

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )



Senate  
Office of the Secretary

'16 SEP -1 P2:00

RECEIVED BY: *JAV*

SENATE

S.B. No. 1116

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Introduced by Senator JOEL VILLANUEVA

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**AN ACT**  
**STRENGTHENING WORKERS' RIGHT TO SECURITY OF TENURE,**  
**AMENDING FOR THE PURPOSE ARTICLES 106-109 OF BOOK III**  
**AND ARTICLES 294 [279], 295 [280], 296 [281], 297 [282] and 298**  
**[283] OF BOOK VI OF PRESIDENTIAL DEGREE NO. 442,**  
**OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES,**  
**AS AMENDED**

**EXPLANATORY NOTE**

"STOP ENDO" or "STOP CONTRACTUALIZATION" is the resounding call of workers nationwide, echoed no less than by the President of the Republic of the Philippines as oppressive to workers. Indeed, being caught in the cycle of intermittent ENDO or CONTRACTUAL jobs with no prospect of permanency is very oppressive and derogates the Constitutionally guaranteed rights of workers to: security of tenure; humane conditions of work; organize and collectively bargain; engage in peaceful concerted activities including strike in accordance with law; receive a living wage; and participate in decision-making processes affecting their rights and benefits (Sec. 3, Art. XIII of the 1987 Constitution).

"ENDO or CONTRACTUALIZATION" however, is not confined to triangular employment relationship (contracting/subcontracting) that will be remedied by introducing amendments to Articles 106 to 109 of the Philippine Labor Code, as amended. To address ENDO or CONTRACTUALIZATION is to address the entire set of prevailing Non-Standard Forms of Employment (NSFE) in the country, which necessarily are precarious work due to the uncertainty it has spawned in duration of employment, multiple possible employers or a disguised or ambiguous employment relationship, lack of access to social protection and benefits usually associated with low pay, and substantial legal and practical obstacles to joining a trade union and bargaining collectively. NSFE in terms of: (a) FORM (casual, fixed-term, project or task-based as well as seasonal employment); (b) WORKING TIME (part-time); (c) WORKPLACE (home-based, out-work), and (d) MODE through which work is

engaged (whether directly or through an intermediary) or that which employer-employee relationship is vague such as temporary agency work and other contractual arrangements involving multiple parties (*contracting/ subcontracting is a specie of contractual arrangement involving multiple parties*) and ambiguous employment relationship (*dependent self-employment where workers perform services for a business under a civil or commercial contract but depend on one or a small number of clients for their income and receive direct instructions regarding how the work is to be done*).

How widespread is the problem? The Philippine Statistical Authority (PSA) in *Measuring Decent Work in the Philippines* using data period from 1995 to 2010 indicated that “precarious work remains widespread” noting that in 2010, nearly 15 percent of all workers were in “precarious work” (i.e. casual, short term, seasonal or worked for different employers on day-to-day or week-to-week basis). PSA Labor Force Survey in 2014 showed:

- Number of employees in precarious work as a percentage of total employment increased, from 14.4% or 3.9 million in 2000 to 17.4% or 6.7 million in 2014. The same trend was observed in terms of their share in wage and salary employment, that is, from 28.3% in 2000 to 30.0% in 2014.
- In terms of gender, there are more men than women in precarious work and their proportions were on an increasing trend, that is, 2.693 million in 2000 to 6.718 million in 2014 and 1.247 million in 2000 to 2.240 million in 2014, respectively.
- Precarious employment was also more apparent in the industry (30.4%) with more than twice as recorded in the agriculture (16.7%) and services sectors (13.9%) in 2014.

In the Asian Development Bank (ADB) assisted Regulatory Impact Assessment of the Department of Labor and Employment on Security of Tenure in 2013-2014, it was shown that employers resort to short-term employment because of alleged strict employment legislation which results to costly hiring and firing practices, high cost of doing business in terms of labor cost, large supply of labor force resulting from low employment growth, and the option for flexibility in employment.

NSFE were never intended to be “ENDO” or “dead-end” jobs to skirt strict employment legislation or avoid costly hiring and firing practices. It is a middle ground to provide employers’ flexibilities in planning work, addressing peaks or seasonality of demand and retaining workers who are not in a position to commit to full-time work, and for the workers, it is: (a) useful way of gaining work experience, an **entry point** into the labor market for school-leavers and reintegrate people who have been out of the labor force; (b) opportunity to **develop both job-specific and general skills**, strengthen labor market attachment and expand social and professional networks; (c) may **address “spatial mismatches”** between where workers live and where their jobs are located; and (d) allows **workers with care responsibilities to participate in the labor market** through part-time work.

Thus, the need to recalibrate Articles 106 to 109 and 294 [279] to 298 [283] of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended. Global production supply chain and fast-paced technological progress have redefined jobs and work arrangements beyond the contemplation of the 1974 Labor Code of the Philippines, as amended. Safeguards have to be in place against blurring of employer-employee relationship, circumvention on the law on security of

tenure, labor standards, occupational health and safety standards, and workers' right to self-organization, and to assure employers of a "level playing field".

The bill proposes the following: (1) clearly providing that the object of contracting or subcontracting is outsourcing of job, work, or service and not labor-only or manpower supply; (2) recognizing industry peculiarities through industry tripartite-determined functions or standards on outsourcing; (3) in the absence of industry-tripartite standards, application of the general standards as determined by DOLE Secretary, after consultation with the TIPC; (4) prohibiting labor-only or manpower contracting; (5) providing what constitute unfair labor practice in contracting/subcontracting arrangement; (6) licensing and deregistration of contractors and subcontractors; (7) mandatory posting of bond to answer for the wages and other monetary benefits due the employees in case the contractor fails to pay the same; (8) coverage of the cooperatives as employers in contracting or subcontracting; (9) reiteration of solidary liability in case of a finding of labor-only on manpower contracting; (10) reiterates the right to security of tenure; (11) moves away from the convoluted and difficult to established regular employment status through the activities performed which are "usual, necessary or desirable in the usual business or trade of the employer" in the light of fragmentize process of production, and replaces it with the "control test" in determining the existence of employer-employee relationship; (12) outrightly classifies all employees as regular including project and seasonal employees, except those under probationary employment; (13) provides clear parameters for probationary employment which shall not exceed six months; (14) removes the overbroad "analogous causes" in the grounds for just cause termination and replaces it with those provided under the company rules and regulations and collective bargaining agreement; (15) requires a validation procedure on the ground for authorized cause termination and upfront payment of separation benefits; and (16) expressly prohibited the Local Private Recruitment and Placement Agencies (PRPA) from engaging in outsourcing under this proposed bill.

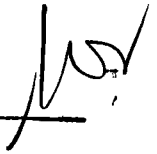
The passage of this important measure is earnestly sought.

  
SENATOR JOEL VILLANUEVA



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**AND ARTICLES 294 [279], 295 [280], 296 [281], 297 [282] and 298**  
**[283] OF BOOK VI OF PRESIDENTIAL DEGREE NO. 442,**  
**OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES,**  
**AS AMENDED**

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

1 **SEC. 1. Title.** – This Act shall be known as the “END OF ENDO OR  
2 CONTRACTUALIZATION ACT of 2016”.

3  
4 **SEC. 2.** Article 106 of Presidential Decree 442, as amended, otherwise known as the  
5 Labor Code of the Philippines, as amended, is hereby **AMENDED** to read as follows:

6 **“ARTICLE 106. CONTRACTOR OR SUBCONTRACTOR.** - Whenever an employer  
7 enters into a contract with A CONTRACTOR OR SUBCONTRACTOR for the  
8 performance of SPECIFIC JOB, work OR SERVICE, THE ENGAGEMENT MUST  
9 COMPLY WITH THE REQUIREMENTS FOR A VALID OUTSOURCING OF JOB,  
10 WORK OR SERVICE AND the employees of the contractor and of the latter's  
11 subcontractor, if any, shall be paid in accordance with the provisions of this Act.

12 In the event that the contractor or ITS subcontractor fails to pay the wages AND  
13 OTHER WAGE-RELATED BENEFITS INCLUDING SOCIAL WELFARE BENEFITS,  
14 the employer shall be jointly and severally liable with his/her contractor or  
15 subcontractor to such employees to the extent of the work performed under the  
16 contract, in the same manner and extent that he/she is liable to employees directly

1 employed by him/her.

2 FOR OUTSOURCING OF SPECIFIC JOB, WORK OR SERVICE TO BE VALID,  
3 THE SCOPE OF THE TASKS TO BE PERFORMED IN CASE OF SERVICE, OR  
4 COMPONENT/PHASE/PRODUCT IN CASE OF MANUFACTURING OR  
5 PRODUCTION, MUST BE IDENTIFIABLE AND THE CONTRACTOR OR  
6 SUBCONTRACTOR MUST BE:

7 a) AN INDEPENDENT BUSINESS, SEPARATE AND DISTINCT FROM THE  
8 CONTRACTING EMPLOYER;

9 b) SUBSTANTIALLY CAPITALIZED FOR AT LEAST FIVE MILLION PESOS  
10 (PHP500,000,000.00), WHICH MAY BE INCREASED AS DEEMED  
11 APPROPRIATE THROUGH TRIPARTITE CONSULTATION;

12 c) EXPERT OR SPECIALIST IN THE FIELD OF THE OUTSOURCED JOB,  
13 WORK OR SERVICE;

14 d) EMPLOYER WITH SUFFICIENT REGULAR EMPLOYEES AND HAVE  
15 EQUIPMENT, MACHINERIES AND TOOLS NECESSARY TO PERFORM  
16 OR COMPLETE THE JOB, WORK OR SERVICE CONTRACTED OUT; AND

17 e) EXERCISE CONTROL OVER THE PERFORMANCE AND COMPLETION  
18 OF THE OUTSOURCE JOB, WORK OR SERVICE.

19 THE SPECIFIC JOB, WORK OR SERVICE THAT CAN BE SUBJECT OF  
20 OUTSOURCING CONTRACT SHALL BE DETERMINED BY THE APPROPRIATE  
21 INDUSTRY TRIPARTITE COUNCIL WHICH SHALL BE ISSUED THROUGH  
22 REGULATIONS BY THE SECRETARY OF LABOR AND EMPLOYMENT. IN THE  
23 ABSENCE OF A DETERMINATION BY THE APPROPRIATE INDUSTRY  
24 TRIPARTITE COUNCIL, THE SECRETARY OF LABOR AND EMPLOYMENT  
25 SHALL DETERMINE THE STANDARD CRITERIA THROUGH APPROPRIATE  
26 REGULATIONS AFTER CONSULTATION WITH THE NATIONAL TRIPARTITE  
27 INDUSTRIAL PEACE COUNCIL.

28 THERE SHALL ALSO BE A WRITTEN CONTRACT OF REGULAR EMPLOYMENT  
29 BETWEEN THE EMPLOYEES DEPLOYED OR MOBILIZED FOR THE  
30 OUTSOURCING CONTRACT AND THE CONTRACTOR OR SUBCONTRACTOR  
31 SPECIFYING THEREIN THE RIGHTS, TERMS AND CONDITIONS OF  
32 EMPLOYMENT WHICH SHALL NOT BE LOWER THAN THE MINIMUM  
33 STANDARDS SET BY LAWS OR REGULATIONS.

34

35 **SEC. 3.** A new Article 106-A of Presidential Decree No. 442, amended, is  
36 hereby provided to read as follows:

37 **"ARTICLE 106-A. PROHIBITION ON LABOR-ONLY OR MANPOWER**  
38 **CONTRACTING.** – Labor-only OR MANPOWER CONTRACTING is prohibited.  
39 There is "labor-only" OR MANPOWER contracting where the  
40 CONTRACTOR/SUBCONTRACTOR does not have substantial capital AND  
41 investment in the form of tools, equipment, machineries, work premises, among  
42 others, OR the workers recruited and placed ARE UNDER THE CONTROL AND  
43 SUPERVISION OF THE CONTRACTING EMPLOYEEER. In such cases, the person  
44 or intermediary shall be considered merely as an agent of the CONTRACTING

1 EMPLOYER who shall be responsible to the workers in the same manner and extent  
2 as if the latter were directly employed by him.

3 FURTHER, THE FOLLOWING ARE DEEMED LABOR-ONLY OR MANPOWER  
4 CONTRACTING:

- 5 a) CONTRACTING OUT OR OUTSOURCING OF JOBS, WORKS, OR  
6 SERVICES WHICH ARE NOT IN THE INDUSTRY STANDARDS; OR
- 7 b) WHEN A CONTRACTOR/SUBCONTRACTOR OR COOPERATIVE HAS  
8 NO VALID AND SUBSISTING LICENSE FROM THE DOLE TO  
9 OPERATE AS SUCH; OR
- 10 c) WHEN A CONTRACTOR/SUBCONTRACTOR OR COOPERATIVE IS AN  
11 IN-HOUSE AGENCY OR "CABO." FOR THIS PURPOSE, "CABO"  
12 REFERS TO A PERSON OR GROUP OF PERSONS OR TO A LABOR  
13 ORGANIZATION OR COOPERATIVE, SUPPLIES WORKERS TO AN  
14 EMPLOYER WITH OR WITHOUT ANY MONETARY OR OTHER  
15 CONSIDERATION, WHETHER IN THE CAPACITY OF AN AGENT OF  
16 THE EMPLOYER, OR AS AN OSTENSIBLE INDEPENDENT  
17 CONTRACTOR;
- 18 d) WHEN A CONTRACTOR/SUBCONTRACTOR OR COOPERATIVE  
19 MERELY RECRUITS, HIRES, AND SUPPLIES OR PLACES ITS HIREES  
20 TO A CONTRACTING EMPLOYER;
- 21 e) WHEN A COOPERATIVE ADMITS, RECRUITS, OR REQUIRES JOB OR  
22 WORK APPLICANTS TO BECOME ITS MEMBERS OR ASSOCIATES  
23 OR IN WHATEVER CAPACITY BEFORE THEY CAN BE ADMITTED,  
24 ABSORBED OR ALLOWED TO WORK OR CONTINUE TO WORK AT  
25 THE CONTRACTING EMPLOYER;
- 26 f) WHEN A CONTRACTOR/SUBCONTRACTOR IS MERELY  
27 SUBSTITUTED TO OR ABSORBED THE WORKERS OF THE  
28 CONTRACTING EMPLOYER;
- 29 g) WHEN THE PERSONNEL OR EMPLOYEE OF THE CONTRACTING  
30 EMPLOYER TO WHERE THE WORKERS ARE PLACED EXERCISE  
31 CONTROL AND/OR SUPERVISION ON THEM AS REGARDS THE  
32 METHOD AND MEANS TO PERFORM THE JOB, WORK OR SERVICE  
33 AND IN ACHIEVING ITS DESIRED RESULTS.

34 IN ALL CASES WHERE LABOR-ONLY OR MANPOWER CONTRACTING IS  
35 PRESENT, THE CONTRACTOR OR SUBCONTRACTOR EMPLOYEES SHALL  
36 OUTRIGHT BE DEEMED REGULAR EMPLOYEES OF THE CONTRACTING  
37 EMPLOYER RETROACTIVE TO THE DATE THEY WERE FIRST HIRED,  
38 REGARDLESS OF WHETHER THE EMPLOYMENT IS CONTINUOUS OR  
39 BROKEN, AGREEMENTS TO THE CONTRARY NOTWITHSTANDING, WITHOUT  
40 PREJUDICE TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE CASE AGAINST  
41 THE LABOR-ONLY OR MANPOWER CONTRACTOR AND THE CONTRACTING  
42 EMPLOYER."

43  
44 **SEC. 4.** A new Article 106-B of the Labor Code, amended, is hereby provided  
45 to read as follows:

1 **"ARTICLE 106-B. UNFAIR LABOR PRACTICE OF THE CONTRACTING**  
2 **EMPLOYER. – THE FOLLOWING ACTS SHALL CONSTITUTE UNFAIR LABOR**  
3 **PRACTICE OF THE CONTRACTING EMPLOYER PURSUANT TO ARTICLE 258**  
4 **[247] OF THE LABOR CODE, AS AMENDED:**

- 5 a) CONTRACTING OUT OR OUTSOURCING OF JOBS, WORKS, OR  
6 SERVICES WHEN THE SAME RESULTS IN THE TERMINATION OR  
7 REDUCTION OF REGULAR EMPLOYEES OR REDUCTION OF WORK  
8 HOURS OR REDUCTION OR SPLITTING OF THE BARGAINING UNIT;
- 9 b) CONTRACTING OUT OR OUTSOURCING OF JOBS, WORKS, OR  
10 SERVICES BEING PERFORMED BY UNION MEMBERS WHEN SUCH  
11 WILL INTERFERE WITH, RESTRAIN, OR COERCE EMPLOYEES IN THE  
12 EXERCISE OF THEIR RIGHTS TO SELF-ORGANIZATION AS PROVIDED  
13 IN ARTICLE 259 (C) [248(C)] OF THE LABOR CODE, AS AMENDED;
- 14 c) CONTRACTING OUT OR OUTSOURCING OF JOBS, WORKS, OR  
15 SERVICES WHEN THE SAME VIOLATES THE APPLICABLE COLLECTIVE  
16 BARGAINING AGREEMENT;
- 17 d) CONTRACTING OUT OR OUTSOURCING OF JOBS, WORKS, OR  
18 SERVICES BY REASON OF A STRIKE OR LOCKOUT WHETHER ACTUAL  
19 OR IMMINENT."

20  
21 **SEC. 5.** Article 107 of the Labor Code, as amended, is hereby **AMENDED** to  
22 read as:

23 **"ARTICLE 107. LICENSING OF CONTRACTORS OR SUBCONTRACTORS. -**  
24 **THE SECRETARY OF LABOR AND EMPLOYMENT, THROUGH THE REGIONAL**  
25 **OFFICES, SHALL LICENSE QUALIFIED CONTRACTORS UPON COMPLIANCE**  
26 **WITH THE REQUIREMENTS SET FORTH IN ARTICLE 106 AND PAYMENT OF**  
27 **LICENSE FEE OF AT LEAST THIRTY THOUSAND PESOS (PHP30,000.00) AS**  
28 **WELL AS PROVIDE DEREGISTRATION PROCEDURE FOR THOSE FOUND IN**  
29 **VIOLATION OF ANY OF THE PROVISIONS OF THE LABOR CODE, AS**  
30 **AMENDED. THE APPLICANT MUST BE A FILIPINO CITIZEN OR A**  
31 **CORPORATION OF WHICH ONE HUNDRED PERCENT (100%) OF AUTHORIZED**  
32 **AND VOTING CAPITAL IS OWNED AND CONTROLLED BY FILIPINO CITIZENS,**  
33 **A PARTNERSHIP OR ANY OTHER ENTITY. SUCH CONTRACTOR SHALL,**  
34 **LIKewise, COMPLY WITH THE REQUIREMENTS OF OTHER GOVERNMENTAL**  
35 **AUTHORITIES.**

36 **THE SECRETARY OF LABOR AND EMPLOYMENT SHALL IMPOSE A FINE OF**  
37 **ONE HUNDRED THOUSAND PESOS (PHP100,000.00) AGAINST ANY**  
38 **CONTRACTOR OR SUBCONTRACTOR CARRYING ON AN OUTSOURCING**  
39 **ARRANGEMENT WITHOUT A LICENSE FROM THE DOLE. ADDITIONALLY,**  
40 **ANY CONTRACTING EMPLOYER OR CONTRACTOR/SUBCONTRACTOR WHO**  
41 **ENGAGES IN LABOR-ONLY OR MANPOWER CONTRACTING AND/OR**  
42 **VIOLATES ANY OF THE PROVISIONS OF ARTICLES 106, 106-A, 107 AND 107-A**  
43 **SHALL BE SOLIDARILY LIABLE TO INDEMNIFY EACH SUBCONTRACTED**  
44 **EMPLOYEE NOT LESS THAN FIFTY THOUSAND PESOS (PHP50,000.00)**  
45 **WITHOUT PREJUDICE TO REGULARIZATION AND OTHER MONETARY**  
46 **AWARDS."**

1 **SEC. 6.** Article 108 of the Labor Code, as amended, is hereby **AMENDED** to  
2 read as follows:

3 **"ARTICLE 108. MANDATORY POSTING OF BOND. - THE CONTRACTOR OR**  
4 **SUBCONTRACTOR SHALL FURNISH A BOND TO THE CONTRACTING**  
5 **EMPLOYER EQUAL TO THE COST OF LABOR UNDER THE OUTSOURCING**  
6 **CONTRACT BETWEEN THE CONTRACTOR OR SUBCONTRACTOR AND ITS**  
7 **EMPLOYEES. THE BOND SHALL ANSWER FOR THE WAGES AND OTHER**  
8 **MONETARY BENEFITS DUE THE EMPLOYEES IN CASE THE CONTRACTOR**  
9 **OR SUBCONTRACTOR FAILS TO PAY THE SAME."**

10  
11 **SEC. 7.** A new Article 108-A of the Labor Code, amended, is hereby provided  
12 to read as follows:

13 **"ARTICLE 108-A. APPLICABILITY TO COOPERATIVES. - THE PROVISIONS OF**  
14 **THIS ACT SHALL APPLY TO COOPERATIVES. COOPERATIVES ARE DEEMED**  
15 **EMPLOYERS AND THEIR EMPLOYEES, MEMBERS OR NON-MEMBERS, SHALL**  
16 **BE ENTITLED TO THE FOLLOWING RIGHTS AND PRIVILEGES ACCORDED TO**  
17 **CONTRACTOR'S OR SUBCONTRACTOR'S EMPLOYEES:**

- 18 a) MINIMUM WAGE;  
19 b) SAFE AND HEALTHFUL WORKING CONDITIONS;  
20 c) LABOR STANDARDS SUCH AS BUT NOT LIMITED TO SERVICE  
21 INCENTIVE LEAVE, REST DAYS, OVERTIME PAY, HOLIDAY PAY, 13<sup>TH</sup>  
22 MONTH PAY AND SEPARATION PAY AS MAY BE PROVIDED IN THE  
23 SERVICE AGREEMENT OR UNDER THE LABOR CODE;  
24 d) RETIREMENT BENEFITS UNDER THE SSS OR RETIREMENT PLANS  
25 OF THE CONTRACTOR, IF THERE IS ANY;  
26 e) SOCIAL SECURITY AND WELFARE BENEFITS;  
27 f) SELF-ORGANIZATION, COLLECTIVE BARGAINING AND PEACEFUL  
28 CONCERTED ACTIVITIES; AND  
29 g) SECURITY OF TENURE. "

30  
31 **SEC. 8.** Article 109 of the Labor Code, as amended, is hereby **AMENDED** to read  
32 as:

33 **"ARTICLE 109. SOLIDARY LIABILITY. - The provisions of existing laws to the**  
34 **contrary notwithstanding, the CONTRACTING EMPLOYER shall be held solidarily**  
35 **LIABLE [responsible] with his/HER contractor or subcontractor for UNPAID WAGES,**  
36 **LABOR STANDARDS AND OTHER WELFARE BENEFITS TO THE WORKERS IF**  
37 **THERE IS A FINDING OF LABOR-ONLY OR MANPOWER CONTRACTING."**

38  
39 **SEC. 9.** Article 294 [279] of the Labor Code, as amended, is hereby **AMENDED**  
40 to read as follows:

41 **"ARTICLE 294 [279]. SECURITY OF TENURE. - ALL EMPLOYEES**  
42 **IRRESPECTIVE OF EMPLOYMENT STATUS OR POSITION SHALL NOT BE**  
43 **DISMISSED WITHOUT CAUSE AND DUE PROCESS**



1 A DISMISSAL WITHOUT CAUSE AND DUE PROCESS IS ILLEGAL DISMISSAL  
2 AND THE EMPLOYEE SHALL BE ENTITLED TO REINSTATEMENT WITHOUT  
3 LOSS OF SENIORITY RIGHTS AND BENEFITS. ADDITIONALLY, THE  
4 ILLEGALLY DISMISSED EMPLOYEE SHALL BE ENTITLED TO FULL  
5 BACKWAGES AND ACCRUED BENEFITS AND REMUNERATIONS PROVIDED  
6 BY LAW, COMPANY POLICY AND COLLECTIVE BARGAINING AGREEMENT,  
7 COMPUTED FROM THE TIME COMPENSATION WAS WITHHELD UP TO THE  
8 TIME OF ACTUAL REINSTATEMENT. UNREMITTED SSS, PHILHEALTH AND  
9 PAG-IBIG CONTRIBUTIONS SHALL LIKEWISE BE PAID. ACTUAL, MORAL,  
10 EXEMPLARY AND OTHER FORMS OF DAMAGES MAY ALSO BE AWARDED.

11 THE EMPLOYER SHALL HAVE THE BURDEN OF PROVING THAT THE  
12 TERMINATION IS WITH CAUSE AND DUE PROCESS.”

13

14 **SEC. 10.** Article 295 [280] of the Labor Code, as amended, is hereby  
15 **REPEALED** and a new Article 295 [280] is provided to read as follows:

16 **“ARTICLE 295 [280]. EMPLOYER-EMPLOYEE RELATIONSHIP.** - THERE EXISTS  
17 AN EMPLOYER-EMPLOYEE RELATIONSHIP WHEN THE WORKER IS ENGAGED  
18 TO RENDER WORK OR SERVICE UNDER THE CONTROL OR SUPERVISION OF  
19 THE EMPLOYER, NOT ONLY AS TO THE END TO BE ACHIEVED, BUT ALSO  
20 THE MANNER, MEANS AND METHOD IN REACHING THE END.

21 PAYMENT OR REMUNERATION TO THE WORKER, HOWEVER DENOMINATED,  
22 ALSO INDICATES THE EXISTENCE OF EMPLOYER-EMPLOYEE  
23 RELATIONSHIP.”

24

25 **SEC. 11.** A new Article 295-A of the Labor Code, as amended, is hereby  
26 provided to read as follows:

27 **“ARTICLE 295-A. STATUS OF EMPLOYMENT.** - ALL EMPLOYEES, EXCEPT  
28 THOSE UNDER PROBATIONARY EMPLOYMENT, ARE DEEMED REGULAR,  
29 INCLUDING PROJECT AND SEASONAL EMPLOYEES.

30 PROJECT AND SEASONAL EMPLOYEES ARE REGULAR FOR THE DURATION  
31 OF THE PROJECT OR SEASON, AS THE CASE MAYBE. FOR THIS PURPOSE,  
32 PROJECT EMPLOYMENT IS EMPLOYMENT IN AN EXISTING PROJECT OR  
33 UNDERTAKING THE COMPLETION OR TERMINATION OF WHICH HAS BEEN  
34 DETERMINED AND MADE KNOWN TO THE EMPLOYEE AT THE TIME OF THE  
35 ENGAGEMENT WHILE SEASONAL IS AN EMPLOYMENT BASED ON THE  
36 EXISTENCE OF A SEASON IN AGRICULTURAL WORK OR ESTABLISHED  
37 PERIODS OF INCREASED WORK DEMANDS AND/OR INHERENT INDUSTRY  
38 FLUCTUATIONS. IN PROJECT AND SEASONAL EMPLOYMENT, WORKERS  
39 ARE CALLED TO WORK FROM TIME TO TIME AND TEMPORARILY LAID-OFF  
40 DURING THE COMPLETION OF THE PROJECT OR OFF-SEASON BUT ARE IN  
41 THE WORK POOL ON LEAVE WITH OR WITHOUT PAY STATUS IN BETWEEN  
42 PROJECTS OR SEASONS.

43

1 ALL OTHER FORMS OF EMPLOYMENT ARE PROHIBITED AND WORKERS  
2 UNDER SUCH ARRANGEMENTS ARE DEEMED REGULAR EMPLOYEES  
3 RECKONED FROM THE FIRST DAY OF EMPLOYMENT.

4  
5 **SEC. 12.** Article 296 [281] of the Labor Code, as amended, is hereby **AMENDED**  
6 to read as follows:

7 **"ARTICLE 296 [281]. PROBATIONARY EMPLOYMENT.** – Probationary  
8 employment shall not exceed six (6) months from the FIRST DAY OF SERVICE  
9 REGARDLESS OF THE NATURE OF WORK TO BE PERFORMED.

10 THE RIGHTS, TERMS AND CONDITIONS OF EMPLOYMENT OF  
11 PROBATIONARY EMPLOYEE WHICH SHALL NOT BE LOWER THAN THE  
12 MINIMUM STANDARDS SET BY LAWS OR REGULATIONS, THE JOB  
13 DESCRIPTION AND QUALIFICATION STANDARDS TO QUALIFY FOR REGULAR  
14 EMPLOYMENT SHALL BE IN A WRITTEN CONTRACT AND MADE KNOWN BY  
15 THE EMPLOYER TO THE EMPLOYEE AT THE TIME OF HIS/HER  
16 ENGAGEMENT.

17 THE SERVICES OF A PROBATIONARY EMPLOYEE MAY BE TERMINATED FOR  
18 JUST AND AUTHORIZED CAUSE UNDER ARTICLES 297 [282] AND 298 [283] OF  
19 THE LABOR CODE, AS AMENDED, OR WHEN HE/SHE FAILS TO QUALIFY AS A  
20 REGULAR EMPLOYEE.

- 21 a) THE PROBATIONARY EMPLOYEE SHALL AUTOMATICALLY BECOME  
22 REGULAR EMPLOYEE IN ANY OF FOLLOWING INSTANCES:  
23 b) AFTER MEETING THE STANDARDS STIPULATED IN THE WRITTEN  
24 CONTRACT OF PROBATIONARY EMPLOYMENT; OR  
25 c) REPEATED ENGAGEMENT OF THE SAME EMPLOYEE AFTER THE  
26 EXPIRATION OF THE PROBATIONARY EMPLOYMENT. "

27  
28 **SEC. 13.** Article 297 [282] of the Labor Code, as amended, is hereby **AMENDED** to  
29 read as follows:

30 **"ARTICLE 297 [282]. JUST CAUSES OF TERMINATION.** - An employer may  
31 terminate an employment for any of the following causes:

- 32 a) Serious misconduct or willful disobedience by the employee of the lawful  
33 orders of his/HER employer or representative in connection with his/HER  
34 work;  
35 b) Gross and habitual neglect by the employee of his/HER duties;  
36 c) Fraud or willful breach by the employee of the trust reposed in him/HER by  
37 his/HER employer or duly authorized representative;  
38 d) Commission of a crime or offense by the employee against the person of  
39 his/HER employer or any immediate member of his/HER family or his/HER  
40 duly authorized representatives; and  
41 e) ACT OR OMISSION EXPRESSLY SPECIFIED AS GROUND FOR  
42 DISMISSAL IN THE COMPANY RULES AND REGULATIONS  
43 FORMULATED IN OBSERVANCE OF WORKERS RIGHT TO PARTICIPATE  
44 IN POLICY AND DECISION-MAKING PROCESSES AFFECTING THEIR

1 RIGHTS AND BENEFITS, OR AS PROVIDED IN THE DULY REGISTERED  
2 COLLECTIVE BARGAINING AGREEMENT.”

3  
4 **SEC. 14.** Article 298 [283] of the Labor Code, as amended, is hereby **AMENDED** to  
5 read as follows:

6 **“ARTICLE 298 [283]. Closure of Establishment and Reduction of**  
7 **Personnel.** - The employer may also terminate the employment of any employee  
8 due to the installation of labor-saving devices, redundancy, retrenchment to prevent  
9 losses or the closing or cessation of operation of the establishment or undertaking  
10 unless the closing is for the purpose of circumventing the provisions of this Title, by  
11 serving a written notice on the workers and the DEPARTMENT of Labor and  
12 Employment at least one (1) month before the intended date thereof AND PAYMENT  
13 OF SEPARATION PAY equivalent to at least one (1) month pay for every year of  
14 service. A fraction of at least six (6) months shall be considered one (1) whole year.

15  
16 **SEC. 15.** A new Article 298-A of the Labor Code, as amended, is hereby provided to  
17 read as follows:

18 **“ARTICLE 298-A. PROOF OF AUTHORIZED CAUSE AND PAYMENT OF**  
19 **SEPARATION PAY.** – WITHIN THE PRESCRIBED ONE (1) MONTH NOTICE, THE  
20 EMPLOYER SHALL SUBMIT TO THE DEPARTMENT OF LABOR AND  
21 EMPLOYMENT FOR VALIDATION PROOF AND UNDERTAKING ON THE  
22 EXISTENCE OF THE AUTHORIZED CAUSE AND COMPLIANCE WITH THE  
23 PRECONDITIONS WHICH WILL BE SET OUT IN THE IMPLEMENTING RULES  
24 AND REGULATIONS. IN CASE OF LOSS OR MEASURES TO PREVENT  
25 LOSSES, A CERTIFICATION ON ACTUAL OR POTENTIAL LOSSES ISSUED BY  
26 THE SECURITIES AND EXCHANGE COMMISSION OR THE BUREAU OF  
27 INTERNAL REVENUE SHALL BE SUFFICIENT.

28 THE EMPLOYER SHALL PAY ALL SEPARATION BENEFITS TO THE EMPLOYEE  
29 FIFTEEN (15) DAYS BEFORE THE EFFECTIVITY OF THE SEPARATION OF  
30 EMPLOYEE. UPON RECEIPT OF SEPARATION PAY, AN EMPLOYEE SHALL BE  
31 BARRED FROM FILING CLAIMS OR COMPLAINTS ARISING THEREFROM.”

32  
33 **SEC. 16. EXCLUSION OF LOCAL PRIVATE RECRUITMENT AND**  
34 **PLACEMENT AGENCIES UNDER ARTICLE 25 OF THE LABOR CODE, AS**  
35 **AMENDED, AND ITS IMPLEMENTING RULES AND REGULATIONS.** – ARTICLE  
36 25 OF THE LABOR CODE, AS AMENDED, AND ITS IMPLEMENTING RULES AND  
37 REGULATIONS ON PRIVATE RECRUITMENT AND PLACEMENT AGENCIES  
38 (PRPA) ARE EXCLUDED FROM THE COVERAGE OF THIS ACT. HOWEVER,  
39 THE PRPA ARE EXPRESSLY PROHIBITED FROM ENGAGING IN  
40 OUTSOURCING AS PROVIDED UNDER THIS ACT.

41  
42 **SEC. 17. IMPLEMENTING RULES AND REGULATIONS.** - The Secretary of  
43 Labor and Employment shall promulgate the necessary implementing rules and  
44 regulations within one hundred and twenty (120) days from the effectivity of  
45 this Act.

1 **SEC. 18. REPEALING CLAUSE.** - All laws, decrees, rules, and regulations or  
2 parts thereof, which are contrary to or inconsistent with this Act are hereby repealed  
3 or modified accordingly.

4  
5 **SEC. 19. SEPARABILITY PROVISIONS.** - If any provision of this law or the  
6 application thereof to any person or circumstance, is held invalid, the remainder of  
7 this law, or the application of such provision or part to other persons of  
8 circumstances, shall not be affected thereby.

9  
10 **SEC. 20. EFFECTIVITY CLAUSE.** - This Act shall take effect fifteen (15) days  
11 after its publication in the Official Gazette or in at least two (2) newspapers of  
12 general circulation.

13  
14 **APPROVED.**