

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FOURTEENTH CONGRESS
First Regular Session

House Bill No. 2404

Introduced by Honorable Rufus B. Rodriguez

EXPLANATORY NOTE

This bill seeks to expand the scope of regular workers under the law to extend the benefits of regular employment to more workers in our country.

According to the Philippine Labor Force Survey released in April 2007, out of the estimated 56.4 million population 15 years and over, approximately 36.4 million were in the labor force, which places the labor force participation rate at 64.5%. In the same period, the total employed population was 33.7 million, which implies a 92.6% employment rate, while the unemployment rate was estimated at 7.4%.

Of the total employed population in April 2007, 51.1% were wage and salary workers, most of them (38% of the total employed), working for private establishments. These groups are most prone to working conditions without enjoying the benefits of regularization. Employers usually resort to six-month probation period to avoid regularization, or resort to labor-only contracting, to escape from the responsibilities of providing benefits and tenure that are mandatory for regular employees under the law.

Also, while the Labor Code considers any employee who has rendered at least one year of service, whether the same is continuous or broken, as regular employee, the law actually considers such worker a regular casual because he or she is considered a regular employee only with respect to the activity in which he or she is employed and his or her employment shall continue only while such activity exists. This is yet another scheme to deprive workers who have rendered at least one year of service the right to be considered regular employees.

This bill addresses those concerns by expanding the definition of regular employees to include those who has rendered at least one year of service, whether the same is continuous or broken, and whether or not such service is usually necessary or desirable in the usual trade or business of the employer. Moreover, this proposed measure provides

stiffer penalties for employers who deliberately deprive the benefits of regularization when due to their employees.

The State must uphold at all times the rights of workers and promote their welfare.

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

RUFUS B. RODRIGUEZ

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AN ACT
PROVIDING FOR THE REGULARIZATION OF EMPLOYEES, PROHIBITING
CONTRACTUAL OR LABOR-ONLY CONTRACTING FOR REGULAR POSITIONS,
PROVIDING PENALTIES FOR VIOLATION THEREOF

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

SECTION 1. *Short Title.* This Act shall be known as the Regularization Act of 2007

SEC. 2. *Declaration of Principle.* – Pursuant to Section 18 of Article II of the Constitution which affirms labor as a primary social economic force and in furtherance of the constitutional policy of social justice which shall afford full protection to labor and promote full employment and equality of employment opportunities for all, it is hereby the policy of the State to eliminate discriminatory practices to improve the material well-being of all persons who are working. With the same objectives include the State’s duty to ensure that all persons who are working are able to fully realize the rights, security and benefits accorded to them by law.

SEC. 3. *Scope of regular employment.* – For purposes of this law, employment shall be deemed regular if one is:

- a. Engaged in any activity that is usually necessary or desirable in the usual business or trade of the employer, except where the employment has been fixed for a specific project or undertaking the completion or determination of which has been determined at the time of the engagement of the employee or where the job, work or service to be performed is seasonal in nature and the employment is for the duration of the season;

- b. An employee who has rendered at least one year of service, whether such service is continuous or broken, and whether or not such service is usually necessary or desirable in the usual business or trade of the employer;
- c. An employee who is allowed to continue working after a probationary period whether continuous or broken shall be considered a regular employee;
- d. Employed seasonally or for a specific project if the same is usually necessary or desirable in the regular business or trade of the employer.

SEC. 4. *Rights of Regular Employees* – The regular employees defined under the provisions of this Act shall have the right to security of tenure and shall likewise enjoy all the benefits provided for regular employees prescribed under existing labor laws, rules and regulations.

SEC. 5. *Protection for Regular Employees* – Regardless of any written or oral agreement to the contrary, it shall be unlawful for an employer to engage a worker, whether such worker is a professional or not, without a regular employment status for an activity that is usually necessary or desirable in the usual trade or business of the employer. It shall be illegal for employees to engage in contractual or “labor-only” contracting for a limited period if the functions or duties and obligations to be performed by the employee are usually necessary or desirable in the usual business or trade of the employer.

Probationary employment shall not exceed six (6) months from the date of the employee started working, *Provided*, that, this period may be shortened or, in appropriate cases, extended by agreement between the employer and the employee, which agreement shall be reduced into writing and based on reasonable standards made known to the employee at the time of the engagement.

A probationary employee can be legally terminated for a just cause or when the employee fails to qualify as a regular employee in accordance with the reasonable standards made known to him by the employer at the start of the employment, subject to the following limitations: 1.) this must be exercised in accordance with the specific requirements of the contract; 2.) dissatisfaction on the part of the employer must be real and in good faith, not feigned so as to circumvent the contract or the law; and, 3.) there must be no unlawful discrimination in the dismissal.

SEC. 6. *Penalties* – Any violation of the foregoing provisions shall be punished with a fine of not less than one hundred thousand pesos (100,000 Php) nor more than one million pesos (1,000,000 Php), or imprisonment of not less than three (3) years nor more than six (6) years, or both, at the discretion of the court, as well as the cessation of the business or trade in which the violation occurred.

If the violation is committed by the juridical person, the penalty shall be imposed upon the President and the Personnel Manager of the corporation, trust, firm, partnership, association or any other entity, or the owner of the trade or business in which the violation was committed regardless of the nature or degree of their participation in the hiring, control, supervision of the work, payment of salaries or termination of the services of the employee concerned.

SEC. 7. Repealing Clause.- All republic acts, executive orders, rules and regulations, and other issuances, or parts thereof, that are inconsistent with the provisions of this Republic Act are hereby repealed or modified accordingly.

SEC. 8. Separability Clause.- If for any reason or reasons, any part or provision of this Act shall be declared or held to be unconstitutional or invalid other parts or provisions hereof, which are not affected thereby shall continue to be in full force and effect.

SEC. 9. Effectivity Clause.- This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved.