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SENATE

S. No. 1998

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Introduced by Senator MANUEL "LITO" M. LAPID

AN ACT
PROVIDING PROTECTION AND INCENTIVES TO FREELANCE WORKERS

EXPLANATORY NOTE

Freelance work has become a common income source for Filipinos. In fact, in 2019, estimates revealed that there were about 1.5 million to 2 million Filipino freelancers in the country. This made the Philippines rank sixth among countries with the fastest-growing market for freelancers. Many Filipino freelance workers take jobs from both local and overseas clients. They prefer not being tied to just one particular company. This not only due to the job flexibility, freedom from a fixed employer, and workload control they enjoy, but also due to the greater earning potential from multiple income streams.

In recognition of the significant contribution of the freelancers in the economic growth of the country and in expectation of the exponential increase in their number as we shift to a digital economy, there is an urgent need to protect this sector.

This bill seeks to provide protection and incentives to freelance workers by putting their safety and welfare into consideration as it could not be denied that freelancing has its own challenges.

This includes abuse or exploitation against freelancers, such as but not limited to, late payment or worse, non-payment of fees, lack of benefits, and frequent practice of a party departing without notice at the expense of the freelancer. Thus, under this

bill, an initial partial payment shall be made upon engagement for the contracting of services of the freelance worker. Night shift differential, tax relief, and hazard pay shall also be given to them. A grievance redress mechanism is also provided under the bill for any unlawful practice or act committed against them.

In view of the foregoing, immediate approval of this bill is earnestly sought.



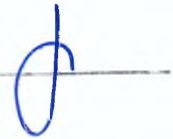
MANUEL "LITO" M. LAPID
Senator

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1 **AN ACT**
2 **PROVIDING PROTECTION AND INCENTIVES TO FREELANCE WORKERS**

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

3 **SECTION 1. Title.** — This Act shall be known as the "*Freelance Workers*
4 *Protection Act.*"

5 **SECTION 2. Declaration of Policy.** — Pursuant to Article II, Section 18, and
6 Article XIII, Section 3 of the Constitution, it is hereby declared the policy of the State
7 to protect the rights of workers, promote their welfare, and ensure their entitlement
8 to humane conditions of work and just share in the fruits of production.

9 To this end, the State shall recognize the right of freelance workers to
10 protection from late or nonpayment of fees for services rendered.

11 **SECTION 3. Definition of Terms.** — As used in this Act:

12 (a) *Freelance worker* refers to any natural person or entity composed of no
13 more than one (1) natural person, whether incorporated under the Securities
14 and Exchange Commission, registered as a sole proprietorship under the
15 Department of Trade and Industry (DTI) or registered as self-employed with
16 the Bureau of Internal Revenue (BIR), who is hired or retained to provide
17 services, in exchange for compensation, as an independent contractor to do

1 work according to one's own methods and without being subjected to the
2 control of the hiring party, except only as to the results of the work;

3 (b) *Hiring party* refers to any person or entity that obtains or retains the services
4 of a freelance worker; and

5 (c) *Retaliation* refers to any act committed with intention to prevent a freelance
6 worker from further being offered freelance work and contracts.

7
8 **SECTION 4. *Written Contract.*** — Any hiring party obtaining or retaining the
9 services of a freelance worker shall execute a written contract with the freelance
10 worker before the services are rendered. The hiring party and the freelance worker
11 shall each retain a signed copy of the contract.

12 The contract shall be written in plain language, understood by both parties. It
13 shall include, at the minimum, the following:

14 (a) Itemization of all services to be provided by the freelance worker;

15 (b) Details of compensation and other worker's benefits, including rate, method
16 and schedule of payment;

17 (c) Period of employment;

18 (d) Grounds for breach of contract on the part of the hiring party and of the
19 freelance worker; and

20 (e) Any other condition, term or clause that the Department of Labor and
21 Employment (DOLE) may direct, subject to the provisions of this Act.

22 The contract must state the necessary personal circumstances of the freelance
23 worker, such as but not limited to the freelance worker's name, address and the
24 worker's Tax Identification Number. No modification of the terms of the contract shall
25 be enforceable unless signed by both the hiring party and the freelance worker.

1 The DOLE shall promulgate guidelines for contracts executed virtually or via
2 online or computer applications. Both physical and virtual contracts shall comply with
3 the provisions of this Act.

4 **SECTION 5. *Downpayment.*** — An initial partial payment for the contracting of
5 services of the freelance worker sufficient to address the preparatory work and/or
6 expenses for the services to be rendered shall be made upon engagement, which shall
7 be not less than thirty percent (30%) of the contract price.

8 **SECTION 6. *Night Shift Differential.*** — Freelance workers who are required to
9 be physically present in the workplace, or those on field assignments, shall be paid a
10 night shift differential of not less than ten percent (10%) of their regular compensation
11 for each hour of work performed between ten o'clock in the evening and six o'clock in
12 the morning, unless there is a more favorable fee stipulated in the contract.

13 **SECTION 7. *Hazard Pay.*** — All freelance workers deployed in dangerous areas
14 such as strife-torn or embattled locations, distressed or isolated stations, prison
15 camps, mental hospitals, radiation-exposed clinic, laboratories or disease-infested
16 areas, or in areas declared under a state of calamity or emergency for the duration of
17 deployment and unduly exposes them to great danger, contagion, radiation,
18 occupational risks or perils to life, shall be compensated with a hazard pay equivalent
19 to at least twenty-five percent 25% of the total payment for the period of such
20 deployment as agreed upon in the contract, unless there is a more favorable fee
21 stipulated therein.

22
23 **SECTION 8. *Unlawful Practices.*** — It shall be unlawful for any hiring party to:

- 24 a. Engage with a freelance worker without a written contract;
25 b. Pay the compensation due the freelance worker later than fifteen (15) days
26 after the date of payment of compensation stated in the written contract or
27 after the rendition of services in cases where there is no written contract;
28 c. Require as a condition of payment of compensation at any time after a
29 freelance worker has commenced rendition of services, that the latter
30 accept less than the specified contract price; or

- 1 d. Commit any act of retaliation against any freelance worker for:
2 1. Opposing any practice prohibited by this Act;
3 2. Filing a complaint authorized under this Act;
4 3. Testifying or assisting in any proceeding authorized under this Act;
5 4. Commencing a civil action alleging a violation of this Act; and
6 5. Assisting the DOLE in an investigation commenced pursuant to this Act;
7 or
8 6. Providing information to the DOLE pursuant to the terms of a mediation
9 or conciliation agreement under this Act.

10 **SECTION 9. *Civil Penalty.*** — A person who commits any of the unlawful
11 practices enumerated in Section 8 of this Act shall be punished by a fine of not less
12 than Fifty thousand pesos (₱50,000.00) but not more than Five hundred thousand
13 pesos (₱500,000.00).

14 **CHAPTER II**

15 **AGENCY ENFORCEMENT AND ADMINISTRATIVE PROCESS**

16
17
18 **SECTION 10. *Complaints.*** — Any person or such person's authorized
19 representative aggrieved by a violation of this Act, may file a complaint with the DOLE,
20 through the Undersecretary for Workers with Special Concerns, without prejudice to
21 the filing of civil action in appropriate cases.

22 **SECTION 11. *Prohibition Against Forum Shopping.*** — When a civil action has
23 been initiated in a court of competent jurisdiction arising from any violation of this Act,
24 a breach of contract, or any similar claim at law or equity arising out of the same
25 transaction or series of transactions, no other case involving the same cause of action
26 shall be filed with the DOLE.

27 **SECTION 12. *Investigation.*** — Upon receiving a complaint alleging a violation
28 of this Act, the DOLE shall notify the respondent in writing and investigate such
29 complaint in a timely manner. Within fifteen (15) calendar days of receiving such
30 written notification, the respondent shall provide the DOLE with a written response

1 and such other information as the DOLE may request. The DOLE shall notify each
2 complainant in writing, not less than thirty (30) calendar days after the complaint is
3 filed, of the status of the complaint and any resulting investigation.

4 **SECTION 13. *Mediation and Conciliation.*** —The DOLE may, at any time after
5 the filing of a complaint, attempt to resolve the complaint by any method of dispute
6 resolution, including mediation and conciliation. If a conciliation agreement is entered
7 into, the DOLE shall embody such agreement in an order and serve a copy thereof
8 upon all parties to the conciliation agreement.

9
10 **CHAPTER III**
11 **CIVIL ENFORCEMENT**
12

13 **SECTION 14. *Notice of Violation and Order of Payment.*** — If, as a result of
14 an investigation of a complaint or an investigation conducted upon its own initiative,
15 the DOLE finds cause to believe that a violation of this Act has occurred, it shall issue
16 a notice of violation to the respondent and order the corresponding payment of
17 compensation due to the prevailing party.

18
19 **SECTION 15. *Violation of Order of Payment.*** — The order of payment shall
20 include an interest rate of six percent (6%) per annum which shall be awarded to the
21 prevailing party in case the violation continues.

22
23 **SECTION 16. *Civil Action.*** — Except as otherwise provided by law, any person
24 aggrieved by a violation of this Act may file a complaint in a court of competent
25 jurisdiction for damages, injunctive relief and such other remedies as may be
26 appropriate, without prejudice to the filing of a criminal action in appropriate cases.
27 The prevailing party shall be entitled to an award of reasonable attorney’s fees and
28 costs.

29 No person claiming to be aggrieved by a violation of this Act may bring a civil
30 action in a court of competent jurisdiction if such aggrieved person, or one’s
31 representative, has filed a complaint with the DOLE pursuant to Chapter II of this Act

1 and based upon the same transaction or series of transactions, unless that complaint
2 has been terminated without prejudice to a subsequent civil action.

3
4 **SECTION 17. *Non-Waiver.*** — Except as otherwise provided by law, any
5 provision of any contract or agreement purporting to waive rights under this Act is
6 against public policy and shall be null and void.

7 **SECTION 18. *Coverage.*** — This Act shall apply only to contracts or
8 agreements entered into upon the effectivity of this Act.

9 **CHAPTER IV**

10 **TAXATION**

11 **SECTION 19. *Tax Relief.*** — Freelancers, as defined under this Act, shall be
12 entitled to tax relief within the threshold provided under the National Internal Revenue
13 Code of 1997, as amended, and Republic Act No. 9178, otherwise known as the
14 “Barangay Micro Business Enterprises (BMBEs) Act of 2002.”

15 **SECTION 20. *Special Assistance.*** — Every BIR Revenue District Office shall
16 designate a lane or a special assistance desk that shall be manned by an officer who
17 shall assist freelance workers on their inquiries and in complying with the processing
18 of documents, including the registration requirement under this Act.

19 **CHAPTER V**

20 **FINAL PROVISIONS**

21 **SECTION 21. *Report.*** — One (1) year after the effectivity of this Act, and every
22 year thereafter, the Secretary of Labor and Employment shall submit a report to the
23 Committee on Labor and Employment of the House of Representatives and the
24 Committee on Labor, Employment and Human Resources Development of the Senate
25 of the Philippines regarding the effectiveness of the provisions of this Act in improving
26 freelance contracting and payment practices. Similarly, the DOLE shall submit the
27 report to the Philippine Creative Industries Development Council, through its Creative
28 Workers’ Welfare Standing Committee. The report shall include, at the minimum, the

1 number of complaints received, investigations initiated and notices issued by the DOLE
2 on violations of this Act, and complaints settled by mediation or conciliation.

3 **SECTION 22. *Information Campaign.*** — The DOLE shall, in coordination with
4 the DTI, BIR, local government units and other relevant agencies, initiate a program
5 with the objective of informing freelance workers of their rights and obligations, the
6 proper procedure of registering as a taxpayer, and the modes of legal redress as
7 provided for in this Act, and in other laws and regulations.

8 **SECTION 23. *Suppletory Application.*** — The provisions of Republic Act No.
9 11058, entitled “An Act Strengthening Compliance with Occupational Safety and
10 Health Standards and Providing Penalties for Violations Thereof” shall be applied
11 suppletorily to this Act.

12 **SECTION 24. *Implementing Rules and Regulations.*** — Within fifteen (15) days
13 from the effectivity of this Act, the Secretary of Labor and Employment shall, in
14 coordination with the BIR and other relevant agencies, issue the rules and regulations
15 from the implementation of this Act.

16 **SECTION 25. *Separability Clause.*** — If any part, section or provision of this
17 Act is declared invalid or unconstitutional, the other provisions not affected by such
18 declaration shall remain in full force and effect.

19 **SECTION 26. *Repealing Clause.*** — All laws, decrees, orders, rules, and
20 regulations, or other issuances or parts thereof inconsistent with the provisions of this
21 Act are hereby repealed, amended or modified accordingly.

22 **SECTION 27. *Effectivity.*** — This Act shall take effect fifteen (15) days after its
23 publication in the *Official Gazette* or in a newspaper of general circulation.

24 *Approved,*