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SENATE  
S. No. 1554

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Introduced by Senator Miriam Defensor Santiago

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#### EXPLANATORY NOTE

The competition necessitated by the integration of world markets has pushed domestic industries to devise various flexible work arrangements in order to survive. Unfortunately, the Labor Code provisions are not responsive to these changes. While two flexible forms of employment are recognized by the Labor Code, namely - project and seasonal employment, the rights of workers under such arrangements required the intervention of the Supreme Court for their definition. In fact, a third form, fixed term employment, was derived by the Supreme Court from the legal precepts surrounding Articles 280 and 281.

It is therefore imperative to amend the Labor Code to institutionalize the parameters for these flexible forms of employment, thereby protecting these recognized forms of atypical employment in the Labor Code.

*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT  
2 PRESCRIBING WORK ARRANGEMENTS BASED ON SECURITY OF TENURE

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

3 SECTION 1. *Short Title.* - This Act shall be called the "Security of Tenure Law." Book  
4 III of Presidential Decree No. 442, as amended, otherwise known as The Labor Code of the  
5 Philippines, is hereby further amended to include Title IV entitled "Security of Tenure". The  
6 provisions of this Act shall comprise the new Articles 156-165 of the Labor Code.

7 SECTION 2. *Classification of Workers.* -Article 156 shall read as follows:

8 "Article 156. Classification of Workers. - Work arrangements based on  
9 security of tenure shall be as follows: (a) contracts with an indefinite period; and  
10 (b) contracts with a definite period. In general, an employment contract shall be  
11 for an indefinite period, unless otherwise stipulated and allowed by conditions  
12 stated in Article 158."

13 SECTION 3. *Security of Tenure.* - Article 157 shall read as follows:

14 "Article 157. Security of Tenure. - Contracts with an indefinite period  
15 shall not be terminated except for just or authorized cause under Book VI.  
16 Contracts with a definite period shall not be terminated except: (a) for just or  
17 authorized cause under Book VI; or (b) upon expiration of the stipulated period."

1 SECTION 4. *Contracts for Definite Period: When Allowed.* - Article 158 shall read as  
2 follows:

3 "Article 158. *Contracts for Definite Period; When Allowed.* - Contracts  
4 for a definite period shall be allowed only in the following instances:

5 (a) Replacement of an employee who is temporarily absent;

6 (b) Temporary increase in the volume of business, which in no case shall  
7 exceed six (6) months in a twelve (12) month period;

8 (c) To meet expansion of a company's activity, consisting of the launch of  
9 a new production line, product or service, which in no case shall be less than six  
10 (6) months nor more than three (3) years; provided, that employees still hired after  
11 the contract for definite period shall be under a new contract for an indefinite  
12 period;

13 (d) Part-time contracts, where the employee undertakes to render services  
14 for a number of hours or days less than two thirds (2/3) of the usual number of  
15 working hours for the same position in the establishment;

16 (e) Construction work, in which case the duration of the project or a  
17 specific phase thereof shall be indicated in the contract and made known to the  
18 employee at the commencement of the employment relationship; provided, that  
19 pertinent rules and regulations issued by the Department of Labor and  
20 Employment (DOLE) on employment in the construction industry shall continue  
21 to remain in full force and effect;

22 (f) Professional sports;

23 (g) Corporate officers, and those occupying managerial, confidential, or  
24 technical positions;

1 (h) Overseas Filipino workers (OFWs); provided, that such OFWs work  
2 under contracts of employment consistent with Philippine Overseas Employment  
3 Authority (POEA) rules and regulations;

4 (i) Officials of private academic institutions;

5 (j) Seasonal positions or jobs in the tourism, agriculture, and entertainment  
6 sectors; provided, that the duration of the season shall be specified in the contract  
7 of employment and made known to the employee at the commencement of the  
8 employment relationship; or

9 (k) Other cases where, based on the nature of the work to be performed or  
10 on the circumstances under which it is to be performed, and with no fraud, duress  
11 or coercion practiced upon the worker, the employment relationship cannot be of  
12 indefinite duration.”

13 SECTION 5. *Contracts for Definite Period; Form and Contents.* - Article 159 shall read  
14 as follows:

15 “Article 159. Contracts for Definite Period; Form and Contents. - The  
16 contract for a definite period shall be in writing and signed by the employer and  
17 employee, stating the following:

18 (a) Precise purpose of employment;

19 (b) Name and qualifications of the employee;

20 (c) Description of the job;

21 (d) Wages and other terms and conditions of employment;

22 (e) Date of expiry of the contract; and

1 (f) Stipulations for renewal; provided, that renewal must be once only, and  
2 the total duration of the contract, including renewal, may not exceed two (2)  
3 years; provided further, that an employee for a definite period allowed to work  
4 after the expiry of the stipulated period without the benefit of a renewed contract  
5 shall be deemed engaged for an indefinite period.

6 All of the foregoing contents of a contract for a definite period shall be  
7 made known to the employee at the commencement of the employment  
8 relationship. Every contract of employment for a definite period shall be made  
9 available by the employer upon written demand by the Secretary of Labor and  
10 Employment or his authorized representative. Failure to produce such a written  
11 contract upon due demand by the Secretary of Labor and Employment or his  
12 authorized representative or upon issuance of a subpoena *duces tecum* by the  
13 National Labor Relations Commission (NLRC) shall give rise to the presumption  
14 that the arrangement is for an indefinite period.”

15 SECTION 6. *Ratio between Employees for an Indefinite and a Definite Period. -*

16 Article 160 shall read as follows:

17 “Article 160. *Ratio between Employees for an Indefinite and a Definite*  
18 *Period. -*

19 In no case shall the number of employees under contracts for a definite period  
20 exceed thirty percent (30%) of the total number of rank-and-file employees. A  
21 violation of this provision shall result in the automatic conversion of all such  
22 arrangements into contracts for an indefinite period.”

1 SECTION 7. *Rights and Privileges of an Employee for a Definite or Indefinite Period.* -

2 Article 161 shall read as follows:

3 "Article 161. Rights and Privileges of an Employee for a Definite or  
4 Indefinite Period. - An employee for a definite or indefinite period shall have the  
5 following rights and privileges:

6 (a) safe and healthful working conditions;

7 (b) labor standards, such as service incentive leave, rest days, overtime  
8 pay, holiday pay, and 13th month pay;

9 (c) social security and welfare benefits; and

10 (d) self-organization, collective bargaining, and peaceful concerted action.

11 In addition, the Bureau of Internal Revenue (BIR) shall, in appropriate revenue  
12 regulations, grant employees for a definite period a privileged personal income  
13 tax exemption, which shall be higher than those provided in each income bracket  
14 based on existing schedules."

15 SECTION 8. *Probationary Status; Nature.* -Article 162 shall read as follows:

16 "Article 162. Probationary Status; Nature. - A contract of employment  
17 may stipulate a probationary period to test the skills or abilities of a prospective  
18 employee for a definite or indefinite period. A probationary employee may be  
19 terminated for the following reasons:

20 (a) just or authorized cause under Book VI; or

21 (b) when the probationary employee fails to qualify as an employee for a  
22 definite or indefinite period in accordance with reasonable standards made known  
23 by the employer at the time of engagement."

1 SECTION 9. *Probationary Status; Periods.* - Article 163 shall read as follows:

2 "Article 163. Probationary Status; Periods. - The duration of probationary  
3 employment varies according to the annual gross basic salary of the probationary  
4 employee. For employees with an annual gross basic salary below one hundred  
5 twenty thousand pesos (P120,000.00), the probationary period shall not exceed  
6 three (3) months. Employees with an annual gross basic salary of one hundred  
7 twenty thousand pesos (P120,000.00) may exceed three (3) months, and in no  
8 case shall such a probationary period be more than one (1) year. The probationary  
9 period of professors, instructors, and teachers shall be subject to law and  
10 standards established by the Department of Education (DepEd). For purposes of  
11 this Act, "basic salary" shall refer to all remunerations or earnings paid by an  
12 employer for services rendered, but does not include allowances and monetary  
13 benefits which are not considered or integrated as part of the regular or basic  
14 salary, such as the cash equivalent of unused vacation and sick leave credits,  
15 overtime, premium, night differential and holiday pay, and cost-of-living  
16 allowances."

17 SECTION 10. *Non-Diminution of Status and Benefits.* - Article 164 shall read as follows:

18 "Article 164. Non-Diminution of Status and Benefits. - There shall be no  
19 demotion in rank or diminution of pay or illegal dismissal of any person already  
20 employed upon the effectivity of this Act. Henceforth, regular employees as  
21 defined under the former Article 280 of the Labor Code shall be deemed under  
22 contracts for an indefinite period."

23 SECTION 11. *Recruitment and Placement.* - Article 165 shall read as follows:

1           “Article 165. Recruitment and Placement. - For purposes of hiring  
2 employees for definite or indefinite periods, the services of private recruitment  
3 and placement agencies (PRPAs) shall be made available in accordance with  
4 DOLE rules and regulations.”

5           SECTION 12. *Effects of Illegal Dismissal.* - Article 288 (formerly Article 279) of the  
6 Labor Code is hereby amended to read as follows:

7           “Article 287. Effect of Illegal Dismissal. – An employee who is unjustly  
8 dismissed from work shall be entitled to reinstatement without loss of seniority  
9 rights and other privileges and to his full back wages, inclusive of allowances, and  
10 to his other benefits or their monetary equivalent computed from the time his  
11 compensation was withheld from him up to the time of his actual reinstatement.

12           If reinstatement is not possible, the unjustly dismissed employee engaged  
13 for an indefinite period shall be entitled to separation pay in the amount of one (1)  
14 month pay or at least one (1) month pay for every year of service, whichever is  
15 higher. For employees engaged for a definite period, the amount of separation pay  
16 shall be one (1) month pay or the remaining basic salary for the unexpired portion  
17 of the contract, whichever is higher.”

18           SECTION 13. *Repealing Clause.* - The provisions of Articles 289 and 290 (formerly  
19 Articles 280 and 281) of the Labor Code are hereby repealed accordingly. All laws, presidential  
20 decrees, executive orders, presidential proclamations, rules and regulations or parts thereof  
21 contrary to or inconsistent with this Act are hereby repealed or modified accordingly.



1           SECTION 14. *Renumbering and Rules and Regulations.* - The Department of Labor and  
2 Employment (DOLE) shall cause the renumbering of affected provisions of the Labor Code, as  
3 amended. The DOLE shall also promulgate the necessary rules and regulations to implement the  
4 provisions of this Act.

5           SECTION 15. *Separability Clause.* - If any provision or part hereof is held invalid or  
6 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
7 valid and subsisting.

8           SECTION 16. *Effectivity Clause.* - This Act shall take effect fifteen days (15) after its  
9 publication in at least two (2) newspapers of general circulation.

Approved,