

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **1563**



Introduced by Hon. Aniceto R. Bertiz III

EXPLANATORY NOTE

The right to security of tenure of all workers is enshrined in our Constitution (Sec. 3, Art. XIII). It is secured in our Labor Code which provides for Security of Tenure (Art. 279) and Regular and Casual Employment (Art. 280). Time and again, our Supreme Court has declared that employment is deemed regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer.

Nevertheless, there are employment contracts which are limited to 6 months or less involving employees who are engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer; which are not for specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee, nor for work or service which are seasonal in nature and the employment is for the duration of the season; The practice of using these contracts is now commonly referred to as *job contractualization or contractualization of employment* (*Cielo v. NLRC et al., G.R. 78693, 28 January 1991, 193 SCRA 410*).

This continued even after January 1991 when the Supreme Court declared as null and void employment contracts stipulating a fixed term after finding that the purpose behind these individual contracts is to avoid the application of our labor laws (*Cielo v. NLRC et al., G.R. 78693, 28 January 1991, 193 SCRA 410; PT&T Co. vs NLRC, et al., G.R. No. 118978, 23 May 1997; Paguio vs NLRC, et al., G.R. No. 147816, 9 May 2003; and Poseidon Fishing et al., vs NLRC et al., G.R. No. 169052,*

20 February 2006).

Several employers engaged in job contractualization succeed in robbing the employees of their right to security of tenure, with false satisfaction that at least they were given opportunity to earn even for a short period of time. Meanwhile, many OFWs who proudly display the diploma of their children or sibilings or relatives as the fruit of their labor overseas, suffer frustration over this state of employment to which their graduates are exposed or subjected to.

This practice of *job contractualization or contractualization of employment*, therefore, has to stop by the immediate passage of this bill.



ANICETO R. BERTIZ III

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AN ACT PREVENTING THE CIRCUMVENTION OF THE
EMPLOYEES' RIGHT TO SECURITY OF TENURE, THEREBY
AMENDING ARTICLE 280 OF THE LABOR CODE ON REGULAR AND
CASUAL EMPLOYMENT

Section 1.- This Act shall be called "Prevention of Contractualization"

Section 2.- Article 280 of the Labor Code is hereby amended to read as follows:

"Art. 280. Regular and Casual Employment. – The provisions of written agreement to the contrary notwithstanding and regardless of the oral agreement of the parties, an employment shall be regular where the employee has been engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer except where the employment has been fixed for specific project or undertaking the completion or termination of which has been determined at the time of the engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season.

IT IS HEREBY DECLARED UNLAWFUL FOR ANY EMPLOYER TO ENTER INTO ANY AGREEMENT WHICH PRECLUDES ACQUISITION OF TENURIAL SECURITY BY ITS EMPLOYEE.

THE EMPLOYER WHO CAUSES THE USE OF THIS VOID AGREEMENT SHALL BE LIABLE TO THE EMPLOYEE CONCERNED FOR THE INJURY THAT THE EMPLOYEE MAY SUFFER DUE TO THIS ACT, AND TO BOTH MORAL AND EXEMPLARY DAMAGES BY

REASON OF CIRCUMVENTION OF THE LAW ON SECURITY OF TENURE, WHICH IS FRAUDULENT AND IN BAD FAITH. THIS IS WITHOUT PREJUDICE TO ANY OTHER LIABILITIES THE EMPLOYER MAY INCUR FOR THE RESULTING VIOLATION OF OTHER LABOR RIGHTS OF THE EMPLOYEE.

An employment shall be deemed to be casual if it is not covered by the preceding paragraph; Provided, That, any employee who has rendered at least one year of service, whether such service is continuous or broken, shall be considered a regular employee with respect to the activity in which he is employed and his employment shall continue while such activity exist”

SECTION 3. *Implementing rules and Regulations.*- The departments and agencies charged with carrying out the provisions of this Act shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

SECTION 4. *Separability Clause.* - If any portion or provision of this Act is declared void or unconstitutional, the remaining portions or provisions hereof shall not be affected by such declaration.

SECTION 5. *Repealing Clause.* - All laws, decrees, orders, rules and regulations, other issuances, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 6. *Effectivity Clause.*- This Act shall take effect fifteen (15) days after its complete publication in at least two (2) national newspapers of general circulation.

Approved,