



HOUSE OF REPRESENTATIVES

H. No. 8368

BY REPRESENTATIVES NOGRALES (K.A.), NOGRALES (J.J.),
ANGARA-CASTILLO, TING, GO (M.), MENDOZA, UNABIA,
VILLARIN, TAMBUNTING AND BELMONTE (R.), PER COMMITTEE
REPORT NO. 883

AN ACT STRENGTHENING THE REGULATION OF
EMPLOYMENT OF FOREIGN NATIONALS, AMENDING
FOR THE PURPOSE ARTICLES 40, 41 AND 42 OF
PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE "LABOR CODE OF THE
PHILIPPINES"

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

1 SECTION 1. Title II of Book One of the Labor Code of the
2 Philippines is hereby amended to read as follows:

3 "Title II
4 "EMPLOYMENT OF NON-RESIDENT [ALIENS]
5 FOREIGN NATIONALS"

6 SEC. 2. Article 40 of the Labor Code is hereby amended to
7 read as follows:

8 "ART. 40. *Employment permit of non-resident*
9 [aliens] FOREIGN NATIONALS. - [Any alien] ALL
10 NON-RESIDENT FOREIGN NATIONALS seeking

1 [admission to the Philippines for employment purposes
2 and any domestic or foreign employer who desires to
3 engage an alien for] employment in the Philippines
4 shall obtain an employment permit from the
5 Department of Labor AND EMPLOYMENT.

6 “[The]AN employment permit may be issued to a
7 non-resident [alien] FOREIGN NATIONAL [or to the
8 applicant employer after a determination of the]
9 SUBJECT TO A LABOR MARKET TEST BASED ON THE
10 non-availability of [a person in the Philippines who is
11 competent, able] QUALIFIED and willing [at the time of
12 application to perform the services for which the alien is
13 desired] FILIPINO NATIONALS.

14 “SUBJECT TO EXISTING LAWS AND AGREEMENTS,
15 AND AFTER CONSULTATION WITH THE NATIONAL
16 TRIPARTITE INDUSTRIAL PEACE COUNCIL, THE
17 SECRETARY OF LABOR AND EMPLOYMENT IS
18 AUTHORIZED TO GRANT EXEMPTION TO FOREIGN
19 NATIONALS FROM A LABOR MARKET TEST WHERE THERE
20 IS A SHORT SUPPLY OF QUALIFIED AND WILLING
21 FILIPINO NATIONALS IN INDUSTRIES, OCCUPATIONS,
22 AND PROFESSIONS.

23 “FOREIGN NATIONALS ISSUED EMPLOYMENT
24 PERMITS SHALL TRANSFER TECHNOLOGY TO FILIPINO
25 UNDERSTUDIES WITHIN A PRESCRIBED PERIOD.

26 “For an enterprise registered in preferred areas of
27 investments, said employment permit may be issued

1 upon recommendation of the government agency
2 charged with the supervision of said registered
3 enterprise.”

4 SEC. 3. Article 41 of the Labor Code is hereby amended to
5 read as follows:

6 “ART. 41. *Prohibition against transfer of*
7 *employment.* –

8 “(a) After the issuance of an employment permit, the
9 [alien] FOREIGN NATIONAL shall not transfer to another
10 job or change his employer without prior approval of the
11 Secretary of Labor AND EMPLOYMENT.

12 “(b) Any non-resident [alien] FOREIGN NATIONAL
13 who shall take up employment in violation of the
14 provision of this Title and its implementing rules and
15 regulations, AND THE EMPLOYER OR THE RESPONSIBLE
16 PERSON REPRESENTING THE EMPLOYER shall be
17 punished [in accordance with the provisions of Articles
18 289 and 290 of the Labor Code] WITH A FINE OF NOT
19 LESS THAN FIFTY THOUSAND PESOS (P50,000.00) NOR
20 MORE THAN ONE HUNDRED THOUSAND PESOS
21 (P100,000.00) OR IMPRISONMENT OF NOT LESS THAN
22 SIX (6) MONTHS NOR MORE THAN SIX (6) YEARS OR BOTH
23 SUCH FINE AND IMPRISONMENT AT THE DISCRETION OF
24 THE COURT.

25 “In addition, the [alien worker] FOREIGN NATIONAL
26 shall be subject to deportation after service of his
27 sentence.

1 "THE SECRETARY OF LABOR AND EMPLOYMENT IS
2 AUTHORIZED TO IMPOSE A FINE OF FIFTY THOUSAND
3 PESOS (P50,000.00) FOR EVERY YEAR OR FRACTION
4 THEREOF TO BOTH THE FOREIGN NATIONAL FOUND
5 WORKING WITHOUT VALID EMPLOYMENT PERMIT, AND
6 TO THE EMPLOYER."

7 SEC. 4. Article 42 of the Labor Code is hereby amended to
8 read as follows:

9 "ART. 42. *Submission of list.* - Any employer
10 employing non-resident foreign nationals [on the
11 effective date of this Code] shall submit a list of such
12 nationals to the [Secretary] REGIONAL DIRECTOR OF
13 THE DEPARTMENT of Labor AND EMPLOYMENT WHICH
14 HAS JURISDICTION OVER THE EMPLOYER within thirty
15 (30) days after [such date] HIRING indicating their
16 names, citizenship, foreign and local addresses, nature
17 of employment, and status of stay in the country. [The
18 Secretary of Labor shall then determine if they are
19 entitled to an employment permit.]"

20 SEC. 5. The Secretary of Labor and Employment shall
21 promulgate the necessary rules and regulations to implement the
22 provisions of this Act.

23 SEC. 6. If any part or provision of this Act is declared
24 unconstitutional or invalid, the remainder of this Act or the
25 provisions not otherwise affected shall remain valid and subsisting.

1 SEC. 7. All laws, presidential decrees, proclamations,
2 executive orders, issuances, rules and regulations or parts thereof
3 inconsistent with the provisions of this Act are hereby repealed,
4 amended or modified accordingly.

5 SEC. 8. This Act shall take effect fifteen (15) days after its
6 publication in the *Official Gazette* or in a newspaper of national
7 circulation.

 Approved,

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