

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

23 MAR 14 P4:40

SENATE
S. No. 2006

RECEIVED BY: 

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

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

EXPLANATORY NOTE

The 1987 Constitution under Article II, Section 18 declares that:

"The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare."

In addition, Article XIII, Section 3 states 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."

During the pandemic, many turned into freelancing as a work and source of income. A freelance worker is a person who is hired or retained to provide services, in exchange for compensation, as an independent contractor to do work according to one's own methods and without being subjected to the control of the hiring party, except only as to the results of the work.

The 2018 Global Freelancer Insights Report by PayPal shows that the Philippines has one of the highest freelancers per capita at around 2 percent of the population, or an estimated 1.5 million freelancers. Moreover, in 2019, the Philippines

was rated as the fastest-growing freelance market, and ranked sixth in the world.¹ In a survey conducted, majority of the freelancers or 55% in the country are between the ages 21-35 years old.²

Despite this growing market, not enough legislation has been passed to protect and promote the welfare of our Filipino freelancers.

Simply put, the passage of this bill aims to require a physical contract between the employer and the freelancer covering services to be provided by the worker. The contract must contain the details of compensation and benefits, employment period, grounds for breach of contract and other conditions as may be directed by the Department of Labor and Employment (DOLE).

This measure also requires that an initial partial payment for the contracting of services of the freelance worker shall be made upon engagement, which shall be not less than 30 percent of the contract price. It also calls for a civil penalty of PHP50,000 to PHP500,000 for unlawful practices which include engaging with a freelance worker without a written contract; paying the compensation due to the freelance worker later than 15 days after the date of payment of compensation stated in the written contract; or requiring as a condition of payment of compensation that a freelance worker accepts less than the specified contract price.

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



JOSEPH VICTOR G. EJERCITO

¹ <https://thebeat.asia/manila/daily-news/current-events/ph-among-fastest-growing-market-in-the-world-reaching-1-5m-freelancers-in-2022>

² <https://thebeat.asia/manila/daily-news/current-events/ph-among-fastest-growing-market-in-the-world-reaching-1-5m-freelancers-in-2022>

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 MAR 14 P 4 :40

SENATE
S. No. 2006

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT
PROVIDING PROTECTION AND INCENTIVES TO FREELANCE WORKERS

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

CHAPTER I
GENERAL PROVISIONS

1
2
3
4 SECTION 1. *Short Title.* – This Act shall be known as the "*Freelance Workers*
5 *Protection Act.*"

6 *Sec. 2. Declaration of Policy.* – Pursuant to Article II, Section 18, and Article
7 XIII, Section 3 of the Constitution, it is hereby declared the policy of the State to
8 protect the rights of workers, promote their welfare, and ensure their entitlement to
9 humane conditions of work and just share in the fruits of production. To this end, the
10 State shall recognize the right of freelance workers to protection from late or
11 nonpayment of fees for services rendered.

12 *Sec. 3. Definition of Terms.* – As used in this Act:

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

1 retained to provide services, in exchange for compensation, as an
2 independent contractor to do work according to one's own methods and
3 without being subjected to the control of the hiring party, except only as
4 to the results of the work;

5 b. *Hiring party* refers to any person or entity that obtains or retains the
6 services of a freelance worker; and

7 c. *Retaliation* refers to any act reasonably likely to prevent a freelance worker
8 from further being offered freelance work and contracts.

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

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

15 a. Itemization of all services to be provided by the freelance worker;

16 b. Details of compensation and other worker's benefits, including rate,
17 method and schedule of payment;

18 c. Period of employment;

19 d. Grounds for breach of contract on the part of the hiring party and of the
20 freelance worker; and

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

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

27 Sec. 5. *Down Payment Required.* – An initial partial payment for the
28 contracting of services of the freelance worker shall be made upon engagement,
29 which shall be not less than thirty percent (30%) of the contract price.

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

7 *Sec. 6. Hazard Pay.* – All freelance workers deployed in dangerous areas such
8 as strife-torn or embattled locations, distressed or isolated stations, prison camps,
9 mental hospitals, radiation-exposed clinic, laboratories or disease-infested areas, or
10 in areas declared under a state of calamity or emergency for the duration of
11 deployment and unduly exposes them to great danger, contagion, radiation,
12 occupational risks or perils to life, shall be compensated with a hazard pay equivalent
13 to at least twenty-five percent (25%) of the total payment for the period of such
14 deployment as agreed upon in the contract, unless there is a more favorable fee
15 stipulated therein.

16 *Sec. 8. Unlawful Practices.* – It shall be unlawful for any hiring party to:

- 17 a. Engage with a freelance worker without a written contract;
- 18 b. Pay the compensation due the freelance worker later than fifteen (15)
19 days after the date of payment of compensation stated in the written
20 contract or after the rendition of services in cases where there is no written
21 contract;
- 22 c. Require as a condition of payment of compensation at any time after a
23 freelance worker has commenced rendition of services, that the
24 latter accept less than the specified contract price; or
- 25 d. Commit any act of retaliation against any freelance worker for:
 - 26 1. Opposing any practice prohibited by this Act;
 - 27 2. Filing a complaint authorized under this Act;
 - 28 3. Testifying or assisting in any proceeding authorized under this Act;
 - 29 4. Commencing a civil action alleging a violation of this Act;

1 into, the DOLE shall embody such agreement in an order and serve a copy thereof
2 upon all parties to the conciliation agreement.

3 **CHAPTER III**
4 **CIVIL ENFORCEMENT**
5

6 Sec. 14. *Notice of Violation and Order of Payment.* – If, as a result of
7 an investigation of a complaint or an investigation conducted upon its own initiative,
8 the DOLE finds cause to believe that a violation of this Act has occurred, it shall issue
9 a notice of violation to the respondent and order the corresponding payment of
10 compensation due to the prevailing party.

11 Sec. 15. *Violation of Order of Payment.* – The order of payment shall include
12 an interest rate of six percent (6%) per annum which shall be awarded to the
13 prevailing party in case the violation continues.

14 Sec. 16. *Civil Action.* – Except as otherwise provided by law, any person
15 aggrieved by a violation of this Act may file a complaint in a court of competent
16 jurisdiction for damages, injunctive relief and such other remedies as may be
17 appropriate, without prejudice to the filing of a criminal action in appropriate cases.
18 The prevailing party shall be entitled to an award of reasonable attorney’s fees and
19 costs.

20 No person claiming to be aggrieved by a violation of this Act may bring a civil
21 action in a court of competent jurisdiction if such aggrieved person, or one’s
22 representative, has filed a complaint with the DOLE pursuant to Chapter II of this Act
23 and based upon the same transaction or series of transactions, unless that complaint
24 has been terminated without prejudice to a subsequent civil action.

25 Sec. 17. *Non-Waiver.* – Except as otherwise provided by law, any provision of
26 any contract or agreement purporting to waive rights under this Act is against public
27 policy and shall be null and void.

28 Sec. 18. *Coverage.* – This Act shall apply only to contracts or agreements
29 entered into upon the effectivity of this Act.

1 **CHAPTER IV**
2 **TAXATION**
3

4 Sec. 19. *Tax Relief.* – Freelancers, as defined under this Act, shall be entitled
5 to tax relief within the threshold provided under the National Internal Revenue Code
6 of 1997, as amended, and Republic Act No. 9178, otherwise known as the “Barangay
7 Micro Business Enterprises (BMBEs) Act of 2002.”

8 Sec. 20. *Special Assistance.* – Every BIR Revenue District Office shall designate
9 a lane or a special assistance desk that shall be manned by an officer who shall assist
10 freelance workers on their inquiries and in complying with the processing of
11 documents, including the registration requirement under this Act.

12 **CHAPTER V**
13 **FINAL PROVISIONS**
14

15 Sec. 21. *Report.* – One (1) year after the effectivity of this Act, and every year
16 thereafter, the Secretary of Labor and Employment shall submit a report to the
17 Committee on Labor and Employment of the House of Representatives and the
18 Committee on Labor, Employment and Human Resources Development of the Senate
19 of the Philippines regarding the effectiveness of the provisions of this Act in improving
20 freelance contracting and payment practices. Similarly, the DOLE shall submit the
21 report to the Philippine Creative Industries Development Council, through its Creative
22 Workers’ Welfare Standing Committee. The report shall include, at the minimum, the
23 number of complaints received, investigations initiated and notices issued by the
24 DOLE on violations of this Act, and complaints settled by mediation or conciliation.

25 Sec. 22. *Information Campaign.* – The DOLE shall, in coordination with the
26 DTI, BIR, local government units and other relevant agencies, initiate a program with
27 the objective of informing freelance workers of their rights and obligations, the proper
28 procedure of registering as a taxpayer, and the modes of legal redress as provided
29 for in this Act, and in other laws and regulations.

30 Sec. 23. *Suppletory Application.* – The provisions of Republic Act No. 11058,
31 entitled “An Act Strengthening Compliance with Occupational Safety and Health

1 Standards and Providing Penalties for Violations Thereof” shall be applied suppletorily
2 to this Act.

3 *Sec. 24. Implementing Rules and Regulations.* – Within fifteen (15) days from
4 the effectivity of this Act, the Secretary of Labor and Employment shall, in
5 coordination with the BIR and other relevant agencies, issue the rules and regulations
6 from the implementation of this Act.

7 *Sec. 25. Separability Clause.* – If any part, section or provision of this Act is
8 declared invalid or unconstitutional, the other provisions not affected by such
9 declaration shall remain in full force and effect.

10 *Sec. 26. Repealing Clause.* – All laws, decrees, orders, rules, and regulations,
11 or other issuances or parts thereof inconsistent with the provisions of this Act are
12 hereby repealed, amended or modified accordingly.

13 *Sec. 27. Effectivity.* – This Act shall take effect fifteen (15) days after its
14 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,