

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
THIRD REGULAR SESSION

House Bill No. 8588



Introduced by ACTS OFW Representative Aniceto D. Bertiz III

EXPLANATORY NOTE

It is the policy of the State to protect the rights of workers and promote their welfare, thus, to afford full protection to labor, local and overseas (Sec. 18, Art. II; Sec. 3, Art. XIII, Philippine Constitution).

Towards this end, compulsory insurance coverage was provided for agency hired overseas Filipino Workers in Republic Act No. 10022, which amended Republic Act No. 8042, in 2010. The insurance coverage, in the minimum, includes death (natural or accidental), permanent disability, repatriation cost, subsistence allowance when involved in a case in the receiving country, money claims, compassionate visit by a family member or a requested individual when hospitalized for at least seven (7) consecutive days, medical evacuation, and medical repatriation.

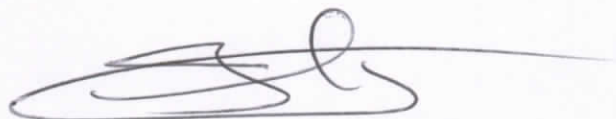
Rehires, name hires or direct hires are given the option to have the insurance coverage which they may pay themselves or their foreign employer may pay upon their request. Government hires, on the other hand, are not even given an option for the same insurance coverage, as R.A. No. 10022 merely declares that for them "POEA shall establish a foreign employers guarantee fund which shall be answerable to the workers' monetary claims arising from breach of contractual obligations," and not for any of the insurable risks.

Hence, the beneficiary or the family of a migrant worker who accidentally dies in his/her worksite abroad shall receive accidental death insurance benefit of US\$15,000.00 within 10 days from filing of claim, without contest or without the necessity of proving fault or negligence of any kind. However, the beneficiary or the family of rehire, name hire or direct hire OFWs who suffered the same fate of accidental death in the worksite, may or may not be entitled to the same benefit which can lessen their burden, as it will depend on whether or not the deceased rehire, name hire or direct hire OFWs even bothered him/herself to consider the option to be covered by the insurance coverage. For the beneficiary or family of government hired OFW who accidentally died in the worksite, the situation is clear: no death benefit, because the OFW has no insurance coverage and accidental death is not a breach of contractual obligation.

This creates inequality in the protection of the welfare of our OFWs; hence, this bill makes insurance coverage mandatory to all OFWs regardless of how they are able to legally get their employment overseas.

Finally, there are certain needs under Section 37-A or the provision on mandatory insurance coverage of RA No. 10022 which it failed to provide. For example, the documentary requirements to claim the insurance benefits for compassionate visit or medical benefit are absent in the law. These we need to provide at once for the sake of our OFWs who at the very moment may be having difficulty in claiming the benefit due them because of this oversight.

May this august body pass with haste this bill, as our OFWs have waited for it long enough since 2010.

A handwritten signature in dark ink, featuring a large, stylized 'A' and 'B' that are interconnected, with a long horizontal line extending to the right.

REP. ANICETO D. BERTIZ III

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**AN ACT FURTHER AMENDING REPUBLIC ACT NO. 8042, OTHERWISE
KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINO ACT OF
1995, AS AMENDED BY REPUBLIC ACT NO. 10022, FURTHER
STRENGTHENING THE STANDARD OF PROTECTION OF THE WELFARE OF
MIGRANT WORKERS BY EXPANDING THE COVERAGE OF COMPULSORY
INSURANCE, AND FOR OTHER PURPOSES**

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

Section 1. The new Section 37-A on Compulsory Insurance Coverage of R.A. No. 8042, as amended by R.A. No. 10022, is hereby amended to read as follows:

“Sec. 37-A – Compulsory Insurance Coverage for OVERSEAS FILIPINO WORKERS – In addition to the performance bond to be filed by the recruitment/manning agency under Section 10, each migrant worker or OVERSEAS FILIPINO WORKER shall be covered by a compulsory insurance policy which shall be secured:

a) for agency-hired workers – by the deploying recruitment/manning agency at no cost to the said worker;

B) FOR BALIK-MANGGAGAWA OR REHIRES – BY THE FOREIGN EMPLOYER OR THE WORKER, AS AGREED UPON BETWEEN THEM;

C) FOR DIRECT-HIRE WORKER – BY THE FOREIGN EMPLOYER, AT NO COST TO THE SAID WORKER

D) FOR GOVERNMENT TO GOVERNMENT HIRED WORKERS – BY THE FOREIGN EMPLOYER, AT NO COST TO THE SAID WORKER

Such insurance policy shall be effective for the duration of the migrant worker’s employment OR FROM DEPLOYMENT FROM, TO ARRIVAL IN, THE PHILIPPINES.

1. THE COMPULSORY INSURANCE SHALL COVER, AT LEAST, THE FOLLOWING:

(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 AND ALL 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 SALARIES for every year of the migrant worker's employment contract;

(g) Compassionate visit, when a migrant worker is hospitalized and has been confined for at least seven (7) consecutive days. THE compassionate visit SHALL BE by one (1) family member or a requested individual WHOSE TRANSPORTATION COSTS SHALL BE PAID BY THE INSURANCE PROVIDER to the major airport closest to the place of hospitalization of the worker AND BACK TO THE PHILIPPINES. It is, however, the responsibility of the family member or requested individual to meet all visa and travel document requirements;

(h) Medical evacuation, when NO adequate medical facility is available proximate to the migrant worker, as determined by the insurance company's physician and/or a consulting physician. THE MEDICAL evacuation SHALL BE TO THE NEAREST HOSPITAL OF ADEQUATE MEDICAL FACILITY under appropriate medical supervision, by the mode of transport necessary TO be undertaken by the insurance provider; and

(i) Medical repatriation, when medically necessary as determined by the attending physician. THE MEDICAL repatriation SHALL BE under medical supervision to the migrant worker's residence. IT 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.

2. THE QUALIFIED AND DISQUALIFIED INSURANCE PROVIDERS;

ONLY THE FOLLOWING INSURANCE PROVIDERS/OR COMPANIES shall be qualified to provide for the worker's insurance coverage:

- a) reputable private insurance companies duly registered with the Insurance Commission (IC),
- b) in existence and operational for at least five (5) years,
- c) with a net worth of at least Five hundred million pesos (P500,000,000.00) to be determined by the IC, and
- d) with a current year certificate of authority.

THE FOLLOWING shall be disqualified from providing the worker's insurance coverage – PRIVATE 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

- a) in any licensed recruitment/manning agencies, or
- b) in any of the government agencies involved in the overseas employment program

3. THE RIGHT TO CHOOSE INSURANCE PROVIDERS – THE PERSON OR ENTITY WHO PAYS FOR THE INSURANCE COVERAGE HAS the right to choose from any of the qualified insurance providers, TO WIT:

- a) the deploying recruitment/manning agency at no cost to the said worker - for agency-hired workers;
- B) THE FOREIGN EMPLOYER OR THE WORKER, AS AGREED UPON BETWEEN THEM - FOR THE BALIK-MANGGAGAWA OR REHIRES;
- C) THE FOREIGN EMPLOYER, WHO PAYS FOR THE INSURANCE COVERAGE AT NO COST TO THE WORKER – FOR DIRECT-HIRE WORKER AND FOR GOVERNMENT TO GOVERNMENT HIRED WORKER

4. DUTIES OF THE PERSON OR ENTITY WHO PAYS FOR THE INSURANCE COVERAGE -

BEFORE DEPARTURE OR DEPLOYMENT OF THE MIGRANT WORKER, THE RECRUITMENT/MANNING AGENCY WHO PAYS FOR THE INSURANCE COVERAGE SHALL

- a) DISCLOSE AND SUFFICIENTLY EXPLAIN, IN COLLABORATION WITH THE INSURANCE PROVIDER, TO THE MIGRANT WORKER AND TO AT LEAST ONE OF HIS/HER BENEFICIARIES, THE TERMS AND BENEFITS OF THE INSURANCE COVERAGE INCLUDING THE PROCEDURES FOR

CLAIMING THE INSURANCE BENEFITS (taken from the IRR of R.A. No. 8042 as amended by R.A. No. 10022)

b) provide THE MIGRANT WORKER, AND THE FOREIGN EMPLOYER (IF THE ONE WHO PAID FOR THE WORKER) an authenticated copy of the insurance policy.

c) 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 FILING A CLAIM WITH THE INSURANCE PROVIDER, THE RECRUITMENT/MANNING AGENCY SHALL ASSIST THE OFW AND/OR THE BENEFICIARY AND ASSURE THEM THAT ALL INFORMATION AND DOCUMENTS IN THE CUSTODY OF THE AGENCY NECESSARY FOR THE CLAIM MUST BE READILY ACCESSIBLE TO THE CLAIMANT.

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-SECTION 1.(a) to 1.(i) are included therein.

WHEN THE PERSON OR ENTITY PAYING FOR THE INSURANCE IS THE FOREIGN EMPLOYER, THE FOREGOING DUTIES SHALL BE PERFORMED BY THE POEA.

5. THE PROCEDURE FOR CLAIMING THE BENEFITS OF THE COMPULSORY INSURANCE COVERAGE, AS PROVIDED FOR UNDER SUBSECTION 1 HEREOF ARE AS FOLLOWS

5.1 FOR BENEFITS (a) to (e):

Step 1 – The migrant worker or his/her beneficiary, presents to the insurance provider a written notice of claim together with the pertinent supporting documents provided in the next subsection;

Step 2 – the insurance provider shall ascertain the truth and extent of the claim, PROVIDED THAT; 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.

Step 3 –within ten (10) days from receipt of the notice of claim, the insurance provider shall pay the benefit TO THE CLAIMANT MIGRANT WORKER OR HIS/HER BENEFICIARY WITH PROOF OF PAYMENT FURNISHED THE RECRUITMENT AGENCY OR THE FOREIGN EMPLOYER WHO PAID FOR THE COMPULSORY INSURANCE COVERAGE.

Provided, however, that in the case of a seafarer, the foreign insurance company shall pay within the same period of ten (10) days through its Philippine representative to the seafarer/beneficiary.

Such amount received by the seafarer/beneficiary shall form part of and be deducted from whatever benefits the seafarer/beneficiary may be entitled to under the provisions of the POEA-Standard Employment Contract (SEC) or collective bargaining agreement (CBA). Any claim in excess of the amount paid pursuant to the no contest, no fault or negligence provision of this section shall be determined in accordance with the POEA-SEC or CBA.

6. THE FOLLOWING ARE THE PERTINENT SUPPORTING DOCUMENTS sufficient as evidence to substantiate the claim, provided they are duly authenticated by the Philippine foreign posts:

- a) Death Certificate - FOR NATURAL DEATH;
- b) Death Certificate and Police or Accident Report – In case of accidental death; and
- c) Medical Certificate – In case of permanent disablement;
- d) a certification which states the reason/s for the termination of the migrant worker's employment and the need for his or her repatriation, issued by the Philippine foreign post or the Philippine Overseas Labor Office (POLO) located in the receiving country - FOR REPATRIATION UNDER SUBSECTION
- e) a certification from the concerned labor attaché or, in his absence, the embassy or consular official, 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 SUBSISTENCE ALLOWANCE
- f) an Order issued by the Labor Arbiter mandating the respondent recruitment/manning agency to pay the amount adjudged or agreed based on a final and executory decision or a settlement/ compromise agreement reached between the parties at the NLRC. THE ORDER SHALL PROVIDE FOR A PERIOD TO PAY WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE ORDER - FOR MONEY CLAIMS

WITHIN THE SAID thirty (30) days, the recruitment/manning agency shall:

- f.a). file the claim for benefit with the insurance provider, attaching to the claim the said Order
- f.b). secure the payment of the insurance benefit to the migrant worker THROUGH THE RECRUITMENT/MANNING AGENCY, WITHIN TEN (10) DAYS FROM THE FILING OF THE CLAIM;
- f.c). in case of the failure to collect the insurance benefit or to fully satisfy the judgment award or the consideration of the settlement or compromise agreement, the recruitment/manning agency shall pay for the amount due the migrant worker, whether it be the full judgment award or the mere balance thereof, WITHIN THE SAID PERIOD OF THIRTY (30) DAYS

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;

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.

g) CERTIFICATION FROM THE HOSPITAL WHERE THE OVERSEAS FILIPINO WORKER IS CONFINED FOR AT LEAST SEVEN (7) CONSECUTIVE DAYS - FOR COMPASSIONATE VISIT

h) CERTIFICATION FROM A CONSULTING PHYSICIAN OR THE PHYSICIAN OF THE INSURANCE PROVIDER THAT ADEQUATE MEDICAL FACILITY IS NOT AVAILABLE PROXIMATE TO THE MIGRANT WORKER - FOR MEDICAL EVACUATION

i) CERTIFICATION FROM THE ATTENDING PHYSICIAN THAT MEDICAL REPATRIATION UP TO THE MIGRANT WORKER'S RESIDENCE IS NECESSARY - FOR MEDICAL REPATRIATION

7. JURISDICTION OF THE INSURANCE COMMISSION (IC) - 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.

8. PENALTY FOR VIOLATION OF THIS SECTION - 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.

9. To protect the rights of OVERSEAS FILIPINO workers, the POEA shall provide them adequate legal assistance, including conciliation and mediation services, whether at home or abroad.

10. At the end of every year, the Department of Labor and Employment (DOLE) and the Insurance Commission (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.

11. For purposes of this section, the DOLE, 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.

12. 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.

Section 2. Implementing Rules and Regulations. – The departments and agencies charged with carrying out the provisions of this Act shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

Section 3. Repealing Cause. – All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are repealed or modified accordingly.

Section 4. 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 5. 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,