

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB No. **347**

Introduced by Rep. Roseller L. Barinaga

EXPLANATORY NOTE

This proposed measure seeks to prohibit the practice of recruitment and placement agencies to blacklist "undesirable" OFWs by the use of any means, mechanism or list that will prevent or deter them from further gaining productive employment abroad.

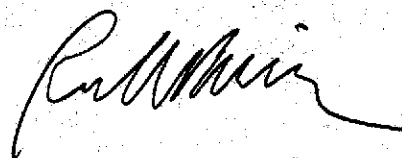
Through the years, unfair practices by recruitment and placement agencies have become rampant. More too often, they arbitrarily accuse job applicants of undesirable behaviors while at work. Without proving their arbitrary contentions, these arrogance by recruitment and placement agencies often led to denying employment opportunities to many who might have been victims of gross abuse of authority on the part of recruitment and placement agencies. The common complaints of OFW-applicants, especially on the seafarers sector, is that recruitment and placement agencies do not usually like their applicants-employees to be complaining or expressing their dissatisfaction or grievances in regard to their salaries, remittances, benefits, work conditions and other labor-related issues. Accordingly, any expression of grievance against employment agencies is often interpreted as conduct unbecoming and, therefore, undesirable in the service.

Apparently, the process of blacklisting in the labor export industry, especially among the seafarers, through whatever mode it may be done, is a transgression and is, therefore, violative of similar yet separate provisions of the 1987 Constitution and the Labor Code.

Article 3, Chapter I on the *Declaration of basic policy* of the Labor Code of the Philippines specifically stipulates that:

"The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between the workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work."

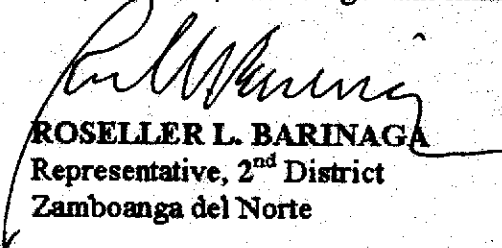
This bill, therefore, pursues to penalize any recruitment and placement agency that requires, as a condition of employment or reemployment or a continuation thereof, that an OFW to refrain



from lodging any protest, complaint or any other similar mode of expressing one's grievance, dissatisfaction and the like, or to stipulate expressly or tacitly that the act of lodging any protest, complaint or any other similar mode of expressing one's grievance, dissatisfaction and the like would constitute one's blacklisting.

Further, the measure also prohibits any recruitment and placement agency to prevent or deter OFWs from gaining productive employment, whether for employment or reemployment, by any means or mechanism or list posted or circulated by any recruitment and placement agency, whether the posting or circulation is done within the office perimeter or outside or in other offices, with the purpose of disseminating, or announcing, or giving notice, memorandum or any information so as to discourage other recruitment and placement service or agency from hiring and/or employing a particular OFW and/or to effect a prevention or deterrence against one's employment, or reemployment, or continuing employment. The causing of any negative marking or sign or any other similar information in the passport or any other official document of seafarers so as to warn or caution or discourage other recruitment and placement agency from hiring and/or employing a particular OFW and/or to effect a prevention or deterrence against one's employment, or reemployment, or continuing employment likewise is prohibited and stiffer penalties await for those violate any of the provisions of this Act.

It is, therefore, in this light that immediate passage of this bill is earnestly sought.



ROSELLER L. BARINAGA
Representative, 2nd District
Zamboanga del Norte

HOUSE OF REPRESENTATIVES

HB No. 347

Introduced by Rep. Roseller L. Barinaga

AN ACT

TO PROHIBIT THE PRACTICE OF BLACKLISTING BY RECRUITMENT AND PLACEMENT SERVICES THROUGH THE USE OF ANY MEANS, MECHANISMS OR LISTS WHICH INTEND TO SPECIFICALLY PREVENT OR DETER OVERSEAS FILIPINO WORKERS (OFWs) FROM GAINING PRODUCTIVE EMPLOYMENT, PROVIDING FOR STIFFER PENALTIES THEREOF AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* This act shall be known as the "Anti-Blacklisting in Overseas Job Applications Act."

SEC. 2. *Declaration of Policy.* It is hereby declared the policy of the State to afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.

SEC. 3. *Definition of Terms.* For purposes of this Act, the following terms are defined as follow:

(a) *Blacklisting* refers to the practice of recruitment and placement services or agencies to directly or indirectly prevent or deter particular Overseas Filipino Workers (OFWs) from gaining productive employment, whether the job applicant is for the employment or reemployment;

(b) *Recruitment and Placement Service* refers to any person, company or institution, agency or other organization, in public or the private sector, which is based in, registered and recognized as such under Philippine laws, and which is engaged in recruiting overseas Filipino workers, whether land-, sea-, or air-based, on behalf of employers or placing such OFW applicants with employers abroad;

(c) *Filipino Overseas Job Applicants* refer to any Filipino individual who applies for any productive employment abroad, whether in land-based, air-based or sea-based jobs, through any recruitment and placement service or agency operating under Philippine jurisdiction.

SEC. 4. *Stipulation against protest, complaints and other similar modes of expressing grievances.* It shall be unlawful for any recruitment and placement service or agency to require as a condition of employment or reemployment or a continuation thereof that an OFW to refrain from lodging any protest, complaint or any other similar mode of expressing one's grievance, dissatisfaction and the like, or to stipulate expressly or tacitly that the act of lodging any protest, complaint or any other similar mode of expressing one's grievance, dissatisfaction and the like would constitute the employee or the applicant's blacklisting from any productive employment abroad.

SEC. 5. *Prohibition.* It shall be unlawful for any recruitment and placement service to prevent or deter Overseas Filipino Workers (OFWs) from gaining productive employment, whether the job applicant is for the employment or reemployment by any means or mechanism or list posted or circulated by any recruitment and placement service or agency, whether the posting or circulation is done within the office perimeter or outside or in other offices, with the purpose of disseminating, or announcing, or giving notice, memorandum or any information so as to discourage other recruitment and placement service or agency from hiring and/or employing a particular OFW and/or to effect a prevention or deterrence against one's employment, or reemployment, or continuing employment;

It shall further be unlawful for any recruitment and placement service or agency to cause any negative marking or sign or any other similar information in the passport or any other official document of seafarers so as to warn or caution or discourage other recruitment and placement service from hiring and/or employing a particular OFW and/or to effect a prevention or deterrence against one's employment, or reemployment, or continuing employment.

SEC. 6. *Implementing Rules and Regulations.* The Philippine Overseas Employment Agency (POEA), in consultation with the Department of Foreign Affairs, is hereby mandated to promulgate the implementing rules and regulations for the effective implementation of the provisions of this Act.

SEC. 7. *Penalties.* Any recruitment and placement service or agency proven to have violated any of the provisions stipulated in Sections 4 and 5 of this Act shall be subjected to a penalty ranging from one (1) year suspension to permanent revocation of its license to operate and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00).

SEC. 8. *Repealing Clause.* All laws, presidential decrees, or issuance, executive orders, letters of instruction, rules or regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 9. *Separability Clause.* If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

SEC. 10. *Effectivity Date.* This Act shall take effect fifteen (15) days from the date of its publication in at least two (2) newspaper of general circulation.

Approved.