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# ALON

## Ocean Wave

### **PANDIMAN PHILIPPINES Inc.**

P&I Correspondent in the Philippines

Topics of interest relating to the Philippine Maritime Industry and Shipping

#### **Republic Act 10706** **ANGKLA - Seafarers Protection Act** **(Anti-Ambulance Chasing Bill)**

This land-mark Act has now been signed by the President of The Republic of The Philippines and ready for enactment into Law.



**REPUBLIC ACT 10706**



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## Republic Act 10706 Seafarers Protection Act

As reported over the past twenty four months there has been a determined effort to stop Filipino seafarers being a “business” for unscrupulous lawyers; who have no human interest in a seafarer, but only the personal financial gains that representing seafarers brings them. The law which is to now be enacted has been pioneered by Congressman Jesulito A. Manalo, himself the son of a Sea Captain, the Congressman as the first voice of the Maritime Industry in Government has been committed that the Filipino seafarer will remain the premier seafarer of the world fleet. This he is achieving through changes in the law and ensuring that the seafarer is treated fairly in a mature and well regulated industry. What is additionally important is the fact that it is also recognized that ship-owners are part of the equation and that the maritime industry should be a fair “playing field” both in the standards set in the employment of Filipino seafarers but also in the handling of any employment disputes, especially within the legal system.

President Aquino has signed into law Filipino Seafarers Protection Act, which as the title depicts, protects them from unscrupulous individuals who take advantage of them by charging exorbitant fees and promising huge returns should they suffer an accident or illness while under their employment contract..

Under Republic Act 10706, individuals or groups found to have charged seafarers excessively will have to suffer maximum imprisonment of two years, a maximum fine of P100,000 or both. The same penalty will also apply to every person found to have conspired in this illegal act.

The new law is a combination of Senate Bill 2835 that senators approved last Sept. 21, and House Bill 5268, which the lawmakers passed last Sept. 30 and Aquino signed into law on Nov. 26. It is a law against ambulance chasing and imposition of excessive fees on Filipino seafarers where it shall be “unlawful” for any person to solicit, personally or through an agent, from seafarers the pursuit of any claim against their employers for the purpose of recovery of monetary claim, legal interest included, arising from accident, illness or death. This refers directly to cases filed for recovery of a monetary claim or benefit; either at the National Labour Relations Commission (NLRC), National Conciliation and Mediation Board (NCMB), Philippine Overseas Employment Agency (POEA) or the Department of Labor and Employment where such fees “should not exceed 10 percent of the compensation or benefit awarded to the seafarer or his heirs.”

In a statement from the Government;

“The government has observed that some individuals or groups have exploited the compensation system and seafarers have fallen prey to an unfair scheme where ambulance chasers charge “exorbitant fees with the promise of huge monetary award. Toward this end, such practice shall be declared unlawful.”

In a press statement issued by ANGKLA (the name of the maritime party is Filipino “Tagalog” for Anchor)

### ANGKLA’s Seafarers Protection Act signed into law

QUEZON CITY—ANGKLA Representative Jesulito A. Manalo proclaimed President Benigno Aquino’s signing of **Republic Act 10706** last 26 November 2015 is another major feat for the Filipino seafarers that he represents in Congress. “Two months following our election in 2013, we started our quest for the protection of seafarers’ rights, particularly with respect to their monetary claims so the recent passage of this law is truly a legislative milestone for the seafaring sector”, Manalo stated.

The newly signed ANGKLA Law fundamentally seeks to safeguard Filipino seafarers’ labor claims arising from their illnesses, accidents, or in worst cases, even death, against unconscionable legal fees imposed and collected by unscrupulous individuals.

The numerous alarming stories about the deleterious practice of some lawyers and/or other individuals who charge seafarers unconscionable legal fees from a range of 30% to a soar of 60% led ANGKLA to persistently move for the



bill's immediate passage. Seafarers working on-board international fleets are known to be awarded hefty compensation and benefit packages by reason of the many risks involved while they work in high seas. This in turn makes seafarers easy prey for ambulance chasing, with legal practitioners having considerable interest in their monetary benefits.

"While the Code of Professional Responsibility of Lawyers prohibits ambulance chasing, there is no direct statutory provision which expressly prohibits this abominable practice in the enforcement of labor rights." Manalo explained. Rectifying this gap, the law then makes it unlawful for individuals to engage in ambulance chasing who, through questionable schemes take undue advantage of seafarers in their legal pursuit for injuries and sickness benefits. In order to seriously curb the unreasonable imposition of these fees, the measure now puts a cap on the total fees that lawyers or persons representing the seafarer may collect, to an amount not exceeding 10% of the benefit awarded to the seafarer or his family. An individual found to be in violation of the new statute shall be meted a penalty of a fine of not less than P50,000 but not more than P100,000, or by imprisonment of one year but not more than 2 years, or both fine and imprisonment.

In a national scale, Filipino seafarers onboard international fleets, have greatly contributed to the country's social economic progress, so that in 2014 alone, their contributions amounted to USD5.6 billion out of the USD24.3 billion dollars aggregate OFW remittances or more than 20% thereof. Thus, the ANKLA Law finds greater relevance, as Congressman Manalo expounded: "[t]he truth is, the adverse effects of ambulance chasing cascade down to the people and our economy. Sadly, ambulance chasers go at lengths to push seafarers to file labor cases against their foreign employers, claiming for benefits even beyond the claims they are actually entitled to. This then leads foreign ship owners to no longer re-employ Filipino maritime professionals, and this possible decline in these employment opportunities can lead to the reduction, if not loss of the annual billion dollar remittances they bring into the country."

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#### **Introduction of the Law and Background Information**

The signing of **Republic Act 10706** on 26 November 2015 clearly marks the passage of the Seafarers Protection Act. The law, to be implemented however requires the mandatory publication requirement within fifteen (15) days from the signing of the President. It is then expected to be published in the Official Gazette in the next few days, and most likely in another newspaper of general circulation. The law will not be retro-active and will apply from its affectivity date once published and we shall keep you up dated.

There will also need to be Implementing Rules and Regulations (IRR), an IRR defines the details of a law but can not go beyond the scope of the law. For the formulation of the IRR, the new measure explicitly provides that "90 days following the approval of the Act, DOLE, through the Secretary, along with MARINA, POEA, and appropriate labor organizations shall promulgate the rules and regulations necessary for the effective implementation of the law."

What is impressive is the time frame in which this Act has been achieved, This has been down to the hard work of Congressman Jesulito "Jess" Manalo. Prior to his congressional election, Cong. Manalo practiced in the areas of corporate, business and investment law. He served as corporate secretary and general counsel of various corporate

entities engaged in the transport, software development, racing and leisure, construction, farm development and industrial-economic zone business. He was also consistently active in litigation.

Apart from his legal practice, he served in government in various capacities, the more recent of which are being Director and Corporate Secretary of the Bases Conversion and Development Authority (BCDA), and private sector representative of the Road Board of the Philippines.



Cong. Manalo took active roles in several professional and socio-civic groups, such as the Philippine Legal Forum, Philippine Bar Association, and was also a commissioner of Bar Discipline for Integrated Bar of the Philippines. Being an educator himself, he was a member of the Board of Trustees of both the Universities of Iloilo and Pangasinan. He also lectured at the MBA-JD Program of the De La Salle-F.E.U. Institute of Law.

His legal expertise and experience paved the way for Cong. Manalo to form ANGKLA: Ang Partido ng Pilipinong Marino in 2011, which is an organization that seeks to protect seafarers' rights and to institute relevant reforms in the seafaring industry. In the election year that followed its institution, ANGKLA immediately won a seat in the House of Representatives, making Cong. Jess Manalo, in the history of Congress, the very first representative of the Philippine maritime industry.

This is the first time that the Maritime industry has had a voice in Government, the undersigned together with the International Group Personal Injury Sub Committee (IGPISC) working group Philippines, representatives who have visited Manila have had the opportunity to meet with Congressman Manalo and his dedication and commitment is clear. The undersigned was privileged to have assisted as resource speaker during the Congressional and Senate hearings on the Bill

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