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SENATE
Senate Bill No. 659

RECEIVED BY: 

Introduced by: Senator Raffy T. Tulfo

AN ACT AMENDING REPUBLIC ACT NO. 8042, AS AMENDED BY REPUBLIC ACT NO. 10022, OTHERWISE KNOWN AS THE "MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995," PROVIDING FOR THE DEPOSIT IN AN ESCROW ACCOUNT THE AWARDS FOR MONEY CLAIMS ARISING OUT OF AN EMPLOYER-EMPLOYEE RELATIONSHIP, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The Philippine Ship Manning Industry has made a major contribution to the country's employment and economic growth. It is a source of decent employment for our countrymen with a monthly salary of 400 to 15,000 US Dollars. This translates to foreign remittances of more than 5.8 Billion US Dollars in 2017.

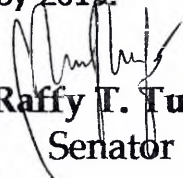
Unfortunately, in 2015, the increase in supply of seafarers in the world market reflected a Surplus of 119,000 Ratings Seafarers.¹ This Surplus makes the struggle of competing with foreign nationals real and imminent. There has been an increase in shift to other sources of crew like China, India, Indonesia, Vietnam, East European countries and other sources with cheaper cost. The Filipinos are losing market share as the nationality of choice. In fact, the Philippines was already replaced by China as the largest supplier of seafarers.

How can this be, when our seafarers are the best in the world? We are the pioneers. Our advantage has been overshadowed by the government regulatory mechanisms in place. Shipowners have found it impractical to hire our competent seafarers. According to POEA, from 442,820 deployed Filipino Seafarers in 2016, there were only 378,072 deployed in 2017. And it is decreasing further.

¹ BIMCO/ICS Manpower Report 2015.

What is the problem? A serious concern is the increasing number of labor cases with unfair and unreasonable awards on disability claims. The International Group of P and I Clubs or IG has shown in their statistics that the "Final and Executory" nature of the NLRC and NCMB decisions has resulted to claims being awarded and paid immediately at the NLRC and NCMB level. But when reversed on appeal due to a more stringent review of the case, it is practically impossible to recover the amount.

What makes this problem alarming is the sheer magnitude of unrecovered amount. As of September 2017, there are 354 cases reversed or modified by the higher courts amounting to USD 25,210,868.47 that is almost impossible to recover. This amount is projected to increase to more that \$41 million by 2019.



Raffy T. Tulfo
Senator



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

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**AN ACT AMENDING REPUBLIC ACT NO. 8042, AS AMENDED BY
REPUBLIC ACT NO. 10022, OTHERWISE KNOWN AS THE "MIGRANT
WORKERS AND OVERSEAS FILIPINOS ACT OF 1995," PROVIDING FOR
THE DEPOSIT IN AN ESCROW ACCOUNT THE AWARDS FOR MONEY
CLAIMS ARISING OUT OF AN EMPLOYER-EMPLOYEE RELATIONSHIP,
AND FOR OTHER PURPOSES**

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

1 **SECTION 1.** Section 10 of Republic Act No. 8042, as amended, is hereby
2 amended to read as follows:
3

4 "SEC. 10. *Money Claims.* — Notwithstanding any provision of law to the
5 contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC)
6 shall have the original and exclusive jurisdiction to hear and decide, within ninety
7 (90) calendar days after the filing of the complaint, the claims arising out of an
8 employer-employee relationship or by virtue of any law or contract involving
9 Filipino workers for overseas deployment including claims for actual, moral,
10 exemplary and other forms of damages. Consistent with this mandate, the NLRC
11 shall endeavor to update and keep abreast with the developments in the global
12 services industry.
13

14 MONEY CLAIM AWARDS IN A FINAL AND EXECUTORY DECISION OF THE
15 NATIONAL LABOR RELATIONS COMMISSION (NLRC) OR NATIONAL
16 CONCILIATION AND MEDIATION BOARD (NCMB) IN FAVOR OF THE SEAFARER
17 OR HIS SUCCESSORS-IN-INTERESTS, MAY BE RAISED FOR JUDICIAL REVIEW IN
18 ACCORDANCE WITH THE RULES OF COURT SUBJECT TO THE DEPOSIT OF THE
19 CONTESTED AMOUNT IN AN ESCROW ACCOUNT WITH AN ESCROW AGENT
20 DESIGNATED BY THE NLRC OR NCMB.

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THE CONTESTED AMOUNT IS THE PORTION OF THE MONEY CLAIM AWARD THAT IS DISPUTED AND AFFECTED BY THE ARGUMENTS RAISED BY THE EMPLOYER/PRINCIPAL. FOR DISABILITY CLAIMS, ANY PORTION OF THE MONETARY AWARD WHICH IS UNCONTESTED OR ADMITTED BY THE EMPLOYER IN ITS PLEADINGS AND BASED ON THE FINDINGS OF THE COMPANY-DESIGNATED PHYSICIAN SHALL BE IMMEDIATELY RELEASED TO THE SEAFARER AND SHALL NO LONGER FORM PART OF THE AWARD TO BE PLACED IN ESCROW. NOTHING IN THIS PROVISION SHALL PREJUDICE THE RIGHTS OF THE SEAFARER TO ACCIDENTAL DEATH, NATURAL DEATH, AND PERMANENT TOTAL DISABLEMENT BENEFITS UNDER SEC. 37-A OF RA 8042.

THE AMOUNT SHALL REMAIN IN ESCROW UNTIL THE ISSUANCE OF AN ENTRY OF JUDGEMENT BY THE APPROPRIATE APPELLATE COURT. THE FEES IN OBTAINING THE ESCROW ACCOUNT SHALL BE SHOULDERED BY THE EMPLOYER/PRINCIPAL RAISING THE DECISION FOR REVIEW. WHILE THE INTEREST EARNED BY THE AMOUNT IN ESCROW SHALL INURE TO THE BENEFIT OF THE PREVAILING PARTY.

XXX XXX XXX."

SECTION 2. *Implementing Rules and Regulations.* — The departments and agencies charged with carrying out the provisions of this Act, except as otherwise provided herein, in consultation with the Senate Committee on Migrant Workers² and the House of Representatives Committee on Overseas Workers Affairs, shall, within sixty (60) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation.

SECTION 3. *Separability Clause.* — If, for any reason, any portion of this Act is declared unconstitutional or invalid, the same shall not affect the validity of the other provisions not affected thereby.

SECTION 4. *Repealing Clause.* — All laws, decrees, executive orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 5. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.

² Yet to be organized.