Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 3367

Introduced by CIBAC Party-List Representatives
Eduardo “Bro. Eddie” C. Villanueva and Domingo C. Rivera

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

EXPLANATORY NOTE

Out of the many issues that beset the Filipino laborers, one stands out the
most in the current administration: contractualization. For understandable reasons:
President Rodrigo Roa Duterte, during campaign period, promised to end it. On his
3rd State of the Nation Address (SONA), in August 2018, he even certified ending
illegal contractualization a priority bill. Hence, it came much as a surprise when the
Security of Tenure Bill, or End Endo Bill, hit a roadblock after being vetoed by the
president on July 26, 2019.

In the Philippine context, contractualization is viewed both as an economic
strategy and a tool for oppression. As an economic strategy, contractualization has
been used from as early as the 1970s. It involves hiring laborers for a short, fixed
amount of time to address a seasonal or emergency need. This practice proves to be
an effective economic tool to aid the business sector on their varying workloads
while also helping the unemployed in our country.

Yet, under the same guise, many companies have abused contractualization
and now use it to the detriment of Filipino laborers. Widespread practice of endo,
a short term for “end of contract,” exists in our country. It is the routine of hiring laborers who perform tasks that are directly necessary and related to the nature of one’s business under contracts not reaching six (6) months – the required period for a worker to qualify as a regular employee – conveniently exempting the employers from providing benefits mandated by law to be accorded to regular employees.

This is not simply oppressive and unethical. It is also ILLEGAL. Article XIII, Section 3 of the 1987 Philippine Constitution expressly states that “the State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.” Furthermore, laborers are “entitled to security of tenure, humane conditions of work, and a living wage.”

This bill seeks to protect laborers from labor-only contracting, that is defined herein as consisting of these conditions:
1. when the job contractor merely supplies workers to a contractee
2. when the workers supplied by the contractor perform jobs directly and necessary and related to the contractee’s principal business
3. when the job contractor does not control the workers deployed to the contractee

It further simplifies the classification of workers to only two: regular and probationary. Project and seasonal employees are to be classified as regular for the duration of their employment. All other forms of employment are strictly prohibited.

Finally, this bill, contrary as to how other people perceive it, is neither anti-employers nor anti-contractualization. It does not seek to end legal contractualization but instead simply aims to ensure that all parties involved in labor contracts are duly protected by law. Thus, this bill allows industry tripartite councils to determine the kind of jobs which are directly related to one’s principal business. This will provide avenues for the labor sector to express their concerns about contracting certain jobs and the employers to present the realities of their businesses’ operations, the output of which is an industry list of jobs that can be contracted, to which both parties will be legally bound.

In the name of fairness and order in our business and labor sectors, and most of all, for the sake of our Filipino laborers who have been constantly living in fear of finding not just a new job but new means to support their families once their [supposedly illegal] contract ends, the passage of this bill is earnestly sought.

HON. EDUARDO “BRO. EDDIE” C. VILLANUEVA

HON. DOMINGO C. RIVERA
AN ACT
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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:

SECTION 1. Title. — This Act shall be known as the “Security of Tenure and End of
Endo Act.”

SECTION 2. Article 106, Title II, Book III of the Labor Code, as amended, is hereby
amended to read as follows:

“ARTICLE 106. [Contractor or Subcontractor] PROHIBITION ON LABOR-
ONLY CONTRACTING. — [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 of 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.

"The Secretary of Labor and Employment, may 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 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 the purposes of this Code, to prevent
any violation or circumvention of this Code."

"LABOR-ONLY CONTRACTING IS PROHIBITED. There is "labor-only"
contracting where the [person supplying workers to an employer does not have] JOB
CONTRACTOR, WHETHER LICENSED OR NOT, MERELY RECRUITS AND
SUPPLIES OR PLACES WORKERS TO A CONTRACTEE REGARDLESS OF
WHETHER OR NOT HE/SHE HAS substantial capital or investment in the form of
tools, equipment, machineries, work premises, among others, [and] OR the workers
recruited and SUPPLIED OR placed by such person are performing activities which
are directly related to the principal business of such CONTRACTEE OR ARE UNDER
THE CONTROL AND SUPERVISION OF THE CONTRACTEE. In such cases, the
[person or intermediary] JOB CONTRACTOR shall be considered merely an agent
[of] AND the [employer who] CONTRACTEE shall be responsible to the workers in
the same manner and extent as if the latter were directly employed by him/HER.

FOR THE PURPOSES OF THIS ARTICLE, THE SPECIFIC JOB, WORK OR
SERVICE THAT ARE DEEMED DIRECTLY RELATED TO THE PRINCIPAL
BUSINESS OF A CONTRACTEE SHALL BE DETERMINED BY THE APPROPRIATE
INDUSTRY TRIPARTITE COUNCIL WHICH SHALL BE ISSUED THROUGH
REGULATIONS BY THE SECRETARY OF LABOR AND EMPLOYMENT. IN THE
ABSENCE OF A DETERMINATION BY THE APPROPRIATE INDUSTRY COUNCIL,
THE SECRETARY OF LABOR AND EMPLOYMENT SHALL DETERMINE THE
STANDARD CRITERIA AFTER CONSULTATION WITH THE NATIONAL
TRIPARTITE INDUSTRIAL PEACE COUNCIL.

"IN ALL CASES WHERE LABOR-ONLY CONTRACTING IS PRESENT, THE
WORKERS SHALL OUTRIGHT BE DEEMED REGULAR EMPLOYEES OF THE
CONTRACTEE IN ACCORDANCE WITH LAW, RETROACTIVE TO THE DATE
THEY WERE FIRST DEPLOYED TO SAID CONTRACTEE, WITHOUT PREJUDICE
TO ANY CRIMINAL, CIVIL, OR ADMINISTRATIVE CASE AGAINST THE LABOR-
ONLY CONTRACTOR AND THE CONTRACTEE.

"COMPLIANCE ORDERS AFFIRMED BY THE SECRETARY OF LABOR AND
EMPLOYMENT SHALL BE IMMEDIATELY EXECUTORY UNLESS RESTRAINED
BY AN APPROPRIATE COURT.

"IN CASE THE COMPLIANCE ORDER INVOLVES A DIRECTIVE TO
REGULARIZE WORKERS, THE EMPLOYMENT OF THE LATTER SHALL NOT BE
TERMINATED PENDING APPEAL OF SUCH ORDER EXCEPT FOR JUST OR
AUTHORIZED CAUSE. ANY TERMINATION OF WORKERS PENDING APPEAL
SHALL RENDER THE COMPLIANCE ORDER INVOLVING THE REGULARIZATION
OF WORKERS EXECUTORY.

"ADDITIONALLY, THE SECRETARY OF LABOR AND EMPLOYMENT SHALL
IMPOSE A FINE OF UP TO FIVE MILLION PESOS (PHP5,000,000.00) AGAINST
ANY LABOR-ONLY CONTRACTOR. THE SECRETARY OF LABOR AND
EMPLOYMENT SHALL ALSO HAVE THE POWER TO PREVENTIVELY OR
PERMANENTLY CLOSE THE OPERATIONS OF ANY LABOR-ONLY
CONTRACTOR."

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

"ARTICLE 107. LICENSING OF JOB CONTRACTORS. - IT SHALL BE
MANDATORY FOR ALL PERSONS OR ENTITIES ACTING AS JOB CONTRACTOR
TO OBTAIN A LICENSE FROM THE DOLE THROUGH ITS REGIONAL OFFICES.
FOR PURPOSES OF ARTICLES 106-109, "JOB CONTRACTOR" REFERS TO A
SOLE PROPRIETORSHIP, CORPORATION, ASSOCIATION, COOPERATIVE OR
OTHER ORGANIZATION THAT PERFORMS A SPECIFIC WORK, JOB OR
SERVICE TO A CONTRACTEE. "CONTRACTEE" REFERS TO THE PERSON OR
ENTITY, WHICH SHALL INCLUDE THE GOVERNMENT, THAT CONTRACTED OUT
A SPECIFIC WORK, JOB OR SERVICE.

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

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

(B) HAVE A PAID-UP CAPITAL OR NET WORTH OF AT LEAST FIVE
MILLION PESOS (PHP5,000,000.00), WHICH MAY BE INCREASED AS
DEEMED APPROPRIATE THROUGH TRIPARTITE CONSULTATION;

(C) BE AN EXPERT OR SPECIALIST IN THE JOB, WORK OR SERVICE
BEING CONTRACTED THAT SHALL NOT BE DIRECTLY RELATED TO
THE PRINCIPAL BUSINESS OF THE CONTRACTEE. FOR THIS
PURPOSE, EXPERTISE OR SPECIALIZATION SHALL BE
ESTABLISHED BY SHOWING, AMONG OTHERS, A CORE OF
COMPETENT PROFESSIONALS OR SKILLED WORKERS ESPECIALLY
TRAINED TO CARRY OUT THE JOB, WORK OR SERVICE OR TRACK
RECORD IN SUCH FIELD OF SPECIALIZATION;

(D) BE AN EMPLOYER WITH REGULAR EMPLOYEES AND HAVE
EQUIPMENT, MACHINERIES OR TOOLS NECESSARY TO PERFORM
OR COMPLETE THE JOB, WORK OR SERVICE CONTRACTED OUT;

(E) EXERCISE CONTROL OVER THE PERFORMANCE AND COMPLETION
OF THE JOB, WORK OR SERVICE CONTRACTED OUT;"
(F) CERTIFICATION OF COMPLIANCE WITH LABOR AND SOCIAL WELFARE LAWS INCLUDING PROOF OF PAYMENT OF SOCIAL SECURITY, PHILIPPINE HEALTH INSURANCE CORPORATION, AND HOME DEVELOPMENT MUTUAL FUND (PAG-IBIG) CONTRIBUTIONS; AND

(G) PAYMENT OF LICENSE FEE, WHICH SHALL NOT BE LOWER THAN ONE HUNDRED THOUSAND PESOS (PHP100,000.00).

"THE LICENSE SHALL BE VALID FOR A PERIOD OF THREE (3) YEARS AND MAY BE RENEWED UPON COMPLIANCE WITH THE REQUIREMENTS PRESCRIBED BY THE DOLE. IN ALL CASES, THE JOB CONTRACTOR SHALL DEMONSTRATE THAT IT HAS FINANCIAL CAPACITY 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.

"ANY LEGITIMATE LABOR ORGANIZATION SHALL HAVE ACCESS TO COPIES OF LICENSES ISSUED TO JOB CONTRACTORS AND ANY AND ALL SUBMISSIONS MADE IN CONNECTION WITH SUCH LICENSE.

"FOR THIS PURPOSE, THE SECRETARY OF LABOR AND EMPLOYMENT, IN CONSULTATION WITH THE NATIONAL TRIPARTITE INDUSTRIAL PEACE COUNCIL (NTIPC), SHALL ISSUE THE APPROPRIATE REGULATIONS FOR THE LICENSING, RENEWAL, SUSPENSION, AND REVOCATION OF LICENSES OF JOB CONTRACTORS, INCLUDING THE ACCOUNTABILITIES OF THE LICENSING OFFICER IN CASE THE LICENSE IS ISSUED IN VIOLATION OF, OR IN SIMULATION OF ANY OF THE REQUIREMENT FOR LICENSING UNDER PARAGRAPHS (A) TO (G) ABOVE, OR UPON FINDING OF LABOR-ONLY CONTRACTING COMMITTED BY A DURY-LICENSED JOB CONTRACTOR.

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

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

"ARTICLE 107-A. RIGHTS OF EMPLOYEES OF JOB CONTRACTORS. THE TERMS AND CONDITIONS OF EMPLOYMENT OF THE EMPLOYEES OF JOB CONTRACTORS SHALL NOT BE LOWER THAN THE MINIMUM STANDARDS SET BY LAW AND REGULATIONS."

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

"ARTICLE 108. Posting of Bond. – [An employer or indirect employer] THE CONTRACTTEE may require the contractor to furnish a bond equal to the cost of labor under contract, on condition that the bond will answer for the wages due the
employees should the contractor fail to the pay the same."

SECTION 6. A new Article 108-A, Title II, Book III of the Labor Code, as amended, is hereby provided to read as follows:

"ARTICLE 108-A. TRANSITION SUPPORT PROGRAM (TSP) – A transition support program for job contracting shall be established by the DOLE which:

(A) shall provide a three-month financial support for employees in between job periods and is conditioned on undergoing skills training or upgrading under TESDA or TESDA accredited training institution during the period of unemployment, provided that the frequency of availment shall not be more than once a year;

(B) the amount of financial support shall not be lower than the appropriate minimum wage and shall be released at the end of every month; and

(C) shall be managed by the appropriate bureau of the Department of Labor and Employment, which shall report to the national tripartite industrial peace council.

"The funds for the implementation of the program shall be sourced from the following:

(A) one hundred percent (100%) of the registration/renewal fees paid by contractors;

(B) all fines collected under Article 106 of this code; and

(C) funds from the adjustment measure program of the Department of Labor and Employment."

SECTION 7. Article 109, Title II, Book III of the Labor Code, as amended, is hereby amended to read as follows:

"ARTICLE 109. Solidary Liability. – The provisions of existing laws to the contrary notwithstanding, every [employer or indirect employer] CONTRACTEE shall be held [responsible] SOLIDARILY LIABLE with [his] THE JOB contractor [or subcontractor] for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers."

SECTION 8. Article 294 [279], Title I, Book VI of the Labor Code, as amended, is hereby further amended to read as follows:

"ARTICLE 294 [279]. Security of Tenure. – [In case or regular employment, the employer shall not terminate] [I]The services of an employee, IRRESPECTIVE OF
EMPLOYMENT STATUS OR POSITION, SHALL NOT BE TERMINATED 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/HER full backwages, inclusive of allowances, and to his/HER other benefits or their monetary equivalent computed from the time his/HER compensation was withheld from him/HER up to the time of his/HER actual reinstatement.

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

SECTION 9. Article 295 [280] Title I, Book VI of the Labor Code, as amended, is hereby repealed, and in lieu thereof, a new Article 295 is provided to read as follows:

"ARTICLE 295. STATUS OF EMPLOYMENT. — ALL EMPLOYEES, EXCEPT THOSE UNDER PROBATIONARY EMPLOYMENT, ARE DEEMED REGULAR, INCLUDING PROJECT AND SEASONAL EMPLOYEES.

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

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

"FOR THE AVOIDANCE OF DOUBT, AN EMPLOYER-EMPLOYEE RELATIONSHIP EXISTS WHEN THE WORKER IS ENGAGED TO RENDER WORK OR SERVICE UNDER THE CONTROL OF THE EMPLOYER, NOT ONLY AS TO THE END TO BE ACHIEVED, BUT ALSO THE MANNER, MEANS AND METHOD IN REACHING THE END."

SECTION 10. Article 296 [281], Title I, Book VI of the Labor Code, as amended, is hereby amended to read as follows:

"ARTICLE 296 [281]. Probationary Employment. — Probationary employment shall not exceed six (6) months from the [date the employee started working, unless it is covered by an apprenticeship agreement stipulating by a longer period.] FIRST DAY OF SERVICE REGARDLESS OF THE NATURE OF WORK TO BE PERFORMED. THE JOB DESCRIPTION AND QUALIFICATION STANDARDS
TO QUALIFY FOR REGULAR EMPLOYMENT SHALL BE MADE KNOWN BY THE 
EMPLOYER TO THE EMPLOYEE AT THE TIME OF HIS/HER ENGAGEMENT.

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

SECTION 11. Article 297 [282], Title I, Book VI of the Labor Code, as amended, is 
hereby amended to read as follows:

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

(a) Serious misconduct or willful disobedience by the employee of the lawful 
orders of his/HER employer or representative in connection with his/HER 
work;
(b) Gross and habitual neglect by the employee of his/HER duties;
(c) Fraud or willful breach by the employee of the trust reposed in him/HER by 
his/HER employer or duly authorized representative;
(d) Commission of a crime or offense by the employee against the person of 
his/HER employer or any immediate member of his/HER family or his/HER 
duly authorized representatives; and
(e) [Other causes] ACT OR OMISSION analogous to the foregoing, 
EXRESSLY SPECIFIED AS GROUND FOR DISMISSAL IN THE 
COMPANY RULES AND REGULATIONS FORMULATED IN 
OBSERVANCE OF WORKERS RIGHT TO PARTICIPATE IN POLICY 
AND DECISION-MAKING PROCESSES AFFECTING THEIR RIGHTS 
AND BENEFITS, OR AS PROVIDED IN THE DULY REGISTERED 
COLLECTIVE BARGAINING AGREEMENT."

SECTION 12. A new Article 298-A, Title I, Book VI of the Labor Code, as amended, 
is hereby provided to read as follows:

"ARTICLE 298-A. PROOF OF AUTHORIZED CAUSE AND PAYMENT OF 
SEPARATION PAY. – WITHIN THE PRESCRIBED ONE (1) MONTH PERIOD 
REQUIRED UNDER ARTICLE 298, THE EMPLOYER SHALL SUBMIT TO THE 
DOLE FOR VALIDATION PROOF AND UNDERTAKING ON THE EXISTENCE OF 
THE AUTHORIZED CAUSE IN ACCORDANCE WITH THE RULES AND 
REGULATIONS AS MAY BE SET BY THE SECRETARY OF LABOR AND 
EMPLOYMENT.
SECTION 13. Implementing Rules and Regulations. - The Secretary of Labor and Employment shall promulgate the necessary implementing rules and regulations within one hundred and twenty (120) days from the effectivity of this Act.

SECTION 14. Separability Clause. – If any provision of this law or the application thereof to any person or circumstance, is held invalid, the remainder of this law, or the application of such provision or part to other persons of circumstances, shall not be affected thereby.

SECTION 15. Repealing Clause. – All laws, decrees, rules, and regulations or parts thereof, which are contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 16. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,