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SENATE
S. No. 1904

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Introduced by Senator Miriam Defensor Santiago

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

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

5 SECTION 1. *Short Title.* – This Act shall be called the “Security of Tenure Law
6 of 2007.” Book III of Presidential Decree No. 442, as amended, otherwise known as The
7 Labor Code of the Philippines, is hereby further amended to include Title IV entitled
8 “Security of Tenure”. The provisions of this Act shall comprise the new Articles 156-165
9 of the Labor Code.

10 SECTION 2. *Classification of Workers.* – Article 156 shall read as follows:

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

15 SECTION 3. *Security of Tenure.* – Article 157 shall read as follows:

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

20 SECTION 4. *Contracts for Definite Period: When Allowed.* – Article 158 shall
21 read as follows:

1 “Article 158. Contracts for Definite Period; When Allowed. – Contracts for a
2 definite period shall be allowed only in the following instances:

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

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

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

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

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

18 (f) Professional sports;

19 (g) Corporate officers, and those occupying managerial, confidential, or technical
20 positions;

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

24 (i) Officials of private academic institutions;

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

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

4 SECTION 5. *Contracts for Definite Period; Form and Contents.* – Article 159
5 shall read as follows:

6 “Article 159. *Contracts for Definite Period; Form and Contents.* – The contract for
7 a definite period shall be in writing and signed by the employer and employee, stating the
8 following:

9 (a) Precise purpose of employment;

10 (b) Name and qualifications of the employee;

11 (c) Description of the job;

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

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

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

19 All of the foregoing contents of a contract for a definite period shall be made
20 known to the employee at the commencement of the employment relationship. Every
21 contract of employment for a definite period shall be made available by the employer
22 upon written demand by the Secretary of Labor and Employment or his authorized
23 representative. Failure to produce such a written contract upon due demand by the
24 Secretary of Labor and Employment or his authorized representative or upon issuance of
25 a subpoena *duces tecum* by the National Labor Relations Commission (NLRC) shall give
26 rise to the presumption that the arrangement is for an indefinite period.”

1 SECTION 6. *Ratio between Employees for an Indefinite and a Definite Period.* –

2 Article 160 shall read as follows:

3 “Article 160. *Ratio between Employees for an Indefinite and a Definite Period.* –

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

8 SECTION 7. *Rights and Privileges of an Employee for a Definite or Indefinite*
9 *Period.* – Article 161 shall read as follows:

10 “Article 161. *Rights and Privileges of an Employee for a Definite or Indefinite*
11 *Period.* – An employee for a definite or indefinite period shall have the following rights
12 and privileges:

13 (a) safe and healthful working conditions;

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

16 (c) social security and welfare benefits; and

17 (d) self-organization, collective bargaining, and peaceful concerted action. In
18 addition, the Bureau of Internal Revenue (BIR) shall, in appropriate revenue regulations,
19 grant employees for a definite period a privileged personal income tax exemption, which
20 shall be higher than those provided in each income bracket based on existing schedules.”

21 SECTION 8. *Probationary Status; Nature.* – Article 162 shall read as follows:

22 “Article 162. *Probationary Status; Nature.* – A contract of employment may
23 stipulate a probationary period to test the skills or abilities of a prospective employee for
24 a definite or indefinite period. A probationary employee may be terminated for the
25 following reasons:

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

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

4 SECTION 9. *Probationary Status; Periods.* – Article 163 shall read as follows:

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

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

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

25 SECTION 11. *Recruitment and Placement.* – Article 165 shall read as follows:

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

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

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

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

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

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

25 SECTION 15. *Separability Clause.* – If any provision or part hereof is held
26 invalid or unconstitutional, the remainder of the law or the provision not otherwise
27 affected shall remain valid and subsisting.

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

Approved,