

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

**FOURTEENTH CONGRESS
Third Regular Session**

House Bill No. 6850

**Introduced by TUCP Party-List Representative
Hon. Raymond Democrito C. Mendoza**

EXPLANATORY NOTE

The Philippine Constitution affirms "labor as primary social and economic force," and mandates the State to "protect the rights of workers and promote their welfare." Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, needs to be in step with the State policy to "afford protection to labor" considering jurisprudence and practice.

In practice, contractualization, definite or fixed period, term or similar forms are being used to deprive workers of their security of tenure. The increasing ratio of contractual to regular employees has been pointed out as a factor for unsatisfactory productivity levels. This is so because productive engagement in any establishment requires knowledge, skills and attitudes which can be learned and developed only through time.

Fixed employment terms and probationary period of employment have been abused to circumvent the Labor Code provisions on security of tenure, among other things. The proposed amendments are intended to eventually do away with the practice of hiring employees with 5-6 months employment contracts. This shall thereby enhance the right to security of tenure of workers.

Setting a minimum ratio of 90/10 as percent of regular to other workers in an establishment shall void fixed period or term of employment in work activities which are usually necessary or desirable in the usual business or trade of the employer. This shall promote job and employment security, operationalizing the workers' right to security of tenure.

Work arrangements and terms and conditions of employment should contribute to decent work where workers and their families should be able to live with dignity and improved quality of life. To give effect to the policy of protecting workers' rights and promoting their welfare, the passage of this bill is earnestly sought.

**REP. RAYMOND DEMOCRITO C. MENDOZA
TUCP Party-List**

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AN ACT
STRENGTHENING SECURITY OF TENURE,
AMENDING FOR THAT PURPOSE CERTAIN PROVISIONS OF
PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

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 known as the “Security of Tenure Act of 2009.”

Section 2. Security of Tenure. Article 279 of the Labor Code is hereby amended to read as follows:

“ARTICLE 279. Security of tenure. – **[In cases of regular employment, the]** NO employer shall **[not]** terminate the services of an employee except for a just cause or when authorized by this Title. A**[n]** **REGULAR** employee who is **[unjustly]** dismissed from work shall be entitled to **IMMEDIATE** reinstatement without loss of seniority rights and other privileges and to his full backwages, 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.

“THE TERM ‘EMPLOYER’ INCLUDES A CONTRACTOR OR SUBCONTRACTOR.”

Section 3. Regular and Casual Employment. Article 280 of the Labor Code is hereby amended to read as follows:

“ARTICLE 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 deemed to 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 a 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 service to be performed is seasonal in nature and the employment is for the duration of the season.

“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 exists.

"ANY STIPULATION IN ANY WRITTEN OR ORAL CONTRACT OF EMPLOYMENT FOR A DEFINITE OR FIXED PERIOD, TERM OR SIMILAR FORMS COVERING WORK ACTIVITIES WHICH ARE USUALLY NECESSARY OR DESIRABLE IN THE USUAL BUSINESS OR TRADE OF THE EMPLOYER AS DEFINED UNDER THIS TITLE SHALL BE NULL AND VOID AB INITIO, BUT WITHOUT PREJUDICE TO THE RIGHT OF THE AGGRIEVED WORKER TO FILE AN ACTION FOR DAMAGES.

"NOTWITHSTANDING THE PRECEDING PARAGRAPHS, REGULAR WORKERS SHALL BE AT LEAST 90 PERCENT OF THE WORKFORCE IN AN ESTABLISHMENT AND THE REMAINING 10 PERCENT OR LOWER SHALL BE FOR OTHER CLASSIFICATION OF WORKERS."

Section 4. Probationary Employment. Article 281 of the Labor Code is hereby amended to read as follows:

"ARTICLE 281. Probationary employment. – REGARDLESS OF THE NATURE OF THE WORK TO BE PERFORMED, [P]probationary employment shall not exceed six (6) months from the [date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period] FIRST DAY OF SERVICE FOR ALL WORKERS. ANY STIPULATION TO THE CONTRARY SHALL BE VOID. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period, **WHETHER BROKEN OR NOT**, shall be considered a regular employee."

Section 5. Separability Provisions. -- If any provision or part thereof, or the application thereof to any person or circumstances, is held invalid, the remainder, or the application of such provision or part to other persons or circumstances, shall not be affected thereby.

Section 6. Repealing Clause. -- All provisions of existing laws, executive orders, decrees, rules and regulations or any part thereof which are contrary to or inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 7. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,