

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session



HOUSE BILL NO. 1527

Introduced by **Representative JOEY SARTE SALCEDA**

**AN ACT
PROTECTING FREELANCE WORKERS IN THE
GIG ECONOMY SECTOR**

EXPLANATORY NOTE

In our age of millennialism, interconnectivity activities, instantaneous global communication and creative entrepreneurship with internet based work, we can only expect a growing pool of workers who do not need to report to office daily but rather work from home or in a creative stationary set up.

From the term “part time” job to “freelancing”, it is no longer just a part time state but has become a chosen work. Working on a contract basis for a variety of companies at own phase and time, as opposed to working as an employee for a single company with a number of hours to complete the required time, Freelancers are often considered to be self-employed, and have the freedom to pick and choose their projects and companies they would like to be associated with.

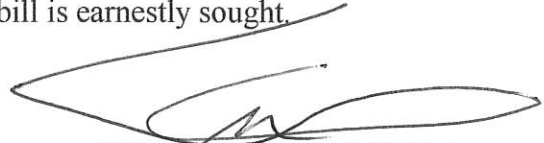
With more and more freelancers in the country, we are confronted with an urgent need to protect this new sector and empower them with ease of doing business. For many intelligent and skilled Filipinos with a strong network and marketable services, it is a long-term career choice. Most of them now prefers to submit their work to many different places, without being tied to any one company in particular. They value mobility, their own time, and freedom from a fixed employer in considering their livelihood. However, freelancing has its own challenges. Apart from better work-life balance, the ability to choose your work hours and clients and unlimited income potential, freelance or virtual business requires careful planning and preparation, not to mention a possible non-payment of their work. It is for this reason that this bill is sought to give freelancers the power to demand from their employer what they are rightfully due as per their signed contract.

This bill provides a remedy in the event that an employer refuses to pay a freelancer for services rendered. The aggrieved party can file a complaint to the appropriate agency for protection. This Bill will also provide penalties for any violations of their rights.

This measure also takes into account ease of doing business for freelancers, making it easier for freelancers to register in the Bureau of Internal Revenue (BIR) and in other government agencies.

Further, this bill also ensures that they are not inconvenienced by red tape and that they are protected from difficult, even fraudulent clients.

In view of the foregoing, the passage of this bill is earnestly sought.



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

CHAPTER 1
GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Freelance Workers Protection Act.”

SEC. 2. *Declaration of Policy.* – It is the policy of the State to promote gainful employment and decent work, protect all workers, and assure their right to just and humane conditions of work. Towards this end, the State shall recognize the right of freelance workers to protection from late or non-payment for service rendered. It further recognizes and supports workers in the freelance industry thru fair taxation.

SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall mean:

- (a) *Department* – this shall refer to the Department of Labor and Employment (DOLE).
- (b) *Freelance Worker* – any natural person or entity composed of no more than one natural person, whether incorporated under the Securities and Exchange Commission (SEC), registered as a sole proprietorship under the Department of Trade and Industry (DTI), or registered as self-employed with the Bureau of Internal

Revenue (BIR), that is hired or retained as an independent contractor by a hiring party to provide services in exchange for compensation.

- (c) *Hiring Party* – any person or entity who retains a freelance worker to provide any service.
- (d) *Retaliation* – refers to any act reasonably likely to deter a person from engaging in activity protected by Section 5 of this Act.

SEC. 4. *Required Contract.* – Any hiring party retaining the services of a freelance worker in exchange for compensation of at least ten thousand pesos (Php 10,000.00) shall execute a written contract with such freelance worker before the contracted-for work begins. The contract shall be in plain language and in a language understood by both parties. Each party to the contract shall retain a copy thereof.

The written contract shall include at a minimum, the following:

- (a) Itemization of all services to be provided by the freelance worker and the rate and method of compensation;
- (b) The date on which the hiring party must pay the above-referenced compensation or the mechanism by which such due date will be determined; and
- (c) Any other terms that the Department may by designate.

SEC. 5. *Unlawful Payment Practices.* – Except as otherwise provided by law, all compensation earned by the freelance worker shall be paid or provided no later than thirty (30) days after the completion of the freelance worker's services under the contract or the date such payment is due under the express terms of the contract, whichever comes first.

Once a freelance worker has commenced performance under the contract, no hiring party may require as a condition of payment that a freelance worker accept less than the specified contract price. This provision does not preclude the settlement of a good faith dispute regarding performance under the contract or preclude a modification of a contract in accordance with other applicable laws.

SEC. 6. *Retaliation.* – No person engaged in any activity to which this Act applies may retaliate against any person because such person has:

- (a) Opposed any practice prohibited by this Act;
- (b) Filed a complaint, testified or assisted in any proceeding under this Act;
- (c) Commenced a civil action alleging a violation of this Act;

- (d) Assisted the Department in an investigation commenced pursuant to this Act; or
- (e) Provided any information to the Department pursuant to the terms of a mediation or conciliation agreement under this Act.

CHAPTER 2

AGENCY ENFORCEMENT

SEC. 7. *Complaints.* – Any person aggrieved by a violation of this Act, or such person’s authorized representative, may file a complaint with the Department.

SEC. 8. *Jurisdiction.* – The Department shall not have jurisdiction over a complaint if:

- (a) The complaint is filed more than two years after the acts alleged to violate this Act occurred;
- (b) Either party to the agreement previously has initiated a civil action in a court of competent jurisdiction alleging a violation of this Act, a breach of contract or any similar claim at law or equity arising out of the same transaction or series of transactions that is the subject of the complaint under this Act, unless such civil action has been dismissed without prejudice to future claims; or
- (c) Either party to the agreement previously has filed a claim or complaint before any other administrative agency alleging a breach of contract or any similar claim arising out of the same transaction or series of transactions that is the subject of the complaint under this Act, and such complaint has not been withdrawn or dismissed without prejudice to future claims.

SEC. 9. *Investigation.* – Upon receiving a complaint alleging a violation of this Act, the Department shall notify the respondent in writing and investigate such complaint in a timely manner. Within thirty (30) days of receiving such written notification, the person or entity identified in the complaint shall provide the Department with a written response and such other information as the Department may request. The Department shall notify each complainant in writing, not less than sixty (60) days after the complaint is filed, of the status of the complaint and any resulting investigation.

SEC. 10. *Mediation and Conciliation.* – The Department may, at any time after the filing of a complaint, attempt to resolve the complaint by any method of dispute resolution, including mediation and conciliation.

If a conciliation agreement is entered into, the Department shall embody such agreement in an order and serve a copy of such order upon all parties to the conciliation agreement. The terms of any conciliation agreement may contain such provisions as may be agreed upon by the Department, the complainant and the respondent.

CHAPTER 3

ENFORCEMENT AND ADMINISTRATIVE PROCESS

SEC. 11. *Notice of Violation.* – If, as a result of an investigation of a complaint or an investigation conducted upon its own initiative, the Department finds cause to believe that a violation of this Act has occurred, it shall issue a notice of violation to the offending person or entity. The Department shall prescribe the form and wording of such a notice of violation.

SEC. 12. *Remedies.* – The Department may impose penalties provided for in this Act and may grant a prevailing complainant all appropriate relief. Such relief shall include damages, any appropriate equitable relief and attorney's fees and costs. The Department also may impose civil penalties as provided in Section 13.

SEC. 13. *Civil Penalties.* – Any person found to have violated this Act or any rule or regulation promulgated thereunder is liable for a civil penalty of not more than two hundred fifty thousand pesos (Php 250,000.00).

SEC. 14. *Violation of Order.* – Any person found to have violated an order pursuant to this Act is liable for a civil penalty not to exceed two hundred fifty thousand pesos (Php 250,000.00) and an additional civil penalty of not more than five thousand pesos (Php 5,000.00) for each day that the violation continues.

SEC. 15. *Civil Action.* – Except as otherwise provided by law, the State or any person claiming to be aggrieved by a violation of this Act has a cause of action in any court of competent jurisdiction for damages, injunctive relief and such other remedies as may be appropriate. Such action may be brought by the aggrieved person or such person's authorized

representative. A prevailing plaintiff in any such action shall be entitled to an award of reasonable attorney's fees, court costs and disbursements. Any claim alleging a violation of Section 4 shall be brought within two years of the date the person knew or should have known of the alleged violation.

Notwithstanding the first paragraph of this section, no person claiming to be aggrieved by a violation of this Act may bring an action in court alleging such violation if that person, or that person's designated representative, has filed a complaint with the Department pursuant to sections 7, 8, and 9 based upon the same conduct, unless that complaint has been terminated without prejudice to a subsequent civil action.

Each party concerned shall designate a representative authorized to receive copies of civil complaints in actions commenced in whole or in part pursuant to the first paragraph of this section. Within ten (10) days after having commenced a civil action pursuant to the first paragraph of this section, any plaintiff shall serve a copy of the complaint upon such authorized representatives. Failure to serve a complaint shall not bar or adversely affect any plaintiff's cause of action.

SEC. 16. *Criminal Penalty.* – Any person who knowingly and willfully violates the provisions of Section 5 shall be guilty of a misdemeanor punishable by a fine of not more than twenty five thousand pesos (Php 25,000.00) or by imprisonment for not more than three (3) months or by both.

SEC. 17. *Waiver.* – Except as otherwise provided by law, any provision of any contract or agreement purporting to waive rights under this Act is void as against public policy.

SEC. 18. *Effect on Other Laws.* – The provisions of Section 16 and 17, but do not otherwise affect or replace, any other basis of liability or requirement established by other existing laws.

SEC. 19. *Coverage.* – This Act shall apply only to contracts or agreements entered into on or after the effectivity of this Act.

SEC. 20. *Report.* – One (1) year after the effectivity of this Act, and every second year thereafter, the Department secretary shall submit a report to the Senate and House Committees on Labor and Employment, and Human Resource Development regarding the effectiveness of

the provisions of this Act at improving freelance contracting and payment practices. That report shall include, at a minimum, how many complaints the Department has received pursuant to this Act, how many of such complaints were settled by mediation or conciliation, how many investigations of alleged violations of this Act the Department has initiated, and how many notices of violation of this Act the Department has issued.

CHAPTER 4 TAXATION

SEC. 21. *Taxpayer Service.* – Every Revenue District Office (RDO) shall have a lane or a special assistance desk dedicated to freelance workers. This lane shall have an officer who shall assist freelance workers in their application, registration, processing of documents and other inquiries.

SEC. 22. *Registration.* – All freelance workers as defined and classified under this Act shall be required to register with the Bureau of Internal Revenue (BIR).

Where the application for registration has been filed but is not acted upon by the BIR within fifteen (15) days from the date of filing, the application shall be deemed approved.

SEC. 23. *Registration Fees.* – A registration fee in the amount of five hundred pesos (Php 500.00) for freelance workers shall be settled every three (3) years.

SEC. 24. *Income Taxation.* – All freelance workers shall be exempt from payment of income tax for the first three (3) years of work from the freelance worker's date of registration. Any income earned thereafter shall be subject to the following income tax rates:

Taxable Income		Income Tax Rate
Over	But Not Over	
-	Php 300,000.00	Exempt
Php 300,000.00	Php 10,000,000.00	10%

SEC. 25. *Filing and Payment.* – Freelance workers shall file their income tax returns, VAT returns or percentage tax returns annually. Freelance workers may settle their dues and fees at any BIR office, accredited bank, payment center, and government financial institution.

CHAPTER 4

MISCELLANEOUS PROVISIONS

SEC. 26. *Implementing Rules and Regulations.* – Within sixty (60) days from the approval of this Act, the Department of Labor and Employment (DOLE), in coordination with the Bureau of Internal Revenue (BIR), and other relevant government agencies, shall promulgate the necessary rules and regulations for the effective implementation of this Act.

SEC. 27. *Repealing Clause.* – All laws, decrees, executive orders and proclamations, rules and regulations or parts thereof inconsistent with this Act, are hereby repealed, or amended or modified accordingly.

SEC. 28. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 29. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,