

Republic Act No. 9481

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 the House of Representatives of the Philippines in Congress assembled:

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

"ART. 234. *Requirements of Registration.* - A federation, national union or industry or trade union center or an independent union shall acquire legal personality and shall be entitled to the rights and privileges granted by law to legitimate labor organizations upon issuance of the certificate of registration based on the following requirements:

- (a) Fifty pesos (P50.00) registration fee;
- (b) The names of its officers, their addresses, the principal address of the labor organization, the minutes of the organizational meetings and the list of the workers who participated in such meetings;
- (c) In case the applicant is an independent union, the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate;
- (d) If the applicant union has been in existence for one or more years, copies of its annual financial reports; and
- (e) Four copies of the constitution and by-laws of the applicant union, minutes of its adoption or ratification, and the list of the members who participated in it."

SEC. 2. A new provision is hereby inserted into the Labor Code as Article 234-A to read as follows:

"ART. 234-A. *Chartering and Creation of a Local Chapter.* - A duly registered federation or national union may directly create a local chapter by issuing a charter certificate indicating the establishment of the local chapter. The chapter shall acquire legal personality only for purposes of filing a petition for certification election from the date it was issued a charter certificate.

The chapter shall be entitled to all other rights and privileges of a legitimate labor organization only upon the submission of the following documents in addition to its charter certificate:

- (a) The names of the chapter's officers, their addresses, and the principal office of the chapter; and
- (b) The chapter's constitution and by-laws: *Provided*, That where the chapter's constitution and by-laws are the same as that of the federation or the national union, this fact shall be indicated accordingly.

The additional supporting requirements shall be certified under oath by the secretary or treasurer of the chapter and attested by its president."

SEC. 3. Article 238 of the Labor Code is hereby amended to read as follows:

"ART. 238. *Cancellation of Registration.* - The certificate of registration of any legitimate labor organization, whether national or local, may be cancelled by the Bureau, after due hearing, only on the grounds specified in Article 239 hereof."

SEC. 4. A new provision is hereby inserted into the Labor Code as Article 238-A to read as follows:

"ART. 238-A. *Effect of a Petition for Cancellation of Registration.* - A petition for cancellation of union registration shall not suspend the proceedings for certification election nor shall it prevent the filing of a petition for certification election.

In case of cancellation, nothing herein shall restrict the right of the union to seek just and equitable remedies in the appropriate courts."

SEC. 5. Article 239 of the Labor Code is amended to read as follows:

"ART. 239. *Grounds for Cancellation of Union Registration.* - The following may constitute grounds for cancellation of union registration:

- (a) Misrepresentation, false statement or fraud in connection with the adoption or ratification of the constitution and by-laws or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification;
- (b) Misrepresentation, false statements or fraud in connection with the election of officers, minutes of the election of officers, and the list of voters;
- (c) Voluntary dissolution by the members."

SEC. 6. A new provision, Article 239-A is inserted into the Labor Code to read as follows:

"ART. 239-A. *Voluntary Cancellation of Registration.* - The registration of a legitimate labor organization may be cancelled by the organization itself. *Provided,* That at least two-thirds of its general membership votes, in a meeting duly called for that purpose to dissolve the organization: *Provided, further,* That an application to cancel registration is thereafter submitted by the board of the organization, attested to by the president thereof."

SEC. 7. A new provision, Article 242-A is hereby inserted into the Labor Code to read as follows:

"ART. 242-A. *Reportorial Requirements.* - The following are documents required to be submitted to the Bureau by the legitimate labor organization concerned:

- (a) Its constitution and by-laws, or amendments thereto, the minutes of ratification, and the list of members who took part in the ratification of the constitution and by-laws within thirty (30) days from adoption or ratification of the constitution and by-laws or amendments thereto;
- (b) Its list of officers, minutes of the election of officers, and list of voters within thirty (30) days from election;
- (c) Its annual financial report within thirty (30) days after the close of every fiscal year; and
- (d) Its list of members at least once a year or whenever required by the Bureau.

Failure to comply with the above requirements shall not be a ground for cancellation of union registration but shall subject the erring officers or members to suspension, expulsion from membership, or any appropriate penalty."

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

"ART. 245. *Ineligibility of Managerial Employees to Join any Labor Organization; Right of Supervisory Employees.* - Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in the collective bargaining unit of the rank-and-file employees but may join, assist or form separate collective bargaining units and/or legitimate labor organizations of their own. The rank and file union and the supervisors' union operating within the same establishment may join the same federation or national union."

SEC. 9. A new provision, Article 245-A is inserted into the Labor Code to read as follows:

"ART. 245-A. *Effect of Inclusion as Members of Employees Outside the Bargaining Unit.* - The inclusion as union members of employees outside the bargaining unit shall not be a ground for the cancellation of the registration of the union. Said employees are automatically deemed removed from the list of membership of said union."

SEC. 10. Article 256 of the Labor Code is hereby amended to read as follows:

"ART. 256. *Representation Issue in Organized Establishments.* - In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agent is filed by any legitimate labor organization including a national union or federation which has already issued a charter certificate to its local chapter participating in the certification election or a local chapter which has been issued a charter certificate by the national union or federation before the Department of Labor and Employment within the sixty (60)-day period before the expiration of the collective bargaining agreement, the Med-Arbiter shall automatically order an election by secret ballot when the verified petition is supported by the written consent of at least twenty-five percent (25%) of all the employees in the bargaining unit to ascertain the will of the employees in the appropriate bargaining unit. To have a valid election, at least a majority of all eligible voters in the unit must have cast their votes. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining agent of all the workers in the unit. When an election which provides for three or more choices results in no choice receiving a majority of the valid votes cast, a run-off election shall be conducted between the labor unions receiving the two highest number of votes: *Provided,* That the total number of votes for all contending unions is at least fifty percent (50%) of the number of votes cast. In cases where the petition was filed by a national union or federation, it shall not be required to disclose the names of the local chapter's officers and members.

At the expiration of the freedom period, the employer shall continue to recognize the majority status of the incumbent bargaining agent where no petition for certification election is filed."

SEC. 11. Article 257 of the Labor Code is hereby amended to read as follows:

"ART. 257. *Petitions in Unorganized Establishments.* - In any establishment where there is no certified bargaining agent, a certification election shall automatically be conducted by the Med-Arbiter upon the filing of a petition by any legitimate labor organization, including a national union or federation which has already issued a charter certificate to its local/chapter participating in the certification election or a local/chapter which has been issued a charter certificate by the national union or federation. In cases where the petition was filed by a national union or federation, it shall not be required to disclose the names of the local chapter's officers and members."

SEC. 12. A new provision, Article 258-A is hereby inserted into the Labor Code to read as follows:

"ART. 258-A. *Employer as Bystander.* - In all cases, whether the petition for certification election is filed by an employer or a legitimate labor organization, the employer shall not be considered a party thereto with a concomitant right to oppose a petition for certification election. The employer's participation in such proceedings shall be limited to: (1) being notified or informed of petitions of such nature; and (2) submitting the list of employees during the pre-election conference should the Med-Arbiter act favorably on the petition."

SEC. 13. *Separability Clause.* - If any part, section or provision of this Act shall be held invalid or unconstitutional, the other provisions shall not be affected thereby.

SEC. 14. *Repealing Clause.* - Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, and all other acts, laws, presidential issuances, rules and regulations are hereby repealed, modified or amended accordingly.

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

Approved,

JOSE DE VENECIA JR.
Speaker of the House of
Representatives

MANNY VILLAR
President of the Senate

This Act which is a consolidation of Senate Bill No. 2466 and House Bill No. 1351 was finally passed by the Senate and the House of Representatives on February 20, 2007.

ROBERTO P. NAZARENO
Secretary General
House of Representatives

OSCAR G. YABES
Secretary of Senate

Approved:

GLORIA MACAPAGAL-ARROYO
President of the Philippines

**Lapsed into law on MAY 25, 2007
Without the signature of the President,
In accordance with Article VI,
Section 27 (1) of the Constitution**

Ref.: http://www.lawphil.net/statutes/repacts/ra2007/ra_9481_2007.html

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