

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2430



Introduced by **ATTY. MAGTANGGOL T. GUNIGUNDO I**

EXPLANATORY NOTE

The primordial aim of this bill is to place an equal footing a Filipino and alien spouse in the procedure of recognizing a divorce decree obtained abroad by the alien spouse. This bill is originally HB 4368 filed in the 15th Congress.

The Supreme Court ruling in **GARCIA – RECIO vs. RECIO** (G.R. No. 138322 October 2, 2001) made it a requirement that a divorce decree obtained abroad must first be presented in a Philippine court before it can be recognized for purposes of re-marriage of the Filipino spouse. This procedure puts an added burden on the Filipino who is forced to engage the services of a lawyer, pay filing fees and wait for a long period of time before he/she can apply for a new marriage license to re-marry. Meanwhile, the foreign spouse does not face this predicament and can re-marry without the need of going through judicial proceedings.

This proposed amendment to Art. 13 of the Family Code will cure such anomaly. The Filipino spouse will be required to submit a duly authenticated copy by the Philippine Consul in the country where the decree was obtained of the Judicial Decree of Absolute Divorce. The State would now recognize a divorce obtained by the alien spouse in another country without the need to seek judicial recognition or enforcement of the foreign judicial decree of absolute divorce. This would now be presented for registration with the Foreign Judicial Decree of Absolute Divorce in the Local Civil Registry Office which will be sufficient for the issuance of marriage license to the Filipino spouse who desires to contract another marriage.

In view of this, immediate passage of this bill is earnestly sought.


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HOUSE BILL NO. _____

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AN ACT
AMENDING EXECUTIVE ORDER NO. 209, OTHERWISE
KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, BY
HARMONIZING SAID LAW WITH RECENT RULINGS OF
THE SUPREME COURT OF THE PHILIPPINES ON
DIVORCE OBTAINED BY THE ALIEN SPOUSE IN
ANOTHER COUNTRY.

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

SECTION 1. Article 13 of Executive Order 209, otherwise known as the Family Code of the Philippines is hereby amended to read follows:

*"Art. 13. In case either of the contracting parties has been previously married the applicant shall be required to furnish, instead of the birth or baptismal certificate required in the last preceding article, the death certificate of the deceased spouse or the judicial decree of the absolute divorce **OBTAINED BY THE ALIEN SPOUSE DULY AUTHENTICATED BY THE PHILIPPINE CONSUL IN THE COUNTRY WHERE THE DECREE WAS OBTAINED**, or the judicial decree of annulment or declaration of nullity of his or her previous marriage.*

THE FILIPINO SPOUSE NEED NOT SEEK JUDICIAL RECOGNITION OR ENFORCEMENT OF THE FOREIGN JUDICIAL DECREE OF ABSOLUTE DIVORCE AND ITS REGISTRATION BY THE CIVIL REGISTRAR SHALL BE SUFFICIENT FOR THE ISSUANCE OF A MARRIAGE LICENSE.

In case the death certificate cannot be secured, the party shall make an affidavit setting forth this circumstance and his or her actual civil status and the name and date of death of deceased spouse."

Section 2. *Implementing Rules and Regulations.* – The Supreme Court Administrator, the Association of RTC/MCTC/MTC judges and the Civil Registrar General shall promulgate such rules and regulations necessary within sixty (60) days after its effectivity to implement this Act.

Section 3. *Separability Clause.* – If any of the provisions of this Act is declared unconstitutional, the other provisions shall remain valid.

Section 4. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 5. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,