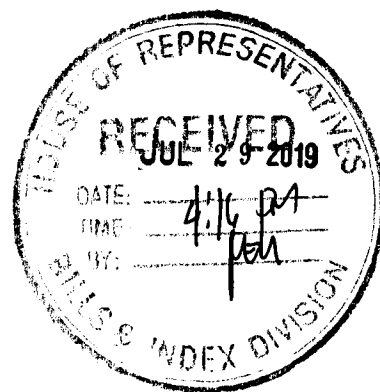




Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



EIGHTEENTH (18th) CONGRESS
First Regular Session

HOUSE BILL NO. 3032

Introduced by REP. JOSE CHRISTOPHER Y. BELMONTE

EXPLANATORY NOTE

In the 17th Congress, several measures were filed to amend Presidential Decree No. 442 or the Labor Code of the Philippines to end contractualization in the country. House Bill No. 6908 substituted at least 26 bills filed in the House of Representatives – House Bills Numbered 55, 76, 170, 341, 556, 563, 709, 712, 895, 916, 1045, 1351, 1563, 1837, 1857, 1910, 2389, 3556, 3769, 3802, 4443, 4444, 5130, 5264, and 5899. This bill was approved on third and final reading by both chambers of Congress.

Despite the approval by both Houses of the Security of Tenure Bill, the President has vetoed the bill and has sent it back to the Congress. This bill acknowledges the need to pass a Security of Tenure Bill and to strengthen provisions provided in the Constitution.

Section 18, Article II of the 1987 Constitution provides for the State's duty to protect the rights of workers and promote their welfare, in lieu of the recognition that labor is the country's primary socioeconomic force. Section 3, Article XIII further provides that workers shall be entitled to security of tenure, humane conditions of work, and a living wage. The same section also specifies that:

"The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth."

The right of Filipino laborers to security of tenure is enshrined in our Constitution. But contractualization or "endo" still persists in various industries in the country. In spirit of competition and profit gains, employers have taken advantage of the gray areas in the laws and continuously circumvented the workers' right to security of tenure.

This bill aims to correct loopholes in the law and ensure that we put an end to all forms

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Republic of the Philippines
HOUSE OF REPRESENTATIVES
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EIGHTEENTH (18th) CONGRESS
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HOUSE BILL NO. _____

Introduced by REP. JOSE CHRISTOPHER Y. BELMONTE

AN ACT

STRENGTHENING THE SECURITY OF TENURE OF WORKERS IN THE PRIVATE SECTOR, AMENDING FOR THE PURPOSE ARTICLES 248, 279, 280, 281 AND 288, AND INTRODUCING NEW ARTICLES 106-A, 106-B, 106-C, 106-D, 106-E, 280-A AND 280-B TO PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

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

1 **SECTION 1.** – Article 106 of the Labor Code is hereby repealed and substituted as follows:
2

3 **“[ART. 106. Contractor of Subcontractor** – Whenever an employer enters into a
4 contract with another person for the performance of the former’s work, the employees of
5 the contractor and of the latter’s subcontractor, if any, shall be paid in accordance with
6 the provisions of this Code.
7

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

1 “The Secretary of Labor and Employment may, by appropriate regulations, restrict or
2 prohibit the contracting out of labor to protect the rights of workers established under this
3 Code. In so prohibiting or restricting, he may make appropriate distinctions between
4 labor-only contracting and job contracting as well as differentiations within these types of
5 contracting and determine who among the parties involved shall be considered the
6 employer for purposes of this Code, to prevent any violation or circumvention of any
7 provision of this Code.

8
9 “There is a ‘labor-only’ only contracting where the persons supplying workers to an
10 employer does not have substantial capital or investment in the form of tools, equipment,
11 machineries, work premises, among others, and the workers recruited and placed by such
12 persons and performing activities which are directly related to the principal business of
13 such employer. In such cases, the persons or intermediary shall be considered merely as
14 an agent of the employer who shall be responsible to the workers in the same manner and
15 extent as if the latter were directly employed by him.]

16
17 **“ART. 106. CONCEPT AND NATURE OF SUBCONTRACTING**
18 **ARRANGEMENTS. – IN LEGITIMATE SUBCONTRACTING, THERE EXISTS**
19 **A TRILATERAL RELATIONSHIP UNDER WHICH THERE IS A CONTRACT**
20 **FOR A SPECIFIC JOB, WORK OR SERVICE BETWEEN THE PRINCIPAL**
21 **AND THE SUBCONTRACTOR, AND A CONTRACT OF EMPLOYMENT**
22 **BETWEEN THE SUBCONTRACTOR AND ITS WORKERS. HENCE, THERE**
23 **ARE THREE PARTIES INVOLVED IN THESE ARRANGEMENTS: THE**
24 **PRINCIPAL WHICH DECIDES TO FARM OUT A JOB OR SERVICE TO A**
25 **SUBCONTRACTOR WHICH HAS THE CAPACITY TO INDEPENDENTLY**
26 **UNDERTAKE AND ACTUALLY UNDERTAKES THE PERFORMANCE OF**
27 **THE JOB, WORK OR SERVICE, AND THE CONTRACTUAL WORKERS**
28 **ENGAGED BY THE SUBCONTRACTOR TO ACCOMPLISH THE JOB, WORK**
29 **OR SERVICE.**

30
31 **“FOR PURPOSES OF THIS CODE, ‘SUBCONTRACTING’ REFERS TO AN**
32 **ARRANGEMENT WHEREBY:**

33
34 **(A) A PRINCIPAL AGREES TO PUT OUT OR FARM OUT WITH A**
35 **SUBCONTRACTOR THE PERFORMANCE OR COMPLETION OF A**
36 **SPECIFIC JOB, WORK OR SERVICE WITHIN A DEFINITE OR**
37 **PREDETERMINED PERIOD; REGARDLESS OF WHETHER SUCH JOB,**
38 **WORK OR SERVICE IS TO BE PERFORMED OR COMPLETED WITHIN**
39 **OR OUTSIDE THE PREMISES OF THE PRINCIPAL; OR**

1 (B) A PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION WHICH
2 NOT BEING A PRINCIPAL, CONTRACTS WITH A SUBCONTRACTOR
3 FOR THE PERFORMANCE OF ANY WORK, TASK, JOB OR PROJECT.”
4

5 SEC.2. – A new Article 106-A is hereby inserted in the Labor Code to read as follows:
6

7 “ART. 106 – A. RIGHTS AND LIABILITIES OF PARTIES. – (A.) THE
8 SUBCONTRACTED EMPLOYEE. IN ALL CASES, SUBCONTRACTED
9 EMPLOYEES SHALL BE ENTITLED TO ALL RIGHTS AND PRIVILEGES
10 DUE TO REGULAR EMPLOYEES INCLUDING THE FOLLOWING:
11

- 12 1. SAFE AND HEALTHFUL WORKING CONDITIONS;
- 13 2. LABOR STANDARDS SUCH AS SERVICE INCENTIVE LEAVES, REST
14 DAYS, OVERTIME PAY, HOLIDAY PAY, THIRTEENTH MONTH PAY
15 AND SEPARATION PAY;
- 16 3. RETIREMENT BENEFITS;
- 17 4. SOCIAL SECURITY AND WELFARE BENEFITS;
- 18 5. SELF-ORGANIZATION, COLLECTIVE BARGAINING AND
19 6. SECURITY OF TENURE.
20

21 “IN ADDITION, SUBCONTRACTED EMPLOYEES SHALL HAVE THE RIGHT
22 TO A WRITTEN CONTRACT WHICH SHALL INCLUDE THE FOLLOWING
23 TERMS AND CONDITION:
24

- 25 1. THE SPECIFIC DESCRIPTION OF THE JOB, WORK, OR SERVICE TO BE
26 PERFORMED BY THE CONTRACTUAL EMPLOYEE;
- 27 2. THE PLACE OF WORK AND TERMS AND CONDITIONS OF
28 EMPLOYMENT, INCLUDING A STATEMENT OF THE WAGE RATE
29 APPLICABLE TO THE INDIVIDUAL CONTRACTUAL EMPLOYEE;
- 30 3. THE TERM OR DURATION OF EMPLOYMENT WHICH SHALL BE CO-
31 EXTENSIVE WITH THE CONTRACT OF THE PRINCIPAL AND
32 SUBCONTRACTOR OR WITH THE SPECIFIC PHASE FOR WHICH THE
33 CONTRACTUAL EMPLOYEE IS ENGAGED, AS THE CASE MAY BE.
34

35 “THE SUBCONTRACTED EMPLOYEE SHALL BE INFORMED BY THE
36 SUBCONTRACTOR OF THE FOREGOING TERMS AND CONDITIONS ON
37 OR BEFORE THE FIRST DAY OF HIS EMPLOYMENT.
38

39 “(B.) THE PRINCIPAL AND THE SUBCONTRACTOR. THE LEGITIMATE
40 SUBCONTRACTOR SHALL BE CONSIDERED THE EMPLOYER OF THE

1 **CONTRACTUAL EMPLOYEE FOR PURPOSES OF ENFORCING THE**
2 **PROVISIONS OF THE LABOR CODE AND OTHER SOCIAL LEGISLATION.**
3 **IN ALL CASES OF SUBCONTRACTING, HOWEVER, THE PRINCIPAL**
4 **SHALL BE SOLIDARILY LIABLE WITH THE CONTRACTOR IN THE EVENT**
5 **OF ANY VIOLATION OF ANY PROVISION OF THE LABOR CODE,**
6 **INCLUDING THE FAILURE TO PAY WAGES.**

7
8 **“THE PRINCIPAL SHALL BE DEEMED THE EMPLOYER OF THE**
9 **CONTRACTUAL EMPLOYEE IN ANY OF THE FOLLOWING CASES:**

- 10
11 **I. WHERE THERE IS LABOR-ONLY CONTRACTING; OR**
12 **II. IN THE ABSENCE OF THE WRITTEN CONTRACT REQUIRED BY**
13 **ARTICLE 106-A; OR**
14 **III. IN CASES OF VIOLATION OF ARTICLE 106 – B.**

15
16 **“IN ADDITION, THE PRINCIPAL SHALL BE SOLIDARILY LIABLE WITH**
17 **THE SUBCONTRACTOR IN CASE THE CONTRACT BETWEEN THE**
18 **PRINCIPAL AND SUBCONTRACTOR IS PRE-TERMINATED FOR REASONS**
19 **NOT ATTRIBUTABLE TO THE FAULT OF THE SUBCONTRACTOR.”**

20
21 **SEC.3. – A new Article 106-B is hereby inserted in the Labor Code to read as follows:**

22
23 **“ART. 106-B. PROHIBITION AGAINST LABOR-ONLY SUBCONTRACTING. –**
24 **ENGAGING IN LABOR-ONLY CONTRACTING OR CONTRACTING WITH A**
25 **LABOR-ONLY CONTRACTOR IS STRICTLY PROHIBITED. FOR THIS**
26 **PURPOSES, LABOR-ONLY CONTRACTING REFERS TO AN**
27 **ARRANGEMENTS WHERE THE SUBCONTRACTOR MERELY RECRUITS,**
28 **SUPPLIES OR PLACES WORKERS TO PERFORM A JOB, WORK OR**
29 **SERVICE FOR A PRINCIPAL, INCLUDING INSTANCES WHERE ANY OF**
30 **THE FOLLOWING IS PRESENT:**

- 31
32 **(A) THE SUBCONTRACTOR DOES NOT HAVE SUBSTANTIAL CAPITAL**
33 **AND INVESTMENT WHICH RELATES TO THE JOB, WORK OR**
34 **SERVICE TO BE PERFORMED.**
35 **(B) THE EMPLOYEES RECRUITED, SUPPLIED OR PLACED BY SUCH**
36 **SUBCONTRACTOR ARE PERFORMING ACTIVITIES WHICH ARE**
37 **DIRECTLY RELATED TO THE USUAL BUSINESS OF THE PRINCIPAL;**
38 **OR**
39 **(C) THE PRINCIPAL HAS THE RIGHT TO CONTROL, WHETHER**
40 **EXERCISED OR NOT, NOT ONLY THE END TO BE ACHIEVED, BUT**

1 **ALSO THE MANNER AND MEANS TO BE USED IN REACHING THAT**
2 **END.**

3
4 **“AS USED IN THIS CODE, ‘SUBSTANTIAL CAPITAL AND INVESTMENT’ IN**
5 **SUBCONTRACTING ARRANGEMENTS REFERS TO TOOLS, EQUIPMENTS,**
6 **IMPLEMENTS, MACHINERIES AND WORK PREMISES ACTUALLY AND**
7 **DIRECTLY USED BY THE SUBCONTRACTOR IN THE PERFORMANCE OR**
8 **COMPLETION OF THE JOB, WORK OR SERVICE CONTRACTED OUT. THE**
9 **USE OF THE SUBCONTRACTOR OF THE EQUIPMENT, FACILITIES,**
10 **MACHINERIES AND TOOLS OF THE PRINCIPAL IS AN INDICATION THAT**
11 **THE SUBCONTRACTOR HAS NO SUBSTANTIAL CAPITAL AND**
12 **INVESTMENT. THE EXISTENCE OF CAPITAL STOCKS AND SUBSCRIBED**
13 **CAPITALIZATION IN RELATION TO CORPORATIONS ENGAGED IN**
14 **SUBCONTRACTING DOES NOT ITSELF CONSTITUTION SUBSTANTIAL**
15 **CAPITAL AND INVESTMENT.**

16
17 **“AS USED IN THIS CODE, THE ‘RIGHT TO CONTROL’ IN**
18 **SUBCONTRACTING ARRANGEMENTS SHALL REFER TO THE RIGHT**
19 **RESERVED TO THE PERSON WHOM THE SERVICES OF THE**
20 **CONTRACTUAL WORKERS ARE PERFORMED TO DETERMINE NOT**
21 **ONLY THE END TO BE ACHIEVED BUT ALSO THE MANNER AND MEANS**
22 **TO BE USED IN REACHING THAT END.”**

23
24 **SEC. 4. – A new Article 106-C is hereby inserted in the Labor Code to read as follows:**
25

26 **“ART. 106-C. PROHIBITIONS IN SUBCONTRACTING ARRANGEMENTS. –**
27 **REGARDLESS OF COMPLIANCE WITH THE IMMEDIATELY PRECEDING**
28 **ARTICLE , THE FOLLOWING ACTS SHALL BE PROHIBITED FOR BEING**
29 **CONTRARY TO LAW OR PUBLIC POLICY:**
30

- 31 **(A) ENGAGING OR MAINTANING BY THE PRINCIPAL OF**
32 **SUBCONTRACTED EMPLOYEES IN EXCESS OF TWENTY PERCENT**
33 **(20%) OF THE PRINCIPAL’S TOTAL WORKFORCE PROVIDED THAT**
34 **SUCH SUBCONTRACTED EMPLOYEES DO NOT PERFORM WORK**
35 **THAT IS NECESSARY OR DESIRABLE OR DIRECTLY RELATED TO**
36 **THE USUAL BUSINESS OR TRADE OR BUSINESS OF THE EMPLOYER.**
37
38 **(B) CONTRACTING OUT OF A JOB, WORK OR SERVICE WHEN THE**
39 **SAME RESULTS IN THE TERMINATION OF REGULAR EMPLOYEES**

1 **AND REDUCTION OF WORK HOURS OR REDUCTION OR SPLITTING**
2 **OF THE BARGAINING UNIT;**

3
4 **(C) CONTRACTING OUT OF WORK WITH A 'CABO'. FOR THIS PURPOSE**
5 **'CABO' REFERS TO A PERSON OR GROUP OF PERSONS OR TO A**
6 **LABOR GROUP WHICH, IN THE GUISE OF A LABOR ORGANIZATION**
7 **OR COOPERATIVE, SUPPLIES WORKERS TO AN EMPLOYER WITH**
8 **OR WITHOUT ANY MONETARY OR OTHER CONSIDERATION,**
9 **WHETHER IN THE CAPACITY OF AN AGENT OF THE EMPLOYER, OR**
10 **AS AN OSTENSIBLE INDEPENDENT CONTRACTOR.**

11
12 **(D) TAKING UNDUE ADVANTAGE OF THE ECONOMIC SITUATION OR**
13 **LACK OF BARGAINING STRENGTH OF THE CONTRACTUAL**
14 **EMPLOYEE, OR UNDERMINING HIS SECURITY OF TENURE OR**
15 **BASIC RIGHTS, OR CIRCUMVENTING THE PROVISIONS OF**
16 **REGULAR EMPLOYMENT, IN ANY OF THE FOLLOWING INSTANCES:**

17
18 **I. IN ADDITION TO HIS ASSIGNED FUNCTIONS, REQUIRING**
19 **THE CONTRACTUAL EMPLOYEE TO PERFORM FUNCTIONS**
20 **WHICH ARE CURRENTLY BEING PERFORMED BY THE**
21 **REGULAR EMPLOYEES OF THE PRINCIPAL OR OF THE**
22 **SUBCONTRACTOR;**

23
24 **II. REQUIRING HIM TO SIGN, AS A PRECONDITION TO**
25 **EMPLOYMENT OR CONTINUED EMPLOYMENT, AN**
26 **ANTEDATED RESIGNATION LETTER, A BLANK PAYROLL, A**
27 **WAIVER OF LABOR STANDARDS INCLUDING MINIMUM**
28 **WAGES AND SOCIAL WELFARE BENEFITS, OR A QUITCLAIM**
29 **RELEASING THE PRINCIPAL OR SUBCONTRACTOR FROM**
30 **ANY LIABILITY AS TO THE PAYMENT OF FUTURE CLAIMS;**
31 **AND**

32
33 **III. REQUIRING HIM TO SIGN A CONTRACT FIXING THE PERIOD**
34 **OF EMPLOYMENT TO A TERM SHORTER THAN THE TERM**
35 **OF THE CONTRACT BETWEEN THE PRINCIPAL AND THE**
36 **CONTRACTOR, UNLESS THE LATTER CONTRACT IS**
37 **DIVISIBLE INTO PHASES FOR WHICH SUBSTANTIALLY**
38 **DIFFERENT SKILLS ARE REQUIRED AND THIS IS MADE**
39 **KNOWN TO THE EMPLOYEE AT THE TIME OF**
40 **ENGAGEMENT.**

- 1
2 (E) CONTRACTING OUT OF A JOB, WORK OR SERVICE THROUGH
3 ANIN-HOUSE AGENCY WHICH REFERS TO A:
4 I SUBCONTRACTOR ENGAGED IN THE SUPPLY OF LABOR
5 WHICH IS OWNED, MANAGED AND CONTROLLED BY THE
6 PRINCIPAL; OR
7
8 II. SUBCONTRACTOR IN WHICH THE PRINCIPAL OWNS OR
9 OTHERWISE REPRESENTS ANY SHARE OF STOCK; OR
10
11 III. SUBCONTRACTOR WHICH OPERATES SOLELY FOR THE
12 PRINCIPAL.
13
14 (F) CONTRACTING OUT OF A JOB, WORK OR SERVICE THAT IS
15 NECESSARY AND DESIRABLE OR DIRECTLY RELATED TO THE
16 BUSINESS OR OPERATION OF THE PRINCIPAL;
17
18 (G) CONTRACTING OUT OF A JOB, WORK OR SERVICE BEING
19 PERFORMED BY OR PREVIOUSLY PERFORMED BY REGULAR
20 EMPLOYEES AND/OR MEMBERS OF THE BARGAINING UNIT.”
21
22
23
24
25

26 SEC. 5. – A new 106-D is hereby inserted in the Labor Code to read as follows:
27

28 “ART. 106 – D. REGISTRATION OF SUBCONTRACTOR. – (A.) MANDATORY
29 REGISTRATION. IT SHALL BE MANDATORY FOR ALL PERSONS OR
30 ENTITIES ACTING AS SUBCONTRACTORS TO REGISTER UNDER A
31 REGISTRATION HEREBY ESTABLISHED TO GOVERN CONTRACTING
32 ARRANGEMENTS AND TO BE IMPLEMENTED BY THE REGIONAL
33 OFFICES OF THE DEPARTMENT OF LABOR AND EMPLOYMENT.
34

35 “NON-REGISTERED PERSONS OR ENTITIES ACTING AS
36 SUBCONTRACTORS SHALL BE DEEMED AS LABOR-ONLY
37 CONTRACTORS. MERE REGISTRATION WITHOUT A SHOWING OF
38 COMPLIANCE WITH ALL REQUIREMENTS FOR LEGITIMATE
39 SUBCONTRACTING AND AVOIDANCE OF ALL PROHIBITIONS OF

1 SUBCONTRACTING SHALL NOT INDICATE LEGITIMATE
2 SUBCONTRACTING.

3
4 **“(B.) REQUIREMENTS FOR REGISTRATION. A SUBCONTRACTOR MAY BE**
5 **LISTED IN THE REGISTRY OF SUBCONTRACTORS UPON COMPLETION**
6 **AND SUBMISSION OF AN APPLICATION FORM PROVIDED BY THE**
7 **DEPARTMENT. IN THE APPLICATION FORM, THE APPLICANT**
8 **SUBCONTRACTOR SHALL PROVIDE THE FOLLOWING INFORMATION:**

- 9
10 **I. THE NAME AND BUSINESS ADDRESS OF THE APPLICANT AND THE**
11 **AREA OR AREAS WHERE IT SEEKS TO OPERATE;**
12
13 **II. THE NAMES AND ADDRESSES OF OFFICERS, IF THE APPLICANT IS**
14 **A CORPORATION PARTNERSHIP, COOPERATIVE OR UNION;**
15
16 **III. THE NATURE OF THE APPLICANT’S BUSINESS AND THE INDUSTRY**
17 **OR INDUSTRIES WHERE THE APPLICANT SEEKS TO OPERATE;**
18
19 **IV. THE NUMBER OF REGULAR WORKERS, THE LIST OF CLIENTS, IF**
20 **ANY, THE NUMBER OF PERSONNEL ASSIGNED TO EACH CLIENT,**
21 **IF ANY, AND THE SERVICES PROVIDED TO THE CLIENT;**
22
23 **V. THE DESCRIPTION OF THE PHASES OF THE CONTRACT AND THE**
24 **NUMBER O EMPLOYEES COVERED IN EACH PHASE, WHERE**
25 **APPROPRIATE; AND**
26
27 **VI. A COPY OF AUDITED FINANCIAL STATEMENTS IF THE**
28 **APPLICANT IS A CORPORATION, PARTNERSHIP, COOPERATIVE**
29 **OR A UNION, OR A COPY OF THE LATEST INCOME TAX RETURN IF**
30 **THE APPLICANT IS A SOLE PROPRIETORSHIP.**

31
32 **“THE APPLICATION SHALL BE SUPPORTED BY THE FOLLOWING:**

- 33
34 **I. A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF**
35 **FIRM OR BUSINESS NAME FROM THE SECURITIES AND**
36 **EXCHANGE COMMISSION (SEC), DEPARTMENT OF TRADE AND**
37 **INDUSTRY (DTI), COOPERATIVE DEVELOPMENT AUTHORITY**
38 **(CDA), OR FROM THE DOLE IF THE APPLICANT IS A UNION; AND**
39

1 **II. A CERTIFIED COPY OF THE LICENSE OR BUSINESS PERMIT**
2 **ISSUED BY THE LOCAL GOVERNMENT UNIT OR UNITS WHERE**
3 **THE SUBCONTRACTOR OPERATES.**
4

5 **“THE APPLICATION SHALL BE VERIFIED AND SHALL INCLUDE AN**
6 **UNDERTAKING THAT THE SUBCONTRACTORS SHALL ABIDE BY ALL**
7 **APPLICABLE LABOR LAWS AND REGULATIONS.**
8

9 **“(C.) FILING AND PROCESSING OF APPLICATIONS. THE APPLICATION**
10 **AND ITS SUPPORTING DOCUMENTS SHALL BE FILED IN TRIPLICATE IN**
11 **THE REGIONAL OFFICES WHERE THE APPLICANT PRINCIPALLY**
12 **OPERATES. NO APPLICATION FOR REGISTRATION SHALL BE**
13 **ACCEPTED UNLESS ALL THE FOREGOING REQUIREMENTS ARE**
14 **COMPLIED WITH. THE SUBCONTRACTOR SHALL BE DEEMED**
15 **REGISTERED UPON PAYMENT OF A REGISTRATION FEE TO BE**
16 **DETERMINED BY THE REGIONAL OFFICE.**
17

18 **“WHERE ALL THE SUPPORTING DOCUMENTS HAVE BEEN SUBMITTED,**
19 **THE REGIONAL OFFICE MAY DENY OR APPROVE THE APPLICATION**
20 **WITHIN SEVEN (7) WORKING DAYS AFTER ITS FILING.**
21

22 **“UPON REGISTRATION, THE REGIONAL OFFICE SHALL RETURN ONE**
23 **SET OF THE DULY-STAMPED APPLICATION DOCUMENTS TO THE**
24 **APPLICANT, RETAIN ONE SET FOR ITS FILE, AND TRANSMIT THE**
25 **REMAINING SET TO THE BUREAU OF LOCAL EMPLOYMENT. THE**
26 **BUREAU SHALL DEVICE THE NECESSARY FORMS FOR THE**
27 **EXPEDITIOUS PROCESSING OF ALL APPLICATIONS FOR REGISTRATION.**
28

29 **“(D.) ANNUAL REPORTING OF REGISTERED CONTRACTORS. THE**
30 **SUBCONTRACTOR SHALL SUBMIT IN TRIPLICATED COPIES AN ANNUAL**
31 **REPORT USING A PRESCRIBED FORM TO THE APPROPRIATE REGIONAL**
32 **OFFICE NOT LATER THAN THE FIFTEENTH OF JANUARY OF THE**
33 **FOLLOWING YEAR. THE REPORT SHALL INCLUDE THE FOLLOWING**
34 **DOCUMENTS:**
35

36 **I. A LIST OF CONTRACTS ENTERED WITH THE PRINCIPAL DURING**
37 **THE SUBJECT REPORTING PERIOD;**
38

39 **II. THE NUMBER OF WORKERS COVERED BY EACH CONTRACT**
40 **WITH THE PRINCIPAL;**

1
2 **III. A SWORN STATEMENT SIGNED BY THE HIGHEST EXECUTIVE**
3 **OFFICER AND THE CHIEF FINANCIAL OFFICER THAT THE**
4 **SUBCONTRACTOR HAS REMITTED ALL KINDS OF PAYMENTS AND**
5 **PREMIUMS TO THE SOCIAL SECURITY SYSTEM (SSS), THE HOME**
6 **DEVELOPMENT MUTUAL FUND (HDMF), PHILHEALTH,**
7 **EMPLOYEES COMPENDATION COMMISSION (ECC), AND THE**
8 **BUREAU OF INTERNAL REVENUE (BIR) FOR ALL CONTRACTUAL**
9 **EMPLOYEES PERTAINING TO THE REPORTIN PERIOD.**
10

11 **“THE REGIONAL OFFICE SHALL RETURN ONE SET OF THE DULY-**
12 **STAMPED REPORT TO THE SUBCONTRACTOR, RETAIN ONE SET FOR ITS**
13 **FILE, AND TRANSMIT THE REMAINING SET TO THE BUREAU OF LOCAL**
14 **EMPLOYMENT WITHIN FIVE (5) DAYS FROM RECEIPT THEREOF.**
15

16 **“(E.) DELISTING OF CONTRACTORS OR SUBCONTRACTORS. THE**
17 **REGIONAL DIRECTOR SHALL CANCEL THE REGISTRATION OF**
18 **SUBCONTRACTORS BASED ON ANY OF THE FOLLOWING GROUNDS:**
19

20 **I. NON-SUBMISSION OF CONTRACTS BETWEEN THE PRINCIPAL AND**
21 **THE SUBCONTRACTORS WHEN REQUIRED TO DO SO;**
22

23 **II. NON-SUBMISSION OF THE ANNUAL REPORT INCLUDING THE**
24 **DOCUMENTS LISTED UNDER ARTICLE 106 (D);**
25

26 **III. ENGAGEMENT IN LABOR-ONLY CONTRACTING;**
27

28 **IV. VIOLATION OF THE PROHIBITED ACTIVITIES PROVIDED BY THIS**
29 **CODE;**
30

31 **V. NON-COMPLIANCE WITH LABOR STANDARDS AND WORKING**
32 **CONDITIONS.**
33

34 **“(F.) RENEWAL OF REGISTRATION OF SUBCONTRACTORS. ALL**
35 **REGISTERED SUBCONTRACTORS MAY APPLY FOR RENEWAL OF**
36 **REGISTRATION EVERY TWO (2) YEARS. FOR THIS PURPOSE, THE**
37 **TRIPARTITE INDUSTRIAL PEACE COUNCIL (TIPC) AS CREATED UNDER**
38 **EXECUTIVE ORDER NO. 49, SHALL SERVE AS THE OVERSIGHT**
39 **COMMITTEE TO VERIFY AND MONITOR THE FOLLOWING:**
40

1 **I. ENGAGING IN ALLOWABLE CONTRACTING ACTIVITIES; AND**

2
3 **II. COMPLIANCE WITH ADMINISTRATIVE REPORTING**
4 **REQUIREMENTS;**
5

6 **SEC.6. – A new Article 106-E is hereby inserted in the Labor Code to read as follows:**
7

8 **“ART. 106-E. DUTY TO PRODUCE COPY OF CONTRACT. – THE PRINCIPAL**
9 **OR SUBCONTRACTOR SHALL PRODUCE A COPY OF THE CONTRACT**
10 **BETWEEN THE PRINCIPAL AND THE CONTRACTOR IN THE COURSE OF**
11 **INSPECTION. THE SUBCONTRACTOR SHALL ALSO PRODUCE A COPY OF**
12 **THE CONTRACT OF EMPLOYMENT OF SUBCONTRACTED WORKERS**
13 **WHEN DIRECTED TO DO SO BY THE REGIONAL DIRECTOR OR HIS**
14 **AUTHORIZED REPRESENTATIVE.**

15
16 **“A COPY OF THE CONTRACT BETWEEN THE SUBCONTRACTED**
17 **EMPLOYEE AND THE SUBCONTRACTOR SHALL BE FURNISHED TO THE**
18 **CERTIFIED BARGAINING AGENT, IF THERE IS ANY.**
19

20 **SEC. 7. – Article 248 of the Labor Code is hereby amended to read as follows:**
21

22 **“ART. 248. Unfair Labor Practices of Employers. – It shall be unlawful for an**
23 **employer to commit any of the following unfair labor practices:**

- 24
25 (a) To interfere with, restrain or coerce employees in the exercises of their right to self-
26 organization;
27
28 (b) To require as a condition of employment that a person or an employee shall not join a
29 labor organization or shall withdraw from one to which he belongs;
30
31 (c) To **ENGAGE A LABOR-ONLY CONTRACTOR OR TO** contract out services,
32 function being performed by [union] **MEMBERS OF, OR POSITION COVERED**
33 **BY, THE BARGAINING UNIT AND/OR REGULAR RANK-AND-FILE AND**
34 **SUPERVISORY EMPLOYEES** [when such will interfere with, restrain or coerce
35 employees in the exercise of their rights to self-organization]:
36
37 (d) To initiate, dominate, assist or otherwise interfere with the formation or
38 administration of any labor organization, including the giving of financial or other
39 support to it or its organizers or supporters;
40

1 (e) To discriminate in regard to wages, hours of work and other terms and conditions of
2 employment in order to encourage or discourage membership in any labor
3 organization. Nothing in this Code or in any other law shall stop the parties from
4 requiring membership in a recognized collective bargaining agent as a condition of
5 employment, except those employees who are already members of another union at
6 the time of the signing of the collective bargaining agreement.

7
8 Employees of an appropriate bargaining unit who are not members of the recognized
9 collective bargaining agent may be assessed a reasonable fee equivalent to the dues
10 and other fees paid by members of the recognized collective bargaining agent, if such
11 non-union members accept the benefits under the collective bargaining agreement:
12 *Provided, That* the individual authorization required under Article 242, paragraph (0)
13 of this Code shall not apply to the non-members of the recognized collective
14 bargaining agent;

15
16 (f) To dismiss, discharge or otherwise prejudice or discriminate against an employee for
17 having given or being about to give testimony under this Code;

18
19 (g) To violate the duty to bargain collectively as prescribed by this Code;

20
21 (h) To pay negotiation or attorney's fees to the union or its officers or agents as part of
22 the settlement of any issue in collective bargaining or any other dispute; [or]

23
24 (i) To violate a collective bargaining agreement [...]; **OR**

25
26 **(j) TO DENY THE EXISTENCE OF EMPLOYER-EMPLOYEE**
27 **RELATIONSHIP AND/OR TO CLASSIFY AS CASUAL, CONTRACTUAL,**
28 **SUBCONTRACTED EMPLOYEES, AGENCY EMPLOYEES, OR OTHER**
29 **NON-REGULAR CLASSIFICATION THOSE EMPLOYEES WHO ARE**
30 **REGULAR EMPLOYEES BY VIRTUE OF ARTICLE 280 OF THIS CODE.**

31
32 "The provisions of the preceding paragraph notwithstanding, only the officer and agents
33 of corporation, associations or partnership who have actually participated in, authorized
34 or ratified unfair labor practices shall be held criminally liable."

35
36 **SEC. 8. – Article 279 of the Labor Code is hereby amended to read as follows:**

37
38 "ART. 279. Security of Tenure. – [In cases of regular employment, the employer shall not
39 terminate the services of an employee] **ALL EMPLOYERS SHALL ENJOY SECURITY**
40 **OF TENURE AND SHALL NOT BE TERMINATED** except for a just cause or when

1 authorized by this Title. **ALSO, THE RIGHT TO NOTICE IN EMPLOYMENT**
2 **RELATIONS REQUIRES ANY EMPLOYER WHO SEEK TO DISMISS A WORKER**
3 **TO FURNISH HIM A WRITTEN NOTICE STATING THE PARTICULAR ACTS**
4 **OR OMISSIONS CONSTITUTING THE GROUNDS FOR HIS DISMISSAL. IN**
5 **CASES OF ABANDONMENT OF WORK, THE WRITTEN NOTICE SHALL BE**
6 **SERVED AT THE WORKERS' LAST KNOWN ADDRESS. DUE PROCESS**
7 **ENTITLES THE WORKER AN OPPORTUNITY TO ANSWER THE**
8 **ALLEGATIONS STATED AGAINST HIM IN THE NOTICE OF DISMISSAL**
9 **WITHIN A PERIOD OF FIVE (5) CALENDAR DAYS FROM RECEIPT OF SUCH**
10 **NOTICE AND WITH THE ASSISTANCE OF A REPRESENTATIVE IF HE SO**
11 **DESIRES. THE RIGHT TO NOTICE REQUIRES THE EMPLOYER TO AFFORD**
12 **THE WORKER AMPLE OPPORTUNITY TO BE HEARD AND TO BE HEARD**
13 **AND TO DEFEND HIMSELF WITH THE ASSISTANCE OF HIS**
14 **REPRESENTATIVE IF HE SO DESIRES.**

15
16 “An employee who is [unjustly] dismissed from work **IN VIOLATION OF ANY OF HIS**
17 **RIGHTS UNDER THIS ARTICLE, INCLUDING THE RIGHT TO NOTICE AS**
18 **ELABORATED IN THE PRECEDING PARAGRAPH** shall be entitled to
19 **IMMEDIATE** reinstatement without loss of seniority rights and other privileges and to his
20 full back wages, inclusive of allowances, and to his other benefits or their monetary
21 equivalent computed from the time his compensation was withheld from him up to time of
22 his actual reinstatement.”

23
24 **SEC. 9.** – Article 280 of the Labor Code is hereby amended to read as follows:

25
26 “**ART. 280. Regular and Casual Employment.** – The provisions of written agreement to the
27 contrary notwithstanding and regardless of the agreement of the parties, an employment shall
28 be deemed to be regular where the employee has been engaged to perform activities which
29 are usually necessary or desirable **OR DIRECTLY RELATED TO** the usual business or
30 trade of the employer [except where the employment has been fixed for a specific project or
31 undertaking the completion or termination of which has been determined at the time of the
32 engagement in nature and the employment is for the duration of the season].

33
34 “An employment shall be deemed to be casual if it is not **USUALLY NECESSARY OR**
35 **DESIRABLE OR** [covered by the preceding paragraph] **RELATED TO THE USUAL**
36 **BUSINESS OF THE EMPLOYER: Provided, That** any employee who has rendered at
37 least one year of service, whether such service is continuous or broken, shall be considered a
38 regular employee with respect to the activity [in which] he is employed **IN** and his
39 employment shall continue [while such activity exists] **UNLESS HE IS TERMINATED**
40 **FOR A JUST CAUSE OR WHEN AUTHORIZED BY THIS TITLE.”**

1
2
3
4
5 **SEC. 10.** – A new Article 280-A is hereby inserted in the Labor Code to read as follows:
6

7 **“ART. 280-A. PROJECT, EXTRA AND SEASONAL EMPLOYMENT. – PROJECT**
8 **EMPLOYMENT REFERS TO THAT WHICH HAS BEEN FIXED FOR A SPECIFIC**
9 **PROJECT OR UNDERTAKING THE COMPLETION OR TERMINATION OF**
10 **WHICH HAS BEEN DETERMINED AND MADE KNOWN TO THE EMPLOYEE**
11 **AT THE TIME OF HIS ENGAGEMENT.**
12

13 **“EXTRA EMPLOYMENT REFERS TO ADDITIONAL WORK TO BE**
14 **PERFORMED IN RESTAURANT AND HOTEL ESTABLISHMENTS**
15 **SPECIFICALLY FOR BANQUET FUNCTIONS, SEMINARS AND SIMILAR**
16 **FUNCTIONS WHERE THE REGULAR EMPLOYEES CANNOT REASONABLY**
17 **COPE WITH THE INCREASED DEMANDS OF SUCH EVENTS.**
18

19 **“SEASONAL EMPLOYMENT REFERS TO THE PERFORMANCES OF**
20 **AGRICULTURAL WORK THAT IS SEASONAL IN NATURE AND THE**
21 **EMPLOYMENT IS FOR THE DURATION OF THE PLANTING OR HARVESTING**
22 **SEASON.**
23

24 **“PROJECT, EXTRA AND SEASONAL EMPLOYEES SHALL HAVE THE RIGHT**
25 **TO SECURITY OF TENURE AND ARE ENTITLED TO RESUME THEIR**
26 **EMPLOYMENT IN THE SAME OR SIMILAR POSITION UPON THE START OF**
27 **THE NEXT PROJECT OR OCCASION FOR EXTRA OR SEASONAL**
28 **EMPLOYMENT, AS THE CASE MAY BE: PROVIDED, THAT DURING THE TIME**
29 **THAT THEIR SERVICES ARE NOT ACTUALLY AVAILABLE OF, THEY SHALL BE**
30 **CONSIDERED TO BE ON AUTHORIZED LEAVE WITHOUT PAY.”**
31

32 **SEC. 11.** A new Article 280-B is hereby inserted in the Labor Code to read as follows:
33

34 **“ART. 280-B. PROHIBITION AGAINST FIXED TERM EMPLOYMENT. – NO**
35 **EMPLOYER SHALL HIRE ANY EMPLOYEE FOR A FIXED PERIOD, EXCEPT:**
36 **(1) PROJECT EMPLOYEES; (2) EXTRA EMPLOYEES; (3) SEASONAL**
37 **EMPLOYEES, (4) IN INDUSTRIES THAT ARE CERTIFIED BY THE PRESIDENT**
38 **IN AN EXECUTIVE ORDER, AS ALLOWABLE, DUE TO EXISTING AND**
39 **SUBSTANTIAL LOSSES IN THE INDUSTRY AS A WHOLE BROUGHT ABOUT**
40 **BY AN INABILITY TO PRICE GOODS COMPETITIVELY IN THE MARKET**

1 DESPITE RESORT TO ALL REASONABLE MEASURES; *PROVIDED, THAT*
2 SUCH CERTIFICATION SHALL BE FOR A PERIOD OF AT MOST THREE (3)
3 YEARS: *PROVIDED FURTHER*, THAT THE PRESIDENT MAY RENEW THE
4 CERTIFICATION UPON EXPIRY SHOULD THE CIRCUMSTANCES SUBSIST FOR
5 A SIMILAR PERIOD AND SUBJECT TO SIMILAR RENEWALS; (5) OVERSEAS
6 FILIPINO WORKERS; (6) THOSE HIRED TO PLAY PROFESSIONAL SPORTS;
7 (7) THOSE APPOINTED TO SENSITIVE POSITIONS IN EDUCATIONAL
8 INSTITUTIONS SUCH AS DEAN, ASSISTANT DEAN, PRINCIPAL AND
9 COLLEGE SECRETARY; AND (8) THOSE EMPLOYED AS MEMBERS OF
10 MANAGERIAL STAFF, OTHER THAN THE FOREGOING EXCEPTIONS, ANY
11 STIPULATION FIXING A PERIOD OF EMPLOYMENT SHALL BE VOID.”
12

13 SEC. 12. Article 280 of the Labor Code is hereby amended to read as follows:
14

15 “ART. 281. Probationary Employment. – Probationary employment shall not exceed six
16 (6) months from the date the employee started working [unless it is covered by an
17 apprenticeship agreement stipulating a longer period]. The services of an employee who has
18 been engaged on a probationary basis may be terminated for a just cause or [when he fails]
19 UPON FAILURE to qualify as a regular employee in accordance with reasonable standards
20 made known by the employer to the employee at the time of his engagement. An employee
21 who is allowed to work after a probationary period, **EVEN UNDER THE GUISE OF AN**
22 **EXTENSION**, shall be considered a regular employee.”
23

24 **THE TERMINATION OF PROBATIONARY EMPLOYEES SHALL NOT BE**
25 **VALID IF DONE TO PRECLUDE ACQUISITION OF SECURITY OF TENURE BY**
26 **THE EMPLOYEE. THE PRESENCE OF ANY OF THE FOLLOWING**
27 **CIRCUMSTANCES SHALL CREATE A REBUTTABLE PRESUMPTION OF THE**
28 **INTENT TO CIRCUMVENT THE RIGHT TO SECURITY OF TENURE OF**
29 **PROBATIONARY EMPLOYEES:**
30

- 31 1. **TERMINATION OF ALL OR ALMOST ALL OF THE PROBATIONARY**
32 **EMPLOYEES AT THE END OF THE PROBATIONARY PERIOD AND THE**
33 **SUBSEQUENT HIRING OF EMPLOYEES PERFORMING THE SAME WORK**
34 **OR TASK AND/OR OCCUPYING THE SAME POSITION AS THOSE**
35 **VACATED BY THE PREVIOUS PROBATIONARY EMPLOYEES.**
36
- 37 2. **MAINTAINING PROBATIONARY EMPLOYEES IN EXCESS OF THIRTY**
38 **PERCENT (30%) OF THE TOTAL WORKFORCE. HOWEVER, NEWLY-**
39 **CREATED COMPANIES/EMPLOYERS ARE EXEMPTED FROM OBSERVING**

1 **THE FOREGOING PERCENTAGE RESTRICTION WITHIN ONE (1) YEAR**
2 **FROM THE START OF THEIR BUSINESS OPERATIONS.**

3
4 **SEC. 13.** – Article 288 of the Labor Code is hereby amended to read as follows:

5
6 **“ART. 288. Penalties.** – Except as otherwise provided in this Code, or unless the acts
7 complained of hinge on a question of interpretation or implementation of ambiguous
8 provisions of an existing collective bargaining agreement, any violation of the provisions
9 of this Code declared to be unlawful or penal in nature shall be punished with a fine of
10 not less than One Thousand Pesos (P1,000.00) nor more than Ten Thousand Pesos
11 (P10,000.00) or imprisonment of not less than three months nor more than three years, or
12 both such fine and imprisonment at the discretion of the court.

13
14 **“ANY PRINCIPAL OR SUBCONTRACTOR WHO ENGAGES IN LABOR ONLY**
15 **CONTRACTING AND/OR VIOLATES ARTICLES 106, 106-A, 106-B, 106-C, 106-**
16 **D AND 106-E SHALL BE SOLIDARILY LIABLE TO INDEMNIFY EACH**
17 **SUBCONTRACTED EMPLOYEE NOT LESS THAN FIFTY THOUSAND PESOS**
18 **(P50,000.00) WITHOUT PREJUDICE TO OTHER MONETARY AWARDS TO**
19 **WHICH SUCH SUBCONTRACTED EMPLOYEE MAY BE ENTITLED SUCH**
20 **AS BACKWAGES, MONETARY CLAIMS AND BENEFITS UNDER AN**
21 **APPLICABLE CERTIFIED BARGAINING AGREEMENT OR COMPANY**
22 **POLICY, WHETHER WRITTEN OR OTHERWISE.**

23
24 **“ANY EMPLOYER WHO DELIBERATELY CATEGORIZES OR OTHERWISE**
25 **TREATS REGULAR EMPLOYEES TO BE ANY NON-REGULAR EMPLOYEE**
26 **SHALL BE LIABLE TO INDEMNIFY EACH MISCLASSIFIED EMPLOYEE NO**
27 **LESS THAN FIFTY THOUSAND PESOS (P50,000.00) WITHOUT PREJUDICE**
28 **TO OTHER MONETARY AWARDS TO WHICH SUCH EMPLOYEE MAY BE**
29 **ENTITLED SUCH AS BACKWAGES, MONETARY CLAIMS AND BENEFITS**
30 **UNDER AN APPLICABLE CERTIFIED BARGAINING AGREEMENT.**

31
32 **“In addition to such penalty, any alien found guilty shall be summarily deported upon**
33 **completion of service of sentence.**

34
35 **“Any provision of law to the contrary notwithstanding, any criminal offense punished in**
36 **this Code, shall be under the concurrent jurisdiction of the Municipal or City Court's and**
37 **Courts of First Instance.”**
38

1 **SEC. 14. *Implementing Rules and Regulations.*** – The Department of Labor and Employment
2 (DOLE) shall issue, within sixty (60) days after the effectivity of this Act, the rules and
3 regulations for its effective implementation.

4
5 **SEC. 15. *Separability Clause.*** – If for any reason, any section or provision of this Act is held
6 unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby
7 and shall continue to be in full force and effect.

8
9 **SEC. 16. *Repeating Clause.*** – All laws, decrees, executive orders, rules and regulations, or parts
10 thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

11
12 **SEC. 17. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after its publication in
13 the Official Gazette or in at least two (2) newspapers of general publications.

14
15 Approved,