



HOUSE OF REPRESENTATIVES

H. No. 5649

BY REPRESENTATIVES ZAMORA (M.), GATCHALIAN, PINGOY, SYJUCO, CHATTO, NICOLAS, MIRAFLORES, GONZALES (N.), DE GUZMAN, AGBAYANI, VELARDE AND ROMULO, PER COMMITTEE REPORT No. 1593

AN ACT IMPROVING THE STANDARDS OF PROTECTION AND ASSISTANCE FOR MIGRANT WORKERS, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE “MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995”

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

SECTION 1. Section 4 of Republic Act No. 8042, otherwise known as the “Migrant Workers and Overseas Filipinos Act of 1995”, is hereby amended to read as follows:

“SEC. 4. *Deployment of Migrant Workers.* – The State shall deploy overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection and the rights of overseas Filipino workers:

“(a) It has existing labor and social laws protecting the rights of migrant workers;

“(b) It is a signatory to multilateral conventions, declarations or resolutions relating to the protection of migrant workers; **AND**

“(c) It has concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers.]; and

“(d) It is taking positive, concrete measures to protect the rights of migrant workers.]

“IN THE ABSENCE OF A CLEAR SHOWING THAT ANY OF THE GUARANTEES ENUMERATED UNDER THIS ACT EXISTS IN THE COUNTRY OF DESTINATION OF THE MIGRANT WORKERS, OR IF THE DEPARTMENT OF FOREIGN AFFAIRS AND THE DEPARTMENT OF LABOR AND EMPLOYMENT FAIL TO REPORT TO CONGRESS THE INFORMATION REQUIRED UNDER SECTION 33 OF THIS ACT, IT SHALL BE UNLAWFUL FOR ANY OFFICIAL OR EMPLOYEE OF THE DEPARTMENT OF LABOR AND EMPLOYMENT TO ISSUE THE NECESSARY PERMIT FOR THE DEPLOYMENT OF MIGRANT WORKERS.

“THE OFFICIAL OR EMPLOYEE OF THE GOVERNMENT WHO WILFULLY AND GROSSLY VIOLATES THE PROVISIONS OF THE IMMEDIATELY PRECEDING PARAGRAPH SHALL, BY SUBSTANTIAL EVIDENCE IN A PROPER ADMINISTRATIVE PROCEEDING, BE REMOVED OR DISMISSED FROM SERVICE WITH DISQUALIFICATION TO HOLD ANY APPOINTIVE PUBLIC OFFICE FOR FIVE (5) YEARS.”

SEC. 2. The first and fourth paragraphs of Section 10 of Republic Act No. 8042 are hereby amended to read as follows:

“SEC. 10. *Monetary 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 ninety (90) calendar days after the 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, **WHETHER RECRUITED/DEPLOYED BY**

LICENSED/UNLICENSED AGENCIES OR INDIVIDUALS OR BY THE POEA, including claims for actual, moral, exemplary and other forms of damages.

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“Any compromise/amicable settlement or voluntary agreement on money claims inclusive of damages under this section shall be paid within [four (4) months] ONE (1) MONTH from the approval of the settlement by the appropriate authority.”

SEC. 3. A new Section 10-A of Republic Act No. 8042 is hereby added to read as follows:

“SEC. 10-A. *COMPULSORY LIABILITY INSURANCE FOR EVERY WORKER.* – IN ADDITION TO THE PERFORMANCE BOND TO BE FILED BY THE RECRUITMENT/PLACEMENT AGENCY UNDER SECTION 10, EACH WORKER DEPLOYED/PROCESSED BY A LICENSED RECRUITMENT/PLACEMENT AGENCY AND THE POEA SHALL BE COVERED BY A COMPULSORY EMPLOYMENT LIABILITY INSURANCE WHICH SHALL BE ANSWERABLE FOR MONEY CLAIMS OR DAMAGES THAT MAY BE AWARDED OR GIVEN TO THE WORKER IN A JUDGMENT OR SETTLEMENT OF HIS/HER CASE. SUCH INSURANCE COVERAGE SHALL BE SECURED AT NO COST TO THE WORKER.

“THE INSURANCE COVERAGE PER WORKER SHALL BE EQUIVALENT TO THREE (3) MONTHS OF THE WORKER’S SALARY FOR EVERY YEAR OF CONTRACT. ONLY REPUTABLE PRIVATE INSURANCE COMPANIES REGISTERED WITH THE INSURANCE COMMISSION (IC), DULY ENDORSED BY A RECOGNIZED ASSOCIATION OF RECRUITMENT/PLACEMENT AGENCIES, AND IN EXISTENCE FOR AT LEAST FIVE (5) YEARS PRIOR TO THE PROMULGATION OF THIS ACT SHALL BE QUALIFIED TO PROVIDE FOR THIS INSURANCE COVERAGE.

“IN CASE IT IS SHOWN, IN A PROPER ADMINISTRATIVE PROCEEDING, THAT THE WORKER WHO WAS DEPLOYED BY A LICENSED RECRUITMENT/PLACEMENT AGENCY HAS PAID FOR

THE PREMIUM OR THE COST OF THE INSURANCE COVERAGE, THE SAID LICENSED RECRUITMENT/PLACEMENT AGENCY SHALL LOSE ITS LICENSE AND ALL ITS OFFICERS AND DIRECTORS SHALL BE PERPETUALLY DISQUALIFIED FROM ENGAGING IN THE BUSINESS OF RECRUITMENT/PLACEMENT OF OVERSEAS WORKERS. SUCH PENALTY IS WITHOUT PREJUDICE TO ANY OTHER LIABILITY WHICH SUCH OFFICERS AND DIRECTORS MAY HAVE INCURRED UNDER EXISTING LAWS, RULES OR REGULATIONS.

“THE SUBMISSION OF CERTIFICATE OF INSURANCE COVERAGE SHALL BE REQUIRED BY THE POEA FOR THE PROCESSING OF THE CONTRACTS OF THE WORKERS, INCLUDING REHIRES, NAME-HIRES AND DIRECT HIRES WHO ARE ALLOWED BY LAW.”

SEC. 4. Section 32 of Republic Act No. 8042 is hereby amended to read as follows:

“SEC. 32. *POEA and OWWA Board; Additional Memberships.* – Notwithstanding any provision of law to the contrary, the respective Boards of the POEA and the OWWA shall, in addition to their present composition, have three (3) members each who shall come from the women, sea-based and land-based sectors respectively, [to be appointed by the President in the same manner as the other members] **TO BE SELECTED AND NOMINATED OPENLY BY THE GENERAL MEMBERSHIP OF THE SECTOR BEING REPRESENTED.**

“THE SELECTION AND NOMINATION SHALL BE GOVERNED BY THE FOLLOWING GUIDELINES:

“(A) THE POEA AND THE OWWA SHALL LAUNCH A MASSIVE INFORMATION CAMPAIGN ON THE SELECTION OF NOMINEES AND PROVIDE FOR A SYSTEM OF CONSULTATIVE SESSIONS FOR THE CERTIFIED LEADERS OR REPRESENTATIVES OF THE CONCERNED SECTORS, AT LEAST THREE (3) TIMES, WITHIN NINETY (90) DAYS BEFORE THE BOARDS SHALL BE

CONVENED, FOR PURPOSES OF SELECTION. THE PROCESS SHALL BE OPEN, DEMOCRATIC AND TRANSPARENT.

“ONLY NONGOVERNMENT ORGANIZATIONS THAT PROTECT AND PROMOTE THE RIGHTS AND WELFARE OF OVERSEAS FILIPINO WORKERS, DULY REGISTERED WITH THE APPROPRIATE PHILIPPINE GOVERNMENT AGENCY AND IN GOOD STANDING AS SUCH, AND IN EXISTENCE FOR AT LEAST THREE (3) YEARS PRIOR TO THE NOMINATION, SHALL BE QUALIFIED TO NOMINATE A REPRESENTATIVE FOR EACH SECTOR TO THE BOARD;

“(B) THE NOMINEE MUST BE AT LEAST TWENTY-FIVE (25) YEARS OF AGE, ABLE TO READ AND WRITE, AND A MIGRANT WORKER AT THE TIME OF HIS/HER NOMINATION OR WAS A MIGRANT WORKER WITH AT LEAST THREE (3) YEARS EXPERIENCE AS SUCH;

“(C) A FINAL LIST OF ALL THE NOMINEES SELECTED BY THE POEA/OWWA GOVERNING BOARDS, WHICH SHALL CONSIST OF THREE (3) NAMES FOR EACH SECTOR TO BE REPRESENTED, SHALL BE SUBMITTED TO THE PRESIDENT AND PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION; AND

“(D) WITHIN THIRTY (30) DAYS FROM THE SUBMISSION OF THE LIST, THE PRESIDENT SHALL THEN APPOINT THE REPRESENTATIVE TO THE POEA/OWWA GOVERNING BOARDS.

“THE ADDITIONAL MEMBERS SHALL HAVE A TERM OF THREE (3) YEARS AND SHALL BE ELIGIBLE FOR REAPPOINTMENT FOR ANOTHER THREE (3) YEARS. IN CASE OF VACANCY, THE PRESIDENT SHALL, IN ACCORDANCE WITH THE PROVISIONS OF THIS ACT, APPOINT A REPLACEMENT WHO SHALL SERVE THE UNEXPIRED TERM OF HIS/HER PREDECESSOR.”

SEC. 5. The first and last paragraph of Section 33 of Republic Act No. 8042 are hereby amended to read as follows:

“SEC. 33. *Report to Congress.* – In order to inform the Philippine Congress on the implementation of the policy enunciated in Section 4 hereof, the Department of Foreign Affairs and the Department of Labor and Employment shall submit to the said body a semi-annual report of Philippine foreign posts located in countries hosting Filipino migrant workers. **THE FIRST SEMI-ANNUAL REPORT COVERING THE PERIOD JANUARY TO JUNE SHALL BE SUBMITTED NOT LATER THAN SEPTEMBER 30 OF THE SAME YEAR, WHILE THE SECOND SEMI-ANNUAL REPORT COVERING THE PERIOD JULY TO DECEMBER SHALL BE SUBMITTED NOT LATER THAN MARCH 31 OF THE FOLLOWING YEAR.** The report shall include, but shall not be limited to, the following information:

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“Any officer of the government who fails to **SUBMIT THE** report as stated in [the preceding] **THIS** section shall be subject to **AN** administrative penalty **OF DISMISSAL FROM THE SERVICE WITH DISQUALIFICATION TO HOLD ANY APPOINTIVE PUBLIC OFFICE FOR FIVE (5) YEARS.**”

SEC. 6. The Department of Labor and Employment, the Department of Foreign Affairs, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration and the National Labor Relations Commission, together with the Senate Committee on Labor and Employment and the House Committee on Overseas Workers Affairs, after consultations with the stakeholders, shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for the effective implementation of this Act.

SEC. 7. If any portion of this Act is declared unconstitutional or invalid, the same shall not affect the validity of the other provisions not affected thereby.

SEC. 8. All other laws, decrees, orders, issuances, rules and regulations or parts thereof contrary to or inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 9. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,

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