

CONGRESS OF THE PHILIPPINES
SEVENTEENTH CONGRESS
Third Regular Session

}

SENATE

S. No. 1826

(In substitution of S. Nos. 117, 174, 217, 302, 329, 1061, and
1116)

PREPARED BY THE COMMITTEE ON LABOR, EMPLOYMENT
AND HUMAN RESOURCES DEVELOPMENT WITH
SENATORS PIMENTEL, AQUINO IV, HONTIVEROS,
ZUBIRI, EJERCITO, POE, VILLANUEVA, LEGARDA,
GORDON AND SOTTO III AS AUTHORS

AN ACT STRENGTHENING WORKERS RIGHT TO
SECURITY OF TENURE, AMENDING FOR THE
PURPOSE ARTICLES 106, 107, 108, AND 109 OF
BOOK III, AND ARTICLES 294 [279], 295 [280], 296
[281], AND 297 [282] OF BOOK VI OF
PRESIDENTIAL DECREE 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 SECTION 1. *Title.* – This Act shall be known as the
2 “Security of Tenure and End of Endo Act of 2018.”
3 SEC. 2. Article 106, Title II, Book III of the Labor
4 Code, as amended, is hereby amended to read as follows:

1 “ARTICLE 106. [Contractor or
2 *Subcontractor*] *PROHIBITION ON LABOR-*
3 *ONLY CONTRACTING.* – [Whenever an
4 employer enters into a contract with another
5 person for the performance of the former’s
6 work, the employees of the contractor and of
7 the latter’s subcontractor, if any, shall be paid
8 in accordance with the provisions of this Code.

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

18 “The Secretary of Labor and Employment,
19 may by appropriate regulations, restrict or
20 prohibit the contracting-out of labor to protect

1 the rights of workers established under this
2 Code. In so prohibiting or restricting, he may
3 make appropriate distinctions between labor-
4 only contracting and job contracting as well as
5 differentiations within these types of
6 contracting and determine who among the
7 parties involved shall be considered the
8 employer for the purposes of this Code, to
9 prevent any violation or circumvention of this
10 Code.]

11 “LABOR-ONLY CONTRACTING IS
12 PROHIBITED. There is “labor-only”
13 contracting where the [person supplying
14 workers to an employer does not have] JOB
15 CONTRACTOR, WHETHER LICENSED OR
16 NOT, WHO MERELY RECRUITS AND
17 SUPPLIES OR PLACES WORKERS TO A
18 CONTRACTEE HAS NO substantial capital or
19 investment in the form of tools, equipment,
20 machineries, work premises, among others,

1 [and] OR the workers recruited and
2 SUPPLIED OR placed by such person are
3 performing activities which are directly related
4 to the principal business of such
5 CONTRACTEE OR ARE UNDER THE
6 DIRECT CONTROL AND SUPERVISION OF
7 THE CONTRACTEE. In such cases, the
8 [person or intermediary] JOB CONTRACTOR
9 shall be considered merely an agent [of] AND
10 the [employer who] CONTRACTEE shall be
11 responsible to the workers in the same manner
12 and extent as if the latter were directly
13 employed by him/HER.

14 FOR THE PURPOSES OF THIS
15 ARTICLE, THE SPECIFIC JOB, WORK, OR
16 SERVICE DEEMED DIRECTLY RELATED
17 TO THE PRINCIPAL BUSINESS OF A
18 CONTRACT SHALL BE DETERMINED BY
19 THE APPROPRIATE INDUSTRY
20 TRIPARTITE COUNCIL WHICH SHALL BE

1 ISSUED THROUGH REGULATIONS BY THE
2 SECRETARY OF LABOR AND
3 EMPLOYMENT. IN THE ABSENCE OF A
4 DETERMINATION BY THE APPROPRIATE
5 INDUSTRY COUNCIL, THE SECRETARY OF
6 LABOR AND EMPLOYMENT SHALL
7 DETERMINE THE STANDARD CRITERIA
8 AFTER CONSULTATION WITH THE
9 NATIONAL TRIPARTITE INDUSTRIAL
10 PEACE COUNCIL.

11 "IN ALL CASES WHERE LABOR-ONLY
12 CONTRACTING IS PRESENT, THE
13 WORKERS SHALL BE DEEMED REGULAR
14 EMPLOYEES OF THE CONTRACTEE IN
15 ACCORDANCE WITH LAW, RETROACTIVE
16 TO THE DATE THEY WERE FIRST
17 DEPLOYED TO SAID CONTRACTEE,
18 WITHOUT PREJUDICE TO ANY CRIMINAL,
19 CIVIL, OR ADMINISTRATIVE CASE

1 AGAINST THE LABOR-ONLY CONTRACTOR
2 AND THE CONTRACTEE.

3 "ADDITIONALLY, THE SECRETARY
4 OF LABOR AND EMPLOYMENT SHALL
5 IMPOSE A FINE OF UP TO FIVE MILLION
6 PESOS (P5,000,000.00) AGAINST ANY
7 LABOR-ONLY CONTRACTOR. THE
8 SECRETARY OF LABOR AND
9 EMPLOYMENT SHALL ALSO HAVE THE
10 POWER TO PREVENTIVELY OR
11 PERMANENTLY CLOSE THE OPERATIONS
12 OF ANY LABOR-ONLY CONTRACTOR."

13 SEC. 3. Article 107, Title II, Book III of the Labor
14 Code, as amended, is hereby repealed, and in lieu thereof,
15 a new Article 107 is inserted to read as follows:

16 "ARTICLE 107. *LICENSING OF JOB*
17 *CONTRACTORS.* - IT SHALL BE
18 MANDATORY FOR ALL PERSONS OR
19 ENTITIES ACTING AS JOB CONTRACTOR
20 TO OBTAIN A LICENSE FROM THE DOLE

1 THROUGH ITS REGIONAL OFFICES. FOR
2 PURPOSES OF ARTICLES 106-109, "JOB
3 CONTRACTOR" REFERS TO A SOLE
4 PROPRIETORSHIP, CORPORATION,
5 ASSOCIATION, COOPERATIVE OR OTHER
6 ORGANIZATION THAT PERFORMS A
7 SPECIFIC WORK, JOB OR SERVICE TO A
8 CONTRACTEE. "CONTRACTEE" REFERS TO
9 THE PERSON OR ENTITY THAT
10 CONTRACTED OUT A SPECIFIC WORK,
11 JOB OR SERVICE.

12 "THE LICENSE SHALL BE ISSUED TO
13 QUALIFIED JOB CONTRACTORS UPON
14 COMPLIANCE WITH THE FOLLOWING
15 REQUIREMENTS:

16 (A) HAVE AN INDEPENDENT
17 BUSINESS, SEPARATE AND DISTINCT
18 FROM THE CONTRACTEE;

19 (B) HAVE A PAID-UP CAPITAL OR
20 NET WORTH OF AT LEAST FIVE MILLION

1 PESOS (P5,000,000.00), WHICH MAY BE
2 INCREASED AS DEEMED APPROPRIATE
3 THROUGH TRIPARTITE CONSULTATION;

4 (C) BE AN EXPERT OR SPECIALIST
5 IN THE JOB, WORK OR SERVICE BEING
6 CONTRACTED. FOR THIS PURPOSE,
7 EXPERTISE OR SPECIALIZATION SHALL
8 BE ESTABLISHED BY SHOWING, AMONG
9 OTHERS, A CORE OF COMPETENT
10 PROFESSIONALS OR SKILLED WORKERS
11 ESPECIALLY TRAINED TO CARRY OUT
12 THE JOB, WORK OR SERVICE OR TRACK
13 RECORD IN SUCH FIELD OF
14 SPECIALIZATION;

15 (D) BE AN EMPLOYER WITH
16 REGULAR EMPLOYEES AND WITH
17 SUBSTANTIAL CAPITAL OR INVESTMENT
18 IN THE FORM OF EQUIPMENT,
19 MACHINERIES OR TOOLS WHICH ARE
20 REASONABLY NECESSARY TO PERFORM

1 OR COMPLETE THE JOB, WORK OR
2 SERVICE CONTRACTED OUT;

3 (E) EXERCISE CONTROL OVER THE
4 PERFORMANCE AND COMPLETION OF
5 THE JOB, WORK OR SERVICE
6 CONTRACTED OUT;

7 (F) CERTIFICATION OF COMPLIANCE
8 WITH LABOR AND SOCIAL WELFARE
9 LAWS INCLUDING PROOF OF PAYMENT
10 OF SOCIAL SECURITY, PHILIPPINE
11 HEALTH INSURANCE CORPORATION, AND
12 HOME DEVELOPMENT MUTUAL FUND
13 (PAG-IBIG) CONTRIBUTIONS; AND

14 (G) PAYMENT OF LICENSE FEE,
15 WHICH SHALL NOT BE LOWER THAN ONE
16 HUNDRED THOUSAND PESOS
17 (P100,000.00).

18 "THE LICENSE SHALL BE VALID FOR
19 A PERIOD OF THREE (3) YEARS AND MAY
20 BE RENEWED UPON COMPLIANCE WITH

1 THE REQUIREMENTS PRESCRIBED BY
2 THE DOLE. IN ALL CASES, THE JOB
3 CONTRACTOR SHALL DEMONSTRATE
4 THAT IT HAS FINANCIAL CAPACITY TO
5 CARRY ON ITS BUSINESS BASED ON
6 FACTORS SUCH AS, BUT NOT LIMITED, TO
7 THE NUMBER OF ITS EMPLOYEES AND
8 THE NATURE OF ITS BUSINESS.

9 "ANY LEGITIMATE LABOR
10 ORGANIZATION OR CONTRACTEE SHALL
11 HAVE ACCESS TO COPIES OF LICENSES
12 ISSUED TO JOB CONTRACTORS AND ANY
13 AND ALL SUBMISSIONS MADE IN
14 CONNECTION WITH SUCH LICENSE.

15 "FOR THIS PURPOSE, THE
16 SECRETARY OF LABOR AND
17 EMPLOYMENT, IN CONSULTATION WITH
18 THE NATIONAL TRIPARTITE INDUSTRIAL
19 PEACE COUNCIL (NTIPC), SHALL ISSUE
20 THE APPROPRIATE REGULATIONS FOR

1 THE LICENSING, RENEWAL,
2 SUSPENSION, AND REVOCATION OF
3 LICENSES OF JOB CONTRACTORS,
4 INCLUDING THE ACCOUNTABILITIES OF
5 THE LICENSING OFFICER IN CASE THE
6 LICENSE IS ISSUED IN VIOLATION OF, OR
7 IN SIMULATION OF ANY OF THE
8 REQUIREMENT FOR LICENSING UNDER
9 PARAGRAPHS (A) TO (G) ABOVE, OR UPON
10 FINDING OF LABOR-ONLY CONTRACTING
11 COMMITTED BY A DULY-LICENSED JOB
12 CONTRACTOR.

13 "IN NO CASE SHALL PRIVATE
14 RECRUITMENT AND PLACEMENT
15 AGENCIES (PRPA) OR PRIVATE
16 EMPLOYMENT AGENCIES (PEA) UNDER
17 ARTICLE 25 OF THE LABOR CODE, AS
18 AMENDED, BE ALLOWED TO ENGAGE IN
19 JOB CONTRACTING AND/OR THE
20 PROHIBITED LABOR-ONLY CONTRACTING."

1 SEC. 4. A new Article 107-A, Title II, Book III of the
2 Labor Code, as amended, is hereby provided to read as
3 follows:

4 "ARTICLE 107-A. *RIGHTS OF*
5 *EMPLOYEES OF JOB CONTRACTORS. -*
6 THE TERMS AND CONDITIONS OF
7 EMPLOYMENT OF THE EMPLOYEES OF
8 JOB CONTRACTORS SHALL NOT BE
9 LOWER THAN THE MINIMUM STANDARDS
10 SET BY LAW AND REGULATIONS."

11 SEC. 5. Article 108, Title II, Book III of the Labor
12 Code, as amended, is hereby amended to read as follows:

13 "ARTICLE 108. *Posting of Bond.* - [An
14 employer or indirect employer] THE
15 CONTRACTEE may require the contractor to
16 furnish a bond equal to the cost of labor under
17 contract, on condition that the bond will
18 answer for the wages due the employees should
19 the contractor fail to the pay the same."

1 SEC. 6. Article 109, Title II, Book III of the Labor
2 Code, as amended, is hereby amended to read as follows:

3 “ARTICLE 109. *Solidary Liability.* – The
4 provisions of existing laws to the contrary
5 notwithstanding, every [employer or indirect
6 employer] CONTRACTEE shall be held
7 [responsible] SOLIDARILY LIABLE with [his]
8 THE JOB contractor [or subcontractor] for any
9 violation of any provision OF TITLE II BOOK
10 III of this Code. For purposes of determining
11 the extent of their civil liability under this
12 Chapter, they shall be considered as direct
13 employers.”

14 SEC. 7. Article 294 [279], Title I, Book VI of the Labor
15 Code, as amended, is hereby further amended to read as
16 follows:

17 “ARTICLE 294 [279]. *Security of Tenure.*
18 – [In case or regular employment, the employer
19 shall not terminate] [t]The services of an

1 employee, IRRESPECTIVE OF
2 EMPLOYMENT STATUS OR POSITION,
3 SHALL NOT BE TERMINATED except for a
4 just cause or when authorized by this Title. An
5 employee who is unjustly dismissed from work
6 shall be entitled to reinstatement without loss
7 of seniority rights and other privileges and to
8 his/HER full backwages, inclusive of
9 allowances, and to his/HER other benefits or
10 their monetary equivalent computed from the
11 time his/HER compensation was withheld from
12 him/HER up to the time of his/HER actual
13 reinstatement.

14 "THE EMPLOYER SHALL HAVE THE
15 BURDEN OF PROVING THAT THE
16 TERMINATION IS WITH CAUSE AND DUE
17 PROCESS."

18 SEC. 8. Article 295 [280] Title I, Book VI of the Labor
19 Code, as amended, is hereby repealed, and in lieu thereof,
20 a new Article 295 is provided to read as follows:

1 "ARTICLE 295. *STATUS OF*
2 *EMPLOYMENT.* – THE PROVISIONS OF
3 WRITTEN OR ORAL AGREEMENTS TO THE
4 CONTRARY NOTWITHSTANDING, ALL
5 EMPLOYEES, EXCEPT THOSE UNDER
6 PROBATIONARY, SEASONAL OR PROJECT
7 EMPLOYMENT, SHALL BE DEEMED
8 REGULAR.

9 "PROJECT AND SEASONAL
10 EMPLOYEES SHALL HAVE THE RIGHTS
11 OF REGULAR EMPLOYEES FOR THE
12 DURATION OF THE PROJECT OR SEASON,
13 AS THE CASE MAY BE. FOR THIS
14 PURPOSE, PROJECT EMPLOYMENT IS
15 EMPLOYMENT IN AN EXISTING PROJECT
16 OR UNDERTAKING THE COMPLETION OR
17 TERMINATION OF WHICH HAS BEEN
18 DETERMINED AND MADE KNOWN TO THE
19 EMPLOYEE AT THE TIME OF THE
20 ENGAGEMENT WHILE SEASONAL IS AN

1 EMPLOYMENT BASED ON THE
2 EXISTENCE OF A SEASON IN
3 AGRICULTURAL WORK OR ESTABLISHED
4 PERIODS OF INCREASED WORK
5 DEMANDS AND/OR INHERENT INDUSTRY
6 FLUCTUATIONS.

7 “FOR THE AVOIDANCE OF DOUBT,
8 AN EMPLOYER-EMPLOYEE RELATIONSHIP
9 EXISTS WHEN THE WORKER IS ENGAGED
10 TO RENDER WORK OR SERVICE UNDER
11 THE CONTROL OF THE EMPLOYER, NOT
12 ONLY AS TO THE END TO BE ACHIEVED,
13 BUT ALSO THE MANNER, MEANS AND
14 METHOD IN REACHING THE END.”

15 SEC. 9. Article 296 [281], Title I, Book VI of the Labor
16 Code, as amended, is hereby amended to read as follows:

17 “ARTICLE 296 [281]. *Probationary*
18 *Employment.* – Probationary employment shall
19 not exceed six (6) months from the [date the
20 employee started working, unless it is covered

1 by an apprenticeship agreement stipulating by
2 a longer period.] FIRST DAY OF SERVICE.

3 "The services of [an] A PROBATIONARY
4 employee [who has been engaged on a
5 probationary basis] may be terminated for [a]
6 just OR AUTHORIZED causeS UNDER
7 ARTICLES 297 [282] AND 298 [283] OF THE
8 LABOR CODE, AS AMENDED, or when
9 he/SHE fails to qualify as a regular employee
10 in accordance with reasonable standards made
11 known by the employer at the time of his
12 engagement. An employee who is allowed to
13 work after a probationary period shall be
14 considered a regular employee."

15 SEC. 10. Article 297 [282], Title I, Book VI of the
16 Labor Code, as amended, is hereby amended to read as
17 follows:

18 "ARTICLE 297 [282]. *JUST CAUSES OF*
19 *Termination [by employer].* – An employer may

1 terminate an employment for any of the
2 following causes:

3 (a) Serious misconduct or willful
4 disobedience by the employee of the lawful
5 orders of his/HER employer or representative
6 in connection with his/HER work;

7 (b) Gross and habitual neglect by the
8 employee of his/HER duties;

9 (c) Fraud or willful breach by the
10 employee of the trust reposed in him/HER by
11 his/HER employer or duly authorized
12 representative;

13 (d) Commission of a crime or offense by
14 the employee against the person of his/HER
15 employer or any immediate member of his/HER
16 family or his/HER duly authorized
17 representatives; and

18 (e) Other causes analogous to the
19 foregoing."

1 SEC. 11. A new Article 298-A, Title I, Book VI of the
2 Labor Code, as amended, is hereby provided to read as
3 follows:

4 "ARTICLE 298-A. *PROOF OF*
5 *AUTHORIZED CAUSE AND PAYMENT OF*
6 *SEPARATION PAY. - WITHIN THE*
7 *PRESCRIBED ONE (1) MONTH PERIOD*
8 *REQUIRED UNDER ARTICLE 298, THE*
9 *EMPLOYER SHALL SUBMIT TO THE DOLE*
10 *PROOF AND UNDERTAKING ON THE*
11 *EXISTENCE OF THE AUTHORIZED CAUSE*
12 *IN ACCORDANCE WITH THE RULES AND*
13 *REGULATIONS AS MAY BE SET BY THE*
14 *SECRETARY OF LABOR AND*
15 *EMPLOYMENT.*

16 SEC. 12. *Implementing Rules and Regulations.* - The
17 Secretary of Labor and Employment shall promulgate
18 the necessary implementing rules and regulations
19 within one hundred and twenty (120) days from the
20 effectivity of this Act.

1 SEC. 13. *Separability Clause.* – If any provision of this
2 law or the application thereof to any person or
3 circumstance, is held invalid, the remainder of this law, or
4 the application of such provision or part to other persons of
5 circumstances, shall not be affected thereby.

6 SEC. 14. *Repealing Clause.* – All laws, decrees, rules,
7 and regulations or parts thereof, which are contrary to or
8 inconsistent with this Act are hereby repealed or modified
9 accordingly.

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

Approved,