

NINETEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

House Bill No. **1189**

Introduced by Representative Christian Tell A. Yap

Article XIII, Section 3 of the Constitution provides that the State shall afford full protection to labor, local and overseas, organized and unorganized. Thus, Republic Act No. 8042 or the “Migrant Workers and Overseas Filipinos Act” was enacted to mandate the State in upholding the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular. Towards this end, the State shall provide adequate and timely social, legal and economic services to Overseas Filipino Workers (OFWs) as well as ensure that this sector is properly monitored and accounted for, with due regard for their protection and welfare.

The latest data from the Philippine Statistics Authority (PSA) shows that there are around 1.77 million OFWs abroad during the period of April to September 2020. Furthermore, Overseas Filipino workers' (OFWs) cash remittances increased by 3.2 percent in March of last year to USD 2.594 billion.

This proposed measure seeks to incentivize undocumented OFWs by letting them register and apply for their Overseas Employment Certificates (OEC) in the Philippine Overseas Employment Authority (POEA) or with the Philippine Embassy abroad to which, in return, free insurance will be provided by the State. Through this bill, the State will not only improve its capabilities in protecting all our OFWs but also provide additional benefits for this vulnerable sector who undertakes tremendous risks in working overseas.

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


CHRISTIAN TELL A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

1189

House Bill No. _____

Introduced by Representative CHRISTIAN TELL A. YAP

AN ACT

EXPANDING THE COVERAGE OF COMPULSORY INSURANCE OF OVERSEAS
FILIPINO WORKERS, FURTHER AMENDING REPUBLIC ACT NO. 8042,
OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINOS
ACT OF 1995, AS AMENDED

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

1 SECTION 1. Section 37-A of Republic Act No. 8042, otherwise known as the
2 "Migrant Workers and Overseas Filipinos Act of 1995", as amended, is hereby further amended
3 to read as follows:
4
5 "SEC. 37-A. *Compulsory Insurance Coverage for [Agency-Hired] MIGRANT*
6 *Workers.* - In addition to the performance bond to be filed by the
7 recruitment/manning agency under Section 10, each migrant worker,
8 **WHETHER AGENCY-HIRE, REHIRE, DIRECT-HIRE, OR**
9 **GOVERNMENT-HIRE,** [deployed by a recruitment/manning agency] shall
10 be covered by a compulsory insurance policy **AFTER SIGNING OR**
11 **DURING THE RENEWAL OF THE CONTRACT,** which shall be secured
12 at no cost to the said worker. **THE INSURANCE PREMIUM SHALL BE**
13 **PAID BY THE FOREIGN EMPLOYER, OR BY THE**
14 **RECRUITMENT/MANNING AGENCY IN THE CASE OF AGENCY-**
15 **HIRED WORKERS.** Such insurance policy shall be effective for the duration
16 of the migrant worker's employment **OR DEPLOYMENT,** and shall cover, at
17 the minimum:
18
19 (a) Accidental death, with at least Fifteen thousand United States
20 dollars (US\$ 15,000.00) survivor's benefit payable to the migrant
21 worker's beneficiaries;
22
23 (b) Natural death, with at least Ten thousand United States Dollars
24 (US\$ 10,000.00) survivor's benefit payable to the migrant worker's
25 Beneficiaries.

- 1 (c) Permanent total disablement, with at least Seven thousand five
2 hundred United States dollars (US\$ 7,500.00) disability benefit
3 payable to the migrant worker. The following disabilities shall be
4 deemed permanent: total, complete loss of sight of both eyes; loss
5 of two (2) limbs at or above the ankles or wrists; permanent
6 complete paralysis of two (2) limbs; brain injury resulting to
7 incurable imbecility or insanity;

8
9 **TEMPORARY PARTIAL DISABLEMENT BENEFIT THAT**
10 **IS PAYABLE TO THE MIGRANT WORKER. THE TABLE**
11 **OR LIST OF PARTIAL DISABLEMENT WITH**
12 **CORRESPONDING AMOUNT SHALL BE INCLUDED IN**
13 **THE IMPLEMENTING RULES AND REGULATIONS OF**
14 **THIS SECTION BY THE INSURANCE COMMISSION,**
15 **AFTER CONSULTATION WITH THE INSURANCE**
16 **INDUSTRY AND OTHER STAKEHOLDERS;**

- 17
18 (d) Repatriation **AND OTHER ATTENDANT** cost\$ of the worker
19 when his/her employment is terminated without any valid cause,
20 including the transport of his or her personal belongings. In case of
21 death **OF THE MIGRANT WORKER, AND THE EMPLOYER**
22 **IS INCAPACITATED TO PAY OR HAS ABANDONED THE**
23 **WORKER,** the insurance provider shall arrange and pay for the
24 repatriation or return of the worker's **BODY OR CREMATED**
25 remains. The insurance provider shall also render any assistance
26 necessary in the transport, including but not limited to, locating a
27 local and licensed funeral home, mortuary or direct disposition
28 facility to prepare the body for transport, completing all
29 documentation, obtaining legal clearances, procuring consular
30 services, **TRANSLATION COSTS,** providing death certificates,
31 purchasing the minimally necessary casket or air transport
32 container, as well as transporting the remains including retrieval
33 from site of death and delivery to the receiving funeral home;

34
35 **SUBJECT TO THE INTER-AGENCY STUDY, AFTER DUE**
36 **CONSULTATION WITH THE INSURANCE INDUSTRY**
37 **AND OTHER STAKEHOLDERS, THE REPATRIATION**
38 **BENEFIT UNDER THIS PARAGRAPH MAY ALSO**
39 **EXTEND TO CAUSES DUE TO AN EPIDEMIC, PANDEMIC,**
40 **WAR, CIVIL UNREST, DISASTERS AND CALAMITIES,**
41 **WHETHER NATURAL OR MAN-MADE;**

- 42
43 (e) Subsistence allowance benefit, with at least One hundred United
44 States dollars (US\$100.00) per month for a maximum of six (6)
45 months for a migrant worker who is involved in a case or litigation
46 for the protection of his/her rights in the receiving country;
47

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

6 **THE MONEY CLAIMS OF REHIRS, DIRECT-HIRES AND**
7 **GOVERNMENT-HIRES, SHALL BE SUBJECT TO THE**
8 **ADMINISTRATIVE PROCEEDING OF SINGLE-ENTRY**
9 **APPROACH (SENA), WHICH WAS INSTITUTIONALIZED**
10 **UNDER REPUBLIC ACT NO. 10396, ENTITLED "AN ACT**
11 **STRENGTHENING CONCILIATION-MEDIATION AS A**
12 **VOLUNTARY MODE OF DISPUTE SETTLEMENT FOR**
13 **ALL LABOR CASES, AMENDING FOR THIS PURPOSE**
14 **ARTICLE 228 OF PRESIDENTIAL DECREE NO. 442, AS**
15 **AMENDED, OTHERWISE KNOWN AS THE "LABOR**
16 **CODE OF THE PHILIPPINES". THE SENA PROCEEDING**
17 **MAY BE DONE ONLINE OR ONSITE. IF THE MIGRANT**
18 **WORKER IS IN THE PHILIPPINES, SENA PROCEEDING**
19 **SHALL BE DONE AT THE PHILIPPINE OVERSEAS**
20 **EMPLOYMENT ADMINISTRATION (POEA). IF THE**
21 **WORKER IS ONSITE, SENA PROCEEDING SHALL BE**
22 **DONE AT THE PHILIPPINE OVERSEAS LABOR OFFICE.**
23 **THE POEA, IN CONSULTATION WITH THE**
24 **STAKEHOLDERS, IS HEREBY TASKED TO**
25 **PROMULGATE THE IMPLEMENTING GUIDELINES FOR**
26 **THIS PROVISION, WHICH WILL INCLUDE THE**
27 **PROCEDURE ON HOW A CASE SETTLEMENT OR**
28 **ORDER IS ENFORCED AGAINST THE FOREIGN**
29 **EMPLOYER OR PRINCIPAL.**
30

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

33
34 (g) Compassionate visit. When a migrant worker is hospitalized and
35 has been confined for at least seven (7) consecutive days, he shall
36 be entitled to a compassionate visit by one (1) family member or a
37 requested individual. The insurance company shall pay for the
38 transportation cost of the family member or requested individual to
39 the major airport closest to the place of hospitalization of the worker
40 **AND BACK TO THE PHILIPPINES.** It is, however, the
41 responsibility of the family member or requested individual to meet
42 all visa and travel document requirements;
43

44 (h) Medical evacuation. When an adequate medical facility is not
45 available proximate to the migrant worker, as determined by the
46 insurance company's physician and/or a consulting physician, **THE**
47 **INSURANCE PROVIDER SHALL UNDERTAKE THE**
48 **EVACUATION TO THE NEAREST HOSPITAL OF ADEQUATE**
49 **MEDICAL FACILITY** under appropriate medical supervision
50 **AND** by the mode of transport necessary [shall be undertaken by the
51 insurance provider]; and
52

(i) Medical repatriation. When medically necessary as determined by the **INSURANCE COMPANY'S PHYSICIAN OR A CONSULTING** [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.

FOR PURPOSES OF THIS SECTION, THE TERM "DEPLOYMENT" REFERS TO THE DURATION WHEN THE WORKER IS STILL ABROAD, WHICH SHOULD NOT BE MORE THAN THE PERIOD OF THE ORIGINAL EMPLOYMENT CONTRACT COVERED BY AN INSURANCE POLICY.

Only reputable private insurance companies duly registered with the Insurance Commission (IC), which are in existence and operational for at least five (5) years, with a net worth **OR CAPITALIZATION IN ACCORDANCE WITH SECTION 194 OF THE INSURANCE CODE, AS AMENDED**, [of at least Five hundred million pesos (P500,000,000.00) to be determined by the IC] and with a current year certificate of authority **ISSUED BY THE IC** 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 **FOREIGN EMPLOYER, AS MAY BE REPRESENTED BY THE** recruitment/manning agency **OR MIGRANT WORKER**, 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 **FOREIGN EMPLOYER, OR 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.

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

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

10
11 For repatriation under subparagraph (d) hereof, a certification which states the
12 reason/s for the termination of the migrant worker's employment and the need
13 for his or her repatriation shall be issued by the Philippine foreign post or the
14 Philippine Overseas Labor Office (POLO) located in the receiving country.

15
16 For subsistence allowance benefit under subparagraph (e), the concerned labor
17 attaché or, in his absence, the embassy or consular official shall issue a
18 certification which states the name of the case, the names of the parties and the
19 nature of the cause of action of the migrant worker.

20
21 For the payment of money claims under subparagraph (f), the following rules
22 shall govern:

- 23
24 (1) After a decision has become final and executory or a
25 settlement/compromise agreement has been reached between the
26 parties at the NLRC, an order shall be released mandating the
27 respondent recruitment/manning agency to pay the amount
28 adjudged or agreed upon within thirty (30) days;
- 29
30 (2) The recruitment/manning agency shall then immediately file a
31 notice of claim with its insurance provider for the amount of
32 liability insured, attaching therewith a copy of the decision or
33 compromise agreement;
- 34
35 (3) Within ten (10) days from the filing of notice of claim, the
36 insurance company shall make payment to the **EMPLOYER OR**
37 recruitment/manning agency the amount adjudged or agreed upon,
38 or the amount of liability insured, whichever is lower. After
39 receiving the insurance payment, the **EMPLOYER OR**
40 recruitment/manning agency shall immediately pay the migrant
41 worker's claim in full, taking into account that in case the amount
42 of insurance coverage is insufficient to satisfy the amount
43 adjudged or agreed upon, it is liable to pay the balance thereof;
- 44
45 (4) In case the insurance company fails to make payment within ten
46 (10) days from the filing of the claim, the recruitment/ manning
47 agency shall pay the amount adjudged or agreed upon within the
48 remaining days of the thirty (30)-day period, as provided in the
49 first subparagraph hereof;

- 1 (5) If the **AGENCY-HIRED** worker's claim was not settled within
2 the aforesaid thirty (30)-day period, the recruitment/manning
3 agency's performance bond or escrow deposit shall be forthwith
4 garnished to satisfy the migrant worker's claim;
- 5 (6) The provision of compulsory worker's insurance under this section
6 shall not affect the joint and solidary liability of the foreign
7 employer and the recruitment/manning agency under Section 10;
8
- 9 (7) Lawyers for the insurance companies, unless the latter is
10 impleaded, shall be prohibited to appear before the NLRC in
11 money claims cases under this section.
12

13 **IN FILING A CLAIM WITH THE INSURANCE PROVIDER, THE**
14 **RECRUITMENT/MANNING AGENCY SHALL ASSIST THE**
15 **MIGRANT WORKER OR THE BENEFICIARY AND ENSURE THAT**
16 **ALL INFORMATION AND DOCUMENTS IN THE CUSTODY OF THE**
17 **AGENCY NECESSARY FOR THE CLAIM MUST BE READILY**
18 **ACCESSIBLE TO THE CLAIMANT. EXCEPT FOR THE AGENCY-**
19 **HIRED WORKERS, THE FOREGOING DUTIES SHALL BE**
20 **PERFORMED BY THE DOLE/POEA/OWWA.**
21

22 Any question or dispute in the enforcement of any insurance policy issued under
23 this section shall be brought before the IC for mediation or adjudication.
24

25 In case it is shown by substantial evidence before the POEA that the migrant
26 worker [who was deployed by a licensed recruitment/manning agency] has paid
27 for the premium or the cost of the insurance coverage or that the said insurance
28 coverage was used as basis by the recruitment/manning agency **OR**
29 **EMPLOYER** to claim any additional fee from the migrant worker, the said
30 licensed recruitment/manning agency shall lose its license and all its directors,
31 partners, proprietors, officers and employees, **AS WELL AS THE FOREIGN**
32 **EMPLOYER** shall be perpetually disqualified from [engaging]
33 **PARTICIPATING** in the business of [recruitment] **RECRUITING LAND-**
34 **BASED AND SEA-BASED** [of overseas] workers. Such penalty is without
35 prejudice to any other liability which such persons may have incurred under
36 existing laws, rules or regulations.
37

38 For migrant workers recruited by the POEA on a government-to-government
39 arrangement, the POEA shall establish a foreign employers guarantee fund
40 which shall be answerable to the workers' monetary claims arising from breach
41 of contractual obligations. [For migrant workers classified as rehires, name
42 hires or direct hires, they may opt to be covered by this insurance coverage by
43 requesting their foreign employers to pay for the cost of the insurance coverage
44 or they may pay for the premium themselves.] To protect the rights of these
45 workers, the Department of Labor and Employment and the POEA shall
46 provide them adequate legal assistance, including conciliation and mediation
47 services, whether at home or abroad.
48

49 At the end of every year, the Department of Labor and Employment and the IC
50 shall jointly make an assessment of the performance of all insurance providers,
51 based upon the report of the NLRC and the POEA on their respective

1 interactions and experiences with the insurance companies, and they shall have
2 the authority to ban or blacklist such insurance companies which are known to
3 be evasive or not responsive to the legitimate claims of migrant workers. The
4 Department of Labor and Employment shall include such assessment in its year-
5 end report to Congress.

6 For purposes of this section, the Department of Labor and Employment, IC,
7 NLRC and the POEA, in consultation with the recruitment/manning agencies
8 [and], legitimate non-government organizations advocating the rights and
9 welfare of overseas Filipino workers. **AND INSURANCE COMPANIES**
10 shall formulate the necessary implementing rules and regulations.

11
12 The foregoing provisions on compulsory insurance coverage shall be subject to
13 automatic review through the Congressional Oversight Committee
14 [immediately after three (3)] **EVERY FIVE (5)** years from the effectivity of
15 this Act in order to determine its efficacy in favor of the covered overseas
16 Filipino workers and the compliance by **FOREIGN EMPLOYERS, OR**
17 recruitment/manning agencies and insurance companies, without prejudice to
18 an earlier review if necessary and warranted for the purpose of modifying,
19 amending and/or repealing these subject provisions. **FOR THIS PURPOSE,**
20 **THE CONGRESSIONAL OVERSIGHT COMMITTEE CREATED**
21 **UNDER REPUBLIC ACT NO. 10022, ENTITLED "AN ACT**
22 **AMENDING REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS**
23 **THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF**
24 **1995, AS AMENDED, FURTHER IMPROVING THE STANDARD OF**
25 **PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT**
26 **WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN**
27 **DISTRESS, AND FOR OTHER PURPOSES", SHALL CONTINUE TO**
28 **EXIST UNTIL ITS MANDATE IS TERMINATED BY AN ACT OF**
29 **CONGRESS."**
30

31 **SEC. 2.** The Department of Labor and Employment, Philippine Overseas Employment
32 Administration, National Labor Relations Commission, OWWA and the Insurance
33 Commission, after consultations with the stakeholders, shall, within sixty (60) days after the
34 effectivity of this Act, formulate the necessary rules and regulations for the effective
35 implementation of this Act.

36
37 **SEC. 3.** All laws, decrees, orders, issuances, rules and regulations or parts thereof
38 contrary to or inconsistent with this Act, are hereby repealed or modified accordingly.
39

40 **SEC. 4.** This act shall take effect fifteen (15) days after its publication in the *Official*
41 *Gazette* or in a newspaper of general circulation.

Approved,