

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4137



Introduced by Representative Karlo A. B. Nograles

EXPLANATORY NOTE

The proposed measure seeks to expand the coverage of the compulsory insurance provided under the Migrant Workers and Overseas Filipino Act of 1995 to include rehires, direct hires and name hires under such insurance coverage.

Republic Act No. 8042 otherwise known as the "Migrant Workers and Overseas Filipino Act of 1995, in its Declaration of Principles, provides that the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers. This provision is the embodiment of the constitutionally enshrined dogma that the "State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities to all".

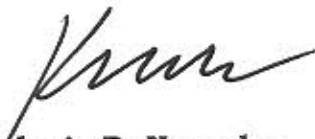
Thus, Congress passed Republic Act No. 10022 creating, among others, compulsory insurance coverage for agency-hired migrant workers in order to insure them against injury, death and other risks related to their employment abroad. Such risks are greater and have more impact on the workers and their families while they toil in a foreign country.

The amendment to the Migrant Workers and Overseas Filipino Act, however, does not include rehires, direct hires and name hires under the compulsory insurance coverage. Instead, RA 10022 merely gave this class of migrant workers the option to be covered by an insurance policy, either by requesting their employers to pay for the cost of the insurance coverage or by paying for the premium themselves. The distinction is based on the fact that for agency-hired migrant workers, the cost of the compulsory insurance coverage is paid by the recruitment or placement agency, while rehires, direct

hires and name hires enter into employment contracts without the assistance or participation of a recruitment/placement agency.

It is in this light that an amendatory bill is proposed to expand the coverage of the compulsory insurance provided under the existing law to include rehires, direct hires and name hires under such insurance coverage. This amendment ensures that all Filipino migrant workers, regardless of the manner of their engagement or deployment, are fully protected against risks that all workers are exposed to while being employed in a foreign country. It also guarantees that the Filipino migrant workers and their families will be compensated in case of death or injury – an event that will have an adverse impact not only on the migrant workers' families but on the economy as well.

In view of the foregoing, the passage of this measure is earnestly requested.



Karlo A. B. Nograles
Representative
First District, Davao City

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4137

Introduced by Representative Karlo A. B. Nograles

AN ACT
EXPANDING THE COMPULSORY INSURANCE COVERAGE
FOR MIGRANT WORKERS TO INCLUDE REHIRES, NAME HIRES AND
DIRECT HIRES, AND FOR OTHER PURPOSES, AMENDING FOR THE
PURPOSE SECTION 37-A OF REPUBLIC ACT 8042, AS AMENDED,
OTHERWISE KNOWN AS THE MIGRANT WORKERS
AND OVERSEAS FILIPINOS ACT OF 1995

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

SECTION 1. Section 37-A of Republic Act No. 8042, as amended by Republic Act No. 10022, is hereby amended to read as follows:

"SEC. 37-A. Compulsory Insurance Coverage [for Agency-Hired Workers]. - In addition to the performance bond to be filed by the recruitment/manning agency under Section 10, each migrant worker deployed by a recruitment/manning agency shall be covered by a compulsory insurance policy which shall be secured at no cost to the said worker. Such insurance policy shall be effective for the duration of the migrant worker's employment and shall cover, at the minimum:

"(a) Accidental death, with at least Fifteen thousand United States dollars (US\$15,000.00) survivor's benefit payable to the migrant worker's beneficiaries;

"(b) Natural death, with at least Ten thousand United States dollars (US\$10,000.00) survivor's benefit payable to the migrant worker's beneficiaries;

"(c) Permanent total disablement, with at least Seven thousand five hundred United States dollars (US\$7,500.00) disability benefit payable to the migrant worker. The following disabilities shall be deemed permanent: total, complete loss of sight of both eyes; loss of

two(2) limbs at or above the ankles or wrists; permanent complete paralysis of two (2) limbs; brain injury resulting to incurable imbecility or insanity;

"(d) Repatriation cost of the worker when his/her employment is terminated without any valid cause, including the transport of his or her personal belongings. In case of death, the insurance provider shall arrange and pay for the repatriation or return of the worker's remains. The insurance provider shall also render any assistance necessary in the transport including, but not limited to, locating a local licensed funeral home, mortuary or direct disposition facility to prepare the body for transport, completing all documentation, obtaining legal clearances, procuring consular services, providing necessary casket or air transport container, as well as transporting the remains including retrieval from site of death and delivery to the receiving funeral home;

"(e) Subsistence allowance benefit, with at least One hundred United States dollars (US\$100.00) per month for a maximum of six (6) months for a migrant worker who is involved in a case or litigation for the protection of his/her rights in the receiving country;

"(f) Money claims arising from employer's liability which may be awarded or given to the worker in a judgment or settlement of his or her case in the NLRC. The insurance coverage for money claims shall be equivalent to at least three (3) months for every year of the migrant worker's employment contract;

["In addition to the above coverage, the insurance policy shall also include:"]

"(g) Compassionate visit. When a migrant worker is hospitalized and has been confined for at least seven (7) consecutive days, he shall be entitled to a compassionate visit by one (1) family member or a requested individual. The insurance company shall pay for the transportation cost of the family member or requested individual to the major airport closest to the place of hospitalization of the worker. It is, however, the responsibility of the family member or requested individual to meet all visa and travel document requirements;

"(h) Medical evacuation. When an adequate medical facility is not available proximate to the migrant worker, as determined by the insurance company's physician and/or a consulting physician, evacuation under appropriate medical supervision by the mode of transport necessary shall be undertaken by the insurance provider; and

"(i) Medical repatriation. When medically necessary as determined by the attending physician, repatriation under medical supervision to the migrant worker's residence shall be undertaken by the insurance provider at such time that the migrant worker is

medically cleared for travel by commercial carrier. If the period to receive medical clearance to travel exceeds fourteen (14) days from the date of discharge from the hospital, an alternative appropriate mode of transportation, such as air ambulance, may be arranged. Medical and non-medical escorts may be provided when necessary.

"Only reputable private insurance companies duly registered with the Insurance Commission (IC), which are in existence and operational for at least Five hundred million pesos (P500,000,000.00) to be determined by the IC, and with a current year certificate of authority shall be qualified to provide for the worker's insurance coverage. Insurance companies who have directors, partners, officers, employees or agents with relatives, within the fourth civil degree of consanguinity or affinity, who work or have interest in any of the licensed recruitment/manning agencies or in any of the government agencies involved in the overseas employment program shall be disqualified from providing this workers' insurance coverage.

"The recruitment/manning agency shall have the right to choose from any of the qualified insurance providers the company that will insure the migrant worker it will deploy. After procuring such insurance policy, the recruitment/manning agency shall provide an authenticated copy thereof to the migrant worker. It shall then submit the certificate of insurance coverage of the migrant worker to POEA as a requirement for the issuance of an Overseas Employment Certificate (OEC) to the migrant worker. In the case of seafarers who are insured under policies issued by foreign insurance companies, the POEA shall accept certificates or other proofs of cover from recruitment/manning agencies: Provided, That the minimum coverage under sub-paragraphs (a) to (i) are included therein.

"Any person having a claim upon the policy issued pursuant to subparagraphs (a), (b), (c), (d) and (e) of this section shall present to the insurance company concerned a written notice of claim together with pertinent supporting documents. The insurance company shall forthwith ascertain the truth and extent of the claim and make payment within ten (10) days from the filing of the notice of claim.

"Any claim arising from accidental death, natural death or disablement under this section shall be paid by the insurance company without any contest and without the necessity of providing fault or negligence of any kind on the part of the insured migrant worker: Provided, That the following documents, duly authenticated by the Philippine foreign posts, shall be sufficient evidence to substantiate the claim:

- "(1) Death Certificate - In case of natural or accidental death;
- "(2) Police or Accident Report - In case of accidental death; and
- "(3) Medical Certificate - In case of permanent disablement;

"For repatriation under subparagraph (d) hereof, a certification which states the reason/s for the termination of the migrant worker's employment and the need for his or her repatriation shall be issued by the Philippine foreign post or the Philippine Overseas Labor Office (POLO) located in the receiving country.

"For subsistence allowance benefit under subparagraph (e), the concerned labor attaché or, in his absence, the embassy or consular official shall issue a certification which states the name of the case, the names of the parties and the nature of the cause of action of the migrant worker.

"For the payment of money claims under subparagraph (f), the following rules shall govern:

"(1) After a decision has become final and executory or a settlement/compromise agreement has been reached between the parties at the NLRC, an order shall be released mandating the respondent recruitment/manning agency to pay the amount adjudged or agreed upon within thirty (30) days;

"(2) The recruitment/manning agency shall then immediately file a notice of claim with its insurance provider for the amount of liability insured, attaching therewith a copy of the decision or compromise agreement;

"(3) Within ten (10) days from the filing of notice of claim, the insurance company shall make payment to the recruitment/manning agency the amount adjudged or agreed upon, or the amount of liability insured, whichever is lower. After receiving the insurance payment, the recruitment/manning agency shall immediately pay the migrant worker's claim in full, taking into account that in case the amount of insurance coverage is insufficient to satisfy the amount adjudged or agreed upon, it is liable to pay the balance thereof;

"(4) In case the insurance company fails to make payment within ten (10) days from the filing of the claim, the recruitment/manning agency shall pay the amount adjudged or agreed upon within the remaining days of the thirty (30)-day period, as provided in the first subparagraph hereof;

"(5) If the worker's claim [was] **IS** not settled within the aforesaid thirty (30)-day period, **SUCH CLAIM SHALL BE AUTOMATICALLY SATISFIED AND PAID FROM** the recruitment/manning agency's performance bond or escrow deposit [shall be forthwith garnished to satisfy the migrant worker's claim];

"(6) The provision of compulsory worker's insurance under this section shall not affect the joint and solidary liability of the foreign employer and the recruitment/manning agency under Section 10;

"(7) Lawyers for the insurance companies, unless the latter is impleaded, shall be prohibited to appear before the NLRC in money claims cases under this section.

"Any question or dispute in the enforcement of any insurance policy issued under this section shall be brought before the IC for mediation or adjudication.

"In case it is shown by substantial evidence before the POEA that the migrant worker who was deployed by a licensed recruitment/manning agency has paid for the premium or the cost of the insurance coverage or that the said insurance coverage was used as basis by the recruitment/manning agency to claim any additional fee from the migrant worker, **OR THAT THE PREMIUM OR COST OF THE INSURANCE COVERAGE WAS PASSED ON, DIRECTLY OR INDIRECTLY, TO THE MIGRANT WORKER IN ANY FORM**, the said licensed recruitment/manning agency shall lose its license and all its directors, partners, proprietors, officers and employees shall be perpetually disqualified from engaging in the business of recruitment of overseas workers. Such penalty is without prejudice to any other liability which such persons may have incurred under existing laws, rules or regulations.

"For migrant workers recruited by the POEA on a government-to-government arrangement, the POEA shall establish a foreign employers guarantee fund which shall be answerable to the workers' monetary claims arising from breach of contractual obligations. For migrant workers classified as rehires, name hires or direct hires, they **SHALL** [may opt to] be covered by this insurance coverage by requesting their foreign employers to pay for the cost of the insurance coverage or they may pay for the premium themselves. To protect the rights of these workers, the POEA shall provide them adequate legal assistance, including conciliation and mediation services, whether at home or abroad.

"At the end of every year, the Department of Labor and Employment and the IC shall jointly make an assessment of the performance of all insurance providers, based upon the report of the NLRC and the POEA on their respective interactions and experiences with the insurance companies, and they shall have the authority to ban or blacklist such insurance companies which are known to be evasive or not responsive to the legitimate claims of migrant workers. The Department of Labor and Employment shall include such assessment in its year-end report to Congress.

"For purposes of this section, the Department of Labor and Employment, IC, NLRC and the POEA, in consultation with the recruitment/manning agencies and legitimate non-government organizations advocating the rights and welfare of overseas Filipino workers, shall formulate the necessary implementing rules and

regulations.

"The foregoing provisions on compulsory insurance coverage shall be subject to automatic review through the Congressional Oversight Committee immediately after three (3) years from the effectivity of this Act in order to determine its efficacy in favor of the covered overseas Filipino workers and the compliance by recruitment/manning agencies and insurance companies, without prejudice to an earlier review if necessary and warranted for the purpose of modifying, amending and/or repealing these subject provisions.

SEC. 2. *Separability Clause.* - If any provision of this Act is declared unconstitutional or invalid, the same shall not affect the validity of the other provisions not declared as such.

SEC. 3. *Repealing Clause.* - All other laws, presidential decrees, executive issuance, rules and regulations, or parts thereof, found inconsistent with this Act are hereby expressly repealed or modified accordingly.

SEC. 4. *Effectivity.* - This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,