



Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Constitution Hills, Quezon City

**FIFTEENTH CONGRESS**  
First Regular Session



**COMMITTEE REPORT NO. 1234**

Submitted by the Committee on Labor and Employment on 09 JUN 2011  
Re: House Bill No. 4852

Recommending its approval in substitution of House Bills No. 303, 891, 892, 1049, 1060, 1451, 2983, and 3402

Sponsors: Representatives Emil L. Ong, Walden F. Bello, Emmeline Y. Aglipay, Joseph Victor G. Ejercito, Magtanggol T. Gunigundo I, Raymond Democrito C. Mendoza, and Rufus B. Rodriguez

Mr. Speaker:

The Committee on Labor and Employment to which were referred House Bill No. 303, introduced by Reps. Walden F. Bello and Arlene J. Bag-ao, entitled:

**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 100, 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,**

House Bill No. 891, introduced by Rep. Raymond Democrito C. Mendoza, entitled:

**AN ACT**

**CRIMINALIZING LABOR-ONLY CONTRACTING, AMENDING FOR THAT PURPOSE CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES", AUTHORED BY REP. RAYMOND DEMOCRITO C. MENDOZA,**

House Bill No. 892, introduced by Rep. Raymond Democrito C. Mendoza and Augusto Boboy Syjuco, Ph.D., entitled:

**AN ACT**

**STRENGTHENING SECURITY OF TENURE, AMENDING FOR THAT PURPOSE CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES,**

House Bill No. 1049, introduced by Reps. Rufus B. Rodriguez, Maximo B. Rodriguez, Jr., Ben P. Ebardone, and Mary Mitzi L. Cajayon, entitled:

**AN ACT  
PROVIDING FOR THE REGULARIZATION OF EMPLOYEES,  
PROHIBITING CONTRACTUAL OR LABOR-ONLY CONTRACTING FOR  
REGULAR POSITIONS, PROVIDING PENALTIES FOR VIOLATION  
THEREOF,**

House Bill No. 1060, introduced by Reps. Rufus B. Rodriguez and Maximo B. Rodriguez, Jr., entitled:

**AN ACT  
PRESCRIBING WORK ARRANGEMENTS BASED ON SECURITY OF  
TENURE, AMENDING FOR THIS PURPOSE, ARTICLES 156, 157, 158,  
159, 160, 161, 162, 163, 164, 165 OF PRESIDENTIAL DECREE NUMBER  
FOUR HUNDRED FORTY TWO (PD 442), AS AMENDED, OTHERWISE  
KNOWN AS THE LABOR CODE OF THE PHILIPPINES,**

House Bill No. 1451, introduced by Rep. Magtanggol T. Gunigundo I, entitled:

**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, 108-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,**

House Bill No. 2983, introduced by Rep. Joseph Victor G. Ejercito, entitled:

**AN ACT  
TO STRENGTHEN SECURITY OF TENURE AND FOR THAT PURPOSE,  
AMENDING CERTAIN PROVISIONS OF PRESIDENTIAL DECREE NO.  
442,**

and House Bill No. 3402, introduced by Rep. Emmeline Y. Aglipay, Teodoro Brawner Baguiat, Jr., Rachel Marguerite B. del Mar, Romeo M. Acop, Imelda G. Calixto-Rubiano, Sharon S. Garin, Rosenda Ann Ocampo, Jesus F. Celeste, Winston Castelo, Angelo B. Palmones, Joseph Victor G. Ejercito, Mark Aeron H. Sambar, Alfredo Garbin, Jr., Scott Davies S. Lanete, M.D., Abigail Faye C. Ferrici, Rodol M. Batocabe, Romeo Jr. M. Jalosjos, Julieta R. Cortuna, Sherwin N. Tugna, Nancy A. Catamco, Lord Allan Jay Q. Velasco, Ronald M. Coasalan, and Jose Ping-Ay, entitled:

**AN ACT  
STRENGTHENING THE SECURITY OF TENURE OF EMPLOYEES,  
AMENDING FOR THIS PURPOSE ARTICLES 106, 109, 280, AND 281 OF  
PRESIDENTIAL DECREE NUMBER 442, OR THE LABOR CODE OF THE  
PHILIPPINES; AND ADDING ARTICLES ARTICLE 108-A ON THE**

DEFINITION OF CONTRACTING, ARTICLE 108-B ON THE PROHIBITION OF LABOR-ONLY CONTRACTING, ARTICLE 108-C ON THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN THE CONTRACTOR AND CONTRACTUAL EMPLOYEE, ARTICLE 108-D ON THE RIGHTS OF CONTRACTUAL EMPLOYEES, ARTICLE 108-E ON THE CONTRACT BETWEEN CONTRACTOR OR SUBCONTRACTOR AND CONTRACTUAL EMPLOYEE, ARTICLE 108-F ON THE EFFECT OF TERMINATION OF CONTRACTUAL EMPLOYMENT, ARTICLE 108-G ON LICENSING OF CONTRACTORS AND SUBCONTRACTORS, ARTICLE 108-H ON GOOD FAITH CONTRACTING, ARTICLE 280-A, DEFINING FIXED TERM EMPLOYMENT; AND ARTICLE 280-B, DEFINING PROJECT EMPLOYMENT TO PRESIDENTIAL DECREE NUMBER 442, OR THE LABOR CODE OF THE PHILIPPINES

**4853**

has considered the same and recommends that the attached House Bill \_\_\_\_\_  
entitled:

**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, 106-A, 106-B, 106-C, 106-D, 106-E, 280-A AND 280-B TO PRESIDENTIAL NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES**

be approved in substitution of House Bills No. 303, 891, 892, 1049, 1060, 1451, 2983, and 3402 with Reps. Walden F. Bello, Arlene J. Bag-ao, Raymond Democrito C. Mendoza, Augusto Boboy Syjuco, Ph.D., Rufus B. Rodriguez, Maximo B. Rodriguez, Jr., Magtanggol T. Gunigundo I, Joseph Victor G. Ejercito, Emmeline Y. Aglipay, Teodoro Brawner Baguilat, Jr., Ben P. Ebardone, Mary Mitzi L. Cajayon, Rachel Marguerite B. del Mar, Romeo M. Acop, Imelda G. Calixto-Rubiano, Sharon S. Garin, Rosenda Ann Ocampo, Jesus F. Celeste, Winston Castelo, Angelo B. Palmones, Mark Aeron H. Sambar, Alfredo Garbin, Jr., Scott Davies S. Lanete, M.D., Abigael Faye C. Ferriol, Rodel M. Batocabe, Romeo Jr. M. Jalosjos, Julieta R. Cortuna, Sherwin N. Tugna, Nancy A. Catamco, Lord Allan Jay Q. Velasco, Ronald M. Cesalan, and Jose Ping-Ay as authors thereof.

Respectfully submitted,



**EMIL L. ONG**

Chairman

Committee on Labor and Employment

**THE HONORABLE SPEAKER  
HOUSE OF REPRESENTATIVES  
QUEZON CITY**



Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Constitution Hills, Quezon City

**FIFTEENTH CONGRESS**  
*First Regular Session*

House Bill No. **4853**

Introduced by Reps. Walden F. Bello, Arlene J. Bag-ao, Raymond Democrito C. Mendoza, Augusto Boboy Syjuco, Ph.D., Rufus B. Rodriguez, Maximo B. Rodriguez, Jr., Magtanggol T. Gunigundo I, Joseph Victor G. Ejercito, Emmeline Y. Aglipay, Teodoro Brawner Baguilat, Jr., Ben P. Ebardone, Mary Mitzi L. Cajayon, Rachel Marguerite B. del Mar, Romeo M. Acop, Imelda G. Calixto-Rubiano, Sharon S. Garin, Rosenda Ann Ocampo, Jesus F. Celeste, Winston Castelo, Angelo B. Palmones, Mark Aeron H. Sambar, Alfredo Garbin, Jr., Scott Davies S. Lanete, M.D., Abigail Faye C. Ferriol, Rodel M. Batocabe, Romeo Jr. M. Jalosjos, Julieta R. Cortuna, Sherwin N. Tugna, Nancy A. Catamco, Lord Allan Jay Q. Velasco, Ronald M. Coasalan, and Jose Ping-Ay

**AN ACT**

**STRENGTHENING THE SECURITY OF TENURE OF WORKERS IN THE PRIVATE SECTOR, AMENDING FOR THE PURPOSE ARTICLE'S 248, 279, 280, 281 AND 288, AND INTRODUCING NEW ARTICLES 106, 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:*

**SECTION 1.** Article 106 of the Labor Code is hereby repealed and substituted 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.

1 "In the event that the contractor or subcontractor fails to pay the wages  
2 of his employees in accordance with this Code, the employer shall be  
3 jointly and severally liable with his contractor or subcontractor to such  
4 employees to the extent of the work performed under the contract, in  
5 the same manner and extent that he is liable to employees directly  
6 employed by him.

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

15 "There is 'labor-only' contracting where the persons supplying workers to  
16 an employer does not have substantial capital or investment in the form  
17 of tools, equipment, machineries, work premises, among others, and the  
18 workers recruited and placed by such persons are performing activities  
19 which are directly related to the principal business of such employer. In  
20 such cases, the person or intermediary shall be considered merely as  
21 an agent of the employer who shall be responsible to the workers in the  
22 same manner and extent as if the latter were directly employed by him.]

23 "ART. 106. CONCEPT AND NATURE OF SUBCONTRACTING  
24 ARRANGEMENTS. - IN LEGITIMATE SUBCONTRACTING, THERE  
25 EXISTS A TRILATERAL RELATIONSHIP UNDER WHICH THERE IS A  
26 CONTRACT FOR A SPECIFIC JOB, WORK OR SERVICE BETWEEN  
27 THE PRINCIPAL AND THE SUBCONTRACTOR, AND A CONTRACT  
28 OF EMPLOYMENT BETWEEN THE SUBCONTRACTOR AND ITS  
29 WORKERS. HENCE, THERE ARE THREE PARTIES INVOLVED IN  
30 THESE ARRANGEMENTS: THE PRINCIPAL WHICH DECIDES TO

1 FARM OUT A JOB OR SERVICE TO A SUBCONTRACTOR, THE  
2 SUBCONTRACTOR WHICH HAS THE CAPACITY TO  
3 INDEPENDENTLY UNDERTAKE AND ACTUALLY UNDERTAKES THE  
4 PERFORMANCE OF THE JOB, WORK OR SERVICE, AND THE  
5 CONTRACTUAL WORKERS ENGAGED BY THE SUBCONTRACTOR  
6 TO ACCOMPLISH THE JOB WORK OR SERVICE.

7 "FOR PURPOSES OF THIS CODE, 'SUBCONTRACTING' REFERS  
8 TO AN ARRANGEMENT WHEREBY:

9 (A) A PRINCIPAL AGREES TO PUT OUT OR FARM OUT WITH A  
10 SUBCONTRACTOR THE PERFORMANCE OR COMPLETION OF A  
11 SPECIFIC JOB, WORK OR SERVICE WITHIN A DEFINITE OR  
12 PREDETERMINED PERIOD; REGARDLESS OF WHETHER SUCH  
13 JOB, WORK OR SERVICE IS TO BE PERFORMED OR COMPLETED  
14 WITHIN OR OUTSIDE THE PREMISES OF THE PRINCIPAL; OR

15 (B) A PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION  
16 WHICH, NOT BEING A PRINCIPAL, CONTRACTS WITH A  
17 SUBCONTRACTOR FOR THE PERFORMANCE OF ANY WORK,  
18 TASK, JOB OR PROJECT."

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

21 "ART. 106 - A. RIGHTS AND LIABILITIES OF PARTIES. - (A.) THE  
22 SUBCONTRACTED EMPLOYEE. IN ALL CASES, SUBCONTRACTED  
23 EMPLOYEES SHALL BE ENTITLED TO ALL THE RIGHTS AND  
24 PRIVILEGES DUE REGULAR EMPLOYEES INCLUDING THE  
25 FOLLOWING:

- 26 1. SAFE AND HEALTHFUL WORKING CONDITIONS;
- 27 2. LABOR STANDARDS SUCH AS SERVICE
- 28 INCENTIVE LEAVES, REST DAYS, OVERTIME PAY,

HOLIDAY PAY, THIRTEENTH MONTH PAY AND  
SEPARATION PAY;

3. RETIREMENT BENEFITS;
4. SOCIAL SECURITY AND WELFARE BENEFITS;
5. SELF-ORGANIZATION, COLLECTIVE BARGAINING AND  
PEACEFUL CONCERTED ACTIVITIES; AND
6. SECURITY OF TENURE.

"IN ADDITION, SUBCONTRACTED EMPLOYEES SHALL HAVE THE  
RIGHT TO A WRITTEN CONTRACT WHICH SHALL INCLUDE THE  
FOLLOWING TERMS AND CONDITIONS:

1. THE SPECIFIC DESCRIPTION OF THE JOB, WORK OR  
SERVICE TO BE PERFORMED BY THE CONTRACTUAL  
EMPLOYEE;
2. THE PLACE OF WORK AND TERMS AND CONDITIONS OF  
EMPLOYMENT, INCLUDING A STATEMENT OF THE WAGE  
RATE APPLICABLE TO THE INDIVIDUAL CONTRACTUAL  
EMPLOYEE;
3. THE TERM OR DURATION OF EMPLOYMENT WHICH  
SHALL BE COEXTENSIVE WITH THE CONTRACT OF THE  
PRINCIPAL AND SUBCONTRACTOR OR WITH THE  
SPECIFIC PHASE FOR WHICH THE CONTRACTUAL  
EMPLOYEE IS ENGAGED, AS THE CASE MAY BE.

"THE SUBCONTRACTED EMPLOYEE SHALL BE INFORMED BY THE  
SUBCONTRACTOR OF THE FOREGOING TERMS AND CONDITIONS  
ON OR BEFORE THE FIRST DAY OF HIS EMPLOYMENT.

"(B.) THE PRINCIPAL AND THE SUBCONTRACTOR THE LEGITIMATE  
SUBCONTRACTOR SHALL BE CONSIDERED THE EMPLOYER OF  
THE CONTRACTUAL EMPLOYEE FOR PURPOSES OF ENFORCING  
THE PROVISIONS OF THE LABOR CODE AND OTHER SOCIAL  
LEGISLATION. IN ALL CASES OF SUBCONTRACTING, HOWEVER,

1 THE PRINCIPAL SHALL BE SOLIDARILY LIABLE WITH THE  
2 CONTRACTOR IN THE EVENT OF ANY VIOLATION OF ANY  
3 PROVISION OF THE LABOR CODE, INCLUDING THE FAILURE TO  
4 PAY WAGES.

5 "THE PRINCIPAL SHALL BE DEEMED THE EMPLOYER OF THE  
6 CONTRACTUAL EMPLOYEE IN ANY OF THE FOLLOWING CASES:

- 7 I. WHERE THERE IS LABOR-ONLY CONTRACTING; OR  
8 II. IN THE ABSENCE OF THE WRITTEN CONTRACT  
9 REQUIRED BY ARTICLE 106-A; OR  
10 III. IN CASES OF VIOLATION OF ARTICLE 106 - B.

11 "IN ADDITION, THE PRINCIPAL SHALL BE SOLIDARILY LIABLE WITH  
12 THE SUBCONTRACTOR IN CASE THE CONTRACT BETWEEN THE  
13 PRINCIPAL AND SUBCONTRACTOR IS PRE-TERMINATED FOR  
14 REASONS NOT ATTRIBUTABLE TO THE FAULT OF THE  
15 SUBCONTRACTOR."

16 SEC. 3. A new Article 106-B is hereby inserted in the Labor Code to read as  
17 follows:

18 "ART. 106-B. PROHIBITION AGAINST LABOR-ONLY  
19 SUBCONTRACTING. - ENGAGING IN LABOR-ONLY CONTRACTING  
20 OR CONTRACTING WITH A LABOR-ONLY CONTRACTOR IS  
21 STRICTLY PROHIBITED. FOR THIS PURPOSE LABOR-ONLY  
22 CONTRACTING REFERS TO AN ARRANGEMENT WHERE THE  
23 SUBCONTRACTOR MERELY RECRUITS, SUPPLIES OR PLACES  
24 WORKERS TO PERFORM A JOB, WORK OR SERVICE FOR A  
25 PRINCIPAL, INCLUDING INSTANCES WHERE ANY OF THE  
26 FOLLOWING IS PRESENT:

27 (A) THE SUBCONTRACTOR DOES NOT HAVE SUBSTANTIAL  
28 CAPITAL AND INVESTMENT WHICH RELATES TO THE JOB, WORK  
29 OR SERVICE TO BE PERFORMED;

(B) THE EMPLOYEES RECRUITED, SUPPLIED OR PLACED BY SUCH SUBCONTRACTOR ARE PERFORMING ACTIVITIES WHICH ARE USUALLY NECESSARY OR DESIRABLE OR DIRECTLY RELATED TO THE USUAL BUSINESS OF THE PRINCIPAL; OR

(C) THE PRINCIPAL HAS THE RIGHT TO CONTROL, WHETHER EXERCISED OR NOT, NOT ONLY THE END TO BE ACHIEVED, BUT ALSO THE MANNER AND MEANS TO BE USED IN REACHING THAT END.

"AS USED IN THIS CODE, 'SUBSTANTIAL CAPITAL AND INVESTMENT' IN SUBCONTRACTING ARRANGEMENTS REFERS TO TOOLS, EQUIPMENT, IMPLEMENTS, MACHINERIES AND WORK PREMISES ACTUALLY AND DIRECTLY USED BY THE SUBCONTRACTOR IN THE PERFORMANCE OR COMPLETION OF THE JOB, WORK OR SERVICE CONTRACTED OUT. THE USE OF THE SUBCONTRACTOR OF THE EQUIPMENT, FACILITIES, MACHINERIES, AND TOOLS OF THE PRINCIPAL IS AN INDICATION THAT THE SUBCONTRACTOR HAS NO SUBSTANTIAL CAPITAL AND INVESTMENT. THE EXISTENCE OF CAPITAL STOCKS AND SUBSCRIBED CAPITALIZATION IN RELATION TO CORPORATIONS ENGAGED IN SUBCONTRACTING DOES NOT BY ITSELF CONSTITUTE SUBSTANTIAL CAPITAL AND INVESTMENT.

"AS USED IN THIS CODE, THE 'RIGHT TO CONTROL' IN SUBCONTRACTING ARRANGEMENTS SHALL REFER TO THE RIGHT RESERVED TO THE PERSON FOR WHOM THE SERVICES OF THE CONTRACTUAL WORKERS ARE PERFORMED TO DETERMINE NOT ONLY THE END TO BE ACHIEVED BUT ALSO THE MANNER AND MEANS TO BE USED IN REACHING THAT END."

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

1       ART. 106-C. PROHIBITIONS IN SUBCONTRACTING  
2 ARRANGEMENTS. - REGARDLESS OF COMPLIANCE WITH THE  
3 IMMEDIATELY PRECEDING ARTICLE, THE FOLLOWING ACTS  
4 SHALL BE PROHIBITED FOR BEING CONTRARY TO LAW OR  
5 PUBLIC POLICY:

6  
7       (A) ENGAGING OR MAINTAINING BY THE PRINCIPAL OF  
8 SUBCONTRACTED EMPLOYEES IN EXCESS OF TWENTY  
9 PERCENT (20%) OF THE PRINCIPAL'S TOTAL WORKFORCE  
10 PROVIDED THAT SUCH SUBCONTRACTED EMPLOYEES DO NOT  
11 PERFORM WORK THAT IS NECESSARY OR DESIRABLE OR  
12 DIRECTLY RELATED TO THE USUAL BUSINESS OR TRADE OR  
13 BUSINESS OF THE EMPLOYER;

14       (B) CONTRACTING OUT OF A JOB, WORK OR SERVICE WHEN THE  
15 SAME RESULTS IN THE TERMINATION OF REGULAR EMPLOYEES  
16 AND REDUCTION OF WORK HOURS OR REDUCTION OR SPLITTING  
17 OF THE BARGAINING UNIT;

18       (C) CONTRACTING OUT OF WORK WITH A 'CABO'. FOR THIS  
19 PURPOSE, 'CABO' REFERS TO A PERSON OR GROUP OF  
20 PERSONS OR TO A LABOR GROUP WHICH, IN THE GUISE OF A  
21 LABOR ORGANIZATION OR COOPERATIVE, SUPPLIES WORKERS  
22 TO AN EMPLOYER WITH OR WITHOUT ANY MONETARY OR OTHER  
23 CONSIDERATION, WHETHER IN THE CAPACITY OF AN AGENT OF  
24 THE EMPLOYER, OR AS AN OSTENSIBLE INDEPENDENT  
25 CONTRACTOR;

26       (D) TAKING UNDUE ADVANTAGE OF THE ECONOMIC SITUATION OR  
27 LACK OF BARGAINING STRENGTH OF THE CONTRACTUAL  
28 EMPLOYEE, OR UNDERMINING HIS SECURITY OF TENURE OR  
29 BASIC RIGHTS, OR CIRCUMVENTING THE PROVISIONS OF  
30 REGULAR EMPLOYMENT IN ANY OF THE FOLLOWING INSTANCES:

- I. IN ADDITION TO HIS ASSIGNED FUNCTIONS, REQUIRING THE CONTRACTUAL EMPLOYEE TO PERFORM FUNCTIONS WHICH ARE CURRENTLY BEING PERFORMED BY THE REGULAR EMPLOYEES OF THE PRINCIPAL OR OF THE SUBCONTRACTOR;
- II. REQUIRING HIM TO SIGN, AS A PRECONDITION TO EMPLOYMENT OR CONTINUED EMPLOYMENT, AN ANTEDATED RESIGNATION LETTER, A BLANK PAYROLL, A WAIVER OF LABOR STANDARDS INCLUDING MINIMUM WAGES AND SOCIAL OR WELFARE BENEFITS, OR A QUITCLAIM RELEASING THE PRINCIPAL OR SUBCONTRACTOR FROM ANY LIABILITY AS TO PAYMENT OF FUTURE CLAIMS; AND
- III. REQUIRING HIM TO SIGN A CONTRACT FIXING THE PERIOD OF EMPLOYMENT TO A TERM SHORTER THAN THE TERM OF THE CONTRACT BETWEEN THE PRINCIPAL AND THE SUBCONTRACTOR, UNLESS THE LATTER CONTRACT IS DIVISIBLE INTO PHASES FOR WHICH SUBSTANTIALLY DIFFERENT SKILLS ARE REQUIRED AND THIS IS MADE KNOWN TO THE EMPLOYEE AT THE TIME OF ENGAGEMENT.

(E) CONTRACTING OUT OF A JOB, WORK OR SERVICE THROUGH AN IN-HOUSE AGENCY WHICH REFERS TO A:

- I. SUBCONTRACTOR ENGAGED IN THE SUPPLY OF LABOR WHICH IS OWNED, MANAGED OR CONTROLLED BY THE PRINCIPAL; OR
- II. SUBCONTRACTOR IN WHICH THE PRINCIPAL OWNS OR OTHERWISE REPRESENTS ANY SHARE OF STOCK; OR
- III. SUBCONTRACTOR WHICH OPERATES SOLELY FOR THE PRINCIPAL.

1 (F) CONTRACTING OUT OF A JOB, WORK OR SERVICE THAT IS  
2 NECESSARY OR DESIRABLE OR DIRECTLY RELATED TO THE  
3 BUSINESS OR OPERATION OF THE PRINCIPAL;

4 (G) CONTRACTING OUT OF A JOB, WORK OR SERVICE BEING  
5 PERFORMED BY OR PREVIOUSLY PERFORMED BY REGULAR  
6 EMPLOYEES AND/OR MEMBERS OF THE BARGAINING UNIT."

7  
8 SEC. 5. A new Article 106-D is hereby inserted in the Labor Code to read as  
9 follows:

10 "ART. 106 - D. REGISTRATION OF SUBCONTRACTORS. - (A.)  
11 MANDATORY REGISTRATION. IT SHALL BE MANDATORY FOR ALL  
12 PERSONS OR ENTITIES ACTING AS SUBCONTRACTORS TO  
13 REGISTER UNDER A REGISTRATION SYSTEM HEREBY  
14 ESTABLISHED TO GOVERN CONTRACTING ARRANGEMENTS AND  
15 TO BE IMPLEMENTED BY THE REGIONAL OFFICES OF THE  
16 DEPARTMENT OF LABOR AND EMPLOYMENT.

17 "NON-REGISTERED PERSONS OR ENTITIES ACTING AS  
18 SUBCONTRACTORS SHALL BE DEEMED AS LABOR-ONLY  
19 CONTRACTORS. MERE REGISTRATION WITHOUT A SHOWING OF  
20 COMPLIANCE WITH ALL REQUIREMENTS FOR LEGITIMATE  
21 SUBCONTRACTING AND AVOIDANCE OF ALL PROHIBITIONS OF  
22 SUBCONTRACTING SHALL NOT INDICATE LEGITIMATE  
23 SUBCONTRACTING.

24 "(B.) REQUIREMENTS FOR REGISTRATION. A SUBCONTRACTOR  
25 MAY BE LISTED IN THE REGISTRY OF SUBCONTRACTORS UPON  
26 COMPLETION AND SUBMISSION OF AN APPLICATION FORM  
27 PROVIDED BY THE DEPARTMENT. IN THE APPLICATION FORM,  
28 THE APPLICANT SUBCONTRACTOR SHALL PROVIDE THE  
29 FOLLOWING INFORMATION:

- I. THE NAME AND BUSINESS ADDRESS OF THE APPLICANT AND THE AREA OR AREAS WHERE IT SEEKS TO OPERATE;
- II. THE NAMES AND ADDRESSES OF OFFICERS, IF THE APPLICANT IS A CORPORATION, PARTNERSHIP, COOPERATIVE OR UNION;
- III. THE NATURE OF THE APPLICANT'S BUSINESS AND THE INDUSTRY OR INDUSTRIES WHERE THE APPLICANT SEEKS TO OPERATE;
- IV. THE NUMBER OF REGULAR WORKERS, THE LIST OF CLIENTS, IF ANY, THE NUMBER OF PERSONNEL ASSIGNED TO EACH CLIENT, IF ANY, AND THE SERVICES PROVIDED TO THE CLIENT;
- V. THE DESCRIPTION OF THE PHASES OF THE CONTRACT AND THE NUMBER OF EMPLOYEES COVERED IN EACH PHASE, WHERE APPROPRIATE; AND
- VI. A COPY OF AUDITED FINANCIAL STATEMENTS IF THE APPLICANT IS A CORPORATION, PARTNERSHIP, COOPERATIVE OR A UNION, OR A COPY OF THE LATEST INCOME TAX RETURN IF THE APPLICANT IS A SOLE PROPRIETORSHIP.

"THE APPLICATION SHALL BE SUPPORTED BY THE FOLLOWING:

- I. A CERTIFIED COPY OF A CERTIFICATE OF REGISTRATION OF FIRM OR BUSINESS NAME FROM THE SECURITIES AND EXCHANGE COMMISSION (SEC), DEPARTMENT OF TRADE AND INDUSTRY (DTI), COOPERATIVE DEVELOPMENT AUTHORITY (CDA), OR FROM THE DOLE IF THE APPLICANT IS A UNION; AND
- II. A CERTIFIED COPY OF THE LICENSE OR BUSINESS

1 PERMIT ISSUED BY THE LOCAL GOVERNMENT UNIT  
2 OR UNITS WHERE THE SUBCONTRACTOR OPERATES.

3 "THE APPLICATION SHALL BE VERIFIED AND SHALL INCLUDE AN  
4 UNDERTAKING THAT THE SUBCONTRACTOR SHALL ABIDE BY  
5 ALL APPLICABLE LABOR LAWS AND REGULATIONS.

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

15 "WHERE ALL THE SUPPORTING DOCUMENTS HAVE BEEN  
16 SUBMITTED, THE REGIONAL OFFICE MAY DENY OR APPROVE THE  
17 APPLICATION WITHIN SEVEN (7) WORKING DAYS AFTER ITS  
18 FILING.

19 "UPON REGISTRATION, THE REGIONAL OFFICE SHALL RETURN  
20 ONE SET OF THE DULY-STAMPED APPLICATION DOCUMENTS TO  
21 THE APPLICANT, RETAIN ONE SET FOR ITS FILE, AND TRANSMIT  
22 THE REMAINING SET TO THE BUREAU OF LOCAL EMPLOYMENT.  
23 THE BUREAU SHALL DEVISE THE NECESSARY FORMS FOR THE  
24 EXPEDITIOUS PROCESSING OF ALL APPLICATIONS FOR  
25 REGISTRATION.

26 "(D.) ANNUAL REPORTING OF REGISTERED CONTRACTORS.  
27 THE SUBCONTRACTOR SHALL SUBMIT IN TRIPLICATE COPIES  
28 AN ANNUAL REPORT USING A PRESCRIBED FORM TO THE

1 APPROPRIATE REGIONAL OFFICE NOT LATER THAN THE  
2 FIFTEENTH OF JANUARY OF THE FOLLOWING YEAR. THE  
3 REPORT SHALL INCLUDE THE FOLLOWING DOCUMENTS:

- 4 I. A LIST OF CONTRACTS ENTERED WITH THE  
5 PRINCIPAL DURING THE SUBJECT REPORTING PERIOD;  
6 II. THE NUMBER OF WORKERS COVERED BY EACH  
7 CONTRACT WITH THE PRINCIPAL;  
8 III. A SWORN STATEMENT SIGNED BY THE HIGHEST  
9 EXECUTIVE OFFICER AND THE CHIEF FINANCIAL  
10 OFFICER THAT THE SUBCONTRACTOR HAS REMITTED  
11 ALL KINDS OF PAYMENTS AND PREMIUMS TO THE  
12 SOCIAL SECURITY SYSTEM (SSS), THE HOME  
13 DEVELOPMENT MUTUAL FUND (HDMF), PHILHEALTH, +  
14 EMPLOYEES COMPENSATION COMMISSION (ECC),  
15 AND BUREAU OF INTERNAL REVENUE (BIR) FOR  
16 ALL CONTRACTUAL EMPLOYEES PERTAINING TO THE  
17 REPORTING PERIOD.

18 "THE REGIONAL OFFICE SHALL RETURN ONE SET OF THE DULY-  
19 STAMPED REPORT TO THE SUBCONTRACTOR, RETAIN ONE SET  
20 FOR ITS FILE, AND TRANSMIT THE REMAINING SET TO THE  
21 BUREAU OF LOCAL EMPLOYMENT WITHIN FIVE (5) DAYS FROM  
22 RECEIPT THEREOF.

23 "(E.) DELISTING OF CONTRACTORS OR SUBCONTRACTORS.  
24 THE REGIONAL DIRECTOR SHALL CANCEL THE REGISTRATION  
25 OF SUBCONTRACTORS BASED ON ANY OF THE FOLLOWING  
26 GROUNDS:

- 27 I. NON-SUBMISSION OF CONTRACTS BETWEEN THE  
28 PRINCIPAL AND THE SUBCONTRACTOR WHEN  
29 REQUIRED TO DO SO;

1 II. NON-SUBMISSION OF THE ANNUAL REPORT  
2 INCLUDING THE DOCUMENTS LISTED UNDER ARTICLE  
3 106 (D);

4 III. ENGAGEMENT IN LABOR-ONLY CONTRACTING;

5 IV. VIOLATION OF THE PROHIBITED ACTIVITIES PROVIDED  
6 BY THIS CODE;

7 V. NON-COMPLIANCE WITH LABOR STANDARDS AND  
8 WORKING CONDITIONS.

9 "(F.) RENEWAL OF REGISTRATION OF SUBCONTRACTORS. ALL  
10 REGISTERED SUBCONTRACTORS MAY APPLY FOR RENEWAL OF  
11 REGISTRATION EVERY TWO (2) YEARS. FOR THIS PURPOSE, THE  
12 TRIPARTITE INDUSTRIAL PEACE COUNCIL (TIPC) AS CREATED  
13 UNDER EXECUTIVE ORDER NO. 49, SHALL SERVE AS THE  
14 OVERSIGHT COMMITTEE TO VERIFY AND MONITOR THE  
15 FOLLOWING:

16 I. ENGAGING IN ALLOWABLE CONTRACTING ACTIVITIES;  
17 AND

18 II. COMPLIANCE WITH ADMINISTRATIVE REPORTING  
19 REQUIREMENTS."

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

22 "ART. 106-E. DUTY TO PRODUCE COPY OF CONTRACT. - THE  
23 PRINCIPAL OR SUBCONTRACTOR SHALL PRODUCE A COPY OF  
24 THE CONTRACT BETWEEN THE PRINCIPAL AND THE  
25 CONTRACTOR IN THE COURSE OF INSPECTION. THE  
26 SUBCONTRACTOR SHALL ALSO PRODUCE A COPY OF THE  
27 CONTRACT OF EMPLOYMENT OF SUBCONTRACTED WORKERS  
28 WHEN DIRECTED TO DO SO BY THE REGIONAL DIRECTOR OR  
29 HIS AUTHORIZED REPRESENTATIVE.

1 "A COPY OF THE CONTRACT BETWEEN THE SUBCONTRACTED  
2 EMPLOYEE AND THE SUBCONTRACTOR SHALL BE FURNISHED  
3 THE CERTIFIED BARGAINING AGENT, IF THERE IS ANY."

4 SEC. 7. Article 248 of the Labor Code is hereby amended to read as follows:

5 "Art. 248. *Unfair Labor Practices of Employers.* - It shall be unlawful  
6 for an employer to commit any of the following unfair labor practices:

7 (a) To interfere with, restrain or coerce employees in the exercise of  
8 their right to self-organization;

9 (b) To require as a condition of employment that a person or an  
10 employee shall not join a labor organization or shall withdraw from one  
11 to which he belongs;

12 (c) To ENGAGE A LABOR-ONLY CONTRACTOR OR TO contract  
13 out services or functions being performed by [union]  
14 MEMBERS OF, OR POSITIONS COVERED BY, THE BARGAINING  
15 UNIT AND/OR REGULAR RANK-AND-FILE AND SUPERVISORY  
16 EMPLOYEES [when such will interfere with, restrain or coerce  
17 employees in the exercise of their rights to self-organization];

18 (d) To initiate, dominate, assist or otherwise interfere with the formation  
19 or administration of any labor organization, including the giving of  
20 financial or other support to it or its organizers or supporters;

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

1 Employees of an appropriate bargaining unit who are not members of  
2 the recognized collective bargaining agent may be assessed a  
3 reasonable fee equivalent to the dues and other fees paid by members  
4 of the recognized collective bargaining agent, if such non-union  
5 members accept the benefits under the collective bargaining agreement;  
6 *Provided*, That the individual authorization required under Article 242,  
7 paragraph (c) of this Code shall not apply to the non-members of the  
8 recognized collective bargaining agent;

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

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

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

17 (i) To violate a collective bargaining agreement [..]; OR

18 (J) TO DENY THE EXISTENCE OF EMPLOYER-EMPLOYEE  
19 RELATIONSHIP AND/OR TO CLASSIFY AS CASUAL,  
20 CONTRACTUAL, SUBCONTRACTED EMPLOYEES, AGENCY  
21 EMPLOYEES, OR OTHER NON-REGULAR CLASSIFICATION THOSE  
22 EMPLOYEES WHO ARE REGULAR EMPLOYEES BY VIRTUE OF  
23 ARTICLE 280 OF THIS CODE.

24 "The provisions of the preceding paragraph notwithstanding, only the  
25 officers and agents of corporations, associations or partnerships who  
26 have actually participated in, authorized or ratified unfair labor practices  
27 shall be held criminally liable."

28 SEC. 8. Article 279 of the Labor Code is hereby amended to read as  
29 follows:  
30

1 "ART. 279. *Security of Tenure.* - [In cases of regular employment, the  
2 employer shall not terminate the services of an employee] ALL  
3 EMPLOYEES SHALL ENJOY SECURITY OF TENURE AND SHALL  
4 NOT BE TERMINATED except for a just cause or when authorized by  
5 this Title. ALSO, THE RIGHT TO NOTICE IN EMPLOYMENT  
6 RELATIONS REQUIRES ANY EMPLOYER WHO SEEKS TO DISMISS  
7 A WORKER TO FURNISH HIM A WRITTEN NOTICE STATING THE  
8 PARTICULAR ACTS OR OMISSION CONSTITUTING THE GROUNDS  
9 FOR HIS DISMISSAL. IN CASES OF ABANDONMENT OF WORK,  
10 THE WRITTEN NOTICE SHALL BE SERVED AT THE WORKERS'  
11 LAST KNOWN ADDRESS. DUE PROCESS ENTITLES THE WORKER  
12 AN OPPORTUNITY TO ANSWER THE ALLEGATIONS STATED  
13 AGAINST HIM IN THE NOTICE OF DISMISSAL WITHIN A PERIOD OF  
14 FIVE (5) CALENDAR DAYS FROM RECEIPT OF SUCH NOTICE AND  
15 WITH THE ASSISTANCE OF A REPRESENTATIVE IF HE SO  
16 DESIRES. THE RIGHT TO NOTICE REQUIRES THE EMPLOYER TO  
17 AFFORD THE WORKER AMPLE OPPORTUNITY TO BE HEARD AND  
18 TO DEFEND HIMSELF WITH THE ASSISTANCE OF HIS  
19 REPRESENTATIVE IF HE SO DESIRES.

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

28 SEC. 9. Article 280 of the Labor Code is hereby amended to read as follows:

29 "ART. 280. *Regular and Casual Employment.* - The provisions of  
30 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 **OR DIRECTLY RELATED TO** 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).

"An employment shall be deemed to be casual if it is not **USUALLY NECESSARY OR DESIRABLE OR** [covered by the preceding paragraph] **RELATED TO THE USUAL BUSINESS OF THE EMPLOYER:** *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] he is employed **IN** and his employment shall continue [while such activity exists] **UNLESS HE IS TERMINATED FOR A JUST CAUSE OR WHEN AUTHORIZED BY THIS TITLE."**

**SEC. 10.** A new Article 280-A is hereby inserted in the Labor Code to read as follows:

**"ART. 280-A. PROJECT, EXTRA AND SEASONAL EMPLOYMENT. - PROJECT EMPLOYMENT REFERS TO THAT WHICH HAS BEEN FIXED FOR A SPECIFIC PROJECT OR UNDERTAKING THE COMPLETION OR TERMINATION OF WHICH HAS BEEN DETERMINED AND MADE KNOWN TO THE EMPLOYEE AT THE TIME OF HIS ENGAGEMENT.**

**"EXTRA EMPLOYMENT REFERS TO ADDITIONAL WORK TO BE PERFORMED IN RESTAURANT AND HOTEL ESTABLISHMENTS SPECIFICALLY FOR BANQUET FUNCTIONS, SEMINARS AND**

1 SIMILAR FUNCTIONS WHERE THE REGULAR EMPLOYEES  
2 CANNOT REASONABLY COPE WITH THE INCREASED DEMANDS  
3 OF SUCH EVENTS.

"SEASONAL EMPLOYMENT REFERS TO THE PERFORMANCE OF  
AGRICULTURAL WORK THAT IS SEASONAL IN NATURE AND THE  
EMPLOYMENT IS FOR THE DURATION OF THE PLANTING OR  
HARVESTING SEASON.

4 "PROJECT, EXTRA AND SEASONAL EMPLOYEES SHALL HAVE  
5 THE RIGHT TO SECURITY OF TENURE AND ARE ENTITLED TO  
6 RESUME THEIR EMPLOYMENT IN THE SAME OR SIMILAR  
7 POSITION UPON THE START OF THE NEXT PROJECT OR  
8 OCCASION FOR EXTRA OR SEASONAL EMPLOYMENT, AS THE  
9 CASE MAY BE: PROVIDED, THAT DURING THE TIME THAT THEIR  
10 SERVICES ARE NOT ACTUALLY AVAILABLE, THEY SHALL BE  
11 CONSIDERED TO BE ON AUTHORIZED LEAVE WITHOUT PAY."

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

14 "ART. 280-B. PROHIBITION AGAINST FIXED TERM  
15 EMPLOYMENT. - NO EMPLOYER SHALL HIRE ANY EMPLOYEE  
16 FOR A FIXED PERIOD, EXCEPT: (1) PROJECT EMPLOYEES; (2)  
17 EXTRA EMPLOYEES; (3) SEASONAL EMPLOYEES; (4) IN  
18 INDUSTRIES THAT ARE CERTIFIED BY THE PRESIDENT IN AN  
19 EXECUTIVE ORDER, AS ALLOWABLE, DUE TO EXISTING AND  
20 SUBSTANTIAL LOSSES IN THE INDUSTRY AS A WHOLE  
21 BROUGHT ABOUT BY AN INABILITY TO PRICE GOODS  
22 COMPETITIVELY IN THE MARKET. DESPITE RESORT TO ALL  
23 REASONABLE MEASURES: PROVIDED, THAT SUCH  
24 CERTIFICATION SHALL BE FOR A PERIOD OF AT MOST THREE  
25 (3) YEARS: PROVIDED FURTHER, THAT THE PRESIDENT MAY

1 RENEW THE CERTIFICATION UPON EXPIRY SHOULD THE  
2 CIRCUMSTANCES SUBSIST FOR A SIMILAR PERIOD AND  
3 SUBJECT TO SIMILAR RENEWALS; (5) OVERSEAS FILIPINO  
4 WORKERS; (6) THOSE HIRED TO PLAY PROFESSIONAL SPORTS;  
5 (7) THOSE APPOINTED TO SENSITIVE POSITIONS IN  
6 EDUCATIONAL INSTITUTIONS SUCH AS DEAN, ASSISTANT DEAN,  
7 PRINCIPAL AND COLLEGE SECRETARY; AND, (8) THOSE  
8 EMPLOYED AS MEMBERS OF THE MANAGERIAL STAFF. OTHER  
9 THAN THE FOREGOING EXCEPTIONS, ANY STIPULATION FIXING  
10 A PERIOD OF EMPLOYMENT SHALL BE VOID."

11 SEC. 12. Article 281 of the Labor Code is hereby amended to read as  
12 follows:

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

24  
25 THE TERMINATION OF PROBATIONARY EMPLOYEES SHALL NOT  
26 BE VALID IF DONE TO PRECLUDE ACQUISITION OF SECURITY OF  
27 TENURE BY THE EMPLOYEE. THE PRESENCE OF ANY OF THE  
28 FOLLOWING CIRCUMSTANCES SHALL CREATE A REBUTTABLE  
29 PRESUMPTION OF THE INTENT TO CIRCUMVENT THE RIGHT TO  
30 SECURITY OF TENURE OF PROBATIONARY EMPLOYEES:  
31

1 1. TERMINATION OF ALL OR ALMOST ALL OF THE  
2 PROBATIONARY EMPLOYEES AT THE END OF THE  
3 PROBATIONARY PERIOD AND THE SUBSEQUENT HIRING OF  
4 EMPLOYEES PERFORMING THE SAME WORK OR TASK AND/OR  
5 OCCUPYING THE SAME POSITION AS THOSE VACATED BY THE  
6 PREVIOUS PROBATIONARY EMPLOYEES.

7  
8 2. MAINTAINING PROBATIONARY EMPLOYEES IN EXCESS OF  
9 THIRTY PERCENT (30%) OF THE TOTAL WORKFORCE.  
10 HOWEVER, NEWLY-CREATED COMPANIES/EMPLOYERS ARE  
11 EXEMPTED FROM OBSERVING THE FOREGOING PERCENTAGE  
12 RESTRICTION WITHIN ONE (1) YEAR FROM THE START OF THEIR  
13 BUSINESS OPERATIONS.

14 SEC. 13. Article 288 of the Labor Code is hereby amended to read as  
15 follows:

16 "ART. 288. *Penalties.* - Except as otherwise provided in this Code, or  
17 unless the acts complained of hinge on a question of interpretation or  
18 implementation of ambiguous provisions of an existing collective  
19 bargaining agreement, any violation of the provisions of this Code  
20 declared to be unlawful or penal in nature shall be punished with a fine  
21 of not less than One Thousand Pesos (P1,000.00) nor more than Ten  
22 Thousand Pesos (P10,000.00) or imprisonment of not less than ~~three~~  
23 months nor more than three years, or both such fine and imprisonment  
24 at the discretion of the court.

25 "ANY PRINCIPAL OR SUBCONTRACTOR WHO ENGAGES IN  
26 LABOR ONLY CONTRACTING AND/OR VIOLATES ARTICLES 106,  
27 106-A, 106-B, 106-C, 106-D AND 106-E SHALL BE SOLIDARILY  
28 LIABLE TO INDEMNIFY EACH SUBCONTRACTED EMPLOYEE NO  
29 LESS THAN FIFTY THOUSAND PESOS (P50,000.00) WITHOUT  
30 PREJUDICE TO OTHER MONETARY AWARDS TO WHICH SUCH

1 SUBCONTRACTED EMPLOYEE MAY BE ENTITLED SUCH AS  
2 BACKWAGES, MONETARY CLAIMS AND BENEFITS UNDER AN  
3 APPLICABLE CERTIFIED BARGAINING AGREEMENT OR  
4 COMPANY POLICY, WHETHER WRITTEN OR OTHERWISE.

5 \*ANY EMPLOYER WHO DELIBERATELY CATEGORIZES OR  
6 OTHERWISE TREATS REGULAR EMPLOYEES TO BE ANY NON-  
7 REGULAR EMPLOYEE SHALL BE LIABLE TO INDEMNIFY EACH  
8 MISCLASSIFIED EMPLOYEE NO LESS THAN FIFTY THOUSAND  
9 PESOS (P50,000.00) WITHOUT PREJUDICE TO OTHER MONETARY  
10 AWARDS TO WHICH SUCH EMPLOYEE MAY BE ENTITLED SUCH  
11 AS BACKWAGES, MONETARY CLAIMS AND BENEFITS UNDER AN  
12 • APPLICABLE CERTIFIED BARGAINING AGREEMENT.

13  
14 \*In addition to such penalty, any alien found guilty shall be summarily  
15 deported upon completion of service of sentence.

16 \*Any provision of law to the contrary notwithstanding, any criminal  
17 offense punished in this Code, shall be under the concurrent jurisdiction  
18 of the Municipal or City Courts and the Courts of First Instance.\*

19 **SEC. 14. Implementing Rules and Regulations.** - The Department of  
20 Labor and Employment (DOLE) shall issue, within sixty (60) days after the effectivity  
21 of this Act, the rules and regulations for its effective implementation. ▲

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

25 **SEC. 16. Repealing Clause.** - All laws, decrees, executive orders, rules and  
26 regulations, or parts thereof inconsistent with the provisions of this Act are hereby  
27 repealed or modified accordingly.

1        SEC. 17. Effectivity Clause. - This Act shall take effect fifteen (15) days  
2        after its publication in the *Official Gazette* or in at least two (2) national newspapers  
3        of general circulation.

Approved,

**FACT SHEET**  
**House Bill No. 4853**  
(As Approved by the Committee)

**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, 106-A, 106-B, 106-C, 106-**  
**D, 106-E, 280-A AND 280-B TO PRESIDENTIAL NO. 442, AS**  
**AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF**  
**THE PHILIPPINES**

*Introduced by: REPS. WALDEN F. BELLO, ARLENE J. BAG-AO, RAYMOND DEMOCRITO C. MENDOZA, AUGUSTO BOBOY SYJUCO, PH.D., RUFUS B. RODRIGUEZ, MAXIMO B. RODRIGUEZ, JR., MAGTANGGOL T. GUNIGUNDO I, JOSEPH VICTOR G. EJERCITO, EMMELINE Y. AGLIPAY, TEODORO BRAWNER BAGUILAT, JR., BEN P. EBARDONE, MARY MITZI L. CAJAYON, RACHEL MARGUERITE B. DEL MAR, ROMEO M. A. OP, IMELDA G. CALIXTO-RUBIANO, SHARON S. GARIN, ROSENDA ANN OCAMPO, JESUS F. CELESTE, WINSTON CASTELO, ANGELO B. PALMONES, MARK AERON H. SAMBAR, ALFREDO GARBIN, JR., SCOTT DAVIES S. LANETE, M.D., ABIGAIL FAYE C. FERRIOL, RODEL M. BATOCABE, ROMEO JR. M. JALOSJOS, JULIETA R. CORTUNA, SHERWIN N. TUGNA, NANCY A. CATAMCO, LORD ALLAN JAY Q. VELASCO, RONALD M. COSALAN, AND JOSE PING-AY*

*Committee Referral: COMMITTEE ON LABOR AND EMPLOYMENT*  
*Committee Chairperson: REP. EMIL L. ONG*

**OBJECTIVE:**

To balance the legitimate business interests of the employer with the need for protection of workers from the prejudice of non-regularization.

**KEY PROVISIONS:**

- Strictly prohibits labor-only contracting
- Limits the number of subcontracted employees to 20% of the principal's total workforce
- Mandates registration of subcontractors
- Treats as unfair labor practice the act of a) engaging a labor-only contractor or contracting out the services or functions being performed by the employees within the bargaining unit and/or regular rank-and-file and supervisory employees; and, b) denying the existence of employer-employee relationship and/or to classify as casual, contractual, subcontracted employees, agency employees, or other non-regular classification those employees who are regular employees

- Mandates that the violation of the right to notice in termination makes dismissal illegal and entitles the worker to immediate reinstatement and full back wages
- Provides that the number of probationary employees should not be in excess of thirty percent (30%) of the total workforce
- Introduces the concepts of project, extra, and seasonal employment
- Prohibits fixed-term employment, with exceptions
- Penalizes the violation of contracting rules and other laws on security of tenure by a fine and/or imprisonment

#### **RELATED LAW:**

Articles 248, 279, 280, 281, and 288 of P.D. 442, as amended, otherwise known as the Labor Code of the Philippines