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SENATE

Senate Bill No. 78

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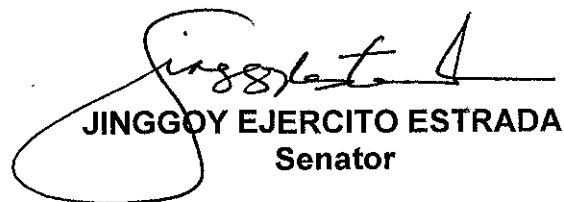
INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

This bill is for the poor and marginalized sector, everyday army and unsung heroes of the Philippine economy-the household helpers. It also carries with it the sincere desire of promoting the domestic worker industry's welfare which has long been overlooked and neglected not only by the government but by our society, as well.

In order to further effectively carry out our intention of alleviating the plight our destitute kasambahay, this Representation has made additional consultations with concerned non-government organizations, particularly, the Visayan Forum Foundation, Inc., a Philippine-based national NGO that mobilizes countrywide efforts by championing the cause of trafficked women and domestic workers, most especially children. And as a result of this, a modified legislative measure on the Kasambahay was conceived by this Representation.

As a signatory to various international labor-related conventions and treaties and with the incorporation of the labor welfare clause into our constitution, immediate passage of this long-deserved Batas Kasambahay is thus, earnestly and fervently sought.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT

PROVIDING FOR ADDITIONAL BENEFITS AND PROTECTION TO THE HOUSEHELPERS THEREBY AMENDING FOR THIS PURPOSE ARTICLES 141, 142, 143, 148 AND 151 OF CHAPTER III OF P.D. 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 141 of Presidential Decree 442, as amended, otherwise known as the Labor Code of the Philippines" is hereby amended to read as follows:

"Article 141. *Coverage*- This Chapter shall apply to all persons rendering services in household for compensation. "Domestic [or household service] "HELPER", "HOUSEHOLD HELPERS" OR "KASAMBAHAY" [shall mean service in the employer's home which is usually necessary or desirable for the maintenance and enjoyment thereof and includes ministering to the personal comfort and convenience of the members of the employers households, including services of family drivers.] REFERS TO ANY PERSON, WHO RENDERS FOR COMPENSATION, TO A HOMEOWNER / EMPLOYER UNDERTAKING TASKS ASCRIBED AS NORMAL HOUSEHOLD CHORES WITHIN A SPECIFIC HOUSEHOLDS. THE TERM INCLUDES MAIDS, COOKS, HOUSEBOYS AND "YAYAS" WHO PROVIDE DAILY SERVICE, EITHER ON A FULL-TIME, LIVE-IN OR LIVE-OUT BASIS."

SEC. 2. Article 142 of P. D. 442, as amended is hereby amended and renumbered to read as follows:

"Art. 142 (1). *Contract of domestic service.* - [The original contract of domestic service shall not last for more than two (2) years but it may be renewed for such periods as may be agreed upon by the parties.] ALL HOUSEHOLD WORKING ARRANGEMENTS OR AGREEMENTS SHALL BE COVERED BY A WRITTEN EMPLOYMENT CONTRACT, IN A LANGUAGE OR DIALECT UNDERSTOOD BY BOTH THE EMPLOYER AND THE HOUSEHOLD HELPER, DULY SIGNED BY BOTH CONTRACTING PARTIES. EACH CONTRACTING PARTY SHALL BE PROVIDED WITH A COMPLETE SET OF THE DULY SIGNED CONTRACT OF SERVICE WHICH SHALL INCLUDE THE FOLLOWING:

(1.1) PERIOD OF EMPLOYMENT, WHICH SHALL NOT EXCEED TWO (2) YEARS;

- (1.2) MONTHLY COMPENSATION AND MODE OF PAYMENT
- (1.3) ANNUAL SALARY INCREASE;
- (1.4) DUTIES AND RESPONSIBILITIES;
- (1.5) WORKING HOURS AND DAY-OFF SCHEDULE; AND
- (1.6) LIVING QUARTERS OR SLEEPING ARRANGEMENT."

"ART. 142 (2). *MEDICAL OR HEALTH CERTIFICATE, BARANGAY CLEARANCE AND BIRTH CERTIFICATE AS PRE-REQUISITES FOR EMPLOYMENT* - AS PREREQUISITES FOR EMPLOYMENT IN DOMESTIC WORK, ALL PROSPECTIVE APPLICANTS SHOULD SECURE THE FOLLOWING DOCUMENTS:

- (2.1) MEDICAL CERTIFICATE OR IN LIEU THEREOF, HEALTH CERTIFICATE ISSUED BY A LOCAL GOVERNMENT HEALTH OFFICERS ATTESTING TO THE PHYSICAL AND MENTAL FITNESS OF THE DOMESTIC WORKER;
- (2.2) BARANGAY CLEARANCE;AND
- (2.3) DULY AUTHENTICATED BIRTH CERTIFICATE FROM THE NATIONAL STATISTICS OFFICE (NSO)."

SEC. 3. Subparagraphs (1), (2) and (3), Article 143 of Presidential Decree No. 442, an amended, are hereby amended and renumbered to read as follows:

"Art. 143-(1). *Minimum wage.* - (a) House helpers OR DOMESTIC HELPERS, AS DEFINED UNDER THIS ACT, shall be paid the following minimum wage rates:

(1) [Eight Hundred Pesos (P800.00)] **THREE THOUSAND PESOS (P3,000.00)** a month for househelpers [in Manila, Quezon, Pasay and Caloocan cities and the municipalities of Makati, San Juan, Mandaluyong, Muntinlupa, Navotas, Malabon, Paraiiaque, Las Pinas, Pasig, Marikina, Valenzuela, Taguig and Pateros in Metro Manila and in highly urbanized cities] EMPLOYED IN THE NATIONAL CAPITAL REGION;

(2) [Six Hundred Fifty pesos (P650.00)] **TWO THOUSAND FIVE HUNDRED PESOS (P2,500.00)** a month for those EMPLOYED in other chartered cities and first class municipalities; and

(3) [Five Hundred fifty pesos (P550.00)] **TWO THOUSAND PESOS (P2,000.00)** a month for those in other municipalities. [Provided, That the employers shall review the employment contracts of their househelpers every three (3) years with the end in view of improving the terms and condition thereof.] [Provided, further, That those househelpers who are receiving at least One thousand pesos (P1,000.00) shall be covered by the Social Security System (SSS) and be entitled to all the benefits provided thereunder .]

"AFTER ONE (1) YEAR FROM THE EFFECTIVITY OF THIS ACT AND EVERY YEAR THEREAFTER THE REGIONAL TRIPARTITE WAGES AND PRODUCTIVITY BOARDS (RTWPBS) SHALL REVIEW, AND IF PROPER, DETERMINE AND AD JUST APPROPRIATE MINIMUM WAGE RATES OF HOUSEHOLD OR DOMESTIC HELPERS."

"ART. 143 (2). *PAYMENT OF WAGES* - PAYMENT OF WAGES SHALL BE MADE DIRECTLY TO THE DOMESTIC WORKER TO WHOM THEY ARE DUE IN CASH, AT LEAST TWICE A MONTH. THE EMPLOYER,

UNLESS ALLOWED BY THE DOMESTIC WORKER THROUGH A WRITTEN CONSENT, SHALL MAKE NO DEDUCTIONS FROM HIS/HER WAGES OTHER THAN THAT WHICH IS MANDATED BY LAW. NO EMPLOYER SHALL PAY THE WAGES OF A DOMESTIC WORKER BY MEANS OF PROMISORY NOTES, VOUCHERS, COUPONS, TOKENS, TICKETS, CHITS OR ANY OBJECT OTHER THAN THE CASH WAGE AS PROVIDED FOR UNDER THIS ACT."

"ART. 143 (3). *PAY SLIP.* - ALL EMPLOYERS ARE MANDATED AT ALL TIMES TO PROVIDE THEIR DOMESTIC WORKER WITH A COPY OF THEIR PAY SLIP WHICH SHALL CONTAIN THE AMOUNT PAID IN CASH BY THE EMPLOYER TO THE DOMESTIC WORKER EVERY PAY DAY, AS PRESCRIBED UNDER THIS ACT. THE COPIES OF THE PAY SLIP MUST BE KEPT BY THE EMPLOYER FOR A PERIOD OF THREE (3) YEARS."

"ART. 143 (4). *PLACE OF PAYMENT.* - PAYMENT OF WAGES SHALL BE MADE AT OR NEAR THE PLACE OF UNDERTAKING, EXCEPT AS OTHERWISE PROVIDED BY SUCH REGULATIONS AS THE SECRETARY OF LRBOR MAY PRESCRIBE UNDER CONDITIONS TO ENSURE PROTECTION OF WAGES."

"ART. 143 (5) *PROHIBITION OR INTERFERENCE IN DISPOSAL OF WAGES-* NO EMPLOYER SHALL LIMIT OR OTHERWISE INTERFERE WITH THE FREEDOM OF ANY DOMESTIC WORKER TO DISPOSE OF HIS/HER WAGES. THE EMPLOYER SHALL NOT IN ANY MANNER FORCE, COMPEL, OR OBLIGE THE DOMESTIC WORKER TO PURCHASE MERCHANDISE, COMMODITIES OR OTHER PROPERTIES FROM THE EMPLOYERS OR FROM ANY OTHER PERSON, OR OTHERWISE MAKE USE OF ANY STORE OR SERVICES OF SUCH EMPLOYER OR ANY OTHER PERSON."

"ART. 143 (6). *PROHIBITION AGAINST WITHOLDING OF WAGES* - IT SHALL BE UNLAWFUL FOR AN EMPLOYER, DIRECTLY OR INDIRECTLY, TO WITHHOLD ANY AMOUNT FROM THE WAGES OF THE DOMESTIC WORKER OR INDUCE HIM/HER TO GIVE UP ANY PART OF HIS/HER WAGES BY FORCE, STEALTH, INTIMIDATION, THREAT OR BY ANY OTHER MEANS WHATSOEVER. "

"ART. 143 (7). *PROHIBITION ON DEPOSITS FOR LOSS OR DAMAGE.* - NO EMPLOYER SHALL REQUIRE HIS/HER DOMESTIC WORKER TO MAKE DEPOSITS FROM WHICH DEDUCTIONS SHALL BE MADE FOR THE REIMBURSEMENT OF LOSS OR DAMAGE TO TOOLS, MATERIALS, FURNITURE AND EQUIPMENT IN THE HOUSEHOLD."

"ART. 143 (8). *PROHIBITION ON BONDED LABOR* - IT SHALL BE UNLAWFUL FOR AN EMPLOYER TO USE THE FUTURE SERVICES OF THE HOUSEHELPERS AS COUATERAL FOR A LOAN OR ADVANCE MADE BY THE LATTER, LIKEWISE, IT SHALL BE UNLAWFUL FOR THE EMPLOYER TO BIND THE HOUSEHOLD HELPER FOR HIS/HER CONTINUOUS EMPLOYMENT AS A FORM OF PAYMENT FOR ANY LOAN OR ADVANCE MADE BY THE LATTER."

"ANY EMPLOYER WHO VIOLATES THIS PROVISIONS SHALL BE PUNISHED UNDER EXISTING PENAL LAWS WITHOUT PREJUDICE TO CIVIL AND ADMINISTRATIVE CASES WHICH MAY BE FILED AGAINST HIM/HER. "

SEC. 4. NON-DIMINUTION CLAUSE - NOTHING IN THIS ACT SHALL BE CONSTRUED TO CAUSE THE DIMINUTION OR SUBSTITUTION OF ANY BENEFITS AND PRIVILEGES CURRENTLY ENJOYED BY THE KASAMBAHAY. ALL EXISTING ARRANGEMENTS BETWEEN EMPLOYER AND KASAMBAHAY SHALL CONFORM TO THE MINIMUM STANDARDS SET BY THIS ACT."

SEC. 5. Article 148 of Presidential Decree No. 442, as amended, is hereby amended to read as follows:

"Art. 148. Board, lodging and medical attendance- The Employer shall furnish the househelper free of charge suitable and sanitary living quarters as well as adequate food and medical attendance.

"EVERY EMPLOYER SHALL KEEP IN HIS/HER HOUSEHOLD SUCH FIRST-AID MEDICINES AND EQUIPMENT AS THE NATURE AND CONDITIONS OF DOMESTIC WORK MAY REQUIRE, IN ACCORDANCE WITH THE RULES AND REGULATIONS THAT WILL BE PRESCRIBED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT (DOLE), IN ACCORDANCE WITH THE PROVISION OF THIS ACT."

SEC. 6. A new provision, Article 148-(1) is hereby inserted to read as follows:

"ART. 148-(1) ALL HOUSEHOLD HELPERS SHALL BE COVERED BY THE SOCIAL SECURITY SYSTEM (SSS) AND BE ENTITLED TO ALL THE BENEFITS IN ACCORDANCE WITH THE PERTINENT PROVISIONS OF REPUBLIC ACT NO. 1611, AS AMENDED."

"THE SSS SHALL IMPLEMENT THE OUTREACH PROGRAM THAT WILL FACILITATE THE REMITTANCE OF SSS CONTRIBUTIONS OF THE HOUSEHELPER AND EMPLOYER THROUGH THE MOST FEASIBLE MEANS. THIS OUTREACH PROGRAM SHALL BE CONCEPTUALIZED AND INITIATED WITHIN ONE (1) YEAR FROM THE DATE OF THE EFFECTIVITY OF THIS ACT."

SEC. 7. A new provision, Article 148-(2) is hereby inserted to read as follows:

"ART. 148 (2) *MEMBERSHIP IN THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH)*- ALL HOUSEHELPERS SHALL BE COVERED BY THE PHILIPPINE HEALTH INSURANCE CORPORATION (PHILHEALTH) IN ACCORDANCE WITH THE GUIDELINE AND BE ENTITLED TO ALL THE BENEFITS PROVIDED BY LAW, THE PREMIUM PAYMENTS FOR PHILHEALTH CONTRIBUTIONS SHALL BE SHOULDERED BY THE EMPLOYER."

SEC. 8. Article 151 of Presidential Decree No. 442, as amended, is hereby amended to read as follows:

"Art. 151-(1). *Employment Certification*- Upon the severance of the household service relation, the employer shall give the househelper/DOMESTIC WORKER a written EMPLOYMENT CERTIFICATION INDICATING [statement of] the nature, [and] duration of the service, WORK PERFORMANCE, [and his or her] efficiency and conduct as househelper/DOMESTIC WORKER."

“ART. 151-(2). *EMPLOYER’S REPORTORIAL DUTIES.* – EVERY EMPLOYER OF DOMESTIC WORKER IS MANDATED TO REGISTER THEIR KASAMBAHAY IN ACCORDANCE WITH THE REGISTRATION SYSTEM THAT SHALL BE ESTABLISHED BY LGUS FOR THE MUTUAL PROTECTION OF THE KASAMBAHAYS AND THE EMPLOYER.”

“EVERY EMPLOYER OF DOMESTIC WORKER IS ALSO MANDATED TO KEEP THE FOLLOWING RECORDS TO REFLECT THE ACTUAL TERMS AND CONDITIONS OF EMPLOYMENT OF HIS/HER DOMESTIC WORKER FOR A PERIOD OF THREE (3) YEARS AFTER THE DOMESTIC WORKER HAS LEFT THE SERVICES OF THE EMPLOYER FOR PURPOSES OF DOCUMENTATION:

(2.1) REGISTER OF ALL DOMESTIC WORKERS EMPLOYED BY HIM/HER, INDICATING THE DATES OF THEIR BIRTH;
(2.2) SEPARATE FILE FOR THEIR EMPLOYMENT CONTRACTS AND EMPLOYMENT CERTIFICATES;
(2.3) SEPARATE FILE FOR THEIR BARANGAY CLEARANCE; AND
(2.4) SEPARATE FILE FOR THEIR MEDICAL OR HEALTH CERTIFICATES.”

“IT SHALL BE UNLAWFUL FOR ANY EMPLOYER TO MAKE ANY REPORT OR RECORD, PURSUANT TO THE PROVISIONS OF THIS ACT, KNOWING SUCH REPORT OR RECORD TO BE FALSE.”

SEC. 9. *ROLE OF LOCAL GOVERNMENT UNITS.* – LOCAL GOVERNMENT UNITS (LGUS) SHALL FACILITATE ACCESS OF ICASAMBAHAYS TO ALL EXISTING PROGRAMS AND SERVICES. THE LGUS, THROUGH THEIR LOCAL DEVELOPMENT PLANS, SHALL PRIORITIZE CONCERNS REGARDING KASAMBAHAYS AND DEVELOP AND IMPLEMENT PLANS AND PROGRAMS IN SUPPORT OF THIS LAW.”

SEC. 10. *ARAW NG MGA KASAMBAHAYS* - THE DATE UPON WHICH THE PRESIDENT SHALL APPROVE THIS BATAS KASAMBAHAY WILL BE DESIGNATED AS THE “ARAW NG MGA KASAMBAHAY”.

SEC. 11. *Implementing Rules and Regulations.* - The Department of Interior and Local Government and the Department of Labor and Employment, in collaboration with other government agencies charged with the implementation of the provisions of this Act shall, within a period of NINETY (90) DAYS from the date of its effectivity, promulgate the necessary implementing rules and regulations.

SEC. 12. *Repealing Clause.* -All laws, decrees, presidential issuances, executive orders, rules and regulations or parts thereof not consistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

SEC. 13. *Separability Clause.* - If any provision or part of this Act, or the application thereof to any person or circumstance be held unconstitutional or be declared invalid, the remainder of this Act shall not be affected thereby.

SEC. 14. *Effectivity Clause.* -This Act shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,