

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB NO. 380

Introduced by Rep. Roseller L. Barinaga

EXPLANATORY NOTE

Workers hired by agencies through the job contracting scheme are the most underpaid, neglected and oppressed among the country's labor force.

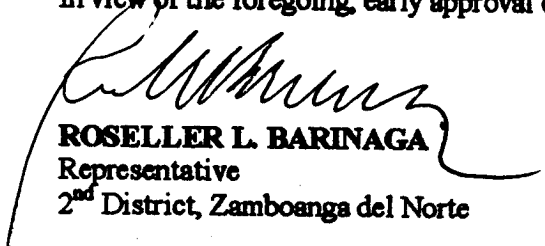
Many of them toil endlessly for years in a company they cannot even call their employer. Their hard work is compensated with a chopped wage, already pre-deducted by their hiring agencies. Many of them do not get their legally mandated benefits. Worse, their hopes of getting retirement pay, after a lifetime of hard work, almost always turn into illusions – a grave scandal that must be stopped. Workers hired through job contractors must receive all the benefits due them under the law.

Against such backdrop, this bill amends Article 106 of Presidential Decree 442 (Labor Code of the Philippines), as amended.

The bill mandates indirect employers to ensure that all benefits of employees hired through job contractors are paid.

If the employees cannot get their benefits from their agencies, they can turn to the company for relief.

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



ROSELLER L. BARINAGA
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines)
Thirteenth Congress)
First Regular Session)

HOUSE OF REPRESENTATIVES

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AN ACT
EXPANDING THE LIABILITIES OF INDIRECT EMPLOYERS IN JOB
CONTRACTING, COVERING OTHER BENEDITS DUE THEIR EMPLOYEES,
FOR THIS PURPOSE AMENDING ARTICLE 106 OF PRESIDENTIAL DECREE
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:

SECTION 1. Article 106 of Presidential Decree 442, as amended is hereby further amended by adding a paragraph, to read as follows:

“ART. 106. Contractor or subcontractor – Whenever an employer enters into a contract with another person for the performance of the former’s work, the employees of the contractor and of the latter’s subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

FURTHERMORE, IN THE EVENT THAT THE EMPLOYEES OF THE CONTRACTOR OF SUBCONTRACTOR HAVE RENDERED AT LEAST ONE YEAR OF SERVICE TO THE SAME EMPLOYER, WHETHER OR NOT SUCH EMPLOYMENT IS CONTINUOUS, SUCH EMPLOYER SHALL ALSO BE JOINTLY AND SEVERALLY BE LIABLE WITH THE CONTRACTOR OR SUBCONTRACTOR FOR THE PAYMENT OF THE EMPLOYEES’ BENEFITS, INCLUDING, BUT NOT LIMITED TO THEIR SEPARATION OR RETIREMENT BENEFITS, PROVIDED, THAT THE LIABILITY OF THE INDIRECT EMPLOYER SHALL BE LIMITED ONLY TO THE PERIOD THAT SUCH EMPLOYEE RENDERED SERVICES TO THE SAID INDIRECT EMPLOYER,

THE AVAILMENT AND GRANT OF SEPARATION, RETIREMENT AND OTHER BENEFITS SHALL BE IN ACCORDANCE WITH EXISTING LAWS.

The Secretary of Labor AND EMPLOYMENT may, by appropriation regulations, restrict or prohibit the contracting out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code. There is "labor only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and be placed by such persons are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him."

SEC. 2. If any provision of this Act is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

SEC. 3. All laws, presidential decrees, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 4. This Act shall take effect fifteen (15) days following its publication in the Official Gazette or two (2) newspapers of general circulation, whichever comes first.

Approved.