



'22 JUL -7 P3 :05

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

RECEIVED BY: _____

SENATE

S. B. NO. 135

Introduced by **Senator JOEL VILLANUEVA**

**AN ACT
ALLOWING THE ADOPTION OF ALTERNATIVE WORK
ARRANGEMENTS IN ENTERPRISES REGISTERED WITH
INVESTMENT PROMOTION AGENCIES, AMENDING FOR THE
PURPOSE SECTION 309 OF THE NATIONAL INTERNAL
REVENUE CODE, AS AMENDED AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Republic Act No. 11165 or the Telecommuting or Work From Home (WFH) Law was signed into law on December 20, 2018. The law recognized the need to promote the welfare of employees in light of technological developments that opened up alternative avenues for employees to carry out their work. The WFH Law provides that an employer and employee in the private sector may enter into a telecommuting program upon such terms and conditions based on their agreement.¹ At the time of its passage, the Act was principally meant to address the worsening traffic situation in Metro Manila and to promote work-life balance. Two years after its passage, the WFH Law became pivotal as the Filipino labor force shifted to alternative modes of work, especially online, because of the nationwide lockdown brought about by the COVID-19 pandemic.

According to the 2021 Work Reimagined Employee Survey conducted by Ernst & Young, 9 in 10 employees located in Southeast Asia prefer flexible work than the traditional office setup.² Meanwhile, in a survey conducted by Robert Walters, 8 out of 9 professionals in the Philippines are satisfied with remote working arrangements, with 9 out of 10 noting a similar or increased level of

¹ Section 4, Republic Act No. 11165

² <https://philstarlife.com/self/425740-ey-survey-employees-in-ph-sea-countries-want-flexible-work-to-stay-post-covid-19>

productivity while at home.³ In addition, more than 9 in 10 professionals want more work from home arrangements in the future, with an offer of such arrangement a significant factor in determining employee job satisfaction in job selection.⁴

In the Philippines, the WFH arrangement was instrumental for the IT-BPO sector in ensuring business continuity despite nationwide lockdowns. In fact, the arrangement facilitated the creation of 23,000 new jobs in 2020, and another 100,000 new jobs in 2021.⁵ Meanwhile, revenues also increased by around 12% in 2021, reaching a total of \$28.8 billion.⁶ According to the Department of Trade and Industry, the IT-BPO was the only sector that did not lay off workers and even continued to hire during the pandemic, which in turn, helped the economy in it's recover, especially in generating jobs and contributing to dollar revenue generation.⁷

However, the WFH Law's merits have not been fully realized for the IT-BPO sector. Earlier this year, the Fiscal Incentive Review Board (FIRB) required employees of the IT-BPO sector to return to their offices located in economic zones by April 1, 2022; otherwise, the employers will lose their tax incentives. This order was made despite the clamor of IT-BPO employees to continue with WFH arrangements, in light of the ongoing COVID-19 pandemic, rising fuel prices and unprecedented inflation.

This bill seeks to allow entities registered with Investment Promotion Agencies, such the Philippine Economic Zone Authority (PEZA) to enter into voluntary work-from-home arrangements with their employees, without losing their tax incentives. Indeed, adaptability has helped our country survive this pandemic, and we must ensure that flexibility emanates from our laws in light of the rapid technological developments and global best practices.

The immediate passage of this measure is earnestly sought.



SENATOR JOEL VILLANUEVA JR.

³ <https://www.robertwalters.com.ph/content/dam/robert-walters/country/the-philippines/files/surveys/the-truth-about-working-from-home.pdf>

⁴ *Id.*

⁵ <https://business.inquirer.net/342640/april-1-return-to-office-deadline-bucked-by-bpos#ixzz7Mqfxquak>

⁶ *Id.*

⁷ *Id.*



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AN ACT
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PURPOSE SECTION 309 OF THE NATIONAL INTERNAL REVENUE
CODE, AS AMENDED AND FOR OTHER PURPOSES

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

1 **SECTION 1.** Chapter VI, Section 309 of the National Internal Revenue Code, as
2 amended by Republic Act No. 11534, otherwise known as the "Corporate Recovery
3 and Tax Incentives for Enterprises Act" (CREATE) is hereby amended to read as
4 follows:
5

6 **SEC. 309.** Prohibition on Registered Activities. – A qualified
7 registered project or activity under an Investment Promotion
8 Agency administering an economic zone or freeport shall, AS
9 FAR AS PRACTICABLE, be exclusively conducted or operated
10 within the geographical boundaries of the zone or freeport being
11 administered by the IPA in which the project or activity is
12 registered: *PROVIDED*, THAT NOTWITHSTANDING ANYTHING
13 TO THE CONTRARY, SUCH REGISTERED BUSINESS
14 ENTERPRISES SHALL HAVE THE OPTION TO OFFER A
15 TELECOMMUTING PROGRAM TO ITS EMPLOYEES ON A
16 VOLUNTARY BASIS, PURSUANT TO REPUBLIC ACT NO.
17 11165, OTHERWISE KNOWN AS THE "TELECOMMUTING
18 ACT," UPON SUCH TERMS AND CONDITIONS AS THEY MAY
19 MUTUALLY AGREE, AND IN COMPLIANCE WITH THE RULES
20 AND REGULATIONS AS THE INVESTMENT PROMOTION
21 AGENCY MAY PRESCRIBE: Provided, That a registered
22 business enterprise may conduct or operate more than one
23 qualified registered project or activity within the same zone or

1 freeport under the same Investment Promotion Agency: Provided,
2 further, That any project or activity conducted or performed
3 outside the geographical boundaries of the zone or freeport shall
4 not be entitled to the incentives provided in this Act, unless such
5 project or activity is conducted or operated under another
6 Investment Promotion Agency, OR SUCH PROJECT OR
7 ACTIVITY IS CARRIED OUT IN ACCORDANCE WITH THE
8 TELECOMMUTING ACT AND THE RELEVANT RULES AND
9 REGULATIONS OF THE CONCERNED INVESTMENT
10 PROMOTION AGENCY ON THE CONDUCT OF PROJECTS OR
11 ACTIVITIES OUTSIDE OF THE ZONE OR FREEPORT.
12

13 **SEC. 2. Implementing Rules and Regulations.** – Within sixty (60) days from the
14 effectivity of this Act, the Secretary of Finance, in consultation with the Department of
15 Trade and Industry, the Commissioner of Internal Revenue, the Board of
16 Investments, the Philippine Economic Zone Authority and other Investment
17 Promotion Agencies, shall promulgate the necessary rules and regulations to
18 implement the provisions of this Act . Failure to promulgate the rules and regulations
19 shall not prevent the implementation of this Act upon its effectivity.
20

21 **SEC. 3. Separability Clause.** – Any portion or provision of this Act that is declared
22 unconstitutional or invalid shall not have the effect of nullifying other portions or
23 provisions hereof as long as such remaining portions can still subsist and be given
24 effect in their entirety.
25

26 **SEC. 4. Repealing Clause.** – The relevant provisions of Republic Act No. 7916 or
27 “The Special Economic Zone Act of 1995,” Republic Act No. 7227, as amended or
28 “The Bases Conversion And Development Act of 1992,” Republic Act No. 7922 or
29 “The Cagayan Special Economic Zone Act of 1995,” Republic Act No. 7903 or “The
30 Zamboanga City Special Economic Zone Act of 1995,” Presidential Decree No. 538
31 or the Act “Creating And Establishing The Phividec Industrial Authority And Making It
32 A Subsidiary Agency Of The Philippine Veterans Investment Development
33 Corporation Defining Its Powers, Functions And Responsibilities, And For Other
34 Purposes,” Republic Act No. 9490 or “The Aurora Special Economic Zone Act of
35 2007,” Republic Act No. 9728 or the “Freeport Area of Bataan (FAB) Act of 2009,”
36 Republic Act 9593 or “The Tourism Act of 2009,” and all other similar laws and
37 provisions of laws for all other Investment Promotion Agencies as defined under
38 Section 293(H) of the National Internal Revenue Code, as amended.
39

40 **SEC. 5. Effectivity.** – This Act shall take effect fifteen (15) days after its publication
41 in the Official Gazette or in a newspaper of general circulation.
42

43 **Approved,**