workers including self-employed, who are at the same time the members and owners of the enterprise. As understood herein, the term ownership shall mean actual contribution to the share capital of the cooperative up to the maximum allowed by the law and the bylaws. All share capital shall be entitled to interest as may be declared from time to time. The term control shall mean the exercise of right to vote. As mandated by law, each regular member shall only have one vote regardless of the number of shares actually held. Its principal purpose is to provide jobs and business opportunities to its members and manage it in accordance with cooperative principles.

SECTION 5. Contractual Relations – Contracts with self-employed workers are governed primarily by the civil and commercial laws of the Philippines. Therefore, the provisions under Book III of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, shall not be applicable to self-employed workers who have the right to determine the terms and conditions of their own engagements.

Notwithstanding the foregoing, agricultural, industrial, commercial and service sectors engaging self-employed workers shall ensure that the terms and conditions of their service should be above or comparable to the benefits provided in their respective sectors, as mandated by all social legislations.

SECTION 6. Training – Training and certification by Technical Education and Skills Development Authority (TESDA) shall be accessible to self-employed workers in order to continuously enhance and upgrade the entrepreneurial and occupational capacity of self-employed individuals. For this purpose, TESDA may enter into agreements with various associations of self-employed workers to effect this policy.

SECTION 7. Social Security – All government agencies mandated to render services and extend social security are hereby mandated to ensure that all self-employed workers as defined under this Act are covered by a social security program and shall be allowed to enroll as members of the Social Security System

(SSS) under Article 9-A of Republic Act 8282, otherwise known as the Social Security Act of 1997.

The enrollment can be done directly by the self-employed workers or thru their respective guilds, craft unions, worker cooperatives or other associations acting as their collecting agent for premiums due to SSS.

Paragraph (s) of Section 8 under Republic Act 8282, is hereby amended to read as follows:

"(s) Self-employed – A self-employed is a person who has his own occupational capacity put to productive use by applying his own capital raised by himself or together with other self employed persons pursuing related occupational interest."

SECTION 8. Disputes – Disputes involving workers under this Chapter shall be under the jurisdiction of the regular courts, without prejudice to the provisions of Article 137 of Republic Act 9520, otherwise known as the Philippine Cooperative Code of 2008, insofar as worker cooperatives are concerned.

SECTION 9. Reportorial Requirement – Worker guilds, craft unions, worker cooperatives and other associations organized and representing self-employed workers must register with the Department of Labor and Employment (DOLE) and Department of Trade and Industry (DTI) and other regulatory agencies under such forms, conditions and frequency as may be determined by each particular regulatory government agency.

SECTION 10. Penalty Clause – Any individual, association, entity or institution found in violation of this Act shall be punished with a fine of not less than Fifty Thousand Pesos (Php 50,000.00) nor more than One Hundred Thousand Pesos (Php 100,000.00).

SECTION 11. Implementing Rules and Regulations – All government agencies are hereby mandated to implement rules and regulations that will enact the express policies of this Act, to encourage and promote self-employment as a primary tool for poverty alleviation and enhance the welfare of the self-employed.

SECTION 12. Mandatory Assistance. - Government agencies with special concern on employment and poverty alleviation such as but not limited to Department of Labor and Employment (DOLE), Cooperative Development Authority (CDA), Department of Trade and Industry (DTI), Department of Interior and Local Government (DILG), Department of Agriculture (DOA), Bureau of Internal Revenue (BIR), National Anti-Poverty Commission (NAPC) and all local government units (LGUs) shall draw and adopt sustainable programs for the empowerment and encouragement of self-employment in support of the express intentions of this Act.

SECTION 13. Separability Clause. - If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

SECTION 14. Repealing Clause. - All laws, decrees, Orders, issuances, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 15. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

APPROVED.