

SIXTEENTH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES )  
First Regular Session. )




Senate  
Office of the Secretary

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SENATE

Senate Bill No. 366

RECEIVED BY: 

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INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

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**EXPLANATORY NOTE**

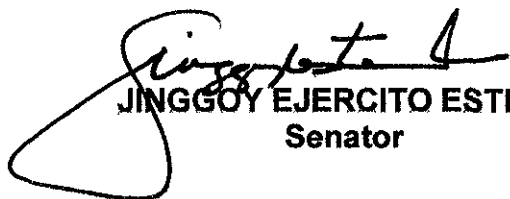
It is a declared policy of the State to affirm labor as a primary social economic force and to protect the rights of workers and promote their welfare. Accordingly, Section 3, Article XIII of the 1987 Philippine Constitution provides that:

*"The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.  
X x x."*

Job-contracting or sub-contracting was previously confined to security, janitorial, maintenance and other services incidental to the business of the employer. But this has changed in recent years. Now, job-contracting or sub-contracting has expanded to a wider scope of work, thus, covering more members of the labor force. This expansion, however, caused the exploitation of certain protective labor legislation and standards.

While job-contracting and sub-contracting are allowed by law, it should be subjected regulations to minimize its exploitive aspects. This bill, therefore, seeks to mandate indirect employers to ensure that all benefits of employees hired through job contractors are paid.

Approval of this initiative is earnestly sought.

  
JINGGOY EJERCITO ESTRADA  
Senator

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**AN ACT**

**EXPANDING THE LIABILITIES OF INDIRECT EMPLOYERS IN JOB CONTRACTING, COVERING OTHER BENEFITS DUE THEIR EMPLOYEES, FOR THIS PURPOSE AMENDING ARTICLE 106 OF PRESIDENTIAL DECREE 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 Presidential Decree 442, as amended is hereby further amended by adding a paragraph, to read 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.

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

"IF THE EMPLOYEES OF THE CONTRACTOR OF SUBCONTRACTOR HAVE RENDERED AT LEAST ONE YEAR OF SERVICE TO THE SAME EMPLOYER, WHETHER OR NOT SUCH EMPLOYMENT IS CONTINUOUS, SUCH EMPLOYER SHALL ALSO BE JOINTLY AND SEVERALLY BE LIABLE WITH THE CONTRACTOR OR SUBCONTRACTOR FOR THE PAYMENT OF THE EMPLOYEES' BENEFITS, INCLUDING, BUT NOT LIMITED TO THEIR SEPARATION OR RETIREMENT BENEFITS, PROVIDED, THAT THE LIABILITY OF THE INDIRECT EMPLOYER SHALL BE LIMITED ONLY TO THE PERIOD THAT SUCH EMPLOYEE RENDERED SERVICES TO THE SAID INDIRECT EMPLOYER, THE AVAILMENT AND GRANT OF SEPARATION, RETIREMENT AND OTHER BENEFITS SHALL BE IN ACCORDANCE WITH EXISTING LAWS.

"The Secretary of Labor may, by appropriate regulations, restrict or prohibit the contracting out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code. There is "labor only" contracting where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and be placed by such persons are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him."

**SEC. 2.** If any provision of this Act is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

**SEC. 3.** All laws, presidential decrees, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

**SEC. 4.** This Act shall take effect fifteen (15) days following its publication in the Official Gazette or two (2) newspapers of general circulation, whichever comes first.

*Approved,*