

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**FOURTEENTH CONGRESS**  
First Regular Session

HOUSE BILL NO. 3609

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**Introduced by HONORABLE IGNACIO "IGGY" T. ARROYO**

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**EXPLANATORY NOTE**

The opening up of many countries' economies to world trade and capital has intensified the competition for markets. The competition has pushed domestic industries to devise various flexible work arrangements in order to survive hence, the loss of long-term jobs and the creation of casual, temporary, contractual and other forms of non-permanent employment where the worker gets a measly pay, no benefits, no security, etc.

To manage to survive in a sternly competitive world, companies must produce more at less cost and to do this, one of the first to be sacrificed is the workforce. Of our country's labor force, more than one third is unemployed or underemployed thus, ready to grab any job.

The ILO reported that 73 percent of factories in the Philippines practice labor flexibilization as early as 1992. Factory production is now undertaken by non-regular workers, including casual, temporary or part-time workers, contractual, piecework or seasonal workers. Thus, a small number of regular workers are usually maintained and more contractual employees are hired instead. When the demand is high, companies resort to subcontracting. Flexible work arrangements and labor casualisation are expected to be established because of this struggle for competitiveness.

Another observation is that contracts are fixed not because of temporary exigencies of a certain employer or company but because the latter resort to a scheme that preclude employees from acquiring tenurial security.

In view hereof, it is therefore vital to amend the Philippine Labor Code since its 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 precept surrounding Articles 280 and 281.

Labor flexibilization has become a trend as industries call for more adaptable working arrangements that can increase productivity and lower expenses. The proposed bill therefore will provide clear and specific legal basis in applying these work arrangements.

Hence, the immediate approval of this bill is earnestly called for.

**IGNACIO T. ARROYO**  
**Representative**  
**5<sup>th</sup> District, Negros Occidental**

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**AN ACT PRESCRIBING WORK ARRANGEMENTS  
BASED ON SECURITY OF TENURE**

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

**Section 1. Short Title.-** This Act shall be called as ***"Security of Tenure Law of 2007."*** Book III of Presidential Decree No. 442, as amended, otherwise known as *The Labor Code of the Philippines*, is hereby further amended to include Title IV entitled *"Security of Tenure"*. The provisions of this Act shall comprise the new articles 156-165 of the Labor Code.

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

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

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

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

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

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

- (a) Replacement of an employee who is *temporarily* absent ;
- (b) Temporary increase in the volume of business, which in no case shall exceed six (6) months in a twelve (12) month period;
- (c) To meet expansion of a company's activity, consisting of the launch of a new production line, product or service, which in no case shall be less than six (6) months nor more than three (3) years; provided, that employees still hired after the contract for definite period shall be under a new contract for an indefinite period;

- (d) Part time contracts, where the employee undertakes to render service for a number of hours or days less than two thirds (2/3) of the usual number of working hours for the same position in the establishment;
- (e) Construction work, in which case the duration of the project of specific phase thereof shall be indicated in the contract and made known to the employee at the commencement of the employment relationship; provided, that pertinent rules and regulations issued by the Department of Labor and Employment (DOLE) on employment in the construction industry shall continue to remain in full force and effect;
- (f) Professional Sports;
- (g) Corporate officers, and those occupying managerial, confidential, or technical positions;
- (h) Overseas Filipino Workers (OFWs); provided, that such OFWs work under contracts of employment consistent with Philippine Overseas Employment Authority (POEA) rules and regulations;
- (i) Officials of private academic institutions;
- (j) Seasonal positions or jobs in the tourism, agriculture, and entertainment sectors, provided, that the duration of the season shall be specified in the contract of employment and made known to the employee at the commencement of the employment relationship; or
- (k) Other cases where, based on the nature of the work to be performed or on the circumstances under which it is to be performed, and with no fraud, duress or coercion practiced upon the worker, the employment relationship cannot be indefinite duration.”

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

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

- (a) Precise purpose of employment;
- (b) Name and qualifications of the employee;
- (c) Description of the job;
- (d) Wages and other terms and conditions of employment;
- (e) Date of expiry of the contract; and
- (f) Stipulations for renewal; provided, that renewal must be once only, and the total duration of the contract, including renewal, may not exceed two (2) years; provided further, that an employee for a definite period allowed to work after the expiry of the stipulated period without the benefit of a renewed contract shall be deemed engaged for an indefinite period.

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

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

Article 160 shall read as follows:

**“Article 160. *Ratio between employees for an indefinite and a definite period.* –** In no case shall the number of employees under contracts for a definite period exceed thirty percent (30%) of the total number of rank-and-file employees. A violation of this provision shall result in the automatic conversion of all such arrangements into contracts for an indefinite period.”

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

Article 161 shall read as follows:

**“Article 161. *Rights and privileges of an employee for a definite or indefinite period.* –** An employee for a definite or indefinite period shall have the following rights and privileges:

- (a) Safe and healthful working conditions;
- (b) Labor standards, such as service incentive leave, rest days, overtime pay, holiday pay, and 13<sup>th</sup> month pay;
- (c) Social security and welfare benefits; and
- (d) Self-organization, collective bargaining and peaceful concerted action. In addition, the Bureau of Internal Revenue (BIR) shall, in appropriate revenue regulations, grant employees for a definite period a privileged personal income tax exemption, which shall be higher than those provided in each income bracket based on existing schedules.”

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

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

- (a) Just or authorized cause under Book VI; or
- (b) When the probationary employee fails to qualify as an employee for a definite or indefinite period in accordance with reasonable standards made known by the employer at the time of engagement.”

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

**“Article 163. *Probationary Status; Periods.* –** The duration of probationary employment varies according to the annual gross basic salary of the probationary employee. For employees with an annual gross basic salary *below* one hundred twenty thousand pesos (P120,000.00), the probationary period shall not exceed three (3) months. Employees with an annual gross basic salary of one hundred twenty thousand pesos (P120,000.00) may exceed three (3) months, and in no case such a probationary period be more than one (1) year. The probationary period of professors, instructors, and teachers shall be subject to law and standards established by the Department of Education (DepEd). For purposes of this Act, **“basic salary”** shall refer to all remunerations or earnings paid by an employer for services rendered. But does not include

allowances and monetary benefits which are not considered or integrated as part of the regular or basic salary, such as the cash equivalent of unused vacation and sick leave credits, overtime, premium, night differential and holiday pay, and cost-of-living allowances.”

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

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

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

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

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

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

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

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

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

**SECTION 15. *Separability Clause.*** – If any provision or part thereof is held invalid or unconstitutional, the remainder of the law or the provision nor otherwise affected shall remain valid and subsisting.

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

Approved,