



16TH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES
HOUSE BILL NO. 4338

Introduced by HONORABLE GUS S. TAMBUNTING

EXPLANATORY NOTE

This bill seeks to protect workers in cases of company closures or cessation of operations of establishments. Workers as partners in the production of wealth and income have to be protected and afforded with their basic workers' rights.

While poverty increases in the country, so does inequality thus, workers in times of economic depression should be protected. Company closures and cessation of business activities are inevitable. Various factors affect the business cycle and business productivity hence, workers in most inopportune times of economic recessions are caught in the web of unemployment. The loss of business is tantamount to loss of employment.

The DOLE Bureau of Labor and Employment Statistics reported that in year 2012 the total number of establishments resorted to permanent closures or retrenchment due to economic reasons totaled 1,925 enlisting in 2013 displacing a total of 36,639 workers nationwide. Suffice to say that, a vast number of minimum wage earners and their families has been economically displaced.

The figure was significantly higher than the 35,526 workers who lost their jobs in 2011 when some 2,211 companies shutdown and 31,778 in 2012.

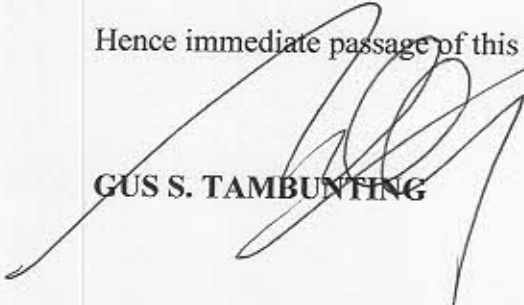
Metro Manila recorded the highest number of displaced workers. A total of 1,925 commercial establishments filed Notice of Closures affecting 17,144 workers in 2013.

Employers cited downsizing as main reason for the retrenchment and closures, financial losses and lack of market are factors that caused establishments to lay off or close shop which led to underemployment of nearly 13,000 workers.

The creation of Workers' Protection Board shall ensure that the workers' rights are protected and rightful benefits are afforded to them.

This humble piece of legislation aims to protect workers and their families. More so, the State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.

Hence immediate passage of this legislation is earnestly sought.


GUS S. TAMBUNTING



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AN ACT
TO PROTECT WORKERS IN THE EVENT OF COMPANY CLOSURES OR
CESSATION OF OPERATIONS BY ESTABLISHING THE MECHANISM AND
PROPER STANDARDS THEREFOR AND FOR OTHER PURPOSES

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

CHAPTER 1 - PRELIMINARY PROVISIONS

SECTION 1. *Short Title.* - This Act may be cited as the "Workers' Protection Act of 2014."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to protect workers from economic insecurity due to involuntary unemployment and promote their rights in the event of such. For this purpose, the State hereby recognizes the right of all workers:

- (1) To a reasonable period of notice for termination of employment;
- (2) To seek alternative employment during the period of notice;
- (3) To guarantee payments of wage claims, and
- (4) To petition the proper government agency to review any act of an employer to close shop, cease operations, and/or order a mass layoff of employees.

SEC. 3. *Definition of Terms.* - As used in this Act, the following terms:

- a. *Bankruptcy* shall mean a condition whereby an employer, who after a petition to the court by himself or his creditors, is judged legally insolvent.

- b. *Closure* shall mean the permanent cessation of operations due to insolvency, bankruptcy, foreclosure, and/or dissolution resulting in an employment loss.
- c. *Cessation of operations* shall mean the permanent or temporary shutdown of a single site of employment or one or more facilities or operating units within a single site of an employment, if the shutdown results in an employment loss at the single site of employment. For purposes of this Act, it shall include but not exclusive of, cessation of operations due to bankruptcy, closure, foreclosure, insolvency, dissolution and other similar acts.
- d. *Insolvency* shall mean the condition whereby an employer is unable to meet his obligations as they accrue in the course of his trade or business.
- e. *Employer* shall mean any person acting directly or indirectly in the interest of an employer in relation to an employee and shall include, all government-owned or controlled corporations and institutions, as well as non-profit private institutions, or organizations.
- f. *Employee* shall mean any individual employed an employer.
- g. *Mass lay-off* shall mean a reduction in force which (i) is not a result of a closure and (ii) results in an employment loss at the single site of employment during any 30-day period for (1) at least 33% of employees, and/or (2) at least 50 employees, excluding part-time employees.
- h. *Affected employees* shall mean employees who may reasonably be expected to experience an employment loss as a consequence of a proposed cessation of operations or mass layoff by their employer.
- i. *Involuntary unemployment* shall mean the termination of employment by an employer as a result of cessation of operations.
- j. *Employment loss* shall mean (i) a termination of employment, other than a discharge for cause, voluntary departure or retirement, (ii) a layoff exceeding six (6) months, or (iii) a reduction in hours of work of more than fifty per cent (50%) during each month of any six-month period.
- k. *Foreclosure* shall mean the process by which a mortgagee acquires an absolute title to the property of which he had previously been only the conditional owner, or upon which he had previously a mere lien or encumbrance.

CHAPTER 2 - NOTIFICATION REQUIREMENT

SEC. 4. Notification Requirement. - An employer shall not order a plant closure, mass layoff, shutdown or any form of cessation of operations until the end of a 90-day period after the employer serves written notice of such an order:

- (a) To each affected employee;

- (b) To each collective bargaining representative;
- (c) To the chief elected official of the local government unit within such closing or lay-off to occur, and
- (d) To the Labor Protection Board as herein created.

SEC. 5. *Right to Alternative Employment.* - During the 90-day notice period which shall commence upon the receipt of the said notice by the affected employee, an employer shall allow the affected employee to use a specific amount of paid work time to seek alternative employment.

SEC. 6. *Right to Petition the Act of the Employer.* - During the 90-day notice period, the affected employees or their collective bargaining representative may petition the Labor Protection Board as herein created to investigate possible anomalies arising from the intended closure or cessation of operations by an employer.

SEC. 7. *Civil actions against employers.* - Any employer who orders a closure or mass layoff or shutdown or any form of cessation of operations or mass layoff in violation of Sec. 4 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closure or mass layoff or any form of cessation of operations for the following:

- (a) back pay for each day of violation at a rate of compensation not less than the final regular rate received by such employee, including benefits and contributions, and
- (b) Mandatory severance pay.

Any employer who violates Sections 4 and 5 of this Act shall be subject to a civil penalty of fifteen thousand pesos (P15,000.00) for each day of violation, provided however that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within three (3) weeks from the date the employer orders the closure or mass layoff or shutdown or cessation of operations.

CHAPTER 2 - THE WORKERS PROTECTION BOARD

SEC. 8. *The Workers Protection Board.* - For purposes of this Act, there shall be created an independent agency to be known as the Workers Protection Board (WPB).

SEC. 9. *Composition.* - The Board shall be composed of a Chairman and two (2) Members who shall be nominated and elected in a Labor Conference called for this purpose except for the Chairman who shall be appointed by the President from a selection of three

nominees submitted by the Labor Conference. The Labor Conference shall be held within thirty days following the effectivity of this Act and shall be attended by delegates representing major labor federations.

SEC. 10. *Qualifications of Nominees* - The nominees for both the Chairman and Members must have the following qualifications:

(a) Satisfactory background on labor and commerce particularly on corporation rules and laws.

(b) Must not have worked or performed functions in any management of a company or establishment in the past.

(c) Must not have business interests in any corporation or establishment.

(d) Must not be related to any corporate official within the fourth degree of consanguinity.

SEC. 11. *Powers and Functions* - The Board shall, in coordination with the Department of Labor and Employment (DOLE), Securities and Exchange Commission (SEC), and the Department of Justice (DOJ), perform the following functions:

(a) Undertake the investigation of companies and establishments that would undergo closure or cessation of operations, shutdown, rotation or retrenchment of workers/employees due to labor saving devices, to prevent losses, dissolution, insolvency or bankruptcy;

(b) Compel the disclosure and submission of its book of accounts and other financial records following an information to the Board that the company or establishment will lead to closure or cessation of operation, shutdown, rotation or retrenchment of employees/workers;

(c) Issue subpoenas to any official of a company or establishment and other parties concerned to require attendance in the investigation;

(d) Hold custody of the company's machinery and other production equipment from the commencement of the investigation, or to require the posting of bond or both to secure the interests of the affected workers/employees;

(e) Ensure that payment of wages/salaries and other benefits were being made continuously while the company is undergoing an investigation;

(f) Ensure the issuance of notices to workers/employees as required in this Act and the enforcement of the period to seek alternative employment;

(g) Facilitate the immediate release of monetary claims of workers/employees which may be made through banks or which may be deemed sufficient by the Board;

(h) Conduct quarterly inspection on the book of accounts and financial records of the companies and establishments registered with the Securities and Exchange Commission to monitor its operations, and

(i) Initiate legal action against any company or establishment found to violate any of the provisions of this Act.

SEC. 12. *Funding* - The funding requirements necessary to carry out the provisions of this Act shall be charged to the current fiscal year appropriations of the Department of Labor and Employment. Thereafter, such sum as may be necessary is hereby authorized to be appropriated in the General Appropriations Act of the year following its enactment into law.

CHAPTER 3 - FINAL PROVISIONS

SEC. 13. *Implementing Rules and Regulations*. - The implementing rules and regulations to carry out the provisions of this Act shall be adopted and promulgated by the Department of Labor and Employment.

SEC. 14. *Repealing Clause*. - All laws, executive orders and provisions thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 15. *Separability Clause*. - If any provision or part of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, the remainder of this Act or the application of such provision or part thereof to other persons or circumstances shall not be affected thereby.

SEC. 16. *Effectivity Clause*. - This Act shall take effect fifteen days after its publication in at least two (2) national newspapers of general circulation.

Approved.