

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

SENATE
S.B. No. 2032



'18 SEP 26 P 1 :02

Introduced by Senator Ana Theresia "Risa" Hontiveros-Baraquel

AN ACT
GRANTING THE OVERSEAS FILIPINO WORKERS THE RIGHT TO EQUAL PROTECTION
ON MONEY CLAIMS, AMENDING FOR THE PURPOSE THE FIFTH PARAGRAPH OF
SECTION 10 OF REPUBLIC ACT NO. 8042, AS AMENDED BY REPUBLIC ACT NO. 10022

EXPLANATORY NOTE

As stated in the case of "Antonio M. Serrano VS Gallant Maritime Services, Inc. and Marlow Navigation Co., Inc." under G.R. No. 167614 dated 24 March 2009, the clause 'or for three months for every year of the unexpired term, whichever is less' appears in the fifth paragraph of Section 10 of RA 8042, specifically:

"Sec. 10. Money Claims. – x x x in case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the workers shall be entitled to the full reimbursement of his placement fee with interest of twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of unexpired term, whichever is less."

x x x x (Emphasis and underscoring supplied)

was declared by the Supreme Court as unconstitutional for violating the equal protection clause of the 1987 Philippine Constitution.

In *Serrano*, the Supreme Court held that:

"In sum, prior to R.A. No. 8042, OFWs and local workers with fixed-term employment who were illegally discharged were treated alike in terms of computation of their money claims: they were uniformly entitled to their salaries for the entire unexpired portions of their contracts. But with the enactment of R.A. No. 8042, specifically the option of the subject clause, illegally dismissed OFWs with an unexpired portion of one year or more in their employment contract have since been differently treated in that their money claims are subject to a 3-month cap, whereas no such limitation is imposed on local workers with fixed-term employment.

"The Court concludes that the subject clause contains a suspect classification in that, in the computation of the monetary benefits of fixed-term employees who are illegally discharged, it imposes a 3 month cap on the claim of OFWs with an unexpired portion of one year or more in their contracts, but none on the claims of other OFWs or local workers with fixed-term employment. The subject clause singles out one classification of OFWs and burdens it with peculiar disadvantage.

xxx xxx xxx

"Thus, the subject clause in the 5th paragraph of Section 10 of R.A. No. 8042 is violative of the right of the petitioner and other OFWs to equal protection."

Unfortunately, notwithstanding the Court's ruling in the Serrano case, the unconstitutional clause "or for three months for every year of the unexpired term, whichever is less in the fifth paragraph of Section 10 of Republic Act No. 8042 was carried over in the current text of Republic Act No. 8042, as amended by Republic Act No. 10022 which was passed by Congress on July 27, 2009.

This bill entreats to amend the fifth paragraph of RA 8042's Sec 10 with the purpose of harmonizing the text of the law with the SC's decision in the Serrano case. This is done by deleting the unconstitutional clause 'or for three months for every year of the unexpired term, whichever is less' in the fifth paragraph of the aforementioned section in RA 8042, as amended.

In light of the foregoing, the passage of this bill is earnestly sought.


Ana Theresia "Risa" Hontiveros-Baraquel



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REGISTRATION

AN ACT

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ON MONEY CLAIMS, AMENDING FOR THE PURPOSE THE FIFTH PARAGRAPH OF
SECTION 10 OF REPUBLIC ACT NO. 8042, AS AMENDED BY REPUBLIC ACT NO. 10022

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

SECTION 1. The fifth paragraph of Section 10 of Republic Act No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995", as amended by Republic Act No. 10022, is hereby further amended to read as follows:

"SEC. 10. Money Claims. - x x x

"x x x

"x x x

"x x x

"In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, or any unauthorized deductions from the migrant worker's salary, the worker shall be entitled to the full reimbursement of his placement fee and the deductions made with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract [or for three (3) months for every year of the unexpired term, whichever is less].

"x x x."

SEC. 2. All laws, presidential decrees, issuances, executive orders, letters of instruction, rules or regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 3. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,