

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 6157



Introduced by Rep. Christopher P. De Venecia

AN ACT PROVIDING FOR CREATIVE INDUSTRY WELFARE PROTECTION

EXPLANATORY NOTE

Section 14 of Article XIV of the 1987 Constitution provide that "The State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression." This provision is complemented by Section 17 of the same Article, which states that "the State shall recognize, respect, and protect the rights of indigenous cultural communities to preserve and develop their cultures, traditions, and institutions. It shall consider these rights in the formulation of national plans and policies."

The Filipino creative worker plays an important role in the life and evolution of the Philippines, influencing the conception of the country and shaping the national consciousness. The Filipino creative worker, through his/her own expression, is a catalyst for values formation and societal transformation – a cohort in efforts to address social issues.

Despite the constitutional mandate and their contribution to the country's cultural development, Filipino creative workers remain a specialized type of working class that is not protected by law. They still have not acquired a professional working status and standardized benefits as those enjoyed by regular workers. They are not afforded medical, disability, retirement, death insurance and housing benefits.

The United Nations Education Scientific and Cultural Organization (UNESCO) General Conference in 1980 adopted the recommendations concerning the Status of the Artist, who are among the many creative workers in the country. As a standard-setting instrument, it aims to guide its Member States in formulating policies regarding the professional, social, and economic status of creative workers. It emphasized that "*action by the public authorities is becoming necessary and urgent in order to remedy the disquieting situation of artists in a large number of Member States, particularly with regard to human rights, economic and social circumstances and their conditions of employment.*"

Furthermore, the Recommendations stated that public authorities must act "*with a view to providing artists with the conditions necessary for the development and flowering of their talents, and appropriate to the role that they are able to play in the planning and*

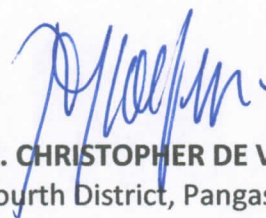
implementation of cultural policies and cultural development activities of communities and countries and in the improvement of quality of life."

The Recommendations concerning the Status of the Artist likewise recognizes that "artists have the right to establish trade unions and professional organizations of their choosing and to become members of such organizations, if they so wish and [Member States, through appropriate legislative means] should make it possible for organizations representing artists to participate in the formulation of cultural policies and employment policies, including the professional training of artists, and in the determination of artists' conditions of work."

This bill aims to improve the social security, labor, medical, and legal conditions of the artist and other creative workers through a system of accreditation and to recognize them as professionals and empowering them to self-organize and collectively defend their common interests.

In view the foregoing, I am re-filing this bill that was initially filed in the 17th Congress. This version has passed Third Reading of the House and was transmitted to Senate but was not acted upon.

The approval of this proposed measure is earnestly sought.



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Fourth District, Pangasinan

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

CHAPTER I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “*CREATIVE INDUSTRY Welfare Protection Act.*”

SEC.2. *Declaration of Policy.* – Pursuant to Sections 14 and 15 of Article XIV of the 1987 Constitution, it is hereby declared the policy of the State to protect and promote the rights of a creative worker to be considered as a person actually engaged in cultural work and to benefit from all legal, social and economic advantages pertaining to the status of workers. The State shall:

- a) Improve the social security, labor, medical, and legal conditions of the creative worker, whether employed or self-employed, taking into account their contributions to cultural, social and economic development, through a system of accreditation;
- b) Recognize creative workers as professionals, granting them the corresponding rights and privileges, to enable them to self-organize and collectively defend their common interests;
- c) Establish and protect the right of associations representing creative workers to be recognized in law and to promote the professional and socio-economic interests of their members;
- d) Provide second/alternative career opportunities to creative workers who wish to retire from their respective arts or crafts; and
- e) Develop means of providing welfare and legal information to creative workers.

SEC. 3. Coverage. – This Act applies to all Accredited Creative Workers, as herein defined, employed and working within the country, and to all creative workers outside of the country who are covered by recruitment programs/contracts and placement offices/agencies.

SEC. 4. Definitions of Terms. – As used in this Act, the following terms shall mean:

- a) *Accreditation* refers to the assessment of an artist or guild based on the Accreditation Requirements as provided herein, for purposes of availing the provisions and benefits provided in this Act.
- b) *Accredited Creative Worker* refers to a creative worker who is Filipino, at least eighteen (18) years of age, and has complied with the Accreditation Requirements as provided herein, or the members of creative workers' associations duly registered and accredited as provided herein.
- c) *Creative Worker* is any person who performs work requiring invention, imagination, administration, coordination, originality, or talent in a recognized field of artistic or creative endeavor, such as but not limited to music, writing, acting, and the graphic arts, whether or not he or she is bound by any relations of employment or association.
- d) *Creative Workers' Associations* are associations of creative workers formed for the purpose of providing appropriate protection for the professional interests of the creative workers they represent, collectively negotiating, fixing, maintaining, changing or improving the terms and conditions in employment.
- e) *Collecting Agent/Foreign Collecting Agent* refers to any person, natural or juridical, domestic or foreign, including for purposes of foreign work, manning, placement and recruitment agencies, who hire and use the services of a creative worker. The collecting agent shall be responsible for the remittance of contribution of the creative worker to the SSS/GSIS, PagIBIG and Philhealth. The contribution shall be automatically deducted from the compensation paid to the creative worker.
- f) *Hazardous Work* refers to services performed by a creative worker which expose the creative worker to hazards likely to cause any disabling injury, illness, death or physical or psychological harm.
- g) *Second/Alternative Career* refers to any career, as enumerated in this Act, which a creative worker may engage in after leaving their main career due to age, incapacity, or other reasons, or any career which a creative worker may engage in while still active in their major area of specialization due to the latter's seasonal or contractual nature.
- h) *Welfare Protection* refers to the government's duty of providing rights and privileges to duly-accredited creative workers, and ensuring the protection of their works and talents to maintain a minimum standard of well-being,

specifically providing SSS/GSIS, PagIBIG, and PhilHealth, among other benefits.

- i) *Welfare Information* refers to the government's duty to provide knowledge awareness and understanding to duly accredited creative workers in terms of legal, medical, proprietary, educational, and second/alternative careers, among others.

CHAPTER II

RIGHTS AND PRIVILEGES

SEC. 5 *Social Welfare Benefits.* – An Accredited Creative Worker shall have the right to social protection, including but not limited to, SSS/GSIS, PagIBIG, PhilHealth and to all other benefits as may be provided by law. The said agencies shall create a category/schedule of payments for Accredited Creative Workers in compliance with existing laws.

- a) Payments of premiums and contributions shall be shouldered by the collecting agent based on an annual amount to be determined by the respective government agencies stated herein;
- b) In case of multiple payments/contributions exceeding the annual contribution, the excess shall be carried over to the succeeding year;
- c) In case of deficiency of payment, the Accredited Creative Worker shall pay the deficiency/difference as stated in the category/schedule of payments, to be provided by the SSS/GSIS, PhilHealth, PagIBIG, as the case may be. Creative workers who do not have collecting agents shall comply with the provisions of voluntary contribution.

SEC. 6. *Accident Insurance.* – If the Accredited Creative Worker is hired to provide services which involve hazardous work, accident insurance in favor of the creative worker shall be provided by the hiring party.

SEC. 7. *Standard Working Hours.* – The maximum working hours of the Accredited creative worker shall be between eight (8) to twelve (12) hours only. The maximum working hours shall vary from the age bracket written below:

- a) Below thirteen (13) years old;
- b) Thirteen (13) years old to below eighteen (18) years old;
- c) Eighteen (18) years old to below sixty (60) years old;
- d) Sixty (60) years old and above.

The minimum turnaround time before the next working day shall be twelve (12) hours. All working hours shall be stated in writing and properly disseminated in memorandum form to all workers and/or employees.

SEC. 8. *Identification of Safety and Health Hazards in the Workplace.* – In order to manage workplace health and safety and prevent accidents and sickness absence, the hiring party shall identify, monitor, and reduce the risk associated with workplace hazards.

SEC. 9. *Safety and Medical Checklist and the Creation of Standard Operating Procedures.* – The hiring party shall formulate a synchronized medical and safety precautionary measures.

SEC. 10. *Mandatory Presence of Safety Officers and Medical Personnel* – Safety and medical personnel shall be mandatorily deployed to all workplaces and areas during the entire conduct of working hours.

SEC. 11. *Legal Information and Assistance.* – the National Commission for Culture and the Arts (NCCA) shall provide Accredited Creative Workers with free legal services in criminal, civil and labor cases and with free legal information for the registration and protection of their intellectual property rights over their literary and artistic works, performances and other works defined under Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines, and other pertinent laws.

SEC. 12. *Medical and Dental Assistance.* – The Accredited Creative Worker shall be provided with free medical and dental assistance through the Philippine Medical Association (PMA), Philippine Hospital Association (PHA), and the Philippine Dental Association (PDA) in all government hospitals.

SEC. 13. *Second/Alternative Careers.* – The NCCA, in coordination with the pertinent government agencies, shall devise a system for Accredited Creative Workers to obtain a Second/Alternative Careers in the Philippines and outside, including but not limited to, annual cultural job fairs.

SEC. 14. *Artists Village.* – The NCCA, in coordination with other relevant government offices, shall establish a housing community for Accredited Creative Workers to be known as the Artists Village. Suitable idle lands shall be identified for this purpose.

SEC. 15. *Freedom of Association.* – A creative worker is free to join a creative workers' association or guild, and to participate in its formation, activities and administration.

CHAPTER III ACCREDITATION

SEC. 16. *Accreditation Requirements.* – The NCCA shall issue guidelines for the purpose of defining the requirements for accreditation of creative workers and guilds, complying with the following minimum requirements:

- a) In the case of individuals, proof of artistic skill or skills related to the practice of one's craft; and

- b) In the case of guilds, copies of its constitution and by-laws, list of officers, their addresses, and list of members; *Provided, That*, no by-laws of the association may have the effect of discriminating unfairly against a creative worker so as to prevent him or her from becoming or continuing as a member of the association.

The presumption shall always be in favor of accreditation.

SEC. 17. Accreditation Application. – Creative workers and creative workers’ associations shall submit the necessary documents to support their application for accreditation to the NCCA. A creative workers’ association may, if duly authorized by its members, apply to the NCCA in writing for accreditation in respect of one sector:

- a) At any time, in respect of a sector for which no creative workers’ association is accredited and no other application for accreditation is pending before the NCCA; and
- b) In case where there is an accredited creative workers’ association of the same sector for which accreditation is applied, within the three months immediately before the date that the existing accreditation is about to expire.

The NCCA shall give public notice of any application for accreditation in respect of any sector without delay, indicating any period in which another application may be made by any other creative workers’ association, despite subsections (a) and (b), for accreditation in respect of that sector.

SEC. 18. Accreditation Approval. – If the NCCA is satisfied that a creative workers’ association that has applied for accreditation in respect of a sector is the most representative of creative artists in that sector the NCCA shall accredit the association.

SEC. 19. Accreditation Period. – Accreditation is valid for a period of three (3) years after the date that the NCCA issues the accreditation and, subject to subsection (b) of Section 13 hereof, is automatically renewed for additional three years.

SEC. 20. Extension of Period of Accreditation. – Where, in the three (3) months immediately before the date that the accreditation of an artists’ association is to expire, an application for accreditation in respect of the same or substantially the same sector, or an application for revocation of accreditation, is filed, the period of validity of the association’s accreditation is extended until the date the application is accepted or rejected and, where it is rejected, renewal of the association’s certification takes effect from that date.

SEC. 21. Register. – the NCCA shall keep a register of all issued accreditations and of their dates of issuance.

SEC. 22. Effects of Accreditation. – After accreditation of a creative workers’ association in respect of a sector:

- a) The association shall acquire legal personality upon accreditation;
- b) The association has exclusive authority to bargain on behalf of member creative workers in the sector;
- c) The accreditation of any association that previously represented creative workers in the sector is revoked in so far as it related to them; and
- d) The association is substituted as a party to any agreement that affects the creative workers in the sector represented, to the extent that it related to them, in place of the association named in the agreement or its successor.

SEC. 23. *Application for Revocation of Accreditation.* – A creative worker in a sector may apply to the NCCA for an order revoking an association's accreditation in respect of that sector on the following grounds:

- a) The association's by-laws have the effect of discriminating unfairly against a creative worker so as to prevent him or her from becoming or continuing as a member of the association, at any time;
- b) The association is no longer the most representative of creative workers in the sector, or has failed to make reasonable efforts to protect the professional interests of its member creative workers, within the three months immediately before the date of the association's accreditation is to expire;
- c) Gross and evident bad faith in dealing with member creative workers;
- d) Tolerance of gross misconduct, discourtesy, dishonest or misrepresentation committed by any of the association's officers against its members; and
- e) Promoting, facilitating or conducting activities involving drug-related transaction and any form of exploitation of women and children.

SEC. 24. *Merger of Associations.* – A creative workers' association that succeeds an accredited creative workers' association as a result of a merger between associations acquires the rights, privileges and duties of that accredited association.

SEC. 25. *Dispute Resolution.* – In cases of disputes arising from the accreditation, the NCCA shall resolve such dispute.

CHAPTER IV

MISCELLANEOUS PROVISIONS

SEC. 26. *Role of the National Commission for Culture and the Arts (NCCA).* The NCCA shall create a Creative Workers' Welfare Office, which shall serve as the implementing body of this Act. It shall also create a Legal Assistance Office, which shall provide free legal services to Accredited Creative Workers.

SEC. 27. *Continuing Studies on Special Privileges for Artists.* – the NCCA, in coordination with other government offices, arts sector and academic institutions, is mandated to

conduct studies and researches on the feasibility of granting pensions or discount privileges to creative workers, in particular, those who are earning below the minimum wage or those creative workers whose employment engagements are intermittent.

SEC. 28. Appropriations. – The amount necessary to implement this Act shall be charged against the annual appropriation of the National Commission for Culture and the Arts.

SEC. 29. Implementing Rules and Regulations. – Within sixty (60) days from the effectivity of this Act, the NCCA, in coordination with SSS, PhilHealth and PagIBIG, and other related government agencies shall promulgate the necessary rules and regulations from the implementation of this Act.

SEC. 30. Separability Clause. – Should any provision herein be declared unconstitutional, the same shall not affect the validity of the other provision of this Act.

SEC. 31. Repealing Clause. – All laws, decrees, orders, rules, and regulations, or others issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 32. Effectivity. – This Act shall take effect fifteen (15) days after its complete publication either in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,