Republic of the Philippines  
HOUSE OF REPRESENTATIVES 
Quezon City 

EIGHTEENTH CONGRESS  
First Regular Session 

House Bill No. 3184 

Introduced by Rep. LAWRENCE LEMUEL H. FORTUN 

EXPLANATORY NOTE 

Section 3, Article XIII of the 1987 Constitution guarantees the right of workers to security of tenure. However, in the current state of industrial growth, business competitiveness, labor demands and employment competition, the practice of contractualization and labor only contracting has become commonplace in the country. This has resulted in a state of uncertainty among the workers who are treated as contractual or labor only workers. This runs counter to the principle enshrined in the Constitution that the State shall guarantee security of tenure among Filipino workers. 

This bill seeks to further amend P.D. 442, otherwise known as the Labor Code of the Philippines to expressly prohibit labor-only contracting with limited exceptions under certain circumstances. It simplifies the classification of employees into regular employment as a general rule and prohibiting fixed-term employment. The bill seeks to require entities in the business of job contracting to obtain a license beforehand from the Department of Labor and Employment. Probationary employees who have at least one (1) month of service will be entitled to a one-half month of termination pay. Relievers, project and seasonal employees shall enjoy the rights of regular employees for the duration of their work as well as the right of first refusal once the jobs are opened for regular employment. Clauses in employment contracts providing for a fixed period of employment are considered void. Workers under such arrangements are deemed regular employees reckoned from the first day of employment. 

This measure seeks to give life to Article II of the Constitution which provides that the State recognizes labor as “the primary social economic force” of the country and shall seek to promote the general welfare of workers including their right to security of tenure. The same was approved on Third and Final Reading in the 17th Congress. However, the bill was vetoed by President Rodrigo Roa Duterte taking into consideration the imperativeness of a “healthy balance between the conflicting interests of labor and management.” 1 Nevertheless, the President reiterated his “firm commitment to protect workers’ right to security of tenure by eradicating all forms of abusive employment practices.”2 

This bill is refiled to pave the way for further deliberations on the matter of workers’ security of tenure in order for Congress to finally come up with a version most acceptable to both labor and management. 

In view of the foregoing considerations, immediate consideration of this bill is most earnestly sought. 

REP. LAWRENCE LEMUEL H. FORTUN 
1st District of Agusan del Norte 

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1 Veto message of President Rodrigo R. Duterte on consolidated enrolled Senate Bill No. 1826 and House Bill No. 6908 
2 Ibid
AN ACT STRENGTHENING THE SECURITY OF TENURE OF WORKERS, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 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 No. 442, as amended, otherwise known as the “Labor Code of the Philippines”, is hereby amended 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 AND OTHER LAWS.

“The contracting out of the same work contracted out by the employer is hereby prohibited.

“In the event that the contractor [or subcontractor] fails to pay the wages, ALLOWANCES AND BENEFITS of his employees in accordance with this Code AND OTHER LAWS, the employer shall be jointly and severally liable with [his] THE 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.

“The Secretary of Labor AND EMPLOYMENT [may] UPON CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE COUNCIL SHALL by appropriate 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, WHICH IS HEREBY PERMITTED, IN ACCORDANCE WITH THIS CODE. [as well as] [d]Differentiations AND RESTRICTIONS within these types of contracting, [and] AS WELL AS THE [determine] DETERMINATION OF who among the parties involved shall be considered the employer [for purposes of] UNDER this Code, SHALL BE DISTINCTLY PROVIDED FOR IN THE REGULATIONS to prevent any violation or circumvention of any provision of this Code.

“There is ‘labor-only’ contracting where the person supplying workers to any employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others [and] OR HAS NO CONTROL OVER THE WORKERS’ METHODS AND MEANS OF ACCOMPLISHING THEIR WORK OR the workers recruited and placed by such person are performing activities which are directly related AND NECESSARY 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 where
directly employed by him.”

SEC. 2. A new article, Article 106-A, is hereby inserted after Article 106 of the same
decree, to read as follows:

“ART. 106-A. LICENSING OF JOB CONTRACTORS. ALL PERSONS OR
ENTITIES DOING BUSINESS AS JOB CONTRACTORS SHALL OBTAIN A
LICENSE FROM THE DEPARTMENT OF LABOR AND EMPLOYMENT
THROUGH ITS REGIONAL OFFICES, THE TERM ‘JOB CONTRACTOR’
REFERS TO A SOLE PROPRIETORSHIP, CORPORATION, PARTNERSHIP,
ASSOCIATION, COOPERATIVE OR ANY OTHER ORGANIZATION THAT
PERFORMS A SPECIFIC WORK, JOB OR SERVICE FOR A PRINCIPAL
EMPLOYER, THE TERM ‘PRINCIPAL EMPLOYER’ REFERS TO THE
PERSON OR ENTITY, INCLUDING THE GOVERNMENT, THAT CONTRACTS
OUT A SPECIFIC WORK, JOB OR SERVICE.

THE LICENSE SHALL BE ISSUED TO A QUALIFIED JOB
CONTRACTORS UPON COMPLIANCE WITH THE FOLLOWING
REQUIREMENTS:

(A) AN INDEPENDENT BUSINESS, SEPARATE AND DISTINCT FROM
THE PRINCIPAL EMPLOYER:

(B) PAID-UP CAPITAL OR CAPITALIZATION OF AT LEAST FIVE
MILLION PESOS (P5,000,000.00) WHICH MAY BE ADJUSTED AS DEEMED
APPROPRIATE THROUGH TRIPARTITE CONSULTATION EVERY THREE
YEARS;

(C) AN UNDERTAKING OF FINANCIAL CAPACITY, AND
COMPLIANCE WITH ALL LABOR LAWS AND REGULATIONS;

(D) SUFFICIENT KNOWLEDGE, EXPERIENCE, SKILLS OR
COMPETENCE IN THE FIELD OF THE CONTRACTED JOB, WORK OR
SERVICE;

(E) EMPLOYMENT OF REGULAR EMPLOYEES, AND POSSESSION
OF EQUIPMENT, MACHINERIES OR TOOLS NECESSARY TO PERFORM OR
COMPLETE THE JOB, WORK OR SERVICE CONTRACTED OUT;

(F) CONTROL OVER THE PERFORMANCE AND COMPLETION OF
THE CONTRACTED JOB, WORK OR SERVICE; AND

(G) PAYMENT OF A LICENSE FEE OF ONE HUNDRED THOUSAND
PESOS (P100,000.00) WHICH MAY BE ADJUSTED AS DEEMED APPROPRIATE
THROUGH TRIPARTITE CONSULTATION.

THE LICENSE SHALL BE VALID FOR A PERIOD OF THREE (3)
YEARS. NO LICENSE SHALL BE RENEWED UNLESS THE JOB CONTRACT
SHALL DEMONSTRATE THAT IT HAS NET FINANCIAL CONTRACTING
CAPACITY (NFCC) TO CARRY ON ITS BUSINESS BASED ON FACTORS SUCH
AS, BUT NOT LIMITED TO, THE NUMBER OF ITS EMPLOYEES AND THE
NATURE OF ITS BUSINESS.

A LICENSED JOB CONTRACTOR SHALL SUBMIT AN ANNUAL
REPORT WHICH MUST INCLUDE, BUT NOT LIMITED TO, PROOF OF
PAYMENT OF THE APPROPRIATE SOCIAL AND OTHER WELFARE
BENEFITS TO ITS EMPLOYEES.
“CONTRACTORS OR SIMILAR ENTITIES WHO ENGAGE IN JOB
CONTRACTING WITHOUT A LICENSE SHALL BE PENALIZED IN
ACCORDANCE WITH THIS CODE.”

SEC. 3. Article 294 of the same decree is hereby further amended to read as follows:
ART. 294. Security of Tenure. - In cases of regular employment, the employer
shall not terminate the services of any employee except for a just cause or when authorized
by this Title. [An employee who is unjustly dismissed from work shall be entitled to
reinstatement without loss of seniority rights and other privileges and to his full backwages,
inclusive of allowances, and to his other benefits or their monetary equivalent computed
from the time his compensation was withheld from him up to the time of his actual
reinstatement.]

“A DISMISSAL WITHOUT JUST OR AUTHORIZED CAUSE OR
WITHOUT OBSERVANCE OF PROCEDURAL DUE PROCESS IS ILLEGAL.
THE EMPLOYEE WHO IS FOUND ILLEGALLY DISMISSED BASED ON LACK
OF JUST OR AUTHORIZED CAUSE IS ENTITLED TO IMMEDIATE
REINSTATEMENT EVEN PENDING APPEAL AND WITHOUT LOSS OF
SENIORITY RIGHTS AND BENEFITS, FULL BACKWAGES AND ACCRUED
BENEFITS, AND REMUNERATIONS PROVIDED BY LAW, COMPANY
POLICY OR COLLECTIVE BARGAINING AGREEMENT COMPUTED FROM
THE TIME COMPENSATION WAS WITHHELD UP TO THE TIME OF
ACTUAL REINSTATEMENT, AWARD OF BACKWAGES SHALL INCLUDE
THE EMPLOYER’S SHARE OF CONTRIBUTIONS TO THE SOCIAL
SECURITY SYSTEM, PHILIPPINE HEALTH INSURANCE CORPORATION,
AND HOME DEVELOPMENT MUTUAL FUND WHICH SHALL BE REMITTED,
TOGETHER WITH THE EMPLOYEE’S SHARE, TO THE AFORESAID
AGENCEIS FREE FROM INTEREST AND PENALTIES FOR LATE
REMITTANCE. IN THE EVENT THAT THE EMPLOYEE IS GAINFULLY
EMPLOYED DURING THE PENDENCY OF THE CASE FOR ILLEGAL
DISMISSAL AND THE EMPLOYEE WAS ABLE TO CONTRIBUTE TO THE
SOCIAL SECURITY SYSTEM, PHILIPPINE HEALTH INSURANCE
CORPORATION, AND HOME DEVELOPMENT MUTUAL FUND AN AMOUNT
NEEDED TO UPDATE HIS EMPLOYEE CONTRIBUTIONS SHALL BE
DEDUCTED FROM HIS BACKWAGES. ACTUAL, MORAL, EXEMPLARY AND
OTHER FORMS OF DAMAGES MAY ALSO BE AWARDED. AN EMPLOYEE
WHOSE DISMISSAL IS DECLARED ILLEGAL BASED EXCLUSIVELY ON
LACK OF PROCEDURAL DUE PROCESS IS ENTITLED TO REASONABLE
NOMINAL DAMAGES AND COSTS OF SUIT. THE EMPLOYER SHALL HAVE
THE BURDEN OF PROVING THAT THE TERMINATION IS WITH CAUSE AND
DUE PROCESS.”

SEC. 4. Article 295 of the same decree is hereby amended to read as follows:
“ART. 295. Regular [and casual] employment. The provisions of written
agreement to the contrary notwithstanding and regardless of the oral agreement of the
parties, an employment shall be deemed to be regular [where the employee has been
engaged to perform activities which are usually necessary or desirable in the usual business
or trade of the employer, except where the employment has been fixed for a specific project
or undertaking the completion or termination of which has been determined at the time of
the engagement of the employee or where the work or service to be performed is seasonal
in nature and the employment is for the duration of the season]. A REGULAR
EMPLOYEE IS ONE WHO HAS BEEN HIRED FOR AN INDEFINITE PERIOD.
NO EMPLOYMENT WITH A FIXED TERM OR DEFINITE PERIOD SHALL BE
ALLOWED EXCEPT IN CASES OF OVERSEAS FILIPINO WORKERS,
WORKERS ON PROBATION, RELIEVERS WHO ARE TEMPORARY
REPLACEMENTS OF ABSENT REGULAR EMPLOYEES WHOSE
ENGAGEMENTS SHALL NOT EXCEED SIX (6) MONTHS, PROJECT EMPLOYEES, AND SEASONAL WORKERS.

"RELIEVERS, PROJECT AND SEASONAL EMPLOYEES SHALL ENJOY THE RIGHTS OF REGULAR EMPLOYEES FOR THE DURATION OF THE ENGAGEMENT, PROJECT OR SEASON, RESPECTIVELY. PROJECT EMPLOYMENT REFERS TO AN EXISTING PROJECT OR UNDERTAKING THE NATURE OF WHICH IS TEMPORARY AND THE COMPLETION OR TERMINATION HAS BEEN DETERMINED AND MADE KNOWN TO THE EMPLOYEE AT THE TIME OF THE ENGAGEMENT. SEASONAL EMPLOYMENT IS BASED ON THE EXISTENCE OF A SEASON IN A TYPE OF WORK. A SEASON IS THAT ESTABLISHED IN AGRICULTURAL WORK OR ESTABLISHED PERIODS OF INCREASED WORK DEMAND INHERENT TO THE INDUSTRY AS DETERMINED BY THE DEPARTMENT OF LABOR AND EMPLOYMENT IN CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE COUNCIL.

"FOR RELIEVERS, PROJECT, AND SEASONAL EMPLOYMENT, WORKERS ARE CALLED TO WORK FROM TIME TO TIME AND TEMPORARILY LAID OFF DURING THE COMPLETION OF THE ENGAGEMENT, PROJECT OR OFF-SEASON BUT ARE IN THE WORK POOL ON LEAVE WITH OR WITHOUT PAY STATUS IN BETWEEN ENGAGEMENTS, PROJECTS OR SEASONS. RELIEVERS, PROJECT, AND SEASONAL WORKERS ARE ENTITLED TO THE RIGHT OF FIRST REFUSAL TO THE TASK, WORK OR PROJECT WHICH IS THE SUBJECT MATTER OF THE EMPLOYMENT. THEY SHALL ALSO ENJOY THE RIGHT OF FIRST REFUSAL IN THE HIRING FOR OPEN REGULAR POSITIONS.

"ALL OTHER FORMS OF DISCONTINUOUS EMPLOYMENT ARE PROHIBITED. CLAUSES IN EMPLOYMENT CONTRACTS PROVIDING FOR A FIXED TERM OR DEFINITE PERIOD OF EMPLOYMENT ARE VOID. WORKERS UNDER SUCH ARRANGEMENTS ARE DEEMED REGULAR EMPLOYEES RECKONED FROM THE FIRST DAY OF EMPLOYMENT.

[An employment shall be deemed to be casual if it is not covered by the preceding paragraph: Provided, That any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which is employed and his employment shall continue while such activity exists."

SEC. 5. Article 296 of the same decree is hereby amended to read as follows:

"ART. 296. Probationary employment. - Probationary employment shall not exceed six (6) months from the date employee started working. Unless it is covered by an apprenticeship agreement stipulating a longer period.] The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards WHICH SHALL BE made known by the employer to the employee IN WRITING at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee.

"EXCEPT WHEN THE TERMINATION IS FOR JUST CAUSE, A PROBATIONARY EMPLOYEE WHO HAS RENDERED AT LEAST ONE (1) MONTH OF SERVICE IS ENTITLED TO A TERMINATION PAY OF ONE-HALF (1/2) MONTH SALARY."

SEC. 6. A new article, Article 303-A, is hereby inserted after Article 303 of the same decree to read as follows:
ART. 303-A. ADMINISTRATIVE PENALTIES. — THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL IMPOSE THE FOLLOWING:

1. A FINE OF THIRTY THOUSAND PESOS (P30,000.00) FOR A PERSON OR ENTITY OPERATING AS A JOB CONTRACTOR WITHOUT A LICENSE, PROVIDED THAT SAID PERSON OR ENTITY DOES NOT COMMIT ANY OTHER ACT DESCRIBED AS LABOR-ONLY CONTRACT IN UNDER ARTICLE 106 OF THIS CODE.

2. A FINE FOR A PERSON OR ENTITY OPERATING AS A JOB CONTRACTOR WITHOUT A LICENSE AND ALSO COMMITS ANY OF THE ACTS DESCRIBED AS LABOR-ONLY CONTRACTING UNDER ARTICLE 106 OF THIS CODE. SAID FINE SHALL BE THIRTY THOUSAND PESOS (P30,000.00) ASSESSED PER EMPLOYEE ENGAGED UNDER A LABOR-ONLY CONTRACTING ARRANGEMENT BUT NOT TO EXCEED THE TOTAL AMOUNT OF FIVE MILLION PESOS (P5,000,000.00). IN ADDITION, SAID PERSON OR ENTITY WHICH ENGAGED IN LABOR-ONLY CONTRACTING SHALL BE BARRED FROM APPLYING FOR FUTURE LICENSES. THIS DISQUALIFICATION SHALL EXTEND TO THE RESPONSIBLE PARTNERS, DIRECTORS OR OFFICERS OF THE LIABLE PARTNERSHIP, CORPORATION OR COOPERATIVE;

3. A FINE FOR A LICENSED JOB CONTRACTOR WHICH COMMITS ANY OF THE ACTS DESCRIBED AS LABOR-ONLY CONTRACTING UNDER ARTICLE 106 OF THE CODE. SAID FINE SHALL BE THIRTY THOUSAND PESOS (P30,000.00) ASSESSED PER EMPLOYEE ENGAGED UNDER A LABOR-ONLY CONTRACTING ARRANGEMENT BUT NOT TO EXCEED THE TOTAL AMOUNT OF FIVE MILLION PESOS (P5,000,000.00). IN ADDITION, THE LICENSEE SHALL HAVE ITS OPERATION CLOSED ON THE PROJECT IN WHICH THE VIOLATION WAS COMMITTED AND SHALL BE BARRED FROM APPLYING FOR FUTURE LICENSES. ANY SUCCEEDING OFFENSES COMMITTED SHALL RESULT IN THE REVOCAITION OF THE LICENSE AND CLOSURE OF THE OPERATIONS OF THE JOB CONTRACTOR. THIS DISQUALIFICATION SHALL EXTEND TO THE RESPONSIBLE PARTNERS, DIRECTORS OR OFFICERS OF THE LIABLE PARTNERSHIP, CORPORATION OR COOPERATIVE.

4. A FINE FOR A PERSON OR ENTITY WHO ENGAGES FIXED TERM EMPLOYEES IN VIOLATION OF ARTICLE 295 OF THIS CODE. SAID FINE SHALL BE THIRTY THOUSAND PESOS (P30,000.00) ASSESSED PER EMPLOYEE ENGAGED UNDER THE PROHIBITED FIXED-TERM ARRANGEMENT BUT NOT TO EXCEED THE TOTAL AMOUNT OF FIVE MILLION PESOS (P5,000,000).

"THE ABOVE FINES SHALL BE IMPOSED JOINTLY AND SEVERALLY AGAINST THE PRINCIPAL EMPLOYER AND CONTRACTOR, MANPOWER AGENCY, WORKERS' COOPERATIVE OR ANY OTHER SIMILAR ENTITY OR THE LATTER'S RESPONSIBLE PARTNERS, DIRECTORS OR OFFICERS ENGAGED IN THE PROHIBITED ARRANGEMENTS DESCRIBED ABOVE. THE FINES SHALL BE IMPOSED WITHOUT PREJUDICE TO OTHER DAMAGES THAT MAY BE IMPOSED UNDER THIS CODE AND OTHER LAWS AND REGULATIONS."
SEC. 7. Implementing Rules and Regulations. - Within sixty (60) days from the
effectivity of this Act, the Secretary of Labor and Employment shall promulgate the
necessary rules and regulations for the effective implementation of this Act.

SEC. 8. Separability Clause. - If any provision or part of this Act is declared
invalid or unconstitutional, the remaining parts or provisions not affected remain in full
force and effect.

SEC. 9. Repealing Clause. - All laws, decrees, orders, rules and regulations and
other issuances or parts thereof which are inconsistent with the provisions of this act are
hereby repealed or amended accordingly.

SEC. 10. Effectivity. - This Act shall take effect fifteen (15) days after its
publication in the Official Gazette or in any newspaper of general circulation.

Approved,