



HOUSE OF REPRESENTATIVES

H. No. 1351

BY REPRESENTATIVES DE GUZMAN, AGUJA, GULLAS AND ESPINOSA (E.T.)

AN ACT STRENGTHENING THE WORKERS' CONSTITUTIONAL
RIGHT TO SELF-ORGANIZATION, AMENDING FOR THE
PURPOSE PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE LABOR CODE OF THE
PHILIPPINES

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

1 SECTION 1. Article 234 of Presidential Decree No. 442, as amended,
2 otherwise known as the Labor Code of the Philippines, is hereby amended to
3 read as follows:

4 “ART. 234. *Requirements of Registration.* – [Any
5 applicant labor organization, association or group of unions or
6 workers] A FEDERATION, NATIONAL UNION OR INDUSTRY OR
7 TRADE UNION CENTER OR AN INDEPENDENT UNION shall acquire
8 legal personality and shall be entitled to the rights and privileges

1 granted by law to legitimate labor organizations upon issuance of
2 the certificate of registration based on the following requirements:

3 "x x x

4 "(C) IN CASE THE APPLICANT IS AN INDEPENDENT
5 UNION, [T]he names of all its members comprising at least
6 twenty percent (20%) of all the employees in the bargaining unit
7 where it seeks to operate;

8 "x x x."

9 SEC. 2. A Sub-article to Article 234 of the Labor Code is hereby
10 inserted to read as follows:

11 "ART. 234-A. *CHARTERING AND CREATION OF A LOCAL*
12 *CHAPTER. – A DULY REGISTERED FEDERATION OR NATIONAL*
13 *UNION MAY DIRECTLY CREATE A LOCAL CHAPTER BY ISSUING A*
14 *CHARTER CERTIFICATE INDICATING THE ESTABLISHMENT OF*
15 *THE LOCAL CHAPTER. THE CHAPTER SHALL ACQUIRE LEGAL*
16 *PERSONALITY ONLY FOR PURPOSES OF FILING A PETITION FOR*
17 *CERTIFICATION ELECTION FROM THE DATE IT WAS ISSUED A*
18 *CHARTER CERTIFICATE.*

19 "THE CHAPTER SHALL BE ENTITLED TO ALL OTHER
20 RIGHTS AND PRIVILEGES OF A LEGITIMATE LABOR
21 ORGANIZATION ONLY UPON THE SUBMISSION OF THE

1 FOLLOWING DOCUMENTS IN ADDITION TO ITS CHARTER
2 CERTIFICATE:

3 “(A) THE NAMES OF THE CHAPTER’S OFFICERS, THEIR
4 ADDRESSES AND THE PRINCIPAL OFFICE OF THE CHAPTER; AND

5 “(B) THE CHAPTER’S CONSTITUTION AND BY-LAWS:
6 *PROVIDED*, THAT WHERE THE CHAPTER’S CONSTITUTION AND
7 BY-LAWS IS THE SAME AS THAT OF THE FEDERATION OR THE
8 NATIONAL UNION, THIS FACT SHALL BE INDICATED
9 ACCORDINGLY.

10 “THE ADDITIONAL SUPPORTING REQUIREMENTS SHALL
11 BE CERTIFIED UNDER OATH BY THE SECRETARY OR TREASURER
12 OF THE CHAPTER AND ATTESTED BY ITS PRESIDENT.

13 “ANY FORM OF MISREPRESENTATION, FALSE STATEMENT
14 OR FRAUD COMMITTED BY INDIVIDUAL OFFICERS OR MEMBERS
15 SHALL NOT BE A GROUND FOR CANCELLATION BUT SHALL
16 SUBJECT THE ERRING OFFICERS OR MEMBERS TO SUSPENSION,
17 EXPULSION FROM MEMBERSHIP, OR ANY OTHER APPROPRIATE
18 PENALTY.”

19 SEC. 3. Article 235 of the Labor Code is hereby amended to read as
20 follows:

1 “ART. 235. *Action on Application.* – The Bureau shall act
2 on all applications for registration within thirty (30) days from
3 filing.

4 **“WHERE THE ORGANIZATION CONSISTS OF AT LEAST**
5 **FIFTY-FIVE PERCENT (55%) OF QUALIFIED MEMBERS, IT SHALL**
6 **AUTOMATICALLY BE RECOGNIZED AS A LEGITIMATE LABOR**
7 **ORGANIZATION FOR THE PURPOSE OF COLLECTIVE**
8 **BARGAINING, WITHOUT NEED OF CERTIFICATION ELECTION.**

9 “All requisite documents and papers shall be certified
10 under oath by the secretary or the treasurer of the organization, as
11 the case may be, and attested to by its president.”

12 SEC. 4. Article 238 of the Labor Code is hereby amended to read as
13 follows:

14 “ART. 238. *Cancellation of Registration[; Appeal].* – The
15 certificate of registration of any legitimate labor organization,
16 whether national or local, [shall] MAY be cancelled by the Bureau
17 [if it has reason to believe], after due hearing, [that the said labor
18 organization no longer meets one or more of the requirements
19 herein prescribed] ONLY ON THE GROUNDS SPECIFIED IN
20 **ARTICLE 239 HEREOF.”**

1 SEC. 5. Sub-articles to Article 238 of the Labor Code are hereby
2 inserted to read as follows:

3 **“ART. 238-A. EFFECT OF A PETITION FOR**
4 **CANCELLATION OF REGISTRATION. – A PETITION FOR**
5 **CANCELLATION OF UNION REGISTRATION SHALL NOT SUSPEND**
6 **THE PROCEEDINGS FOR CERTIFICATION ELECTION NOR SHALL**
7 **IT PREVENT THE FILING OF A PETITION FOR CERTIFICATION**
8 **ELECTION.**

9 **“IN CASE OF CANCELLATION, NOTHING HEREIN SHALL**
10 **RESTRICT THE RIGHT OF THE UNION TO SEEK JUST AND**
11 **EQUITABLE REMEDIES IN THE APPROPRIATE COURTS.**

12 **“ART. 238-B. EFFECT OF INCLUSION AS MEMBERS OF**
13 **EMPLOYEES OUTSIDE THE BARGAINING UNIT. – THE INCLUSION**
14 **AS UNION MEMBERS OF EMPLOYEES OUTSIDE THE BARGAINING**
15 **UNIT SHALL NOT BE A GROUND FOR THE CANCELLATION OF THE**
16 **REGISTRATION OF THE UNION. SAID EMPLOYEES ARE**
17 **AUTOMATICALLY DEEMED REMOVED FROM THE LIST OF**
18 **MEMBERSHIP OF SAID UNION.”**

19 SEC. 6. Article 239 of the Labor Code is hereby amended to read as
20 follows:

1 “ART. 239. *Grounds For Cancellation Of Union*
2 *Registration.* – The following [shall] MAY constitute grounds for
3 cancellation of union registration:

4 [(A) Misrepresentation, false statement or fraud in
5 connection with the adoption or ratification of the constitution and
6 by-laws or amendments thereto, the minutes of ratification, and
7 the list of members who took part in the ratification];

8 “[(B)] (A) Failure [to submit the documents mentioned in
9 the preceding paragraph within thirty (30) days from the adoption
10 or ratification of the constitution and by-laws or amendments
11 thereto] **OF THE UNION TO MAINTAIN THE MINIMUM**
12 **MEMBERSHIP REQUIREMENT PRESCRIBED IN ARTICLE 234 (C)**
13 **HEREOF;**

14 [(C) Misrepresentation, false statements or fraud in
15 connection with the election of officers, minutes of the election of
16 officers, the list of voters, or failure to submit these documents
17 together with the list of the newly-elected appointed officers and
18 their postal addresses within thirty (30) days from election;

19 (D) Failure to submit the annual financial report to the
20 Bureau within thirty (30) days after the closing of every fiscal

1 year and misrepresentation, false entries or fraud in the
2 preparation of the financial report itself;

3 (E) Acting as a labor contractor or engaging in the “cabo”
4 system, or otherwise engaging in any activity prohibited by law;

5 (F) Entering into collective bargaining agreements which
6 provide terms and conditions of employment below minimum
7 standards established by law;

8 (G) Asking for or accepting attorneys fees or negotiation
9 fees from employers;

10 (H) Other than for mandatory activities under this Code,
11 checking off special assessments or any other fees without duly
12 signed individual written authorizations of the members;

13 (I) Failure to submit list of individual members to the
14 Bureau once a year or whenever required by the Bureau; and

15 (J) Failure to comply with requirements under Articles
16 237 and 238.]

17 **“(B) USING THE UNION AS A GUISE TO ENGAGE IN ANY**
18 **ACTIVITY PROHIBITED BY LAW; AND**

19 **“(C) VOLUNTARY DISSOLUTION BY THE MEMBERS.”**

20 SEC. 7. A Sub-article to Article 242 of the Labor Code is hereby
21 inserted to read as follows:

1 **“ART. 242-A. REPORTORIAL REQUIREMENTS. – THE**
2 **FOLLOWING ARE DOCUMENTS REQUIRED TO BE SUBMITTED TO**
3 **THE BUREAU BY THE LEGITIMATE LABOR ORGANIZATION**
4 **CONCERNED:**

5 **(A) ITS CONSTITUTION AND BY-LAWS, OR**
6 **AMENDMENTS THERETO, THE MINUTES OF RATIFICATION, AND**
7 **THE LIST OF MEMBERS WHO TOOK PART IN THE RATIFICATION**
8 **OF THE CONSTITUTION AND BY-LAWS WITHIN THIRTY (30)**
9 **DAYS FROM ADOPTION OR RATIFICATION OF THE**
10 **CONSTITUTION AND BY-LAWS OR AMENDMENTS THERETO;**

11 **(B) ITS LIST OF OFFICERS, MINUTES OF THE ELECTION**
12 **OF OFFICERS, AND LIST OF VOTERS WITHIN THIRTY (30) DAYS**
13 **FROM ELECTION;**

14 **(C) ITS ANNUAL FINANCIAL REPORT WITHIN THIRTY**
15 **(30) DAYS AFTER THE CLOSE OF EVERY FISCAL YEAR; AND**

16 **(D) ITS LIST OF MEMBERS AT LEAST ONCE A YEAR OR**
17 **WHENEVER REQUIRED BY THE BUREAU.**

18 **FAILURE TO COMPLY WITH THE ABOVE REQUIREMENTS**
19 **SHALL NOT BE A GROUND FOR CANCELLATION OF UNION**
20 **REGISTRATION BUT SHALL SUBJECT THE ERRING OFFICERS OR**
21 **MEMBERS TO SUSPENSION, EXPULSION FROM MEMBERSHIP, OR**
22 **ANY APPROPRIATE PENALTY.”**

1 SEC. 8. Article 245 of the Labor Code is hereby amended to read as
2 follows:

3 “ART. 245. *Ineligibility Of Managerial Employees to join*
4 *any Labor Organization; Right Of Supervisory Employees. –*
5 *Managerial employees are not eligible to join, assist or form any*
6 *labor organization. Supervisory employees shall not be eligible*
7 *for membership in [a labor organization] COLLECTIVE*
8 *BARGAINING UNITS of the rank-and-file employees but may join,*
9 *assist or form separate COLLECTIVE BARGAINING UNITS AND/OR*
10 *LEGITIMATE labor organizations of their own. THE RANK-AND-*
11 *FILE UNION AND THE SUPERVISORS' UNION OPERATING WITHIN*
12 *THE SAME ESTABLISHMENT MAY JOIN THE SAME FEDERATION*
13 *OR NATIONAL UNION.”*

14 SEC. 9. Article 256 of the Labor Code is hereby amended to read as
15 follows:

16 “ART. 256. *Representation Issue in Organized*
17 *Establishments. – In organized establishments, when a verified*
18 *petition questioning the majority status of the incumbent*
19 *bargaining agent is filed BY ANY LEGITIMATE LABOR*
20 *ORGANIZATION INCLUDING A NATIONAL UNION OR FEDERATION*
21 *WHICH HAS ALREADY ISSUED A CHARTER CERTIFICATE TO ITS*
22 *LOCAL CHAPTER PARTICIPATING IN THE CERTIFICATION*

1 ELECTION OR A LOCAL CHAPTER WHICH HAS BEEN ISSUED A
2 CHARTER CERTIFICATE BY THE NATIONAL UNION OR
3 FEDERATION before the Department of Labor and Employment
4 within the sixty (60)-day period before the expiration of the
5 collective bargaining agreement, the Med-Arbitrator shall
6 automatically order an election by secret ballot when the verified
7 petition is supported by the written consent of at least twenty-five
8 percent (25%) of all the employees in the bargaining unit to
9 ascertain the will of the employees in the appropriate bargaining
10 unit. To have a valid election, at least a majority of all eligible
11 voters in the unit must have cast their votes. The labor union
12 receiving the majority of the valid votes cast shall be certified as
13 the exclusive bargaining agent of all the workers in the unit.
14 When an election which provides for three or more choices results
15 in no choice receiving a majority of the valid votes cast, a run-off
16 election shall be conducted between the labor unions receiving the
17 two highest number of votes: *Provided*, That the total number of
18 votes for all contending unions is at least fifty percent (50%) of
19 the number of votes cast.

20 "x x x."

21 SEC. 10. Article 257 of the Labor Code is hereby amended to read as
22 follows:

1 “ART. 257. *Petitions In Unorganized Establishments.* –

2 In any establishment where there is no certified bargaining agent,
3 a certification election shall automatically be conducted by the
4 Med-Arbitrator upon the filing of a petition by [A] ANY legitimate
5 labor organization[.], INCLUDING A NATIONAL UNION OR
6 FEDERATION WHICH HAS ALREADY ISSUED A CHARTER
7 CERTIFICATE TO ITS LOCAL/CHAPTER PARTICIPATING IN THE
8 CERTIFICATION ELECTION OR A LOCAL/CHAPTER WHICH HAS
9 BEEN ISSUED A CHARTER CERTIFICATE BY THE NATIONAL
10 UNION OR FEDERATION. IN CASES WHERE THE PETITION WAS
11 FILED BY A NATIONAL UNION OR FEDERATION, IT SHALL NOT BE
12 REQUIRED TO DISCLOSE THE NAMES OF THE LOCAL CHAPTER'S
13 OFFICERS AND MEMBERS.”

14 SEC. 11. A Sub-article to Article 258 of the Labor Code is hereby
15 inserted to read as follows:

16 “ART. 258-A. *EMPLOYER AS BY-STANDER.* – IN ALL
17 CASES, WHETHER THE PETITION FOR CERTIFICATION ELECTION
18 IS FILED BY AN EMPLOYER OR A LEGITIMATE LABOR
19 ORGANIZATION, THE EMPLOYER SHALL NOT BE CONSIDERED A
20 PARTY THERETO WITH A CONCOMITANT RIGHT TO OPPOSE A
21 PETITION FOR CERTIFICATION ELECTION. THE EMPLOYER'S
22 PARTICIPATION IN SUCH PROCEEDINGS SHALL BE LIMITED TO:
23 (1) BEING NOTIFIED OR INFORMED OF PETITIONS OF SUCH

1 NATURE, AND (2) SUBMITTING THE LIST OF EMPLOYEES DURING
2 THE PRE-ELECTION CONFERENCE SHOULD THE MED-ARBITER
3 ACT FAVORABLY ON THE PETITION.”

4 SEC. 12. *Separability Clause.* – If any part, section or provision of this
5 Act shall be held invalid or unconstitutional, the other provisions shall not be
6 affected thereby.

7 SEC. 13. *Repealing Clause.* – Presidential Decree No. 442, as
8 amended, otherwise known as the Labor Code of the Philippines, and all other
9 Acts, laws, presidential issuances, rules and regulations are hereby repealed,
10 modified or amended accordingly.

11 SEC. 14. *Effectivity Clause.* – This Act shall take effect fifteen (15)
12 days after its publication in the *Official Gazette* or in at least two newspapers
13 of general circulation.

 Approved,

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