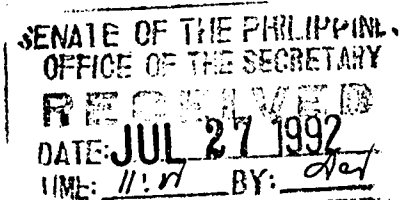


Congress of the Philippines }  
First Regular Session }



S E N A T E

S. No. 486

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Introduced by Senator Rasul  
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EXPLANATORY NOTE

This bill seeks to limit certain liabilities of recruitment or manning agencies.

As observed, the Administrator of the Philippine Overseas Employment Administration has constantly upheld, in cases brought before it, the joint and solidary liability of private employment agencies or manning agencies and their foreign principal for unpaid salaries and other emoluments of overseas contract workers, and even expanded it to cover death, disability and medical benefits. By reason of this policy, all agencies are held liable for claims against their principals, the foreign employer, whether the former is at fault or not. This is justified on the grounds of sheer necessity, the absence of recourse against the foreign employer, and the constitutionally mandated mantle of protection to labor.

However, under the provisions of the implementing rules and regulations of the Philippine Overseas Employment Administration, the recruitment agency is required, as a condition precedent to the issuance of a license or authority, to post cash and surety bonds amounting to P250,000.00. Thus, Section 4, Rule II, Book I of the POEA's implementing rules and regulations provides:

"SEC. 4. Upon approval of the application by the Minister, the applicant shall pay an annual license fee of P6,000.00, It shall also post a cash bond of P100,000.00 and a surety bond of P150,000.00 from a bonding company acceptable to the Administration duly accredited by the Office of the Insurance Commission. The bonds shall answer for all valid and legal claims arising from violations of the conditions for the grant and use of the license or authority and contracts of employment. The bonds shall likewise guarantee compliance with the provisions of the Labor Code and its implementing rules and regulations relating to recruitment and placement, the rules of the Administration and relevant issuances of the Ministry and all liabilities which the Administration may impose. The surety bonds shall include the condition that notice of garnishment to the principal is notice to the surety."  
(Underlining supplied)

The above-quoted rule in effect already provides for guarantee of whatever claims that overseas contract workers may have against the principal.

What the POEA, however, failed to consider is the recourse by the recruitment or manning agencies against their foreign principals. Following the same line of reasoning, the recruitment agencies can never recover from the claims paid by it, if the violations are committed by the foreign principal, there being no fault on their part and the latter being without the jurisdiction of the Philippines. Situations such as gross and deliberate bad faith of the foreign principal, and other contract violations will unnecessarily work a very grave injustice against the recruitment agencies, the latter without any recourse nor right of recovery protected by law. With this proverbial Damocles' sword hanging over their heads, recruitment agencies will be more unscrupulous in dealing with the workers, instead.

Thus, to remedy this situation, it is proposed that the liability of the recruitment or manning agencies be limited to violations of the conditions for the license or authority and not include claims for violation of the employer contract rule or illegal dismissal.

Hence, approval of the proposed measure is earnestly recommended.

*Santanina Rasul*  
SANTANINA T. RASUL  
Senator

Congress of the Philippines)  
First Regular Session )

SENATE OF THE PHILIPPINE  
OFFICE OF THE SECRETARY  
**RECEIVED**  
DATE: JUL 27 1992  
TIME: 11:01 BY: Act

S E N A T E

S. No. 486

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Introduced by Senator Rasul

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AN ACT  
LIMITING CERTAIN LIABILITIES OF  
RECRUITMENT OR MANNING AGENCIES

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

SECTION 1. Any provision of law, rules or regulations to the contrary notwithstanding, a recruitment or manning agency shall not be held solidarily liable for any violation of any overseas employment contract: Provided, however, That said agencies shall be liable for any breach of the conditions for the grant and use of the license or authority to recruit.

SEC. 2. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,

/gie 111(MT)