

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
Second Regular Session

HOUSE BILL NO. **5543**



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**Introduced by REP. Michael L. Romero and Enrico A. Pineda**

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## **EXPLANATORY NOTE**

In the Republic of the Philippines, the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.

The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.

While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

This House Bill seeks to affirm the fundamental equality before the law of women and men and their significant role in nation-building. Recognizing the contribution of overseas migrant workers and their particular vulnerabilities, the

This House Bill seeks to apply sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of all migrant workers.

This House Bill seeks to promote free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any persons by reason of poverty.

In this regard, this House Bill seeks to establish an effective mechanism be instituted to ensure that the rights and interest of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.

Thus, the early passage of this bill is earnestly requested.



MICHAEL L. ROMERO Ph.D



ENRICO A. PINEDA

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**AN ACT**

**AMENDING REPUBLIC ACT NO.10022, OTHERWISE KNOWN AS  
"An Act Amending RA8042 (Migrant Workers and Overseas Filipinos  
Act of 1995)", TO FOSTER THE IMPOSITION OF ALL EXISTING POLICIES  
AND GUIDELINES, TO PROMOTE A HIGHER STANDARD OF PROTECTION  
AND WELFARE, INCREASING ITS PENALTIES AND SANCTIONS, AND FOR  
OTHER PURPOSES**

*Be it enacted by the Senate and House of Representative of the  
Philippines in congress assembled:*

**SECTION 1. Declaration of Policy -**

Section 6 of Republic Act No. 10022, is hereby amended to read as follows:

**SECTION 6. Penalties -**

**(a)** Any person found guilty of illegal recruitment shall suffer  
the penalty of imprisonment of not less than twelve (12) years

and one (1) day but not more than twenty (20) years and a fine of not less than Two million pesos **(P2,000,000.00)**.

**(b)** The penalty of life imprisonment and a fine of not less than Five million pesos **(P5,000,000.00)** shall be imposed if illegal recruitment constitutes economic sabotage as defined therein.

"Provided, however,

That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

**(c)** Any person found guilty of any of the prohibited acts shall suffer the penalty of imprisonment of not less than twelve **(12)** years and a fine of not less than One million pesos **(P1,000,000.00)**.

If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be deported without further proceedings.

In every case,

conviction shall cause and carry the automatic revocation of the license or registration of the recruitment/manning agency, lending institutions, training school or medical clinic.

## **SECTION 2. Declaration of Policy -**

Section 7, of Republic Act No. 10022 is hereby amended to read as follows:

*SECTION 7. MONEY CLAIMS* – Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within sixty **(60)** calendar days after filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

The liability of the principal or employer and the recruitment/placement agency for any and all claims under this section shall be joint and several. This provisions shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country of the said contract.

Any compromise/amicable settlement or voluntary agreement on money claims inclusive of damages under this section shall be paid

within thirty **(30)** days from the approval of the settlement by the appropriate authority.

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the workers shall be entitled to the full reimbursement of his placement fee with interest of twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for four **(4)** months for every year of the unexpired term, whichever is less.

Non-compliance with the mandatory periods for resolutions of cases provided under this section shall subject the responsible officials to any or all of the following penalties:

- (a)** The salary of any such official who fails to render his decision or resolutions within the prescribed period shall be, or caused to be, withheld until the said official complies therewith;
- (b)** Suspension for not less than ninety **(90)** days; or
- (c)** Dismissal from the service with disqualifications to hold any appointive public office for six **(6)** years.

Provided, however, that the penalties herein provided shall be without prejudice to any liability which any such official may have incurred under other existing laws or rules and regulations as a consequence of violating the provisions of this paragraph.

### **SECTION 3. Declaration of Policy -**

Section 9, of Republic Act No. 8042 is hereby amended to read as follows:

*SECTION 9. Mandatory Repatriation of Underage Migrant Workers.* - Upon discovery or being informed of the presence of migrant workers whose ages fall below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication available of such discovery and other relevant information.

The license of a recruitment/manning agency which recruited or deployed an underage migrant worker shall be automatically revoked and shall be imposed a fine of not less than One million pesos (**P 1,000,000.00**). All fees pertinent to the processing of papers or documents in the recruitment or deployment shall be refunded in full by the responsible recruitment/manning agency, without need of notice, to the underage migrant worker or to his parents or guardian.

The refund shall be independent of and in addition to the indemnification for the damages sustained by the underage migrant worker. The refund shall be paid within thirty (30) days from the date of the mandatory repatriation as provided for in this Act.

#### **SECTION 4. Declaration of Policy -**

Section 18, of Republic Act No. 10022 is hereby amended to read as follows:

*SECTION 18. LEGAL ASSISTANCE FUND* – There is hereby established a legal assistance fund for migrant workers, herein after referred to as Legal

Assistance fund, in the amount of Three hundred million pesos **(P300,000,000.00)** to be constituted from the following sources:

One hundred fifty million pesos **(P150,000,000.00)** from the Contingency Fund of the President;

One hundred million pesos **(P100,000,000.00)** from the Presidential Social Fund; and

Fifty million pesos **(P50,000,000.00)** from the Welfare Fund for Overseas Workers established under Letter of Instruction No. 537, as amended by Presidential Decree Nos. 1694 and 1809.

An amount appropriated in the annual General Appropriations Act (GAA) which shall not be less than Fifty million pesos **(P50,000,000.00)** per year:

Provided, that the balance of the Legal Assistance Fund (LAF) including the amount appropriated for the year shall not be less than Two hundred million pesos **(P200,000,000.00)**:

Provided, further, That the fund shall be treated as a special fund in the National Treasury and its balance, including the amount appropriated in the GAA, which shall form part of the Fund, shall not revert to the General Fund.

Any balances of existing fund which have been set aside by the government specifically as legal assistance or defense fund to help migrant workers shall, upon effectivity of this Act, to be turned over to, and form part of, the Fund created under this Act.

## **SECTION 5. Declaration of Policy -**

Section 23, of Republic Act No. 10022 is hereby amended to read:

*SECTION 23. 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 Twenty thousand United States dollars **(US\$20,000.00)** survivor's benefit payable to the migrant worker's beneficiaries;

**(b)** Permanent total disablement, with at least Ten thousand United States dollars **(US\$10,000.00)** 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;

**(c)** 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;

**(d)** Subsistence allowance benefit, with at least Two hundred United States dollars **(US\$200.00)** 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;

**(e)** 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 four **(4)** months for every year of the migrant worker's employment contract;

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

**(f)** 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;

**(g)** 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

**(h)** 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 (h) 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 executor 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 not settled within the aforesaid thirty (30)-day period, 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, 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, new hires or direct hires, they 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 two **(2)** 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.

**SECTION 6. IMPLEMENTING RULES AND REGULATIONS.** – The departments and agencies charged with carrying out the provisions of this Act shall, within sixty **(60)** days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

**SECTION 7. 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 8. SEPARABILITY CLAUSE.** – If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

**SECTION 9. EFFECTIVITY CLAUSE.** – This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved,