

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

TWENTIETH CONGRESS
1st Regular Session

House Bill No. **2856**



Introduced by Representative ERIC G. YAP

EXPLANATORY NOTE

The 1987 accords the protection of the rights and promotion of the welfare of workers. The said constitutional mandate is all-encompassing, which extends even to informal laborers.

The Gig Economy has been growing exponentially as freelancing became a trend amongst Filipinos—being one of the top contributors in the national coffers, especially during the COVID-19 pandemic. In the data gathered by PayPal in 2018 for the Global Freelancer Insights Report, there are about 2%, or 1.5 million to 2 million Filipino freelancers in the country. Furthermore, the 2019 report by the CNBC shows that the Philippines ranks 6th as a country with the fastest-growing market for freelancers, showing a 35% growth in freelance earnings.

In spite of this contribution, freelance workers belong to the informal sector of labor. Thus, they remain unregulated and unprotected from labor exploitation due to lack of enabling legislation that will strengthen their rights and promote their welfare. Issues on taxation, security of tenure, and just compensation remain to be persistent in this field.

To mitigate these persisting issues that tremendously affect and violate our freelance workers, this proposed measure aims to institutionalize the provision of a written contract between the hiring party and freelance worker, including the mandatory grant of hazard pay and night differential pay in exchange for the freelancer's service. In addition, this bill also establishes a set of penal sanctions against the unlawful practices of the hiring party.

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



HON. ERIC G. YAP

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AN ACT
PROVIDING PROTECTION AND INCENTIVES FOR FREELANCE WORKERS

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. *Short Title.* This Act shall be known as "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
- e. 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. Details of compensation and other worker's benefits, including rate, method and schedule of payment;

The contract must state the necessary personal circumstances of the freelance worker, such as but not limited to the freelance worker's name, address and the worker's Tax Identification Number. No modification of the terms of the contract shall be enforceable unless signed by both the hiring party and the freelance worker.

SEC. 5. *Down Payment.* - An initial partial payment for the contracting of services of the freelance worker shall be made upon engagement, which shall be not less than thirty percent (30%) of the contract price.

SEC. 6. *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 their 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. 7. *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 clinics, 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. 8. *Unlawful Practices.* - It shall be unlawful for any hiring party to:

- a. Engage with a freelance worker without a written contract;
- b. 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;
- c. Require as a condition of payment of compensation at any time after a freelance worker has commenced rendition of services, that the latter accept less than the specified contract price; or
- d. Commit any act 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. 9. *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 (Php 50,000.00) but not more than Five hundred thousand pesos (Php 500,000.00).

CHAPTER II **AGENCY ENFORCEMENT AND ADMINISTRATIVE PROCESS**

SEC. 10. *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. 11. *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. 12. *Investigation.* - Upon receiving a complaint alleging a violation of this Act, the DOLE 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. 13. *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 of such order upon all parties to the conciliation agreement.

CHAPTER III CIVIL ENFORCEMENT

SEC. 14. *Notice of Violation and Order of Payment.* - If, as a result or 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. 15. *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. 16. *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 I of this Act based upon the same transaction or series of transactions, unless the complaint has been terminated without prejudice to a subsequent civil action.

SEC. 17. *Non-Waiver.* - Except as otherwise stipulated by law, any provision of a contract or agreement claiming to waive rights provided under this Act is against public policy and shall be null and void.

SEC. 18. *Coverage.* - This Act shall apply only to contracts or agreements entered into upon the effectivity of this Act.

CHAPTER IV TAXATION

SEC. 19. *Tax Relief.* - Freelancers, as defined under this Act, shall be entitled to tax relief within the threshold provided under the National Internal Revenue Code of 1997, as amended, and Republic Act No. 9178, otherwise known as the "Barangay Micro Business Enterprises (BMBEs) Act of 2002."

SEC. 20. *Special Assistance.* - Every BIR Revenue District Office shall designate a lane or a special assistance desk that shall be manned by an officer who shall assist freelance workers on their inquiries and in complying with the processing of documents, including the registration requirement under this Act.

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 Committee on Labor and Employment of the House of Representatives and the Committee on Labor, Employment and Human Resources Development of the Senate of the Philippines regarding the effectiveness of the provisions of this Act in improving freelance contracting and payment practices. Similarly, the DOLE shall submit the report to the Philippine Creative Industries Development Council, through its Creative Workers' Welfare Standing Committee. 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 complaints settled by mediation or conciliation.

SEC. 22. *Information Campaign.* - The DOLE shall, in coordination with the DTI, BIR, local government units and other relevant agencies, 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. *Supplementary Application.* - The provisions of Republic Act No. 11058, entitled "An Act Strengthening Compliance with Occupational Safety and Health Standards and Providing Penalties for Violations Thereof" shall be applied suppletorily to this Act.

SEC. 24. *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 rules and regulations from the implementation of this Act

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

SEC. 27. *Effectivity.* - This Act shall take effect after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,