Republic of the Philippines
**HOUSE OF REPRESENTATIVES**
Quezon City

13th CONGRESS

House Bill No. 556




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Introduced by. **Rep. Roberto C. Cajes**

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EXPLANATORY NOTE

The Home Development Mutual Fund or PAG-IBIG Fund is the country's premier housing funding agency today. Yet despite its strong financial situation it still cannot adequately cope with the staggering housing backlog in the country, estimated at 3.8 million housing units and increasing by a quarter of a million housing Units every year.

There is an imperative need to strengthen its powers under its charter so hat the Fund can meet the challenge of providing financing for the government's national shelter program. It is for this reason that this bill is proposed to strengthen the fund's housing investments to its charter.

First, by clearly defining its membership requirement to those continuous 20 year contributions, by doing so., the confusion arising from the issue of its membership would be cleared, on when to count the 20 year membership contributions particularly to those members affected by the flip-flopping of government policies ( from compulsory contributions during the Marcos regime to voluntary during the Aquino Administration) this step alone would give breathing space for the funds actuarial obligations when members contribution become due and demandable.

Second, the bill proposes to give the Fund the assurance of government guaranty on its loans for housing purposes. This enable the fund to raised funds in the domestic and international capital markets, thus, assuring more funds for housing investments in the country.

Finally, this measure seeks to exempt personnel of the Fund from the provisions of salary Standardization Law so that it can adequately compete with the private sector on the competent human resources.

For these reasons, immediate approval of the bill is recommended.

**ROBERTO C. CAJES**

Republic of the Philippines
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13th Congress

First Regular Session

**HOUSE BILL NO.** 556

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AN ACT
FURTHER STRENGTHENING THE HOME DEVELOPMENT MUTUAL FUND AND FOR OTHER PURPOSES

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

**SECTION 1.** *Title.* - This Act shall be known as the "Home Development Mutual Fund Law of 2004".

**SEC. 2.** *Declaration of Policy.* - It is the policy of the State to establish, develop, promote and integrate a nationwide sound and viable tax-exempt mutual provident savings system suitable to the needs of the employed and other earning groups, and to motivate them to better plan and provide for their housing needs, by membership in the Home Development Mutual Fund, also known as Pag-Ibig Fund, with mandatory contributory support of the employers in the spirit of social justice and the pursuit of national development.

**SEC. 3.** *Statement of Objectives.* - Towards this end, the State shall integrate all laws relating to the Pag-Ibig Fund to effectively achieve the following objectives:

(a) To improve the quality of life of its citizens by providing them with sufficient shelter;

(b) To provide for an integrated nationwide provident savings system; and

(c) To provide housing through mobilization of funds for shelter finance.

**SEC. 4.** *Definition of Terms.* - The following terms shall mean:

(a) *"Employer"* - Any person, natural or juridical, domestic or foreign, who carries on in the Philippines any trade, business, industry, undertaking or activity of any kind, and uses the services of another person who is under his order as regards his services; the government, its national and local offices, political subdivisions, branches, agencies, or instrumentalities, including corporations owned and/or controlled by the government, and the local government units;

(b) *"Employee"* – Any person in the service of an employer who receives compensation of such services;

(c) *"SSS"* – The Social Security System created under Republic Act No. 1161, as amended;

(d) *"GSIS"* – The Government Service Insurance System created under Commonwealth Act No. 186, as amended;

(e) *"Fund"* – The Home Development Mutual Fund created under this Act;

(f) *"Board"* – The duly constituted Board of Trustees of the Home Development Mutual Fund;

(g) *"Membership Term"* – A period of twenty (20) years commencing from the first day of the month to which the member's initial contribution to the Fund applies: *Provided,* That he shall have contributed a total of two hundred forty (240) monthly contributions at the time of maturity;

(h) *"Permanent Total Disability"* - Loss or impairment of a physical and mental function resulting from injury or sickness which completely incapacitates a member to perform any work or engage in any business or occupation as determined by the Fund;

(i) *"Net Fund Asset"* – The total assets of the Fund less total liabilities;

(j) *"Investible Funds"* – Shall mean funds available after deducting cost of operations and expenses, administrative and general expenses, reserves for benefit claims, provisions for a sinking fund for the return of members' equity upon maturity, and reserve for loan repayments.

(k) *"Employment"* – Any service performed by an employee for his/her employer within the Philippines: *Provided, however,* That any foreign

government, international organization or their wholly-owned instrumentality employing workers in the Philippines or employing Filipinos outside of the Philippines, may enter into an agreement with the Fund for the inclusion of their employees as members of the Fund: *Provided, further,* That the term of such agreement conform with the provisions of this Act: *Provided, finally,* That the provisions of this Act shall be suppletory to any such agreement;

(l) *"Member"* – An employee coverable under this Act and pays the mandated contributions;

(m) *"Contributions"* – The amount payable to the Fund by the members and their employers, in accordance with this Act;

(n) *"Compensation"* – Basic monthly salary plus mandated cost of living allowance;

(o) *"Dependents"* – Refer to legal dependents of a deceased member, as defined under the Family Code;

**SEC. 5.** *Fund System.* - To carry out the purposes of this Act, the Home Development Mutual Fund of 2003, hereinafter referred to as the Pag-Ibig Fund, is hereby created. The Fund is a mutual provident savings system for private and government employees and other earning groups, supported by matching mandatory contributions of their respective employers with housing as the primary investment.

The Fund shall be a body corporate, with principal office in Metro Manila, and shall replace the Home Development Mutual Fund established under Presidential Decree No. 1752, as amended.

**SEC. 6.** *Fund Coverage.* - (a) Coverage in the Fund shall be mandatory upon all employees covered by the SSS and the GSIS, and their respective employers, notwithstanding any waiver of coverage previously issued, including members of the Armed Forces of the Philippines and the Philippine National Police;

(b) Spouses who devote full time to managing the household and family affairs, unless they also engage in another vocation or employment which is subject to mandatory coverage, may be covered by the Fund on a voluntary basis adopting as a basis of contribution one-half (1/2) of the monthly compensation income of the employed spouse;

(c) Filipinos recruited by foreign-based employers for employment abroad may be covered by the Fund on a voluntary basis; and

(d) Coverage may also be extended to other working groups, with or without employer contributions, as may be determined by the Board of Trustees.

**SEC. 7.** *Fund Generation and Contributions.* - The funds of the Fund shall be generated by the provident savings that the covered employees shall contribute for the purpose every month, and the equal amounts that their respective employers shall mandatorily contribute, at the rate of two

percent (2%) of their monthly compensation. The maximum monthly compensation is set at Twelve Thousand Pesos (P12,000.00) effective January 1, 2005

Notwithstanding any contract to the contrary, an employer shall not deduct, directly or indirectly, from the compensation of its employees covered by the Fund, or otherwise recover from them, the employer's contribution with respect to such employees.

**SEC. 8.** *Membership Term.* - Membership in the Fund shall be for a period of twenty (20) years: *Provided,* That the member shall have contributed a total of two hundred forty (240) monthly contributions at the time of maturity, except when earlier terminated by reason of retirement, disability, insanity, death, departure from the country or other causes as may be approved for by the Board of Trustees: *Provided, however,* That those who became members of the Fund after June 17, 1994 may withdraw the total accumulated value of their contributions to the Fund after the tenth or fifteenth year of continuous membership: *Provided, further,* That said members have no outstanding housing loans with the Fund: *Provided, finally,* That this option may be exercised only once and shall not prejudice the member's continuing membership in the Fund.

Resignation, lay-off or suspension from employment may not necessarily constitute a ground for membership termination, except for suspension of contributions.

**SEC. 9.** *Provident Character.* - The Fund shall be private in character, owned wholly by the members, administered in trust and applied exclusively for their benefits. All the personal and employer contributions shall be fully credited to each member, accounted for individually and transferable in case of change of employment. They shall earn dividends as may be provided for in the implementing rules. The said amounts shall constitute the provident fund of each member, to be paid to him, his estate or beneficiaries upon termination of membership, or from which peripheral benefits for the member may be drawn.

**SEC. 10.** *Housing Features.* - A member of good standing shall be eligible to apply for a housing loan, with such terms as may be authorized by the Board of Trustees, taking into account ability to pay. The Board of Trustees shall institute policies to ensure that lower-income members obtain such housing loans. The Board may, upon recommendation of the chief executive officer, deputize any member of the Fund's legal staff to act as special sheriff in foreclosure cases, in the sale or attachment of the debtor's properties, and in the enforcement of court writs and processes in cases involving the Fund. The Special Sheriff of the Fund shall make a report to the proper court after any action taken by him, which shall treat such action as if it were an act of its own sheriffs in all respects.

**SEC. 11.** *Implementing Body.* - The Home Development Mutual Fund created under this Act, shall implement the provisions hereof.

**SEC. 12.** *Powers and Functions of the Fund.* - The Fund shall have the powers and functions specified in this Act and the usual corporate powers:

(a) To make policies and guidelines, as well as to formulate, adopt, amend and rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this Act, as well as the effective exercise of the powers and functions, and the discharge of duties and responsibilities of the Fund, its officers and employees;

(b) To submit annually to the President of the Philippines not later than March 15 a report of its activities and the status of the Fund during the preceding year, including information and recommendations for the development and improvement thereof;

(c) To furnish each member of the Fund a statement of his accumulated fund value at least once a year;

(d) To invest not less than seventy percent (70%) of its investible fund to housing, in accordance with this Act;

(e) To acquire, utilize, or dispose of, in any manner recognized by law, real or personal properties in the Philippines or elsewhere, necessary to carry out the purposes of this Act;

(f) To set up its own accounting and computer systems; to conduct continuing actuarial and statistical studies and valuations to determine the financial viability of the Fund and its projects; to require reports,

compilations and analysis of statistical and economic data, as well as make such other studies and surveys as may be needed for the proper administration and development of the Fund;

(g) To have the power of succession; to sue and be sued; and to adopt and use a corporate seal;

(h) To enter into and carry out contracts of every kind and description with any person, firm or association or corporation, domestic or foreign;

(i) To borrow funds from any source, private or government, foreign or domestic,

(j) To invest, own or otherwise participate in equity in any establishment, firm or entity; to form, organize, invest in or establish and maintain a subsidiary or subsidiaries in relation to any of its purposes;

(k) To approve appointments in the Fund except appointments to the position which are policy determining, primarily confidential or highly technical in nature according to the civil service rules and regulations; and to fix the compensation of the employees as may be deemed necessary upon the recommendation of the President and Chief Executive Officer of the Fund, subject to review and approval by the President of the Philippines;

(l) To maintain a provident fund, which consists of contributions made by both the Fund and its officials and employees and their earnings,

for the payment of benefits to such officials and employees or their heirs under such terms and conditions as it may prescribe;

(m) To design and adopt an Early Retirement Incentive Plan (ERIP) for its own personnel, subject to review and approval by the President of the Philippines;

(n) To establish field offices and to conduct its business and exercise its powers in these places;

(o) To approve restructuring proposal for the payment of due but unremitted contributions and unpaid loan amortizations under such terms and conditions as the Board of Trustees may prescribe;

(p) To determine, fix and impose interest and penalties upon unpaid contributions due from employers and employees;

(q) To ensure the collection and recovery of all indebtedness, liabilities and/or accountabilites, including unpaid contributions in favor of the Fund arising from any cause or source or whatsoever, due from all obligors, whether public or private; to demand payment of the obligations referred to herein, and in the event of failure or refusal of the obligor or debtor to comply with the demand, to initiate or institute the necessary or proper actions or suits, criminal, civil, administrative, or otherwise, before the courts, tribunals, commissions, boards, or bodies of proper jurisdiction, within thirty (30) days reckoned from the expiry date of period fixed in the demand within which to pay or settle the account: *Provided, however,* That

the Fund may compromise or release, in whole or in part, any interest, penalty or any civil liability to the Fund in connection with the collection of contributions and the lending operations of the Fund, under such terms and conditions as prescribed by the Board of Trustees;

(r) To design and implement other programs that will further promote and mobolize savings and provide additional resources for the mutual benefit of the members with appropriate returns on the savings/investments. The program shall be so designed as to spur socio-economic take-off and maintain continued growth;

(s) To conduct continuing actuarial and statistical studies and valuations to determine the financial condition of the Fund and taking into consideration such studies and valuations and the limitations herein provided, readjust the benefits, contributions, interest rates or the allocation or reallocation of the funds to the contingencies covered; and

(t) To exercise such powers and perform such acts as may be necessary, useful, incidental or auxiliary to carry out the provisions of this Act.

**SEC. 13.** *Board of Trustees.* - The corporate powers and functions of the Fund shall be vested in and exercised by a Board of Trustees appointed by the President of the Philippines, composed of the following:

(a) The Chairperson of the Housing and Urban Development and Coordinating Council, as the *ex-officio* Chairman;

(b) The Secretary of the Department of Finance, as the *ex-officio* Vice Chairman;

(c) The Secretary of Labor or his/her duly designated undersecretary, as *ex-officio* member;

(d) The Secretary of Budget and Management or his/her duly designated undersecretary, as *ex-officio* member;

(e) The President and Chief Executive Officer of the Fund, as Member;

(f) Six (6) appointive members, four (4) of whom shall represent the workers' group, wherein three (3) shall come from the private sector and one (1) from the government sector, at least one (1) of whom shall be a woman; one (1) from the employers' group; and one (1) who has adequate knowledge and experience regarding mutual provident funds: *Provided,* That the six (6) appointive members are also members of the Fund at the time of their appointment, and that they shall be chosen from among the nominees of workers', employers', and affiliated organizations.

The six (6) appointive members shall have a term of two (2) years or until their successors are duly appointed and qualified.

The chairman, vice chairman, and members of the Board shall be entitled to *per diem* for each meeting actually attended at such amount as may be fixed by the Board in accordance with existing laws, rules and regulations.

**SEC. 14.** *Powers of the Board.* - The Board shall have the following powers:

(a) To formulate policies, rules and regulations to carry out effectively the functions of the Fund under this Act;

(b) To promulgate such rules and regulations as may be necessary or proper for the effective exercise of the powers and functions, as well as the discharge of the duties and responsibilities of the Fund, its officers and employees;

(c) To authorize expenditures of the Fund in the interest of effective administration and operations; to adopt from time to time the budgets for said purposes;

(d) To approve appointment of personnel; and to fix the compensation of the employees as may be deemed necessary upon the recommendation of the President and Chief Executive Officer of the Fund, subject to review and approval by the President of the Philippines;

(e) To condone, in whole or in part, unpaid interest and penalties imposed on loans of members/borrowers who, for justifiable reasons prescribed by the Board, failed to pay on time any obligation due to the Fund; *Provided,* That such exclusive power to condone shall likewise apply to penalties imposed on employers, who justifiably fail to remit when due, the required contributions of and for their employees; and

(g) To exercise such other powers as may be necessary to carry into effect the powers and accomplish the purposes for which the Fund is established.

**SEC. 15.** *Rule-Making Power.* - The Board of Trustees is hereby authorized to make and change needful rules and regulations, which shall be published in accordance with law or at least once in a newspaper of general circulation in the Philippines, to provide for, but not limited to, the following matters:

(a) The effective administration, custody, development, utilization and disposition of the fund or parts thereof, including payment of amounts credited to members or to their beneficiaries or estates;

(b) Grounds for and effects of termination of membership other than by completion of term;

(c) Fund earnings and their distribution, investment and/or plowing back for the exclusive benefit of the members;

(d) Interim disbursements of accumulated values to members of ameliorative and similar purposes;

(e) Housing and other loan assistance programs to members;

(f) Adjudication and settlement of claims and disputes and the procedures for the same on any matters involving the interests of members in the Fund;

(g) Optimize the effectiveness of the initial coverage drive through phased implementation based on reasonable classification of employers and/or employee groups; and

(h) Other matters that, by express or implied provisions of this Act, shall require implementation by appropriate policies, rules and regulations.

**SEC. 16.** *Powers and Duties of the President and Chief Executive Officer.* - The President and Chief Executive Officer of the Fund shall, among others, execute and administer the policies and resolutions approved by the Board of Trustees, prepare its agenda, and direct and supervise the operations and management of the Fund. The President and Chief Executive Officer, subject to the approval of the Board in case of managerial positions and above, and the confirmation of the Board in case of positions below that of manager level, shall appoint the personnel of the Fund, remove, suspend or otherwise discipline them for cause, and prescribe their duties and qualifications, and in accordance with existing civil service laws, rules and regulations.

**SEC. 17.** *Money Investments.* - All moneys of the Fund, as are not needed to meet current administrative and operational requirements shall be invested with due and prudent regard for its safety, growth and liquidity needs.

**SEC. 18**. *Exemption from Tax, Legal Process and Lien.* - Notwithstanding any provisions of existing law, decree, executive or

administrative order, rules or regulations to the contrary, the Fund and all its assets, collections, receivables and increments, as well as all distributions therefrom, whether of contributions, ratable income of the Fund, or benefits paid to or received by the members thereof, or their heirs/benefiticiaries, shall be exempt from the payment of any and all forms of taxes, assessments and other charges. All such provident payments shall not be liable to attachment, garnishment, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the persons entitled thereto, except to pay any debt of the covered member to the Fund.

In addition, the Government of the Republic of the Philippines hereby guarantees the payment of employees' and employers' contributions and dividends to the members when they are due.

**SEC. 19.** *Administration Costs.* - The Fund shall bear the costs of its administration and development, in such amounts and/or limits as the Board of Trustees may deem appropriate, but not exceeding two percent (2%) of the Net Fund Assets of the previous year, excluding operating cost directly relating to the lending operations of the Fund.

**SEC. 20.** *Audit.* The Chairman of the Commission on Audit shall act as the *ex-officio* auditor of the Fund and, accordingly, is empowered to appoint a representative and other subordinate personnel to perform and report on such audit duties, responsible to and removable only by the Commission on Audit Chairman, without prejudice, however, to the power of

the Board of Trustees to contract for another mode of independent audit service, subject to the concurrence by the Commission on Audit as provided for under Presidential Decree No. 1445.

**SEC. 21.** *Remittance of Contributions.* - (a) It shall be the duty of every employer, private or public, to set aside and remit the contributions required under this Act in accordance with a mechanism determined by the Board of Trustees.

(b) Every employer required to set aside and remit such contributions as prescribed under this Act shall be liable for their payment, and non-payment shall further subject the employer to a penalty of three percent (3%) per month of the amounts payable from the date the contributions fall due until paid.

(c) It shall be mandatory and compulsory for all government instrumentalities, agencies, including government-owned and controlled corporations to provide the payment of contributions in their annual appropriations. Penal sanctions shall be imposed upon these employers who fail to include the payment of contributions in their annual appropriations or otherwise fail to remit the accurate/exact amount of contributions on time, or delay the remittance of the required contributions to the Fund. The heads of offices and agencies shall be administratively liable for non-remittance of the required contributions to the Fund.

(d) Failure or refusal of the employer to pay or to remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits under this Act.

(e) The contributions under this Act, in cases where an employer refuses or neglects to pay the same, shall be collected by the Fund in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended.

The right to institute the necessary action against the employer may be commenced within twenty (20) years from the time delinquency is known or the assessment is made by the Fund, or from the time the benefit accrues, as the case may be.

**SEC. 22.** *Employment Records and Reports.* - (a) Each employer shall immediately report to the Fund the names, ages, civil status, occupations, salaries and dependents of and its covered employees.

(b) Every employer shall keep true and accurate work records for such period and containing such information as the Fund may prescribe, in addition to the annual register of new and separated employees which shall be secured from the Fund, wherein the employer shall enter on the first day of employment or on the effective date of separation, the names of the persons employed or separated from employment, and such other data that the Fund may require, and said annual register shall be submitted to the Fund in the month of January of each year. Such record shall be open for

inspection by the Fund or its authorized representatives quarterly, or as often as the Fund may require.

**SEC. 23**. *Penal Provisions.* - Refusal or failure without lawful cause or with fraudulent intent to comply with the provisions of this Act, as well as the implementing rules and regulations adopted by the Board of Trustees, particularly with respect to registration of employees, collection and remittance of employee savings as well as employer counterparts or the correct amount due, within the time set in the implementing rules and regulations or specific call or extension made by the Fund Management, shall constitute an offense punishable by a fine of not less than, but not more than twice, the amount involved or imprisonment of not more than six (6) years, or both such fine and imprisonment, in the discretion of the Court, apart from the civil liabilities and/or obligations of the offender or delinquent. When the offender is a corporation, the penalty shall be imposed upon the members of the governing board and the President or General Manager, without prejudice to the prosecution of related offenses under the Revised Penal Code and other laws, revocation and denial of operating rights and privileges in the Philippines, and deportation when the offender is a foreigner. In case of government instrumentalities, agencies or corporations, the treasurer, finance officer, cashier, disbursing officer, budget officer or other official or employee who fails to include in the annual budget the amount corresponding to the employers contributions, or who fails or

refuses or delays by more than thirty (30) days from the time such amount becomes due and demandable or to deduct the monthly contributions of the employee shall, upon conviction by final judgment, suffer the penalties of imprisonment from six (6) years, and a fine of not less than, but not more than twice the amount involved.

**SEC. 24**. *Visitorial and Enforcement Powers.* - The Fund or its duly authorized representative is empowered to inspect the premises, books of accounts and records of any person or entity covered by this Act, require the regular submission of reports, and act on violations of any provision of this Act.

**SEC. 25.** *Mortgagor Insurance Account.* - (a) As part of its investment operations, the Fund shall act as insurer of all or part of its interest on properties mortgaged to the Fund, or lives of mortgagors whose properties are mortgaged to the Fund. For this purpose, the Fund shall establish a separate account to be known as the "Mortgagors' Insurance Account". All amounts received by the Fund in connection with the aforesaid insurance operations shall be placed in the Mortgagors' Insurance Account. The assets and liabilities of the Mortgagors' Insurance Account shall at all times be clearly identifiable and distinguishable from the assets and liabilities in all other accounts of the Fund. Notwithstanding any provision of law to the contrary, the assets held in the Mortgagors' Insurance Account shall not be chargeable with the liabilities arising out of any other business

the Fund may conduct but shall be held and applied exclusively for the benefit of the owners or beneficiaries of the insurance contracts issued by the Fund under this paragraph.

(b) The Fund may insure any of its interest or part thereof with any private company or reinsurer. The Insurance Commission or its authorized representatives shall make an examination into the financial condition and methods of transacting business of the Fund at least once in two (2) years, but such examination shall be limited to the insurance operation of the Fund as authorized under this paragraph and shall not embrace the other operations of the Fund; and the report of said examination shall be submitted to the Commission and a copy thereof shall be furnished the Office of the President of the Philippines within a reasonable time after the close of the examination: *Provided,* That for each examination, the Fund shall pay to the Insurance Commission an amount equal to the actual expenses of the Insurance Commission in the conduct of the examination: *Provided, further,* That the general law on insurance and the rules and regulations promulgated thereunder shall have suppletory application insofar as it is not in conflict with this Act and its rules and regulations.

**SEC. 26.** *Implementing Rules and Regulations.* - The implementing rules and regulations to effectively carry out the provisions of this Act shall be adopted by and promulgated by the Board of Trustees of the Home

Development Mutual Fund not later than ninety (90) days after the approval of this Act.

**SEC. 27.** *Sunset Provisions.* - Every three (3) years after the effectivity of this Act, the Congress shall conduct a "sunset review" of the Fund which shall entail systemtic evaluation of the Fund to determine whether or not the Fund's performance, impact or accomplishments with respect to its objectives or goals, the Fund merits continued existence. Such review shall be undertaken by the Committee on Government Corporations and Public Enterprise of the Senate and the Committee on Government Enterprises and Privatization of the House of Representatives which have legislative jurisdiction over the Fund.

**SEC. 28.** *Separability Clause.* - If for any reason, any provision of this Act, or the application thereof to any person or circumstances, is held invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in full force and effect.

**SEC. 29.** *Repealing Clause.* - Presidential Decree No. 1752, as amended by Executive Order Nos. 35 and 90 and Republic Act No. 7742 are hereby repealed. All other laws, decrees, executive orders, or rules and regulations, or parts thereof, inconsistent with or contrary to the provisions of this Act or its purposes are hereby amended or modified accordingly.

**SEC. 30.** *Effectivity.* - This Act shall take effect fifteen (15) days after the completion of its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

*Approved,*