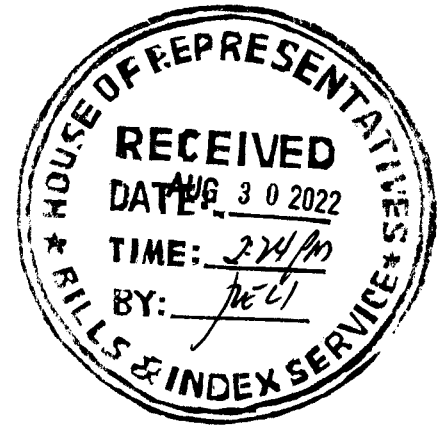


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4234



Introduced by the **Honorable BABY ALINE VARGAS-ALFONSO**

EXPLANATORY NOTE

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

The dire socioeconomic situation in the Philippines has forced many of our fellow Filipinos to look for work abroad in order to provide for their loved ones. The sacrifice that our “kababayans” make are incredible, they leave their family, friends, and relatives behind to try their luck in foreign soil that are thousands of miles away for home. Hence, our Overseas and Migrant Workers have the moniker of “Bagong Bayani” due to the immense sacrifices that they make. They are modern day heroes, risking life and limb just to attain a better quality of life for their family back in the Philippines.

Given this, the overarching policy of the state is to continue safeguarding the interests of Filipino workers even if they are in foreign soil. As enshrined in the Philippine Constitution, it is the duty of the state to protect the rights of workers and promote their welfare, and to afford full protection to labor, local and overseas (Sec. 18, Art. II, Sec. 3, Art. XIII, 1987 Constitution). Accordingly, in the year 2010, compulsory insurance coverage was provided for agency-hired Overseas Filipino Workers (OFWs) under R.A. 10022, amending R.A. No. 8042. In the minimum, the mandated insurance coverage includes, death (natural or accidental), permanent disability, repatriation cost, subsistence allowance, medical evacuation, and medical repatriation.

While RA 10022 speaks of migrant workers, the compulsory insurance coverage was required only from recruitment/manning agencies with respect to their deployed migrant workers. As to other

migrant workers classified as rehires, name hires or direct hires, they were only given option to have the insurance coverage which they may pay themselves or by requesting their foreign employer to pay the same. Likewise, for migrant workers recruited by POEA on a government- to-government arrangement, this insurance coverage is not even required or given the option to procure the same as the said RA10022 merely declares that for them "POEA shall establish a foreign employer's guarantee fund which shall be answerable to the worker's monetary claim arising from breach of contractual obligations."

Therefore, under the present situation, when an agency-hired migrant worker dies in his workplace, his beneficiary/ies receive death benefits (i.e. US\$15,000.00 if accidental death or US\$10,000.00 if natural death) within ten (10) days from the filing of the claim without contest or without any need to prove fault or negligence, whatsoever, while the beneficiary of rehire, name hire or direct hire migrant worker is not entitled to such benefit unless the worker or foreign employer has opted to buy such kind of insurance cover beforehand. The scenario is worse in the case of government to government hired migrant worker or OFW because, in their case there being no insurance coverage hence, there is no death benefit as the "fund" would answer only for migrant worker's monetary claim arising from breach of contractual obligations.

Thus, overseas workers classified as above-mentioned continue to be deployed without any clear indication whether they are insured or not and are therefore exposed to the hazards of their jobs without any guarantee that they or their families may have something to bank on in cases misfortunes occur.

The classical example of the current sorry situation of our **non-agency hired** overseas Filipino workers (OFWs) is best illustrated by **COVID-19/pandemic cases** creating a crises that affected countless OFWs, who are mostly bread winners particularly in the middle east, resulting in many deaths leaving families of the deceased OFWs aside from having to contend the grief of painful loss, the same is even aggravated by the certainty of financial strain that goes with it arising from the sudden loss of the income from these OFW providers. If only they are covered under this insurance program, its existing benefits, particularly the natural death benefit, shall without doubt mitigate, to a large extent, such financial burden to their families left behind.

On the part of the government, in emergency crises like this brought about by COVID-19/pandemic cases, had there been coverage for these class of OFWs under the said mandated insurance program, the government could have been saved from financial and logistical problems incident to the return of deceased OFWs' mortal remains as the program adequately provides such benefit. What the

government needs to cope with this kind of emergency crises affecting OFWs is the help and participation of the private sector and one of which is through the implementation of this kind of insurance program covering all OFWs without distinction, whether agency or non-agency hired.

Furthermore, insurance coverage for our “modern-day heroes” is an enhancement of the standard of protection of the OFWs as contemplated in R.A. No. 8042 as amended by R.A. No. 10022, and the Law has set a benchmark for insurance benefits that applies to all OFWs.

More importantly, it must be pointed out that workers under this classification are most susceptible to abuse, maltreatment, murder, human trafficking or landing on jobs that were not the jobs promised them before they left considering that their employment does not pass the meticulous scrutiny of our government agencies anymore.

Clearly, the situation presents inequality in the government’s efforts at protecting the welfare of Filipino migrant workers. This bill seeks to remedy such glaring inequality by making the insurance coverage mandatory to all Filipino migrant workers regardless of how they are able to legally get their overseas employment.

This bill was filed by the former Representative of the 2nd District of Cagayan, the Honorable Samantha Louise Vargas Alfonso, during the Second Regular Session of the 18th Congress. It has reached the 3rd reading in the House of Representatives and was transmitted to the Senate. Unfortunately, it was not deliberated and tackled before the sine die adjournment of the 18th Congress, thus failing to be passed into law. Given the significance of this bill, it is now being refiled for the 19th Congress.

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


BABY ALINE VARGAS-ALFONSO

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AN ACT
FURTHER AMENDING REPUBLIC ACT NO. 8042,
OTHERWISE KNOWN AS THE MIGRANT WORKERS AND
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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 House of Representatives of the Philippines in Congress assembled:

Section 1. 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 MIGRANT WORKERS OR OVERSEAS FILIPINO WORKERS –

Each migrant worker or **OVERSEAS FILIPINO WORKER** shall be covered by a compulsory insurance policy which shall be secured, **AS FOLLOWS:**

- A) for agency-hired workers – In addition to the performance bond to be filed by the recruitment/manning agency under Section 10, **THE REQUIRED INSURANCE POLICY SHALL BE SECURED BY** the deploying recruitment/manning agency at no cost to the said worker; **AND**
- B) **FOR BALIK-MANGGAGAWA OR REHIRE WORKER, DIRECT-HIRE WORKER, AND FOR GOVERNMENT TO GOVERNMENT HIRED WORKER, THE REQUIRED INSURANCE POLICY SHALL BE SECURED 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 or **OVERSEAS FILIPINO WORKER'S** employment contract and shall cover, at the minimum:

“(a) x x x

“(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;

[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 **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;

THE INSURANCE COVERAGE ENUMERATED ABOVE SHALL BE THE MINIMUM INSURANCE COVERAGE PROVIDED TO ALL OVERSEAS FILIPINO WORKERS. THE IMPLEMENTING GOVERNMENT AGENCIES, IN CONSULTATION WITH EACH OTHER AND OTHER STAKEHOLDERS, MAY REQUIRE ADDITIONAL INSURANCE COVERAGE AS THEY DEEM NECESSARY. THIS AUTHORITY DOES NOT INCLUDE THE POWER TO LIMIT OR REMOVE THE REQUIRED MINIMUM INSURANCE COVERAGE AS ENUMERATED ABOVE.

“x x x.”

“The recruitment/manning agency, **FOREIGN EMPLOYER OR WORKER, AS THE CASE MAY BE, WHO PROCURES THE COVERING INSURANCE POLICY** shall have the right to choose from any of the qualified insurance providers company that will insure the migrant worker [it will deploy]. After procuring such insurance policy, the recruitment/manning agency **OR FOREIGN EMPLOYER** 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 **ONE OF [a] THE MANDATORY** requirements 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 OR THE BENEFICIARY AND ENSURE 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-paragraphs (a) to (i) are included therein.

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

“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.

“ x x x.”

[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 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.]

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 Clause.* – All laws, decrees, executive order, rules and regulations, or parts thereof inconsistent with the provision 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 (15) days from its publication in the Official Gazette or in at least two (2) national newspaper of general circulation, whichever comes earlier.

Approved,