

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17TH) CONGRESS
First Regular Session

House Bill No. **1837**



Introduced by: Rep. BERNADETTE R. HERRERA-DY

AN ACT
DEFINING EMPLOYMENT RELATIONSHIP AMENDING FOR THIS PURPOSE
ARTICLES 279, 280 AND 281 OF PRESIDENTIAL DEGREE NO. 442, OTHERWISE
KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED

EXPLANATORY NOTE

It is a policy of the State, under Section 3, Art. XIII of the Constitution, to afford full protection to labor and guarantee the right of all workers to security of tenure.

This bill aims to end “*Endo*”, or the practice of “5-5-5” or “6-6-6” end-of-contract work arrangements—a form of abusive ‘contractualization’ which violates the right to security of tenure under the Constitution. The bill also strengthens the right of security of tenure by providing that *all* employees irrespective of employment status or position shall not be dismissed without cause and due process.

Endo is a contractualization scheme which refers to short-term and unprotected temporary work arrangements that has become rampant in the country. *Endo* workers, in particular, are bound by a five-month timeframe so that companies will not make them regular employees after six months under the Labor Code. From this arrangement stems the “5-5-5” scheme in which an *endo* worker is hired and fired every five months so that employers will not make them permanent employees.¹

The bill builds upon and borrows from a prior house bill, H.B. 5806, which was filed during the 16th Congress. In addressing “5-5-5” abusive practices, this bill provides that the repeated engagement of the same employee after the expiration of probationary employment or contract of employment will, by operation of law, render the employment regular; and provides for probationary employment which shall not exceed six months.

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


REP. BERNADETTE HERRERA-DY

¹Kirstin Bernabe et al., *Special Report: Worker hired, fired every 5 months*, INQUIRER.NET, May 1, 2014, <http://newsinfo.inquirer.net/598582/worker-hired-fired-every-5-months> (last accessed on July 20, 2016).

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

1 **SECTION 1.** Article 279 of the Labor Code, as amended, is hereby amended to read
2 as follows:

3
4 “ARTICLE 279 [293]. SECURITY OF TENURE — ALL EMPLOYEES
5 IRRESPECTIVE OF EMPLOYMENT STATUS OR POSITION SHALL NOT BE
6 DISMISSED WITHOUT CAUSE AND DUE PROCESS.
7

8 AN ILLEGALLY DISMISSED EMPLOYEE WHO IS DISMISSED WITHOUT
9 CAUSE AND DUE PROCESS SHALL BE ENTITLED TO REINSTATEMENT
10 WITHOUT LOSS OF SENIORITY RIGHTS AND BENEFITS, AND FULL
11 BACKWAGES, ALLOWANCES, AND COMMISSIONS, INCLUDING SSS,
12 PHILHEALTH, PAG-IBIG AND ALL OTHER BENEFITS AND
13 REMUNERATIONS PROVIDED BY LAW, COMPANY POLICY AND
14 COLLECTIVE BARGAINING AGREEMENT, COMPUTED FROM THE
15 TIME COMPENSATION WAS WITHHELD UP TO THE TIME OF
16 ACTUAL REINSTATEMENT.
17

18 THE EMPLOYER SHALL HAVE THE BURDEN OF PROVING THAT THE
19 TERMINATION IS WITH CAUSE AND DUE PROCESS.”
20

21
22 **SECTION 2.**A new provision shall be inserted after Article 280 [294] of the Labor
23 Code, as amended, to read as follows:
24

25 ARTICLE 280-A. REPEATED ENGAGEMENT – ENGAGEMENT OF THE
26 SAME EMPLOYEE AFTER THE EXPIRATION OF THE PROBATIONARY
27 EMPLOYMENT OR CONTRACT OF EMPLOYMENT WOULD RENDER THE
28 EMPLOYMENT REGULAR.

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2
3
4 **SECTION 3.** Article 281 of the Labor Code, as amended, is hereby amended to read
5 as follows:
6

7 ARTICLE 281 [295]. PROBATIONARY EMPLOYMENT. —
8 PROBATIONARY EMPLOYMENT SHALL NOT EXCEED SIX (6) MONTHS
9 FROM THE FIRST DAY OF SERVICE REGARDLESS OF THE NATURE OF
10 WORK TO BE PERFORMED.
11

12 THE RIGHTS, TERMS AND CONDITIONS OF EMPLOYMENT OF
13 THE PROBATIONARY EMPLOYEE, WHICH SHALL NOT BE LOWER THAN
14 THE MINIMUM STANDARDS SET BY LAWS OR REGULATIONS, THE
15 JOB DESCRIPTION, AND THE QUALIFICATION STANDARDS TO
16 QUALIFY FOR REGULAR EMPLOYMENT SHALL BE IN A WRITTEN
17 CONTRACT AND MADE KNOWN BY THE EMPLOYER TO THE EMPLOYEE
18 AT THE TIME OF HIS/HER ENGAGEMENT.
19

20 THE SERVICES OF A PROBATIONARY EMPLOYEE MAY BE TERMINATED
21 FOR JUST AND AUTHORIZED CAUSE UNDER ARTICLES 282 AND 283 OF
22 THE LABOR CODE, AS AMENDED, OR WHEN HE/SHE FAILS TO QUALIFY
23 AS A REGULAR EMPLOYEE.
24

25 THE PROBATIONARY EMPLOYEE SHALL AUTOMATICALLY BECOME A
26 REGULAR EMPLOYEE AFTER MEETING THE STANDARDS STIPULATED IN
27 THE WRITTEN CONTRACT OF PROBATIONARY EMPLOYMENT.
28
29

30 **SECTION 4. Rules and Regulations.** - The Secretary of Labor and Employment
31 shall promulgate the necessary implementing rules and regulations within one hundred and
32 twenty (120) days from the effectivity of this Act.
33

34 **SECTION 5. Repealing Clause.** - All laws, decrees, rules, and regulations or parts
35 thereof, which are contrary to or inconsistent with this Act are hereby repealed or modified
36 accordingly.
37

38 **SECTION 6. Separability Provisions.** If any provision of this law or the application
39 thereof to any person or circumstance is held invalid, the remainder of this law, or the
40 application of such provision or part to other persons of circumstances, shall not be affected
41 thereby.
42

43 **SECTION 7. Effectivity.** This Act shall take effect fifteen (15) days after its
44 publication in the Official Gazette or in at least two (2) newspapers of general circulation.
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46 Approved,
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