

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

DEPARTMENT OF...
JUN 30 2012

SENATE

RECEIVED BY: 

S. B. No. 860

Introduced by Senator Jinggoy Ejercito Estrada

EXPLANATORY NOTE

The Labor Code defines domestic or household service as service in the employer's home which is usually necessary or desirable for the maintenance and employment thereof and includes ministering to the personal comfort and convenience of the members of the household, including the services of family drivers. The nature of the service render distinguishes them from other members of the labor force.

It is recognized that the institution of domestic household help is an integral aspect of Philippine society, deeply rooted as it is in the history and culture of the Filipino people. In reality, household helpers are considered not as mere indentured servants but as extensions of the Filipino family. A members of the extended family it is recognized that the relationship between the homeowner and the household helper transcends that of a simple employer-employee relationship. Household helper in most cases act as alternate parents of the children of their employers and in certain cases devote a good portion if not their entire life to the service of their employers.

It is likewise worth noting that household helpers indirectly contribute towards the furtherance of national economic growth and productivity. By providing their employers with more time for economic activities, either through entrepreneurial pursuits or as more productive members of the labor force, household helpers act as labor multipliers within the purview of the macro-economic perspective. Furthermore, household helpers are a direct source of financial support. Since the interaction between employer and household for their dependents in the countryside, effectively creating significant economic well being in the less developed areas of the country.

Helper is confined within the walls or private residences, the predominantly female members of the industry are unduly exposed to physical, mental, and sexual

abuse and exploitation. Compounding the problem is the inherent timidity and passiveness of the household helpers themselves, who have little or no awareness of their basic rights and privileges.

Legislation, however, is lacking in recognizing the value of their service and their loyalty to the household. It is, therefore, high time to extend to them that recognition and to reward them for the quality and length of their service. It is nonetheless the duty of the Senate to establish the minimum working parameters and standards that will ensure the protection and well-being of both employer and household helper, and to promote the harmonious and productive relationship between both parties.

This proposed Magna Carta for Household Helpers or the Batas Kasambahay seeks to institutionalize and uplift the minimum working parameters and standards of the household helper industry and strives to bring this traditionally informal labor sector closer towards the benefits and protection accorded by law to the more formalized sectors of the labor force – without losing sight of the singular peculiarities traditionally inherent in the relationship between the employer and the household helper.

It is the intention of this bill to provide for the guidelines that will govern the employer-household helper relationship. For this purpose, this bill proposes to regulate the working conditions of household helpers, to extend to them appropriate benefits, and improve their situation.

For these reasons, approval of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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OFFICE OF THE SECRETARY

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AN ACT
INSTITUTING REGULATORY POLICIES FOR THE HOUSEHOLD
EMPLOYMENT INDUSTRY, ESTABLISHING STANDARDS OF PROTECTION AND
PROMOTING OF THEIR WELFARE AND OF THEIR FAMILIES, AMENDING FOR
THIS PURPOSE PERTINENT PROVISIONS OF PRESIDENTIAL DECREE NUMBER
442, OTHERWISE KNOWN AS THE LABOR CODE FOR THE PHILIPPINES AND
FOR OTHER PURPOSES

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

ARTICLE 1
TITLE, POLICY, PRINCIPLES AND DEFINITION OF TERMS

Section 1. **Short Title.** This Act shall be known and cited as the "**Magna Carta for Household Helpers**" or the "**Batas Kasambahay.**"

Section 2. **Declaration of State Policy and Principles.**

- a) It is hereby declared the policy of the Senate to value the dignity of its citizens and to guarantee full respect for human rights. The State recognizes the dignity of honest labor, including the nobility and self-respect inherent in the household helper industry;
- b) The need to nurture and protect the interests of this hitherto unheralded heroes of the Philippines economy is recognized by the Senate, and they shall be provided with adequate and timely social, economic and legal services, as well as mechanisms that shall protect their rights and promote benefits that ensure their dignified existence and economic upliftment;

- c) The State recognizes the need to protect the rights of the household helpers against abuse, economic exploitation and performance of work that is hazardous to their physical, mental and spiritual health. The State further recognizes that household helpers of minority age have special inalienable rights and privileges that should be espoused and protected, particularly in the areas of education, self-determination and self-improvement;
- d) It is the policy of the Senate to protect working women by ensuring safe and healthful working conditions and to take particular account of their maternal functions and needs. The State recognizes that the household helper industry is predominantly composed of women and, such, the State shall promote gender-sensitive measures in the formulation , implementation, and proper dissemination of policies and programs affecting the household helper industry; and
- e) Duly-recognized and non-government organizations are partners of the State in the protection of household helpers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect.

Section 3. *Definition of Terms.* As used in this Act, the term:

- a) "Household helper" or "kasambahay" – shall refer to any person employed full-time in the employer's home, performing tasks ascribed as normal household chores within a specific household for which he/she is being paid by the employer. The term includes the maids, cooks, houseboys, family drivers and "yayas" who provide daily service to a single, specific household either on a live-in or live-out basis.
- b) "Self-employed household helper" – shall refer to any person who provides domestic or household service to either a single or a number of households on a contractual or day-to-day basis and paid directly by the homeowner/employer. The term includes gardeners, laundry women and household helper hired on a day-to-day basis provided that they do not report for work to a single household for four (4) days a week or more, otherwise they shall be classified as household helpers or "kasambahays."
- c) "Household" or "Employer" – shall refer to a natural person who is identified to be the head of the family of the particular household for which the household helper is rendering service, or any member of the household designated by the head of the family to manage the general housekeeping functions for the family.
- d) "Household" – shall refer to the immediate members of the family that are directly being provided for by the head of the said family.

- e) "Household" – shall refer to the immediate members of the family that are directly being provided for by the head of the said family.
- f) "Residence" – shall refer to the various residences being kept by the homeowner/employer, either as primary or secondary places of domicile.
- g) "Working hours" – shall refer to the period of time within which the household helper is required to be on call to perform any and all tasks that may be designated, regardless of whether there are actual tasks being undertaken.
- h) "Deployment expenses" – shall cover the expenses that are directly attendant to the transfer of the household helper from the place of origin to the place of work, including transportation costs, finder's fees or agency fees if said household worker was sourced through third parties or an employment agency. Advances or loans made by the household helper are not included in the definition of deployment expenses.
- i) "Hazardous work, undertaking, activity or condition" – shall refer to any activity or circumstance where the household helper is exposed to any risk which constitutes an imminent danger to his/her health and safety, such as but not limited to:
 - (1) any activity which exposes the household helper to physical, emotional or sexual abuse;
 - (2) any activity which involves manual handling or transport of heavy loads;
 - (3) any work in an unhealthy environment which exposes household helpers to hazardous substances, agents or processes, or to temperatures, noise levels or vibrations damaging to their health;
 - (4) any work which requires the household helper to render services for excessively long periods of time or during late nights;
 - (5) all forms of slavery or similar practices such as the sale and trafficking of household helpers, forced or compulsory labor, debt bondage and selfdom;
 - (6) use, procurement or endorsement of the household helper for prostitution or pornography;
 - (7) use, procurement or endorsement of the household helper for the commission of any offences or crime, particularly for the production and trafficking of narcotic drugs and substances as defined in the Dangerous Drugs Act;
 - (8) any other type of work or activity which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of the household helper; and
 - (9) any other similar type of work activity as may hereafter be defined as hazardous by the Department of Labor and Employment.

- j) "Gender sensitivity" – refers to the recognized inequalities and differences between men and women in society, and a commitment to address issues concerning the respective interest of both genders.

ARTICLE 2

TERMS AND CONDITION FOR EMPLOYMENT

Section 4. ***Employment Contract.*** All household working arrangements or agreements shall be covered by a written employment contract, in a language or dialect understood by both employer And household helper, duly signed by both contracting parties. Each contacting party shall be provided with a complete set of the duly signed employment contract, which shall include the following:

- (a) period of employment, which shall not exceed two (2) years;
- (b) monthly compensation and mode of payment;
- (c) annual salary increase;
- (d) computation of Social Security System and Philhealth contributions;
- (e) duties and responsibilities
- (f) working hours and day-off schedule;
- (g) living quarters or sleeping arrangement.

In case wherein employment of household helpers of minority age are allowed hereunder, said employment contract shall be signed on his or her behalf by either parent or legal guardian, with the express written consent of said minor.

Section 5. ***Medical Certificate as Pre-requisite for Employment.*** A medical certificate attesting to the physical and mental fitness of the household helper secured from a licensed physician shall serve as a pre-requisite for employment, the cost of which shall be for the account of the employer.

Section 6. ***Minimum Wage.*** Subparagraphs (1), (2) and (3) of Article 143 of Presidential Decree No. 442, as amended, otherwise known as the "Labor Code of the Philippines," are hereby amended to read as follows:

"Article 143. Minimum Wage – (a) Househelpers shall be paid the following minimum wage rates:

- (1) One Thousand Two hundred Pesos (Php 1,200.00) a month for household helpers working in the National Capital Region;
- (2) One Thousand Pesos (Php 1,000.00) a month for household helpers working in chartered cities and first class municipalities;

- (3) Nine Hundred Pesos (Php 900.00) a month for household helpers working in other municipalities.

Section 7. **Payment of Wages.** Payment of wages shall be made directly to the household helper in cash, at least once every two (2) weeks or twice a month. The employer, unless allowed by the household helper through a written consent, shall make no deductions from his/her wages other than the labor mandated ones.

Section 8. **Thirteenth (13th) Month Pay.** All household helpers shall be entitled to a thirteenth (13th) month pay equivalent to one (1) month's basic salary which shall be released not later than the 16th of December of every year.

Section 9. **Membership in the Social Security System (SSS).** All household helpers, regardless of age and compensation levels, shall be covered by the Social Security System and be entitled to all the benefits provided under Republic Act No. 8282, as amended. The employers of said household helpers shall pay for the employer's share of the SSS contributions without deducting the same from the monthly compensation of the household helpers.

For this purpose, the Social Security System (SSS) is hereby required to implement an outreach program that will facilitate the remittance of SSS contributions by either the employers or the household helpers. Said outreach program should be conceptualized initiated within a period of one (1) year from the date of effectivity of this Act.

Section 10. **Membership in the Philippine Health Insurance Corporation (Philhealth).** All household helpers, regardless of age and compensation levels, shall be covered under the Philippine Health Insurance Corporation (Philhealth), and be entitled to all the benefits provided for under the law. The employer of said household helper shall pay for the employer's share of the aforementioned benefit, without deducting the same from the monthly compensation of the household helper.

Section 11. **Normal Hours of Work.** Cognizant of the peculiarities of the relationship between the employer and the household helper, the normal hours of work of kasambahays shall be ten (10) hours a day, exclusive of one (1) hour breaks for each regular meal of the day. The employer shall duly compensate any work done by the household helper beyond the daily normal hours of work; Provided, that the household helper shall be allowed at least eight (8) hours of continuous rest per day.

Section 12. **Regular Working Days.** No household helper shall render work in excess of six (6) day per week. It shall be the duty of every employer to provide each of his or her household helpers a rest period of at least one (1) day a week. The rest day of the household helper shall be stipulated in the employment contract; however, the same may be changed for another day of the week upon mutual agreement of the employer and the household helper.

Section 13. **Vacation Leaves.** All household helpers shall be entitled to a fourteen (14) day vacation leave with pay over and above their rest days. Said can only be availed of at the end of the first year of the employment, and shall not cumulate from year to year.

Section 14. **Maternity Benefits.** All female household workers shall be entitled to maternity benefits pursuant to article 133 of the Labor Code of the Philippine and Section 14-A of the Social Security Act of 1997.

Section 15. **Deployment Expenses.** The employer shall be accountable for all the employment expenses of domestic household workers including the transportation and agency fees.

Section 16. **Automatic Salary Increase.** The contract of the employment executed by and between the employer and the household helper shall include a provision for an annual salary increase indicating the amount determined by mutual agreement of the parties,

Section 17. **Pre-Termination of Contract.** The employer may, at his or her own discretion, terminate the services of the household helper; Provided, that said employer provides the household helpers with at least fifteen (15) days notice of termination and termination pay equivalent to at least one half (1/2) month's salary. In lieu of the fifteen (15) day notice of termination, the employer may immediately terminate the services of the household helper; Provided, that said employer provides the household helper termination pay equivalent to one (1) month's salary.

The employee may, for valid or just cause, terminate the services of the household helper prior to the expiration of the contract without indemnifying the latter with termination pay.

The household helper may, at his/her own volition, unilaterally leave the household of employment prior to the expiration of the contract period; Provided, that the household helper shall forfeit any separation pay that may be due.

ARTICLE 3
RIGHTS AND PRIVILEGES OF HOUSEHOLD HELPERS

Section 18. **Standard of Treatment.** The employer and the members of the household shall, at all times, treat the household helper in a just and humane manner. In no instance shall abusive language, physical violence or any act, which debases, degrades or demeans the intrinsic worth and dignity of the household helper as a human being be used upon the latter.

Section 19. **Extent of Duty.** The household helper shall not be required by his employer to perform any task or work outside the household of employment for the service or benefit of another household without the formers consent and the payment of just compensation.

Section 20. **Prohibition on Labor Sub-Contracting.** The employer shall not sub-contract the services of the household helper to any third party or household, unless such activity falls within the purview of an employment agency arrangement for which the necessary permits and licenses had been secured beforehand.

Section 21. **Prohibition on Recruitment and Finders Fees.** Regardless of whether the household helper was sourced either through an employment agency or a third party, the household helper shall not be charged in full or in part, of the recruitment fees or finder's fees by an employment agency or third party.

Section 22. **Basic Necessities.** In a manner befitting the means of a responsible head of the family, the employer shall provide for the basic necessities of the household helper, which shall include:

- (a) Food for at least three (3) meals per day;
- (b) Shelter and provision for humane sleeping arrangement that ensure privacy and safety of the household helper;
- (c) Medical assistance and expenses incurred for work-related illness or injuries sustained by the household helper shall be shouldered by the employer; otherwise, the employer shall bear fifty percent (50%) of the expenses for non-work-related illness or injuries, while the household helper shall bear the other half. The employer, however shall advance the household helper's share, at the time the medical expenses are incurred, and shall be reimbursed out of deductions from the household helper's monthly

compensation which shall, at on time, be grater than fifty percent (50%) of the latter's monthly compensation.

In no instance shall the employer be allowed to withdraw or hold in abeyance the provision of these basic necessities as a form of punishment or disciplinary action to the household helper.

Section 23. ***Guarantee to Household Helper Privacy.*** The employer shall respect the privacy of the household helper during the course of the latter's rest periods. The household helper's right to privacy shall extend to any and all forms of personal communications, including letters of correspondence issued or received by the household helper, and allowed communication coursed through the private telephone of the household.

Section 24. ***Access to Outside Communication.*** The employer shall allow the household helper access to outside communication, both through letters or the private telephone of the household, especially in instances of the household helper's personal or family emergencies. The employer shall likewise guarantee access by the household helper to the private telephone of the household for the purpose of communicating with the latter's family at least once a week; Provided, that costs incurred in making the telephone call shall be for the account of the household helper.

Section 25. ***Prohibition on Bonded Labor.*** No household helper shall be allowed to used his /her future services as collateral for any loan or advances he/she made or will make the employer. Likewise, no employer shall be allowed to bind the household helper to his/her continued employ as a form of payment for any loan or advances that the household helper may have made with the employer. In any case that a household helper who has an outstanding loan or advance decides to unilaterally terminate the contract of employment, payment for the said loan or advance shall immediately be made, unless otherwise agreed upon under such terms and conditions specified in a duly executed promissory note between the parties.

Section 26. ***Access to Lawful Third-Party Mediation.*** Upon employment, the employer shall provide the household helper with the names, addresses and telephone numbers of the designated liaison officials of the following:

- (a) the Department of Labor and Employment (DOLE);
- (b) The Baranggay offices of the household helper's place of work; and,
- (c) Duly registered non-government organizations accredited and household helpers.

The homeowner shall further guarantee the household helper access to all means of communication for the purpose of containing any of the above-enumerated institutions.

Section 27. ***Inter-Agency Networking.*** The Department of Labor and Employment (DOLE) shall provide for and lead the inter-agency networking system among the different departments and instrumentality's of government, should be the same required in the continuing efforts to protect the interests, rights and privileges of household helpers.

ARTICLE 4
SPECIAL RIGHTS AND PRIVILEGES OF HOUSEHOLD
HELPERS OF MINORITY AGE

Section 28. ***Allowable Employment of Household Helpers of Minority Age.*** Children fifteen (15) years up to seventeen (17) years of age may be employed as household helpers and shall be afforded the same protection and benefits of other household helpers, in addition to the provisions of this Article. In no instance shall children below fifteen (15) years of age employed as household helpers.

Section 29. ***Children of Household Helpers.*** Unless expressly employed as household helpers under a duly executed contract of employment, children of household helpers who live with their parents at the employer's residence or those whose sustenance or education is being provided for by the employer, shall not be considered as household helpers themselves.

Section 30. ***Normal Hours of Work for Household Helpers of Minority Age.*** No household helpers of minority age shall be allowed to render work for more than 10 (10) hours a day, five(5) days per week, exclusive of one (1) hour breaks for each regular meal of the day.

Section 31. ***Prohibition on Night Work.*** No household helper of minority age shall be allowed to render work between ten o'clock in the evening and six o'clock in the morning of the following day.

Section 32. ***Prohibition on work to be undertaken.*** No household helpers of minority age shall be allowed to render work beyond their mental and physical capabilities.

Section 33. ***Prohibition on hazardous work, activities, conditions and/or undertakings.*** No household helper of minority age shall be employed in any hazardous work, activity or undertaking, and neither shall he/she be exposed to hazardous working conditions.

Section 34. ***Minimum Wage.*** No household helper of minority age shall be deprived of the minimum wage mandated in this Batas Kasambahay.

Section 35. ***Right of the Child to Wages Earned.*** All employers shall pay directly to the household helper of minority age and all wages remuneration of compensation earned by said minor during the period of his employment.

No parent, guardian or relative shall be allowed to borrow against the compensation of the household helper of minority age without the express written consent of said household helper. Neither shall the household helper of minority age be made to render work in payment of a loan or liability incurred by a parent, guardian or relative.

Section 36. ***Emergency Services.*** The Department of Social Welfare and Development (DSWD) shall, within a period of one (1) year from the date of effectivity of this Act, institute a program designed specifically to provide emergency services to household helpers of minority age in need of custody, shelter, healing, or medical, psychological, legal and rehabilitative services.

Section 37. ***Emergency Services.*** The Department of Social Welfare and Development (DSWD) shall, upon the recommendation of the Department of Labor and Employment (DOLE), effect the repatriation of household helpers of minority age who either voluntarily seek government protection against abuse and exploitation or upon report or discovery of the same. Same household helpers shall be supervised and escorted by a social worker. The cost of such repatriation shall be borne by the Department of Social Welfare and Development (DSWD). The Department of Labor and Employment (DOLE) shall formulate the rules and regulation governing the emergency repatriation of household helpers of minority age.

For this purpose, a Repatriation Fund is hereby created and established under the administration and control of the Department of Social Welfare and Development

(DSWD) in the amount of Five Million Pesos (Php 5, 000,000.00), to be taken from the President's Social Fund. Thereafter, such funds shall be provided for in the General Appropriation Act annually.

Section 38. ***Custody or Re-placement of Household Helpers of Minority Age.*** Should a household helper of minority age refuse to be repatriated against the recommendation of the Department of Social Welfare and Development (DSWD), said household helper may be placed under the custody and care of the Department of Social Welfare and Development (DSWD) or that of duly recognized and accredited non-government organization, or placed in a suitable household for employment.

ARTICLE 5

RIGHTS AND PRIVILEGES OF SELF-EMPLOYED HOUSEHOLD HELPERS

Section 39. ***Exclusivity Clause.*** For the purpose of this Act, the rights and privileges of self-employed household helpers shall be limited to the provision of this Article.

Section 40. ***Standard of Treatment.*** The employer, as well as the members of the household, shall treat the self-employed household helper in a just and humane manner. In no instance shall abusive language, physical violence or any act which debase, degrades or demeans the intrinsic worth and dignity of the household helper as a human being be used upon the latter.

Section 41. ***Scope of Work to be Undertaken.*** Prior to the commencement of any work to be undertaken by the self-employed household helper, both the employer and the household helper shall mutually agree on the scope of work, the period of time within which the work must be completed, the amount of compensation to be paid and the manner by which the compensation shall be made.

Section 42. ***Payment of Work.*** Unless the parties have agreed otherwise prior to the commencement of the work, compensation of work completed to the satisfaction of the employer shall be in the form of cash payment made directly by the employer to the self-employed household helper immediately upon completion of the work.

Section 43. ***Normal Hours of Work.*** The period of time within which the work must be completed by the household helper shall be mutually agreed upon by the parties prior to the

commencement of the work; Provided, that the household helper shall not be requires to render work for longer than ten (10) hours per day, exclusive of one (1) hour rest periods each for meal breaks.

Section 44. ***Provision for Worker Meals.*** The employer shall provide the self-employed household helper with meals during the hours of work.

Section 45. ***Medical Expenses.*** All medical expenses incurred for work related illnesses or injury sustained by the household helper shall be for the account of the employer.

ARTICLE 6

SPECIAL PROVISIONS FOR KASAMBAHAY EDUCATION

Section 46. ***Opportunity for self-improvement.*** The employer shall allow the household helper who is eighteen (18) years of age or above with the opportunity to pursue his/her education, at the expense of said household helper. Should be household helper deciding to pursue his/her education, the employer shall adjust the work schedule in accordance with the formers class schedule. In no case shall the household helper's compensation be altered on account of his/her pursuit of education.

Section 47. ***Access to Education and Training.*** No household helper of minority age shall be deprived of formal or non-formal education. In cases where household helpers of minority age are allowed to be employed, the employer shall allow said household helper access to public primary, secondary or vocational education. Said employer may advance all or part of the expenses incidental to the pursuit of said education. The employer shall be reimbursed out of deduction from the household helper's monthly compensation, which shall in no time, be greater fifty percent (50%) of the latter's monthly compensation.

Should the household helper of minority age decide to pursue his/her education, the employer shall adjust the work schedule in accordance with the formers class schedule. In no case shall the household helper's compensation be altered on account of his/her pursuit of education.

Section 48. ***Employer Initiatives for Skills Development.*** Should the employer decide to improve the inherent skills of the household helper through external training, the employer shall bear the cost and expenses of said training. The time spent by the household helper during the conduct of the said training, including the time spent going

to and coming from the training shall be counted as part of the household helper's hour of work.

ARTICLE 7 MISCELLANEOUS PROVISIONS

Section 49. **Household Helper Day.** The date upon which the President shall approve this Batas Kasambahay shall be designated as the "Araw ng mga Kasambahay," a special non-working holiday with pay for household helpers, and shall be commemorated annually.

Section 50. **Implementing Rules and Regulations.** The Department of Labor in coordination with the Department of Social Welfare and Development and such other agencies of the government charged with the implementation of the provision of this Act, within a period of one (1) year from its date of effectivity, promulgate rules and regulations necessary for this purpose.

Section 51. **Transitory Provisions.** No provision in this Act shall be interpreted to caused the diminution or substitution of benefits and privileges presently enjoyed by household helpers.

All existing arrangement between employer and household helper shall conform to the minimum standards set by this Act within a period of sixty (60) days upon effectivity of this Act.

Section 52. **Penal Provisions.** Violation of any provision of this Act shall be punishable with a fine of not less than One Thousand Pesos (Php 1, 000.00), nor more than Ten Thousand Pesos (Php 10, 000.00), or imprisonment of not less than three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the court.

Section 53. **Repealing Clause.** All laws, decrees, executive orders rules and regulations or parts thereof not consistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 54. **Separability Clause.** If any provision or part of this Act, or the application thereof to any person or circumstance, is held unconstitutional or invalid, the remainder of this Act, or the application of such provision or part to other persons or circumstances, shall not be affected thereby.

Section 55. **Effectivity Clause.** This Batas Kasambahay shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) national papers of general circulation, whichever comes earlier.

So approved,