

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

House Bill No. 274

Introduced by **HONORABLE JOSE C. DE VENECIA, JR.**

Explanatory Note

About 6.2 million Filipinos or 20% of the country's total labor force are not covered by any type of retirement plan. This segment of the population is deprived of the privilege of enjoying security in their retirement years. As of December 2000, only about 23.22 % of private or self-employed employees are members of the Social Security System (SSS) and another 1.7 million government workers are covered by the Government Service Insurance Funds administered by the Government Service and Insurance System (GSIS).

Savings accounts cannot be depended upon to provide financial security to those not covered by retirement plans. They barely make both ends meet, thus not able to save much. Moreover, retirement or pension plans being offered by pre-need companies are quite expensive and can only be afforded by high income earners. A savings scheme is needed to encourage the majority of Filipinos to save for their retirement years. The Personal Equity Retirement Account (PERA) is a form of savings scheme that will help improve the country's savings rate, which is one of the lowest in the region.

The bill provides that contributions made to PERA per taxable year shall be 100% deductible from the taxable income of the contributor, subject to certain conditions. This aims to encourage more people to invest their money in PERA. This scheme is similar to the US experience wherein savings of up to \$2000 in mutual fund are tax deductible as Individual Retirement Accounts (IRA). This paved the way for mutual funds in the US to reach \$2.5 trillion in 1996 from \$50 million in the 1970s prior to the IRA. In Singapore, employee contribution to the Central Provident Fund (CPF), which amounts to 25% of employee income, is also tax-free. The CPF not only serves as pension fund for Singaporeans but is also use by members for other purposes such as housing. The amount of the CPF allows the government to finance infrastructure projects such as roads, airports, seaports, mass transport, and high rise public housing.

Non-members of government insurance funds can avail of PERA. Those with very limited retirement plan options are especially targeted to invest in this scheme. Investors will be allowed to keep track of their funds and even directly manage their PERAs as an investment portfolio.

Through PERA, Filipinos can prepare for and enjoy their retirement years. The bill will also facilitate an increase in savings because funds deposited to the PERA can be invested in securities including ordinary shares of stock. It will also offer facilities to move funds to high investment levels and take advantage of prevailing market conditions. This means more funds will be available for investments to spur economic growth.

In view of the foregoing, immediate approval of this bill is requested.



JOSE C. DE VENEZIA, JR.

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AN ACT
ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN KNOWN AS
THE PERSONAL EQUITY AND RETIREMENT ACCOUNT

Be it enacted by the Senate and the 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, especially savings that are long term in nature.

SEC. 3. Definition of Terms. - As used in this Act, unless the context otherwise requires, the following terms shall have the following significance:

- a) **Retirement Account or the Trust** - 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 the income thereof from investments of said fund;
- b) **Trustee** - a bank or investment company 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** - 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** - every taxable year under the National Internal Revenue Code;
- e) **Notify** - send notice in writing;

- f) **Portfolio** - the record or list of investments made by the trustee for and in behalf of the trustor;
- g) **Tax** - the income tax as defined under the National Internal Revenue Code;
- h) **Penalty** - 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** - the National Internal Revenue Code; and
- j) **Beneficiaries** - 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 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 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 investments only in:

- a) 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
- b) 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:

- a) All transactions, whether by way of sale, purchase or otherwise, handled by either the trustor himself or the trustee-bank, shall be made price which those investments might reasonably be expected to fetch in the open market;
- b) Investments made by a trustor shall be supervised by the trustee;
- c) 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;
- d) 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 Tax Code;
- e) Investments may be made only by way of cash or shares of stocks;

- f) An investment portfolio shall be presented to the trustor by the trustee whenever necessary;
- g) No part of the trust fund shall be invested in life insurance contracts; and
- h) 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: An individual member or any or both of the working spouses are not covered by an employer-sponsored retirement;

- a) 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
- b) 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 judgement 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 vest in favor of a trustor as aforesaid, 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 -

- a) used toward the purchase of a first family home for the trustor himself or for any member of his immediate family;
- b) used to pay for certain qualified college expenses;
- c) used to pay for medical expenses;
- d) for a trustor who has been disabled or otherwise become physically incapacitated to earn income for his subsistence; and
- e) 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.* - All laws, decrees, orders, rules and regulations or parts thereof, inconsistent with this Act are hereby amended or modified accordingly.

SEC. 12. *Effectivity.* - This Act shall take effect fifteen (15) days following its publication in a newspaper of general circulation.

Approved,