

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

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First Regular Session

H. B. No. 709

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REGISTRATION UNIT BILLS AND INDEX SERVICE	

Introduced by HONORABLE BELLAFLOR J. ANGARA-CASTILLO

EXPLANATORY NOTE

The 1987 Constitution recognizes the worker's right to security of tenure, which guarantees that an employee cannot be terminated from work for causes other than those provided by the Labor Code and only after due process is accorded to the employee. On the other hand, the 1987 Constitution, equally acknowledges the principle that employers have the inherent right to exercise management prerogative including the right to hire and to fire. Termination of employees is an exercise of management prerogative. However, it is tempered by the right of workers to security of tenure, as existing provisions of law allow termination of employment only upon the existence of just or authorized causes and observance of procedural due process. This framework created rigidity that paralyzed both employers and employees in costly and long litigation process to determine the existence of the causes and observance of due process. The average time to dispose a case from the time of filing up to the Supreme Court is about 8 years¹. The main areas of contention are: (1) The "analogous causes", in paragraph (e) of Article 282 on just causes or termination by the employer, which is open to varied and diverse interpretations for being over broad; and (2) validation of the invoked authorized causes as provided in Article 283, including payment of separation pay.

The direct cost of terminating an employee on the part of the employer is as high as 4.7 months wage of an employee (on average) using the existing dismissal regulations, e.g. separation pay, notice, period of litigation as variables. On the part of the employee, the direct cost² is estimated at ₱100,500.00 on average, using the cost of litigation and the cost of execution of judgment as variables. This bill proposes to amend paragraph (e) of Article 282 of the Labor Code by replacing "analogous causes" with "acts or omission specified in the company rules and regulations or collective bargaining agreement" to remove the ambiguity. Article 283 on authorized causes of termination is also proposed to be simplified by: (1) providing at least one month pay for every year of service; (2) submission of proof of authorized cause; and (3) providing that upfront payment of separation pay bars the filing of claims and complaints arising from the separation.

In view of the foregoing, the passage of this bill is earnestly sought.


BELLAFLOR J. ANGARA-CASTILLO
Representative
Lone District, Province of Aurora

¹ Based on record, the average time to dispose termination cases from filing to NLRC is 2 years; from NLRC to Court of Appeals is 2 years; from Court of Appeals to Supreme Court is 4 years.

² Variables used in the computation: Ordinary Attorney's fee (Paper fees - ₱1,000.00; Appearance fees - ₱3,000.00 per hearing; Acceptance fee - ₱60,000.00); Extraordinary Attorney's fee (₱12,753.50 per case); Execution of judgment (₱4,000.00 per case travel expenses).

Introduced by HONORABLE BELLAFLOR J. ANGARA-CASTILLO

AN ACT DEFINING THE CAUSES OF TERMINATION OF EMPLOYMENT OF WORKERS, AMENDING FOR THE PURPOSE ARTICLE NUMBERS 282 AND 283 OF PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AND FOR OTHER PURPOSES

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

1 **SECTION 1.** Article 282 of Presidential Decree No. 442, otherwise known as the Labor
2 Code of the Philippines, as amended, is hereby further amended to read as follows:

3
4 **"Art. 282. Just Causes for Termination of Employment.** An employer may
5 terminate an employment for any of the following causes:

- 6
7 1. Serious misconduct or willful disobedience by the employee of the lawful orders
8 of the employer or representative in connection with his/her work;
9 2. Gross and habitual neglect by the employee of his/her duties;
10 3. Fraud or willful breach by the employee of the trust reposed in him/her by the
11 employer or duly authorized representative;
12 4. Commission of a crime or offense by the employee against the person of his/her
13 employer or any immediate member of his/her family or his/her duly authorized
14 representatives; and
15 5. Act or omission expressly specified in the company rules and regulations or
16 collective bargaining agreement."
17

18 **SEC. 2.** Article 283 of the same Code is hereby amended to read as follows:

19
20 **"Art. 283. Closure of Establishment and Reduction of Personnel.** The employer
21 may also terminate the employment of any employee due to the installation of
22 labor-saving devices, redundancy, retrenchment to prevent losses or the closing or
23 cessation of operation of the establishment or undertaking, unless the closing is for
24 the purpose of circumventing the provisions of this Title, by serving a written notice
25 on the workers and the Department of Labor and Employment at least one (1) month
26 before the intended date thereof and payment of separation pay equivalent to at
27 least his/her one (1) month pay or to at least one (1) month pay for every year of
28 service, whichever is higher. A fraction of at least six (6) months shall be considered
29 one (1) whole year.
30

31 The employer shall pay all separation benefits to the employee at least fifteen (15)
32 days before the effectivity of the separation of any employee. Upon receipt of
33 separation pay in full, an employee shall be barred from filing claims or complaints
34 arising therefrom.
35

36 **SEC. 3.** A new article is hereby inserted in the Labor Code to read as follows:
37

1 **“Art. 283-A. Proof of Authorized Cause.** In case the termination is based on
2 authorized causes the employer shall submit documentary proof to the Department
3 of Labor and Employment for validation. In case of loss or institution of measures to
4 prevent losses, a certification as to the actual or potential losses, based on public
5 records and government filings, issued by the pertinent government agencies shall
6 be sufficient proof that there is an authorized cause for termination.”

7
8 **SEC. 4. Implementing Rules and Regulations.** – The Secretary of Labor and Employment
9 shall promulgate the necessary rules and regulations to implement the provisions of this Act
10 within one hundred twenty (120) days from its effectivity.

11
12 **SEC. 5. Repealing Clause.** – Presidential Decree No. 442, as amended, otherwise known
13 as the "Labor Code of the Philippines", and all other acts, laws, presidential issuances, rules
14 and regulations inconsistent herewith are hereby repealed, amended or modified
15 accordingly.

16
17 **SEC. 6. Separability Clause.** – If any provision of this Act is declared unconstitutional or
18 invalid, the other provisions not affected thereby shall remain in full force and effect.

19
20 **Sec. 7. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its publication
21 in the Official Gazette or in at least two (2) newspapers of general circulation.

22
23 Approved,