

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 4533



Introduced by Rep. H. Harry L. Roque, Jr.

EXPLANATORY NOTE

Republic Act No. 7699 (RA 7699), otherwise known as "The Portability Law," declares as State policy the promotion of the welfare of our workers by recognizing their efforts in productive endeavors and the improvement of their conditions by providing benefits for their long years of contribution to the national economy.

RA 7699 was enacted on 27 April 1994 and signed by President Fidel V. Ramos on 01 May 1994 to enable retirees who lack the required number of years of service either in the government or in the private sector, to qualify for pension, by adding the retiree's years of service from the other sector to complete the number of years of service required. The government requires fifteen (15) years in order to qualify for pension from GSIS, with age sixty-five (65) as retirement age, while the private sector requires ten (10) years of service to qualify for pension from the SSS, with age sixty (60) as retirement age.

The portability of years of service from one system to another aptly describes the name "Portability Law".

However, RA 7699 inadvertently and unjustly excluded a certain class of workers from benefiting from The Portability Law when it added the phrase "in case the covered member does not qualify for such benefits in either or both Systems without totalization" in Section 3 thereof.¹

Such class of workers are those workers who have earlier qualified for retirement benefits in either the SSS or GSIS, then subsequently transferred to the other sector in the latter part of their careers, rendering years of service which fall short of qualifying for retirement benefits in the other social security system. These workers, being inadvertently excluded from the benefits of The Portability Law by, are forced to retire in the social security system where they earlier qualified, even though they have also rendered many years of service to the other sector. Under the law as currently worded, they are forced to receive pension based on their earlier (and necessarily lower) compensation without option for transferring years of service to the latter social security system to receive pension based on their later and higher compensation schedule, while a worker who has worked nine (9) years in the private sector and subsequently worked six (6) years in the public sector will be

¹ Sec. 3. Provisions of any general or special law or rules and regulations to the contrary notwithstanding, a covered worker who transfers employment from one sector to another or is employed in both sectors shall have his credible services or contributions in both Systems credited to his service or contribution record in each of the Systems and shall be totalized for purposes of old-age, disability, survivorship and other benefits in case the covered member does not qualify for such benefits in either or both Systems without totalization: *Provided, however,* That overlapping periods of membership shall be credited only once for purposes of totalization.

allowed to transfer years of service to GSIS and receive pension based on their most current (and higher) compensation rate.

It is unfair and unjust to exclude such workers from the coverage of The Portability Law solely for the reason that they have earlier qualified in one social security system, because this class of workers has also given long years of their lives *thereafter* to the other sector, still contributing to the national economy.

To give meaning and substance to the State policy eloquently provided in Section 1 of RA 7699, which is, to repeat, "to promote the welfare of our workers by recognizing their efforts in productive endeavors and to further improve their conditions by providing benefits for their long years of contribution to the national economy," the said class of workers should also be free to enjoy the benefits of The Portability Law.

In view thereof, this bill aims to amend RA7699 to delete the restrictive clause in Section 3 of RA 7699 and explicitly include workers who have qualified for benefits in one system but is subsequently employed in the other sector, thereby allowing the worker to opt to retire in the latter system based justly on the worker's later compensation schedule.

In view of the foregoing, the approval of this bill is earnestly sought.



REP. H. HARRY L. ROQUE, JR.

Party List - KABAYAN

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Introduced by Rep. H. Harry L. Roque, Jr.

AN ACT
AMENDING REPUBLIC ACT NO. 7699, OTHERWISE KNOWN AS THE
"PORTABILITY LAW"

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

SECTION 1. Section 3 of Republic Act No. 7699, otherwise known as the "Portability Law", is hereby amended to read as follows:

"**SECTION. 3.** Provisions of any general or special law or rules and regulations to the contrary notwithstanding, a covered worker who transfers employment from one sector to another or is employed in both sectors shall have his creditable services or contributions in both Systems credited to his service or contribution record in each of the Systems and shall be totalized for purposes of old-age, disability, survivorship and other benefits [in case the covered member does not qualify for such benefits in either or both Systems without totalization]; *Provided, however,* That overlapping periods of membership shall be credited only once for purposes of totalization.

"TOTALIZATION SHALL APPLY IN THE FOLLOWING INSTANCES:

"A. IF A WORKER IS NOT QUALIFIED FOR ANY BENEFITS FROM BOTH SYSTEMS; OR

"B. IF A WORKER IN THE PUBLIC SECTOR IS NOT QUALIFIED FOR ANY BENEFITS FROM THE GSIS; OR

"C. IF A WORKER IN THE PRIVATE SECTOR IS NOT QUALIFIED FOR ANY BENEFITS FROM THE SSS; OR

"D. IF A WORKER QUALIFIES FOR BENEFITS IN ONE SYSTEM BUT IS SUBSEQUENTLY EMPLOYED IN THE OTHER SECTOR: *PROVIDED*, THAT THE WORKER HAS NOT AVAILED OF THE BENEFITS IN ONE SYSTEM: *PROVIDED, FURTHER*, THAT THE WORKER MUST HAVE CONTRIBUTED AT LEAST SEVENTY-FIVE PER CENTUM (75%) OF THE

REQUIRED CONTRIBUTIONS OF THE
CORRESPONDING SYSTEM WHERE THEY SEEK
SOCIAL SECURITY BENEFITS: *PROVIDED, FINALLY,*
THAT ONLY THE NUMBER OF YEARS NECESSARY
TO COMPLETE THE MINIMUM REQUIREMENT FOR
RETIREMENT IN THE SYSTEM WHERE THEY SEEK
TO RETIRE SHALL BE TAKEN FROM THE OTHER
SYSTEM."

SEC. 2. *Separability Clause.* – All laws, presidential decrees or issuances, executive orders, letters of instruction, administrative orders, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, modified or amended accordingly.

SEC. 3. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,