

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Thirteenth Congress

Second Regular Session

House Bill No. 5425



Introduced by Representative Eduardo C. Zialcita, Rodante D. Marcoleta,
Jose G. Solis, and Robert B. Jaworski, Jr.

EXPLANATORY NOTE

Through the years, the Home Guaranty Corporation (HGC) has proven to be one of the country's most resilient guaranty institutions for shelter. It has withstood previous national financial crises and continues to play a prime role in the government's efforts to address the national shelter backlog of 3.5 million units.

Congress responded to the need to strengthen the institution with the passage of RA 8763 or the Home Guaranty Corporation Act of 2000. Today at a time when the country's economy is on the upswing and housing efforts can therefore be increased and intensified, certain major amendments must be made in the said law to preserve the gains earned thus far and make the new law attuned to the upbeat trend in housing.

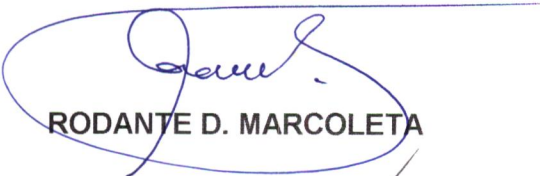
Offhand, an amendment in its charter is necessary to increase its resource utilization for socialized housing from forty percent (40%) to sixty percent (60%).

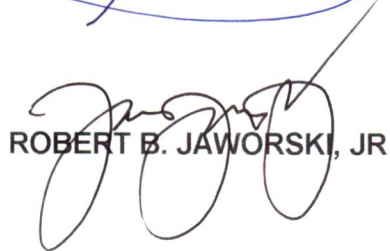
Low-cost housing serves a greater expanse of the population; hence it must have a greater increase --- that is from thirty percent (30%) to sixty percent (60%) of the corporation's current net worth.

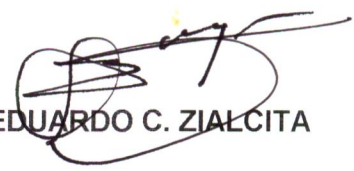
Resource utilization for the more expensive medium-cost and open housing will also be increased from the current twenty percent (20%) and ten percent (10%) respectively, to forty percent (40%).

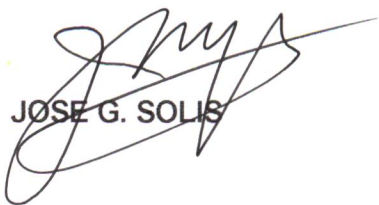
These and other remedial amendments are necessary to boost the operational capability of the HGC without compromising existing finance laws and regulations. The salient amendments ensure this by requiring the concurrence of the Department of Finance at several provisions in the measure.

The aforementioned and the important features of the bill vis-à-vis the current state of housing thus necessitate that its approval be earnestly sought.


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Republic of the Philippines
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13th CONGRESS

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House Bill No. 5425

Introduced by Reps. Eduardo C. Zialcita, Rodante D. Marcoleta, Jose G. Solis, and Robert B. Jaworski Jr.

**AN ACT TO STRENGTHEN THE HOME GUARANTY CORPORATION (HGC)
FOR MASS HOUSING ENDEAVORS, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 8763 OTHERWISE KNOWN AS THE
GUARANTY CORPORATION ACT OF 2000, AND FOR OTHER PURPOSES**

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

Section 1. For purposes of this Act and in order to strengthen the Home Guaranty Corporation for mass housing endeavors, the following provisions of Republic Act No. 8763 otherwise known as the "Home Guaranty Corporation Act of 2000" are hereby amended:

(a) Paragraphs d and g of Section 5 are hereby amended to read as follows:

"SEC. 5. *Corporate Powers and Functions.* – The Corporation, in addition to the regular powers and functions provided under Section 36 of the Corporation Code, shall have the following powers and functions, subject to the limitations hereinafter provided:

(a) x x x

(b) x x x

(c) x x x

d) To pursue AND STRENGTHEN the development and sustainability of a secondary mortgage market for housing as the primary strategy to encourage private sector participation in housing finance. The Corporation shall undertake such programs and measures using the guaranty cover as enhancement to encourage trading by the public in a secondary market for housing mortgages, bonds, debentures, notes and securities;

e) x x x

f) x x x

g) TO COMPROMISE, RELEASE, CONDONE OR SETTLE IN WHOLE OR IN PART, ANY CLAIM, INTEREST OR CIVIL LIABILITY FOR OR AGAINST THE CORPORATION.

x x x

(b) Section 6 is hereby amended to read as follows:

"SEC. 6. *Authorized Capital Stock.* - The Corporation shall have an authorized capital stock of Fifty Billion Pesos (P50,000,000,000.00) divided into Fifty Million (P50,000,000) shares of common stock with a par value of One Thousand Pesos (P1,000.00) per share.

Out of the increase in its authorized capital stock of Forty-seven Billion Five Hundred Million Pesos (P47,500,000,000.00) the amount of Seven Billion Five Hundred Million Pesos (P7,500,000,000.00) shall be subscribed and paid in cash by the Government of the Republic of the Philippines upon the approval of this Act, and accordingly the said amount of Seven Billion Five Hundred Million Pesos (P7,500,000,000.00) is hereby appropriated out of the funds of the National Treasury not otherwise appropriated. Succeeding National Government equity to the Corporation shall be included in the annual General Appropriations Act.

~~[No portion of the authorized capital stock of the Corporation shall accrue to any agency or instrumentality of the National Government, including government owned or controlled corporations.]~~

THE AUTHORIZED CAPITAL STOCK OF THE CORPORATION SHALL BE DIVIDED INTO:

(a) THIRTY THREE MILLION FIVE HUNDRED THOUSAND (33,500,000) SHARES AT ONE THOUSAND PESOS (P1,000.00) PER SHARE OR AT LEAST SIXTY SEVEN PERCENT (67%) SHALL BE SUBSCRIBED BY THE NATIONAL GOVERNMENT.

(b) SIXTEEN MILLION FIVE HUNDRED THOUSAND (16,500,000) SHARES AT ONE THOUSAND PESOS (P1,000.00) PER SHARE OR THIRTY THREE PERCENT (33%) SHALL BE OFFERED TO PRIVATE INVESTORS.

SHARES TO BE DIVESTED TO THE INVESTING PUBLIC SHALL INCLUDE SHARES OF STOCKS THAT MAY BE ISSUED BY THE CORPORATION TO CERTAIN GOVERNMENT FINANCIAL INSTITUTIONS IN PAYMENT OF ITS GUARANTY OBLIGATIONS. HGC MAY LIKEWISE UNDERTAKE WHATEVER IS NECESSARY, AFTER CLEARANCE WITH THE DEPARTMENT OF FINANCE AND APPROVAL BY THE PRESIDENT OF THE REPUBLIC, TO ENSURE THE PROPER SALE OR DISTRIBUTION OF SAID SHARES.

COMMON SHARES HELD BY THE GOVERNMENT MAY BE OFFERED FOR SUBSCRIPTION TO PRIVATE INVESTORS: *PROVIDED*, THAT THE NATIONAL GOVERNMENT SHALL STILL MAINTAIN MAJORITY CONTROL AND OWNERSHIP OVER THE SAID CORPORATION AT FIFTY ONE PERCENT (51%) OF THE TOTAL AUTHORIZED CAPITAL STOCK AND IF DIVESTMENT OF SUCH SHARES IS DEEMED ADVANTAGEOUS TO THE GOVERNMENT, AS APPROVED BY THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES UPON THE RECOMMENDATION OF THE DEPARTMENT OF FINANCE.

(c) Section 7 is hereby amended to read as follows:

"SEC. 7. *Use of Net Worth.* – The use of the net worth of the Corporation shall be subject to the following limitations:

(a) At least ~~[forty percent (40%)]~~ SIXTY PERCENT (60%) shall be allocated exclusively for socialized AND LOW-COST HOUSING, to be distributed equitably among all the regions, to the extent practicable; AND

(b) At ~~[least thirty percent (30%)]~~ MOST FORTY PERCENT (40%) shall be allocated exclusively for ~~[low-cost housing]~~ MEDIUM COST AND OPEN HOUSING, to be distributed equitably among all regions, to the extent practicable.

~~[(c.) At least twenty percent (20%) shall be allocated exclusively for medium cost housing, to be distributed equitably among all the regions, to the extent practicable; and]~~

~~[(d.) Not more than ten percent (10%) may be allocated for open housing.]~~

~~[Investments, if any, by the Corporation in any establishment or enterprise, whether public or private, shall be subjected to the same limitation, herein provided as well as those specified in Chapter III of this Act.]~~

FOR THE FOREGOING PURPOSE, THE RESPECTIVE CEILINGS FOR SOCIALIZED, LOW-COST, MEDIUM-COST, AND OPEN HOUSING SHALL BE JOINTLY DETERMINED BY THE HOUSING AND URBAN DEVELOPMENT COORDINATING COUNCIL AND THE NATIONAL ECONOMIC DEVELOPMENT AUTHORITY: *PROVIDED*, THAT AT ANY TIME, BUT NO MORE OFTEN THAN ONCE EVERY TWO (2) YEARS, SUCH CEILINGS MAY BE REVIEWED OR REVISED TO CONFORM TO PREVAILING ECONOMIC CONDITIONS.

(d) Paragraph e of Section 9 is hereby amended to read as follows:

"SEC. 9. *Powers, Functions and Duties of the Board of Directors.* – The Board shall have the following powers, functions and duties:

(a) x x x

(b) x x x

(c) x x x

(d) x x x

(e) To reorganize, create offices or positions necessary for the efficient management, operation and administration of the Corporation: *Provided*, That all positions in the Home Guaranty Corporation (HGC) shall be governed by a compensation and position classification system and qualifications standards approved by the Corporation's Board of directors based on a comprehensive job analysis and audit of actual duties and responsibilities; *Provided*

further, That the compensation plan shall be comparable with the prevailing compensation plans in the private sector and which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law, and from other laws, rules and regulations on salaries and compensations; and to establish a Provident Fund and determine the Corporation's and the employee's contribution to the Fund;

THE BOARD OF DIRECTORS MAY DESIGN AND ADOPT AN EARLY SEPARATION AND INCENTIVE PLAN AND/OR FINANCIAL ASSISTANCE FOR THE PURPOSE OF EARLY SEPARATION OF ITS OWN PERSONNEL. ALL THOSE WHO SHALL BE SEPARATED AS A RESULT OF REORGANIZATION / RESTRUCTURING SHALL BE ENTITLED TO SUCH INCENTIVES WHICH SHALL BE IN ADDITION TO ALL GRATUITIES AND BENEFITS TO WHICH THEY MAY BE ENTITLED UNDER EXISTING LAWS.

X X X

(e) Paragraph a of Section 14 is hereby amended to read as follows:

"SEC. 14. *Guaranty Premiums, Appraisal Fees and other Charges.* - (a) The Corporation shall fix in accordance with sound actuarial practice and the risk characteristics involved, the rates of guaranty premiums to be imposed: *Provided, however,* That no guaranty premium shall be fixed at less than ~~[one-half of one percent (1/2 of 1%)]~~ THREE FOURTHS OF ONE PERCENT ($\frac{3}{4}$ of 1 %) the amount of the outstanding principal obligation for socialized housing; ~~[three-fourths of one percent (3/4 of 1%)]~~ ONE PERCENT (1%) for low-cost housing; ~~[one percent (1%)]~~ ONE AND ONE FOURTH PERCENT ($1\frac{1}{4}$ %) for medium-cost housing; and ~~[one and one-half percent (1.5%)]~~ ONE AND THREE FOURTHS PERCENT ($1\frac{3}{4}$ %) for open housing. Such guaranty premiums shall be payable by the mortgagee or guaranteed entity, either in cash or in debentures issued by the Corporation at its present value, in such manner as may be prescribed by the Corporation at its present value, ~~in such manner as may be prescribed by the Corporation.~~ In addition, the Corporation may charge and collect from the mortgagee or guaranteed entity, such fees and amounts as may be reasonable to implement its guaranty programs.

X X X

(f) Paragraph a of Section 15 is hereby amended to read as follows:

SEC. 15. *Guaranty Coverage and Composition of Guaranteed Accounts* - (a) The Corporation shall guaranty payment of the balance outstanding due on the guaranteed principal obligation, plus interest and yields thereon ~~[up to eleven percent (11%) per annum for socialized housing packages; ten percent (10%) per annum for low-cost housing packages; nine and one-half percent (9.5%) per annum for medium-cost housing packages; and eight and one-half percent (8.5%) per annum for open housing packages;]~~ defined as the lower of the THREE HUNDRED SIXTY FOUR DAY (364) T-BILL RATE AT THE TIME OF PAYMENT AND THE MORTGAGE RATE OF THE CALLED ACCOUNT.

X X X

(g) Paragraphs e and f of Section 16 are hereby amended to read as follows:

"SEC. 16. *Guaranty Limitations* – Any and all guaranties issued by the Corporation shall be subject to the following limitations, anything, to the contrary notwithstanding:

(a) x x x

(b) x x x

(c) x x x

(d) x x x

(e) The Corporation shall set aside ~~[five percent (5%)]~~ A PERCENTAGE of its annual net operating revenues before interests as reserve or sinking fund to answer for guarantee calls. THE CORPORATION MAY ALSO SET UP OTHER TYPES OF RESERVES FROM TIME TO TIME AS DETERMINED BY THE BOARD AND BASED ON ACTUARIAL STUDIES FOR BETTER ASSET LIABILITY MANAGEMENT AND TO MEET ITS LIABILITIES OUTSTANDING AT ANY GIVEN TIME.

f) All rules and regulations on ceilings and limitations under this Act shall be subject to the ~~[concurrence of the Monetary Board of the Bangko Sentral ng Pilipinas]~~ APPROVAL OF THE BOARD OF DIRECTORS AND IN ACCORDANCE WITH SOUND ACTUARIAL PRINCIPLES.

(h) Paragraph e of Section 17 is hereby amended to be read as follows:

"SEC. 17. *Payment of Guaranty Calls*. – (a) x x x

(b) x x x

(c) x x x

(d) x x x

(e) If the net amount realized from the sale or disposition of any property conveyed to the Corporation and the claims assigned therewith, after deducting all expenses incurred by the Corporation in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value of the debentures issued and the cash paid in exchange for such property plus all interests paid on such debentures, such excess, AFTER DEDUCTING PROFITS THAT MAY BE DERIVED BY THE CORPORATION, IF ANY, IN THE DEVELOPMENT OR REHABILITATION OF THE PROPERTY, shall be paid to the mortgagor of the property.

IF THE VALUE OF THE PROPERTY AS DISPOSED IS LESS THAN ALL EXPENSES INCURRED BY THE CORPORATION IN HANDLING, DEALING WITH, AND DISPOSING OF SUCH PROPERTY AND IN COLLECTING SUCH CLAIMS, THE CORPORATION MAY RECOVER THE DEFICIENCY FROM THE BUYER OR MORTGAGOR OF THE PROPERTY.

- (i) Paragraph b of Section 18 is hereby amended to be read as follows:

SEC 18. *Guaranty of the Republic of the Philippines.* – (a) x x x

(b). The Republic of the Philippines hereby fully and unconditionally guaranties the guaranty obligations of the Corporation incurred in accordance with this Act ~~[both as to principal, and as to interest up to up to eleven percent (11%) for socialized housing, ten percent (10%) for low-cost housing, nine and one-half percent (9.5%) for medium-cost housing, and eight and one-half percent (8.5%) per annum for open housing]~~: *Provided*, That such guaranty shall be expressed on the face of the debenture bonds: *Provided, further*, That the aggregate amount of the outstanding obligations shall not, at any time, exceed twenty (20) times the capital and surplus of the Corporation.

- (j) Section 19 is hereby amended to be read as follows:

Section 19. *Tax Exemption.* – Interest and yields earned or accumulated on mortgage, debentures, debenture bonds, notes, mortgage and asset backed securities, interest under a lease, and other credit instruments, whether issued by the Corporation or covered by its guaranty in favor of natural or juridical persons, in cash or in bonds, shall be exempt from all taxation ~~[to the same extent provided in Section 15 (a) hereof]~~ UP TO ELEVEN PERCENT (11%) PER ANNUM FOR SOCIALIZED HOUSING PACKAGES; TEN PERCENT (10%) PER ANNUM FOR LOW-COST HOUSING PACKAGES; NINE AND ONE-HALF PERCENT (9.5%) PER ANNUM FOR MEDIUM COST HOUSING PACKAGES; AND EIGHT AND ONE HALF PERCENT (8.5%) PER ANNUM FOR OPEN HOUSING. *Provided, however*, That the Corporation shall have the authority to increase the limit of such exemption in such varying amounts as shall be reflective of the social concerns of the State: *Provided, further*, That the exercise of said authority shall be subject to the approval of the President of the Philippines upon the recommendation of the ~~[Monetary Board of the Bangko Sentral ng Pilipinas]~~ BOARD OF DIRECTORS OF THE CORPORATION: *Provided, finally*, That the Corporation shall not exercise such authority more than once every five (5) years.

- (k) Section 22 is hereby amended to read as follows:

SEC. 22. *Investment of Funds.* – Corporate funds not needed for the current operations of the Corporation, shall be deposited with any government bank as may be approved by the Board, or invested in bonds or other obligations guaranteed as to principal and interest by the Government. THE CORPORATION MAY INVEST IN OTHER SECURITIES SUBJECT TO APPROVAL OF THE BOARD OF DIRECTORS PROVIDED THAT INVESTMENTS SHALL SATISFY THE REQUIREMENTS OF LIQUIDITY, SAFETY/SECURITY AND YIELD IN ORDER TO ENSURE THE ACTUARIAL SOLVENCY OF THE FUNDS OF THE CORPORATION. The Corporation may purchase in the open market debentures issued under the provisions of this Act which debentures shall be cancelled and not re-issued.

(l) Paragraph l of Section 23 is hereby amended to read as follows:

Sec. 23 *Definitions* – As used in this Act, and unless the context otherwise requires, the term:

(a) x x x

(b) x x x

(c) x x x

(d) x x x

(e) x x x

(g) x x x

(h) x x x

(i) x x x

(j) x x x

(k) x x x

(l) "Open housing" refers to housing packages with cost above the medium-cost packages set in Section 15 of this Act [~~but in no case costing more than Five Million Pesos (P5,000,000.00)];~~

x x x

Section 2. There are hereby inserted two new sections after Section 26 under Chapter V on Miscellaneous Provisions which shall be designated as Sections 27 and 28, respectively, and which shall read as follows:

"SEC. 27. OTHER USES OF HGC INSTRUMENTS – TO IMPROVE THE MARKETABILITY AND TRADABILITY OF INSTRUMENTS ISSUED BY HGC, PROVIDE ADDITIONAL CREDIT ENHANCEMENT TO HGC GUARANTEED ACCOUNTS, AND TO ENABLE BANKS TO PROVIDE MORE FUNDS FOR SHELTER FINANCE, HGC DEBENTURE BONDS AND OTHER HGC ISSUED INSTRUMENTS ARE HEREBY RATIONALIZED AS:

(a) ALTERNATIVE COMPLIANCE BY THE BANKING SECTOR TO PD 717 OR THE AGRI-AGRA LAW REQUIREMENT BY THE BANGKO SENTRAL NG PILIPINAS;

(b) RESERVE FOR TRUST AND OTHER FIDUCIARY DUTIES BY THE BANKING SECTOR;

(c) REGULAR OR LIQUIDITY RESERVES OF THE BANKS;

(d) RESERVE INVESTMENTS AND ADMITTED ASSETS OF INSURANCE COMPANIES, AND;

(e) COMPLIANCE TO THE BALANCE HOUSING REQUIREMENT UNDER SECTION 18, R.A. 7279 OR THE URBAN DEVELOPMENT AND HOUSING ACT

SEC. 28. THE SUPERVISORY AND REGULATORY POWERS OF THE CORPORATION OVER BUILDING AND LOAN ASSOCIATIONS ARE TRANSFERRED TO THE SECURITIES AND EXCHANGE COMMISSION, WHICH SHALL ASSUME THE SAME.

The following sections shall be re-numbered accordingly.

Section 3. If for any reason any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in full force and effect.

Section 4. This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved.