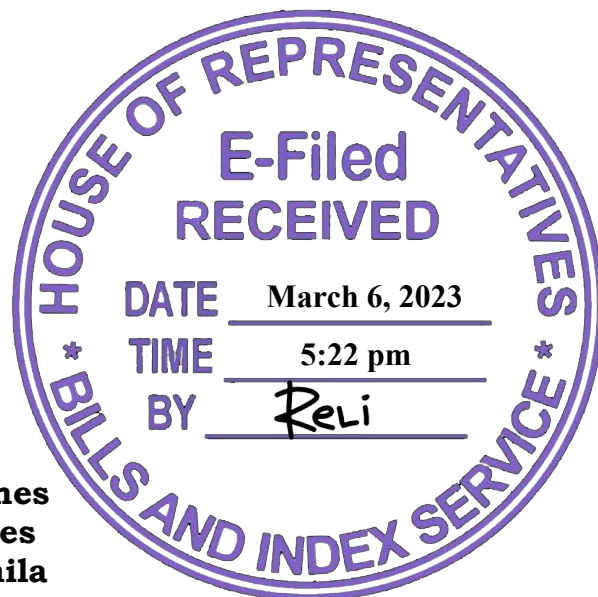




**Republic of the Philippines
House of Representatives
Quezon City, Metro Manila**

**Nineteenth Congress
First Regular Session**

HOUSE BILL NO. 7468



Introduced by Representative Rudys Caesar G. Fariñas I

EXPLANATORY NOTE

This bill seeks to protect overseas Filipino workers (OFWs) by expanding the coverage of their compulsory insurance. OFWs are among the country's most significant foreign exchange sources and contribute significantly to the Philippine economy. However, they are also vulnerable to various risks and hazards while working abroad, such as illnesses, accidents, and death. Hence, this bill.

This measure, among other salient features, provides temporary partial disablement benefits. Similarly, repatriation benefit extends to causes due to epidemic, pandemic, war, civil unrest, disaster, and calamities, whether natural or man-made. Likewise, this bill utilizes a single-entry approach (SENA) for money claims covered by this measure. Also, this bill passes the obligation to recruitment or manning agencies to assist migrant workers in filing claims.

Hence, this representation seeks the passage of this measure.

RUDYS CAESAR G. FARIÑAS I



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HOUSE BILL NO. 7468

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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
2 the “Migrant Workers and Overseas Filipinos Act of 1995”, as amended, is
3 hereby further amended to read as follows:
4

5 “SEC. 37-A. *Compulsory Insurance Coverage for [Agency-Hired]*
6 **MIGRANT** Workers. - In addition to the performance bond to be filed
7 by the recruitment/manning agency under Section 10, each
8 migrant worker, **WHETHER AGENCY-HIRE, REHIRE, DIRECT-**
9 **HIRE, OR GOVERNMENT-HIRE,** [deployed by a
10 recruitment/manning agency] shall be covered by a compulsory
11 insurance policy **AFTER SIGNING OR DURING THE RENEWAL OF**
12 **THE CONTRACT**, which shall be secured at no cost to the said
13 worker. **THE INSURANCE PREMIUM SHALL BE PAID BY THE**
14 **FOREIGN EMPLOYER, OR BY THE RECRUITMENT/MANNING**
15 **AGENCY IN THE CASE OF AGENCY-HIRED WORKERS.** Such
16 insurance policy shall be effective for the duration of the migrant
17 worker's employment **OR DEPLOYMENT**, and shall cover, at the
18 minimum:
19

- 20 (a) Accidental death, with at least Fifteen thousand United
21 States dollars (US\$ 15,000.00) survivor's benefit payable
22 to the migrant worker's beneficiaries;
23

1 (b) Natural death, with at least Ten thousand United States
2 Dollars (US\$ 10,000.00) survivor's benefit payable to the
3 migrant worker's beneficiaries;

4 (c) Permanent total disablement, with at least Seven
5 thousand five hundred United States dollars
6 (US\$ 7,500.00) disability benefit payable to the migrant
7 worker. The following disabilities shall be deemed
8 permanent: total, complete loss of sight of both eyes; loss
9 of two (2) limbs at or above the ankles or wrists; permanent
10 complete paralysis of two (2) limbs; brain injury resulting
11 to incurable imbecility or insanity;
12

13 **TEMPORARY PARTIAL DISABLEMENT BENEFIT THAT**
14 **IS PAYABLE TO THE MIGRANT WORKER. THE TABLE**
15 **OR LIST OF PARTIAL DISABLEMENT WITH**
16 **CORRESPONDING AMOUNT SHALL BE INCLUDED IN**
17 **THE IMPLEMENTING RULES AND REGULATIONS OF**
18 **THIS SECTION BY THE INSURANCE COMMISSION,**
19 **AFTER CONSULTATION WITH THE INSURANCE**
20 **INDUSTRY AND OTHER STAKEHOLDERS;**
21

22 (d) Repatriation **AND OTHER ATTENDANT** costs of the
23 worker when his/her employment is terminated without
24 any valid cause, including the transport of his or her
25 personal belongings. In case of death **OF THE MIGRANT**
26 **WORKER, AND THE EMPLOYER IS INCAPACITATED**
27 **TO PAY OR HAS ABANDONED THE WORKER,** the
28 insurance provider shall arrange and pay for the
29 repatriation or return of the worker's **BODY OR**
30 **CREMATED** remains. The insurance provider shall also
31 render any assistance necessary in the transport,
32 including but not limited to, locating a local and licensed
33 funeral home, mortuary or direct disposition facility to
34 prepare the body for transport, completing all
35 documentation, obtaining legal clearances, procuring
36 consular services, **TRANSLATION COSTS,** providing
37 death certificates, purchasing the minimally necessary
38 casket or air transport container, as well as transporting
39 the remains including retrieval from site of death and
40 delivery to the receiving funeral home;
41

42 **SUBJECT TO THE INTER-AGENCY STUDY, AFTER DUE**
43 **CONSULTATION WITH THE INSURANCE INDUSTRY**
44 **AND OTHER STAKEHOLDERS, THE REPATRIATION**
45 **BENEFIT UNDER THIS PARAGRAPH MAY ALSO**
46 **EXTEND TO CAUSES DUE TO AN EPIDEMIC,**
47 **PANDEMIC, WAR, CIVIL UNREST, DISASTERS AND**
48 **CALAMITIES, WHETHER NATURAL OR MAN-MADE;**
49

50 (e) Subsistence allowance benefit, with at least One hundred
51 United States dollars (US\$100.00) per month for a
52 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.

THE MONEY CLAIMS OF REHIRES, DIRECT-HIRES AND GOVERNMENT-HIRES, SHALL BE SUBJECT TO THE ADMINISTRATIVE PROCEEDING OF SINGLE-ENTRY APPROACH (SENA), WHICH WAS INSTITUTIONALIZED UNDER REPUBLIC ACT NO. 10396, ENTITLED “AN ACT STRENGTHENING CONCILIATION-MEDIATION AS A VOLUNTARY MODE OF DISPUTE SETTLEMENT FOR ALL LABOR CASES, AMENDING FOR THIS PURPOSE ARTICLE 228 OF PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE “LABOR CODE OF THE PHILIPPINES”. THE SENA PROCEEDING MAY BE DONE ONLINE OR ONSITE. IF THE MIGRANT WORKER IS IN THE PHILIPPINES, SENA PROCEEDING SHALL BE DONE AT THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION (POEA). IF THE WORKER IS ONSITE, SENA PROCEEDING SHALL BE DONE AT THE PHILIPPINE OVERSEAS LABOR OFFICE. THE POEA, IN CONSULTATION WITH THE STAKEHOLDERS, IS HEREBY TASKED TO PROMULGATE THE IMPLEMENTING GUIDELINES FOR THIS PROVISION, WHICH WILL INCLUDE THE PROCEDURE ON HOW A CASE SETTLEMENT OR ORDER IS ENFORCED AGAINST THE FOREIGN EMPLOYER OR PRINCIPAL.

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;
- (h) 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, **THE INSURANCE PROVIDER SHALL UNDERTAKE THE** evacuation **TO THE NEAREST**

HOSPITAL OF ADEQUATE MEDICAL FACILITY under appropriate medical supervision **AND** by the mode of transport necessary [shall be undertaken by the insurance provider]; and

- (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

1 recruitment/manning agencies: *Provided*, That the minimum
2 coverage under sub-paragraphs (a) to (i) are included therein.

3
4 Any person having a claim upon the policy issued pursuant to
5 subparagraphs (a), (b), (c), (d) and (e) of this section shall present to
6 the insurance company concerned a written notice of claim together
7 with pertinent supporting documents. The insurance company shall
8 forthwith ascertain the truth and extent of the claim and make
9 payment within ten (10) days from the filing of the notice of claim.

10
11 Any claim arising from accidental death, natural death or
12 disablement under this section shall be paid by the insurance
13 company without any contest and without the necessity of providing
14 fault or negligence of any kind on the part of the insured migrant
15 worker: *Provided*, That the following documents, duly authenticated
16 by the Philippine foreign posts, shall be sufficient evidence to
17 substantiate the claim:

- 18 (1) Death Certificate - In case of natural or accidental death;
19 (2) Police or Accident Report - In case of accidental death; and
20 (3) Medical Certificate - In case of permanent disablement;

21
22 For repatriation under subparagraph (d) hereof, a certification
23 which states the reason/s for the termination of the migrant
24 worker's employment and the need for his or her repatriation shall
25 be issued by the Philippine foreign post or the Philippine Overseas
26 Labor Office (POLO) located in the receiving country.

27
28 For subsistence allowance benefit under subparagraph (e), the
29 concerned labor attaché or, in his absence, the embassy or consular
30 official shall issue a certification which states the name of the case,
31 the names of the parties and the nature of the cause of action of the
32 migrant worker.

33
34 For the payment of money claims under subparagraph (f), the
35 following rules shall govern:

- 36
37 (1) After a decision has become final and executory or a
38 settlement/compromise agreement has been reached
39 between the parties at the NLRC, an order shall be
40 released mandating the respondent
41 recruitment/manning agency to pay the amount
42 adjudged or agreed upon within thirty (30) days;
43
44 (2) The recruitment/manning agency shall then
45 immediately file a notice of claim with its insurance
46 provider for the amount of liability insured, attaching
47 therewith a copy of the decision or compromise
48 agreement;
49
50 (3) Within ten (10) days from the filing of notice of claim, the
51 insurance company shall make payment to the
52 **EMPLOYER OR** recruitment/manning agency the
53 amount adjudged or agreed upon, or the amount of
54 liability insured, whichever is lower. After receiving the

insurance payment, the **EMPLOYER OR** 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 **AGENCY-HIRED** 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.

IN FILING A CLAIM WITH THE INSURANCE PROVIDER, THE RECRUITMENT/MANNING AGENCY SHALL ASSIST THE MIGRANT WORKER 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. EXCEPT FOR THE AGENCY-HIRED WORKERS, THE FOREGOING DUTIES SHALL BE PERFORMED BY THE DOLE/POEA/OWWA.

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 **OR EMPLOYER** 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, **AS WELL AS THE FOREIGN EMPLOYER** shall be perpetually disqualified from [engaging] **PARTICIPATING** in the business of [recruitment] **RECRUITING LAND-BASED AND SEA-BASED** [of overseas] workers. Such penalty is without prejudice to any other

1 liability which such persons may have incurred under existing laws,
2 rules or regulations.

3
4 For migrant workers recruited by the POEA on a government-to-
5 government arrangement, the POEA shall establish a foreign
6 employers guarantee fund which shall be answerable to the workers'
7 monetary claims arising from breach of contractual obligations. [For
8 migrant workers classified as rehires, name hires or direct hires,
9 they may opt to be covered by this insurance coverage by requesting
10 their foreign employers to pay for the cost of the insurance coverage
11 or they may pay for the premium themselves.] To protect the rights
12 of these workers, the Department of Labor and Employment and the
13 POEA shall provide them adequate legal assistance, including
14 conciliation and mediation services, whether at home or abroad.

15
16 At the end of every year, the Department of Labor and Employment
17 and the IC shall jointly make an assessment of the performance of
18 all insurance providers, based upon the report of the NLRC and the
19 POEA on their respective interactions and experiences with the
20 insurance companies, and they shall have the authority to ban or
21 blacklist such insurance companies which are known to be evasive
22 or not responsive to the legitimate claims of migrant workers. The
23 Department of Labor and Employment shall include such
24 assessment in its year-end report to Congress.

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

31
32 The foregoing provisions on compulsory insurance coverage shall be
33 subject to automatic review through the Congressional Oversight
34 Committee [immediately after three (3)] **EVERY FIVE (5)** years from
35 the effectivity of this Act in order to determine its efficacy in favor of
36 the covered overseas Filipino workers and the compliance by
37 **FOREIGN EMPLOYERS, OR** recruitment/manning agencies and
38 insurance companies, without prejudice to an earlier review if
39 necessary and warranted for the purpose of modifying, amending
40 and/or repealing these subject provisions. **FOR THIS PURPOSE,**
41 **THE CONGRESSIONAL OVERSIGHT COMMITTEE CREATED**
42 **UNDER REPUBLIC ACT NO. 10022, ENTITLED "AN ACT**
43 **AMENDING REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS**
44 **THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF**
45 **1995, AS AMENDED, FURTHER IMPROVING THE STANDARD**
46 **OF PROTECTION AND PROMOTION OF THE WELFARE OF**
47 **MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS**
48 **FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES", SHALL**
49 **CONTINUE TO EXIST UNTIL ITS MANDATE IS TERMINATED BY**
50 **AN ACT OF CONGRESS."**

51
52 **SEC. 2.** The Department of Labor and Employment, Philippine Overseas
53 Employment Administration, National Labor Relations Commission, OWWA and
54 the Insurance Commission, after consultations with the stakeholders, shall,

1 within sixty (60) days after the effectivity of this Act, formulate the necessary
2 rules and regulations for the effective implementation of this Act.

3
4 **SEC. 3.** All laws, decrees, orders, issuances, rules and regulations or parts
5 thereof contrary to or inconsistent with this Act, are hereby repealed or modified
6 accordingly.

7
8 **SEC. 4.** This act shall take effect fifteen (15) days after its publication in
9 the *Official Gazette* or in a newspaper of general circulation.

Approved,