


13th CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
FIRST REGULAR SESSION)

'04 JUL -6 AM 11:45

SENATE

RECEIVED BY: 

S. BILL NO. 1383

INTRODUCED BY HONORABLE RALPH G. RECTO

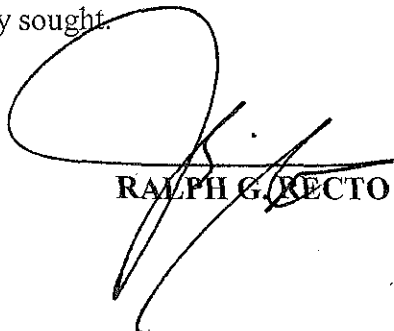
EXPLANATORY NOTE

This bill seeks to protect workers in the event of company closures or cessation of operations by establishing the proper mechanism and standards.

This legislation provides for a mandatory notification requirement of 90 days in case of business/plant closure, mass layoff, shutdown or any form of cessation of operations. Allowing the affected employees to use a specific amount of paid work time to seek alternative employment would not unduly prejudice the employer, but it will definitely benefit the employee concerned.

Under this Act, the Labor Protection Board as herein created shall investigate possible anomalies arising from the intended closure or cessation of operations by an employer. Furthermore, the proposal recognizes the right of affected employees or their collective bargaining representative to file civil actions against unscrupulous employers.


In line with the policy of the State to protect workers from economic insecurity due to involuntary unemployment and promote their rights in the event of said contingencies, the immediate approval of this proposed measure is urgently sought.


RALPH G. RECTO

THIRTEENTH CONGRESS OF THE REPUBLIC)
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S. BILL NO. 1383

Introduced by SENATOR RALPH G. RECTO

**AN ACT
TO PROTECT WORKERS IN THE EVENT OF COMPANY CLOSURES OR
CESSATION OF OPERATIONS BY ESTABLISHING THE MECHANISM AND
PROPER STANDARDS THEREFOR, AND FOR OTHER PURPOSES**

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

CHAPTER 1 - PRELIMINARY PROVISIONS

1 **SECTION 1. *Short Title.*** - This Act may be cited as the "Workers' Protection Act
2 of 2004."
3

4 **SEC. 2. *Declaration of Policy.*** - It is hereby declared the policy of the State to
5 protect workers from economic insecurity due to involuntary unemployment and promote
6 their rights in the event of such. For this purpose, the State hereby recognizes the right of
7 all workers:

- 8 (1) to a reasonable period of notice for termination of employment;
- 9 (2) to seek alternative employment during the period of notice;
- 10 (3) to guarantee payments of wage claims, and
- 11 (4) to petition the proper government agency to review any act of an employer
12 to close shop, cease operations, and/or order a mass layoff of employees.
- 13

14 **SEC. 3. *Definition of Terms.*** - As used in this Act, the following terms:
15 a. *Bankruptcy* shall mean a condition whereby an employer, who after a petition
16 to the court by himself or his creditors, is judged legally insolvent.
17 b. *Closure* shall mean the permanent cessation of operations due to insolvency,
18 bankruptcy, foreclosure, and/or dissolution resulting in an employment loss.
19 c. *Cessation of operations* shall mean the permanent or temporary shutdown of a
20 single site of employment or one or more facilities or operating units within a
21 single site of an employment, if the shutdown results in an employment loss at
22 the single site of employment. For purposes of this Act, it shall include but not

1 exclusive of, cessation of operations due to bankruptcy, closure, foreclosure,
2 insolvency, dissolution and other similar acts.

3 d. *Insolvency* shall mean the condition whereby an employer is unable to meet
4 his obligations as they accrue in the course of his trade or business.

5 e. *Employer* shall mean any person acting directly or indirectly in the interest of
6 an employer in relation to an employee and shall include, all government-
7 owned or controlled corporations and institutions, as well as non-profit private
8 institutions, or organizations.

9 f. *Employee* shall mean any individual employed an employer.

10 g. *Mass lay-off* shall mean a reduction in force which (i) is not a result of a
11 closure and (ii) results in an employment loss at the single site of employment
12 during any 30-day period for (1) at least 33% of employees, and/or (2) at least
13 50 employees, excluding part-time employees.

14 h. *Affected employees* shall mean employees who may reasonably be expected to
15 experience an employment loss as a consequence of a proposed cessation of
16 operations or mass layoff by their employer.

17 i. *Involuntary unemployment* shall mean the termination of employment by an
18 employer as a result of cessation of operations.

19 j. *Employment loss* shall mean (i) a termination of employment, other than a
20 discharge for cause, voluntary departure or retirement, (ii) a layoff exceeding
21 six (6) months, or (iii) a reduction in hours of work of more than fifty per cent
22 (50%) during each month of any six-month period.

23 k. *Foreclosure* shall mean the process by which a mortgagee acquires an
24 absolute title to the property of which he had previously been only the
25 conditional owner, or upon which he had previously a mere lien or
26 encumbrance.

27
28 **CHAPTER 2 - NOTIFICATION REQUIREMENT**

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30 **SEC. 4. Notification Requirement.** - An employer shall not order a plant closure,
31 mass layoff, shutdown or any form of cessation of operations until the end of a 90-day
32 period after the employer serves written notice of such an order:

- 33 (a) to each affected employee;
34 (b) to each collective bargaining representative;
35 (c) to the chief elected official of the local government unit within such
36 closing or lay-off to occur, and
37 (d) to the Labor Protection Board as herein created.
38

1
2 **SEC. 10. *Qualifications of Nominees*** - The nominees for both the Chairman
3 and Members must have the following qualifications:

4 (a) Satisfactory background on labor and commerce particularly on corporation
5 rules and laws.

6 (b) Must not have worked or performed functions in any management of a
7 company or establishment in the past.

8 (c) Must not have business interests in any corporation or establishment.

9 (d) Must not be related to any corporate official within the fourth degree of
10 consanguinity.

11
12 **SEC. 11. *Powers and Functions*** - The Board shall, in coordination with the
13 Department of Labor and Employment (DOLE), Securities and Exchange Commission
14 (SEC), and the Department of Justice (DOJ), perform the following functions:

15 (a) Undertake the investigation of companies and establishments that would
16 undergo closure or cessation of operations, shutdown, rotation or retrenchment of
17 workers/employees due to labor saving devices, to prevent losses, dissolution, insolvency
18 or bankruptcy;

19 (b) Compel the disclosure and submission of its book of accounts and other
20 financial records following an information to the Board that the company or
21 establishment will lead to closure or cessation of operation, shutdown, rotation or
22 retrenchment of employees/workers;

23 (c) Issue subpoenas to any official of a company or establishment and other
24 parties concerned to require attendance in the investigation;

25 (d) Hold custody of the company's machinery and other production equipment
26 from the commencement of the investigation, or to require the posting of bond or both to
27 secure the interests of the affected workers/employees;

28 (e) Ensure that payment of wages/salaries and other benefits were being made
29 continuously while the company is undergoing an investigation;

30 (f) Ensure the issuance of notices to workers/employees as required in this Act
31 and the enforcement of the period to seek alternative employment;

32 (g) Facilitate the immediate release of monetary claims of workers/employees
33 which may be made through banks or which may be deemed sufficient by the Board;

34 (h) Conduct quarterly inspection on the book of accounts and financial records of
35 the companies and establishments registered with the Securities and Exchange
36 Commission to monitor its operations, and

37 (i) Initiate legal action against any company or establishment found to violate any
38 of the provisions of this Act.

