Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HB NO. 1412

Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

This bill seeks to institutionalize the Personal Equity and Retirement Account (PERA) for all public and private employees in order to promote among them positive attitudes toward savings for their retirement years.

Retirement is a particular stage in every employee's life when he/she is suppose to find all the time to relax and enjoy the pleasure of having the convenience of time oneself and one's family, away from the pleasure of daily work. However, the absence of a dependable retirement plan could give one more insecurities, dilemma to the retiring employee rather than comfort, leisure and security.

Let us consider the following 1998 data from the National Statistical Information Center. Out of the 73,131,000 Filipinos, only 1.25 million are covered by GSIS Funds, 19 million are members of the SSS and approximately 4 million are covered by the Pag-IBIG Fund. This makes around 24.5 million Filipinos to have some kind of a retirement plan. However, with this number of Filipinos enjoying such retirement benefit plan, there are still a number of millions left problematic after finally leaving their respective workplaces for retirement.

Given this, several efforts both from the private and public sectors have been initiated to increase the general public's awareness and understanding on the significance of thriftiness and saving (in any investment possible). The government's responsibility now is to strengthen and expand such efforts in order to bring sustainable security for everyone. It is always a best policy to save and plan— to prepare for the worst and for the future ahead.

While the proposed institutionalization of PERA will ultimately achieve a comfortable and financially-secure retirement through a sound investment and planning scheme, it will likewise benefit a significant number of our workforce who are neither members of government-initiated insurance funds. Because certain contributions to the savings funds are deductible from the taxable income, and earnings of such savings are sheltered from taxation as they grow and are taxed upon their withdrawal from PERA, such scheme will encourage more people to save. Besides, one can take out or withdraw his/her money or a portion of his/her savings with a minimum inconvenience in case of an emergency unlike pension

scheme wherein one's money is locked in and rendered practically inaccessible for urgent and unprecedented necessities.

With the aforementioned premises, approval of this bill is earnestly sought.

ROSELLER L. BARINAGA
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines)
Thirteenth Congress)
First Regular Session)

HOUSE OF REPRESENTATIVES

HB NO. 1412

Introduced by **Rep. Roseller L. Barinaga**

AN ACT
TO ESTABLISH A PROVIDENT PERSONAL SAVINGS PLAN KNOWN AS THE "PERSONAL EQUITY AND RETIREMENT ACCOUNT"

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 "Personal Equity and Retirement Account (PERA) Act of 2004".

SEC. 2. *Declaration of Policies*. It is declared the policy of the State to promote and encourage individual and personal savings, investments and retirement plans supported by government incentives.

SEC. 3. *Definition of Terms*. For purposes of this Act, the following terms are defined as follow:

a) ***Retirement Account*** or the ***Trust*** refers to the trust created or organized by an individual, known as "trustor", for his exclusive use and benefit upon and during his retirement, in which said trustor retains only the equitable ownership of the funds he deposits therein as savings, as well as in the income thereof from investments of said fund;

b) ***Trustee*** is a bank accredited by the Bangko Sentral ng Pilipinas (BSP) designated by the trustor to administer and manage the retirement account and hold legal title to the trust until the retirement of the trustor or the termination of the trust as provided in this Act;

c) ***Trustor*** is the contributor or depositor to the fund creating or organizing a retirement account, as well as the funds annually or regularly increasing and augmenting the deposited capital as authorized under this Act;

d) ***Year*** means every taxable year under the National Internal Revenue Code;

e) ***Notify*** means to send notice in writing;

f) ***Portfolio*** refers to the record or list of investments made by the trustee for and in behalf of the trustor;

g) ***Tax*** refers to the income tax as defined under the National Internal Revenue Code;

h) ***Penalty*** means the sum to be paid by the individual contributor for early withdrawals of any part of the account held by the trustee-bank;

i) ***Tax Code*** refers to the National Internal Revenue Code;

(j) ***Beneficiaries*** mean all the heirs and assigns who shall succeed to all the rights, under the law, acquired by the contributor in and through his retirement account.

SEC. 4. *Opening of Retirement Account.* An individual person of legal age may create, organize or open a retirement account with a trustee, or a bank accredited by the Bangko Sentral ng Pilipinas, with an initial deposit or contribution of not more than Twenty thousand pesos (P20,000.00).

A married couple may create, organize or open a joint retirement account with an initial deposit of not more than Forty thousand pesos (P40,000.00).

No individual or married couple may open a joint retirement account with an amount more than what is required under this Act.

SEC. 5. *Qualifying Investment Rules.* Funds deposited in a retirement account shall be qualified for investment only in —

(1) securities including ordinary shares of stocks, not being shares in an investment trust, issued by a company which is incorporated in the Philippines and quoted in the official list of a recognized stock exchange in the Philippines or dealt in on the unlisted securities market; or

(2) cash which the trustee is entitled to hold for investment under the rules of the account.

SEC. 6. *General Investment Rules.* Investment of funds held in the retirement account shall observe the following rules:

(1) All transactions, whether by way of sale, purchase or otherwise, handled by either the trustor himself or the trustee-bank, shall be made at the price which those investments might reasonably be expected to fetch in the open market;

(2) Investment made by a trustor shall be supervised by the trustee;

(3) A trustor's cash contribution and any other cash by way of interest, income and others held by the trustee shall be held in pesos and other legal tender in the Philippines and deposited in the account of the trustor;

(4) The trustee shall account for any amount representing income, penalties and taxes applicable on the contribution of the trustor in accordance with the provisions of this Act and the National Internal Revenue Code;

(5) Investments may be made only by way of cash or shares of stocks;

(6) An investment portfolio shall be presented to the trustor by the trustee whenever necessary;

(7) No part of the trust fund shall be invested in life insurance contracts; and

(8) The trustee shall notify the trustor of every investment made and income earned on the latter's behalf.

SEC. 7. *Maximum Annual Contributions.* The maximum annual contribution or deposit of capital to a retirement account shall in no case be more than Twenty thousand pesos (P20,000.00) in the case of an individual trustor or Forty thousand pesos (P40,000.00) in the case of a married couple.

SEC. 8. *Income Tax Deductibility.* The contributions made per taxable year shall be One hundred percent (100%) deductible from the taxable income if they fall within any of the following qualifications:

(1) An individual member or any or both of the working spouses are not covered by an employer-sponsored retirement;

(2) Both spouses are covered by an employer-sponsored retirement plan, but their joint adjusted gross income is Three hundred thousand pesos (P300,000.00) or less and One hundred fifty thousand pesos (P150,000.00) for individuals; and

(3) Only one spouse is covered by employer-sponsored retirement plan but the combined adjusted gross income is not more than Three hundred thousand pesos (P300,000.00).

SEC. 9. *Benefits Upon Retirement.* No tax shall be imposed and collected from funds withdrawn from a retirement account created or opened at least five (5) years earlier by any trustor who has reached the age of fifty-five (55) years.

All interest of a trustor in a retirement account and/or funds withdrawn from said account shall not be subject to levy on attachment or execution as security or for the satisfaction of any judgment against the trustor or his spouse.

SEC. 10. *Tax on Early Withdrawals.* If any withdrawal is made from a retirement account before the retirement benefits vests in favor of a trustor as aforestated, a tax equivalent to twenty percent (20%) of the amount withdrawn if part of the income of the retirement account, or ten percent (10%) of the amount withdrawn if part of the principal amount deposited, shall be imposed on the withdrawal: *Provided,* That no tax shall be imposed on any withdrawal of any fund –

(1) used toward the purchase of a first family home for the trustor himself or for any member of his immediate family;

(2) used to pay for certain qualified college expenses;

(3) used to pay for medical expenses;

(4) for a trustor who has been disabled or otherwise become physically incapacitated to earn income for his subsistence; and

(5) the member has become unemployed for a period of at least three (3) months and uses the money to put up capital for small business.

SEC. 11. *Separability Clause.* If any part or provision of this Act is declared unconstitutional, the remaining parts or provisions not affected thereby, shall remain in full force and effect.

SEC. 12. *Repealing Clause.* Any law, decree, order, rules and regulations or part thereof which is inconsistent with this Act is hereby repealed or modified accordingly.

SEC. 13. *Effectivity Clause.* This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines, whichever comes earlier.

Approved.