

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. **2821**



Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
PROVIDING PROTECTION FOR FREELANCE WORKERS

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.

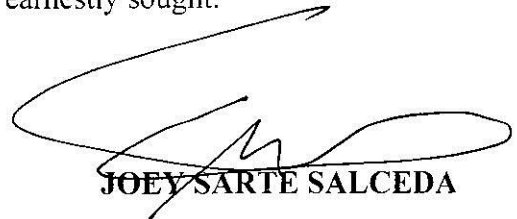
With more and more freelancers in the country, we are confronted with an urgent need to protect this new sector and empower them with ease of doing business. For many intelligent and skilled Filipinos with a strong network and marketable services, it is a long-term career choice. Most of them now prefers 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 the House of Representatives of the Philippines in Congress assembled:

Chapter I
GENERAL PROVISIONS

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

SEC. 2. *Declaration of Policy.* – Pursuant to Article II, Section 18, and Article XIII, Section 3 of the Constitution, it is hereby declared the policy of the State to protect the rights of workers, promote their welfare, and ensure their entitlement to humane conditions of work and just share in the fruits of production. Towards this end, the State shall recognize the right of freelance workers to protection from late or nonpayment of fees for services rendered.

SEC. 3. *Definition of Terms.* – As used in this Act:

(a) *Freelance worker* refers to any natural person or entity composed of no more than one (1) natural person, whether incorporated under the Securities and Exchange Commission, 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), who is hired or retained to provide services, in exchange for compensation, as an independent contractor to do work according to one’s own methods and without being subjected to the control of the hiring party, except only as to the results of the work:

(b) *Hiring party* refers to any person or entity that obtains or retains the services of a freelance worker; and

(c) *Retaliation* refers to any act reasonably likely to prevent a freelance worker from further being offered freelance work and contracts.

SEC. 4. *Written Contract.* – Any hiring party obtaining or retaining the services of a freelance worker shall execute a written contract with such freelance worker before said services are rendered. The hiring party and the freelance worker shall each retain a signed copy of the contract.

The contract shall be written in plain language, understood by both parties. It shall include, at the minimum, the following:

- (a) Itemization of all services to be provided by the freelance worker;
- (b) Details of compensation and other worker's benefits, including rate, method and schedule of payment;
- (c) Period of employment;
- (d) Grounds for breach of contract on the part of the hiring party and of the freelance worker;
- (e) Tax identification number of the freelance worker; and
- (f) Any other condition, term or clause that the Department of Labor and Employment (DOLE) may direct, subject to the provisions of this Act.

No modification of the terms of the contract shall be enforceable unless signed by both the hiring party and the freelance worker.

SEC. 5. *Night Shift Differential.* – Freelance workers who are required to be physically present in the workplace, or those on field assignments, shall be paid a night shift differential of not less than ten percent (10%) of his or her regular compensation for each hour of work performed between ten o'clock in the evening and six o'clock in the morning, unless there is a more favorable fee stipulated in the contract.

SEC. 6. *Hazard Pay.* – All freelance workers deployed in dangerous areas such as strife-torn or embattled locations, distressed or isolated stations, prison camps, mental hospitals, radiation-exposed clinic, laboratories or disease-infested areas, or in areas declared under a state of calamity or emergency for the duration of deployment and unduly exposes them to great danger, contagion, radiation, occupational risks or perils to life, shall be compensated with a hazard pay equivalent to at least twenty-five percent (25%) of the total payment for the period of such deployment as agreed upon in the contract, unless there is a more favorable fee stipulated therein.

SEC. 7. *Unlawful Practices.* – It shall be unlawful for any hiring party to:

- (a) Pay the compensation due the freelance worker later than fifteen (15) days after the date of payment of compensation stated in the written contract or after the rendition of services in cases where there is no written contract;
- (b) Require as a condition of payment of compensation, at any time after a freelance worker has commenced rendition of services, that a freelance worker accept less than the specified contract price; or

(c) Commit any acts of retaliation against any freelance worker for:

- (1) Opposing any practice prohibited by this Act;
- (2) Filing a complaint authorized under this Act;
- (3) Testifying or assisting in any proceeding authorized under this Act;
- (4) Commencing a civil action alleging a violation of this Act;
- (5) Assisting the DOLE in an investigation commenced pursuant to this Act; or
- (6) Providing information to the DOLE pursuant to the terms of a mediation or conciliation agreement under this Act.

SEC. 8. *Civil Penalty.* – A person who commits any of the unlawful practices enumerated in Section 7 of this Act shall be punished by a fine of not less than Fifty Thousand Pesos (Php50,000.00) but not more than Five Hundred Thousand Pesos (Php500,000.00).

Chapter II

AGENCY ENFORCEMENT AND ADMINISTRATIVE PROCESS

SEC. 9. *Complaints.* – Any person or such person's authorized representative aggrieved by a violation of this Act, may file a complaint with the DOLE, through the Undersecretary for Workers with Special Concerns, without prejudice to the filing of civil action in appropriate cases.

SEC. 10. *Prohibition Against Forum Shopping.* – When a civil action has been initiated in a court of competent jurisdiction arising from any 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, no other case involving the same cause of action shall be filed with the DOLE.

SEC. 11. *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 fifteen (15) calendar days of receiving such written notification, the respondent shall provide the DOLE with a written response and such other information as the DOLE may request. The DOLE shall notify each complainant in writing, not less than thirty (30) calendar days after the complaint is filed, of the status of the complaint and any resulting investigation.

SEC. 12. *Mediation and Conciliation.* – The DOLE 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 DOLE shall embody such agreement in an order and serve a copy thereof upon all parties to the conciliation agreement.

Chapter III

CIVIL ENFORCEMENT

SEC. 13. *Notice of Violation and Order of Payment.* – If, as a result of an investigation of a complaint or an investigation conducted upon its own initiative, the DOLE finds cause to believe that a violation of this Act has occurred, it shall issue a notice of violation to the respondent and order the corresponding payment of compensation due to the prevailing party.

SEC. 14. *Violation of Order of Payment.* – The order of payment shall include an interest rate of six percent (6%) per annum which shall be awarded to the prevailing party in case the violation continues.

SEC. 15. *Civil Action.* – Except as otherwise provided by law, any person claiming to be aggrieved by a violation of this Act has a cause of action to file a complaint in a court of competent jurisdiction for damages, injunctive relief and such other remedies as may be appropriate, without prejudice to the filing of a criminal action in appropriate cases. The prevailing party shall be entitled to an award of reasonable attorney's fees and costs.

No person claiming to be aggrieved by a violation of this Act may bring a civil action in a court of competent jurisdiction if such aggrieved person, or one's representative, has filed a complaint with the DOLE pursuant to Chapter II of this Act and based upon the same transaction or series of transactions, unless that complaint has been terminated without prejudice to a subsequent civil action.

SEC. 16. *Non-Waiver.* – Except as otherwise provided by law, any provision of any contract or agreement purporting to waive rights under this Act is against public policy and shall be null and void.

SEC. 17. *Coverage.* – This Act shall apply only to contracts or agreements entered into upon the effectivity of this Act.

Chapter IV

TAXATION

SEC. 18. *Taxpayer Registration.* – All freelance workers as defined under this Act shall register with the BIR.

SEC. 19. *Filing and Payment.* – Except as otherwise provided by law, all freelance workers must pay their income taxes annually.

Freelancers, as defined under this Act, shall be entitled to tax relief within the threshold provided under Republic Act No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion Act", and Republic Act No. 9178, otherwise known as the "Barangay Micro Business Enterprises (BMBEs) Act of 2002."

SEC. 20. *Taxpayer Service.* – Every BIR Revenue District Office shall designate a lane or a special assistance desk dedicated to freelance workers that shall be manned by an officer who shall assist freelance workers in the registration and processing of documents and other inquiries.

Chapter V

FINAL PROVISIONS

SEC. 21. *Report.* – One (1) year after the effectivity of this Act, and every year thereafter, the Secretary of Labor and Employment shall submit a report to the Committees on Labor and Employment of the Senate of the Philippines and the House of Representatives regarding the effectiveness of the provisions of this Act at improving freelance contracting and payment practices. The report shall include, at the minimum, the number of complaints received, investigations initiated and notices issued by the DOLE on violations of this Act, and complains settled by mediation or conciliation.

SEC. 22. *Information Campaign.* – The DOLE, in coordination with the DTI, BIR, local government units and other relevant agencies, shall initiate a program with the objective of informing freelance workers of their rights and obligations, the proper procedure of registering as a taxpayer, and the modes of legal redress as provided for in this Act, and in other laws and regulations.

SEC. 23. *Implementing Rules and Regulations.* – Within fifteen (15) days from the effectivity of this Act, the Secretary of Labor and Employment shall, in coordination with the BIR and other relevant agencies, issue the necessary rules and regulations from the implementation of this Act.

SEC. 24. *Separability Clause.* – If any part, section or provision of this Act is declared invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SEC. 25. *Repealing Clause.* – All laws, decrees, orders, rules, and regulations, or others issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 26. *Effectivity.* – This Act shall after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,