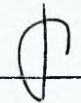


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 JUL 13 AIO :02

SENATE
S. No. 456

RECEIVED BY. 

Introduced by SENATOR JINGGOY EJERCITO ESTRADA

**AN ACT
ESTABLISHING GREATER RESPONSIBILITY AND ACCOUNTABILITY FROM
PRIVATE EMPLOYMENT AGENCIES, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 10361, OTHERWISE KNOWN AS THE "BATAS
KASAMBAHAY"**

EXPLANATORY NOTE

The enactment of Batas Kasambahay was a long and arduous one. It took years and several Congresses before it was finally passed into law. With all humility, this Representation is privileged to have been given the opportunity to sponsor it in the halls of the Senate in the 15th Congress as then the Chairperson of the Committee on Labor, Employment and Human Resources Development. The consolidated efforts of the Congress and the advocates of the rights and welfare of kasambahays led to the passage of Republic Act No. 10361, otherwise known as the "Domestic Workers Act" or "Batas Kasambahay" on January 18, 2013.

The landmark legislation encapsulated the prescribed terms and conditions of employment of the kasambahays as well as the social benefits that should be provided to them. Nearly one decade after its passage, we have seen the active coordination of various concerned agencies such as the Department of Labor and Employment (DOLE), Philippine Health Insurance Corporation (PhilHealth), Social Security System (SSS), and Home Development Mutual Fund (HDMF) or Pag-Ibig Fund to implement its provisions. Regional Tripartite Wage Boards also prescribed minimum wages for kasambahays.

While we have seen its benefits for the *kasambahays*, there is a need to provide equal protection to their employers given that fact that the nature and place of their work is so intimate to the latter. Hence, the need to introduce amendments to Republic Act No. 10361.

This bill seeks to require private employment agencies (PEA) to ensure that the applicant *kasambahay* is clear of any criminal records and to conduct actual verification of the residence and the family background of the applicant. Moreover, the PEAs will also be subsidiarily liable in relation to any criminal act committed by the *kasambahay* in the course of his or her employment for a period of one (1) year.

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



JINGGOY EJERCITO ESTRADA

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KASAMBAHAY"

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

1 Section 1. Section 36 of Republic Act No. 10361, otherwise known as the "Batas
2 Kasambahay", is hereby amended to read as follows:

3 "Sec. 36. Regulation of Private Employment Agencies
4 (PEAs). – The DOLE shall, through a system of licensing and
5 regulation, ensure the protection of **BOTH THE** domestic
6 workers hired through the PEAs **AND THEIR EMPLOYERS.**

7 "x x x.

8 "x x x.

9 "In addition, PEAs shall have the following
10 responsibilities:

11 **"(A) ENSURE THAT THE DOMESTIC HELPER HAS**
12 **NO CRIMINAL RECORD, AND THERE IS SUFFICIENT**
13 **INFORMATION ON THE BONAFIDE RESIDENCE AND**
14 **FAMILY BACKGROUND THROUGH ACTUAL**
15 **VERIFICATION, AND TO THE EXTENT POSSIBLE,**

1 **SUPPORTED BY RELEVANT DOCUMENTS SUCH AS**
2 **NATIONAL BUREAU OF INVESTIGATION (NBI),**
3 **POLICE AND BARANGAY CLEARANCES OR**
4 **CERTIFICATES, AND BIRTH CERTIFICATES;**

5 “[(a)] **(B)** Ensure that **THE** domestic worker [s-are] **IS**
6 not charged or levied any recruitment or placement fees;

7 “[(b)] **(C)** Ensure that the employment agreement
8 between the domestic worker and the employer stipulates the
9 terms and conditions of employment and all the benefits
10 prescribed by this Act;

11 “[(c)] **(D)** Provide a pre-employment orientation
12 briefing to the domestic worker and the employer about their
13 rights and responsibilities in accordance with this Act;

14 “[(d)] **(E)** Keep copies of employment contracts and
15 agreements pertaining to **THE** recruited domestic worker[s]
16 which shall be made available during inspections or whenever
17 required by the DOLE or local government officials;

18 “[(e)] **(F)** Assist **THE** domestic worker[s] with respect
19 to complaints or grievances against the[ir] employer[s]; and,

20 “[(f)] **(G)** Cooperate with government agencies in
21 rescue operations involving **AN** abused or exploited domestic
22 worker[s].”

23 Sec. 2. A new sub-section is hereby inserted after Section 36 of the “Batas
24 Kasambahay” which shall read as follows:

25 **“SEC. 36-A. RESPONSIBILITY OF PEAs TO**
26 **EMPLOYERS. – THE PEA SHALL BE SUBSIDIARILY**
27 **LIABLE IN RELATION TO ANY CRIMINAL ACT**
28 **COMMITTED BY THE DOMESTIC WORKER AGAINST**
29 **THE EMPLOYER IN THE COURSE OF THE DOMESTIC**
30 **WORKER’S EMPLOYMENT: PROVIDED, THAT SUCH**
31 **ACCOUNTABILITY SHALL CEASE AFTER ONE (1) YEAR**

1 **FROM THE FIRST DAY OF THE DOMESTIC WORKER'S**
2 **EMPLOYMENT WITH THE EMPLOYER."**

3 *Sec. 3. Implementing Rules and Regulations.* – Within ninety (90) days from
4 the effectivity of this Act, the Secretary of Labor and Employment shall, in coordination
5 with the Secretary of Social Welfare and Development, the Secretary of the Interior
6 and Local Government, the Director General of the Philippine National Police, other
7 concerned government agencies, and accredited non-government organizations
8 assisting domestic workers, promulgate the necessary rules and regulations to
9 implement this Act.

10 *Sec. 4. Separability Clause.* – If any provision or part hereof is held invalid or
11 unconstitutional, the remainder of the law or the provision or part not otherwise
12 affected shall remain valid and subsisting.

13 *Sec. 5. Repealing Clause.* – All laws, decrees, orders, rules and regulations or
14 parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

15 *Sec. 6. Effectivity.* – This Act shall take effect fifteen (15) days after its
16 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,