

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 1700

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Introduced by AKBAYAN Representative Tomasito S. Villarin

EXPLANATORY NOTE

In the case of "Antonio M. Serrano vs. Gallant Maritime Services, Inc. and Marlow Navigation Co., Inc.", G.R. No. 167614 (March 24, 2009), the clause "or for three months for every year of the unexpired term, whichever is less" which appears in the fifth paragraph of Section 10 of Republic Act No. 8042 as follows:

"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.

The Supreme Court held in *Serrano*:

"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 adoption 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.

x x x x x x x x x

"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 seeks to amend the fifth paragraph of Section 10 of Republic Act No. 8042 in order to harmonize the text of the law with the Supreme Court's decision in the *Serrano* case by deleting 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, as amended.

During the 16th Congress Akbayan's representatives filed this bill as House Bill No. 3871. This current version adopts the text based on House Bill No. 5988, which was passed on third and final reading last Congress.

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



TOMASITO S. VILLARIN

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House Bill No. _____

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AN ACT
GRANTING THE OVERSEAS FILIPINO OVRKERS 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

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,