

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 3562

Introduced by **Hon. Joseph Gilbert F. Violago**

EXPLANATORY NOTE

This proposed bill seeks to provide an OWWA Charter that shall govern the operation and administration of the Overseas Workers Welfare Administration (OWWA), the lead membership welfare institution that serves the interest and welfare of member-overseas Filipino workers (OFWs).

For many years now, the OWWA has been bombarded by questions and intrigues ranging from mismanagement to issues involving graft and corruption. Our overseas Filipino workers (OFWs) who have put their greater stakes through their monetary contributions must, thus, be assured that the hard-earned money they invested in OWWA shall only be spent only for programs and initiatives that will primarily and largely redound for their greater benefit and advancement.

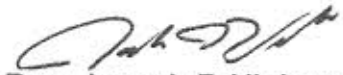
This deserves a more serious attention as they are our modern-day heroes whose labors have kept our national economy afloat despite the myriad threats and swings of the unpredictable global order. This concern is not irrelevant as, verily, the OWWA Funds deserve to be protected at all times---- as they are built on the sweat, tears and blood of millions of our OFWs.

Hence, OWWA's operation and administration has to be made more efficient, professionalized and consistent with the constitutional mandate of according a greater mantle of benefit, advancement and protection of our OFWs. Its delivery of welfare services must be made more effective and responsive, and the management of its funds must be more transparent and judicious.

It can only be done through the passage of the OWWA charter, and not by a prolonged maintenance of a string of policies, assembled through time, from May 1977 up to July 2005, which have no stability as it could be easily distorted, diluted, discontinued or dispensed at the mere whim or caprice of those holding the push and control buttons.

Absent a charter to which a clear roadmap could be assured will forever confine OWWA to an uncertain course, as there is neither a reliable compass nor a strong rudder to guide its voyage.

Urgent approval of this bill, therefore, is earnestly sought for the benefit and in the greater interests of nearly eight million OFWs.


Rep. Joseph F. Violago

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AN ACT
TO PROVIDE FOR A CHARTER TO GOVERN THE OPERATIONS AND ADMINISTRATION OF THE
OVERSEAS WORKERS WELFARE ADMINISTRATION (OWWA) AND FOR OTHER PURPOSES

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

Article I
Title, Policy And Objectives

SECTION 1. *Title.* This Act shall be known as the "OWWA Charter Act of 2011".

SEC. 2. *Declaration of Policy.* It is hereby declared the policy of the State to protect and promote the welfare of the overseas Filipino workers and to uplift the their respective families' social and economic well-being. Pursuant thereto, the State shall endeavor to further improve the operations of the Overseas Workers Welfare Administration (OWWA) and ensure that the benefits and programs it provides to its members are largely beneficial to them and responsive to their needs while at the same time ensuring the sound and judicious management and viability of its funds.

SEC. 3. *Scope.* This Act shall apply to all overseas Filipino workers, who are duly registered with the Philippine Overseas Employment Administration (POEA), and their beneficiaries in the Philippines.

Article II
Definitions

SEC. 4. *Definition of terms.* For purposes of this Act, the following terms shall mean:

a) *Bonafide OWWA Member* refers to any person who fulfills the conditions to be employed or engaged in a productive employment overseas of which he or she is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes or an installation located offshore or on high seas, and who has paid the required annual membership fee through the Philippine Overseas Employment Administration (POEA).

b) *Dependents* refer either of the following: (a) the legitimate spouse dependent for support upon the member or pensioner; (b) the legitimate, legitimated, legally adopted child, including the illegitimate child, who is unmarried, not gainfully employed, not over the age of majority, or is over the age of majority but incapacitated and incapable of self-support due to a mental or physical defect acquired prior to age of majority; and (c) the parents dependent upon the member for support;

c) *Compensation* refers to the basic pay or salary received by an employee, pursuant to his election/appointment, excluding per diems, bonuses, overtime pay, honoraria, allowances and any other emoluments received in addition to the basic pay which are not integrated into the basic pay under existing laws;

d) *Contribution* refers to the amount payable to the OWWA by a bonafide OFW and the employer in accordance with the provisions of this Act;

Article III **Contribution and Collection**

SEC. 5. *Registration of membership.* Registration/enrollment and recording of members shall be in accordance with the provisions of this Act. Enrollees must meet the following requirements in order to be considered bonafide members:

a) Those enrolling while within the country

1. have submitted properly accomplished enrollment form;
2. enrollment papers were processed thru POEA or its duly designated processing centers;
3. have paid corresponding premiums.

b) On the job-site

1. have submitted properly accomplished registration form to OWWA or its duly designated collection center;
2. have paid corresponding premiums.

All bonafide members shall be issued Official Receipt and OWWA E-Card upon payment of the required contribution. No extra charges shall be levied on bonafide members upon the issuance of the OWWA E-Card. The POEA and the OWWA are mandated to maintain an updated database of bonafide OFWs.

SEC. 6. *Effectivity of Membership.* Membership to the OWWA, either through the compulsory or voluntary coverages, shall be effective upon payment of membership contribution in the amount of Fifteen US Dollars (US \$ 15.00) or its equivalence in the current foreign exchange rates. Such membership shall be considered active until the expiration of the OFWs' existing employment contract.

In case of voluntary members who register on-site, membership coverage shall not exceed two (2) years.

The membership contribution shall be collected on a per contract basis.

SEC. 7. *Renewal of Membership.* Membership shall be renewed upon payment of contribution on contract renewal/issuance of new contract. In the case of voluntary membership, coverage shall be renewed upon payment of contribution of Fifteen US Dollars (US \$ 15.00) or its equivalence in the current foreign exchange rates.

SEC. 8. *Separation of Sea-based and Land-based Workers Contributions.* To effect a more efficient fund management between the two (2) sub-sectoral groups, the collection of membership contribution shall be accounted for in two (2) separate books of account.

SEC. 9. *Authorized Collecting Officers.* a) Membership contributions shall be collected by duly authorized OWWA Collecting Officers, deputized collecting officers or accredited agents. The collection of membership contributions shall be made at the Philippine Overseas Employment Administration (POEA) contract processing hub, OWWA regional and overseas offices, and other accredited collection centers.

Upon payment of OWWA membership contribution, the designated Collecting Officer shall issue an Official Receipt.

b) In case of voluntary members who register on-site, membership contributions shall be made directly to the OWWA Overseas Offices located in the various diplomatic stations or embassies or consulate offices of the Philippines.

Upon payment of OWWA membership contribution, the designated Collecting Officer shall issue an Official Receipt.

Article IV Other Provisions

SEC. 10. *Reportorial Requirements.* The Collecting Officer/deputized collecting officer, or the accredited collecting agent shall prepare and submit the required monthly reports to the OWWA Office in the Philippines.

SEC. 11. *Sanctions.* Handling of collections and deposits by Collection Officers shall be governed by the usual accounting and auditing rules. Corresponding administrative sanctions and other disciplinary measures shall be imposed, including recall from post/suspension/or separation from service.

SEC. 12. *Prohibition against discrimination on membership to the OWWA.* No bonafide OFW shall be denied admission to the OWWA by reason of age, gender, nationality, religious belief, or political opinion or affiliation. The OWWA shall take affirmative steps to enhance the access of overseas Filipinos and migrant Filipino workers to its programs and services.

Article V Composition, Honoraria and Powers and Responsibilities of the OWWA Board of Trustees

SEC. 13. *The OWWA Board of Trustees.* The administrative operation of the OWWA is vested in the Board of Trustees known as the "OWWA Board of Trustees" which is composed of the following:

- a) Secretary of Labor and Employment, as Chairperson;
- b) OWWA Administrator, as Vice Chairperson;
- c) Undersecretary for Labor & Employment, as Second Vice-Chairperson
- d) POEA Administrator;
- e) The Chairperson of the Senate Committee on Labor and Employment, as *ex officio* member;
- f) The Chairperson of the House Committee on Labor and Employment, as *ex officio* member;

g) A Representative from the management sector, who is selected from among the various associations of registered overseas placement and recruitment agencies based in the Philippines and nominated by the President, to serve for a term of two (2) years;

h) One (1) Land-based OFW Trustee, who has rendered at least five (5) years of productive employment overseas, selected and nominated by registered OFW organizations or associations, to serve for a term of two (2) years;

i) One (1) Sea-based OFW Trustee, who has rendered at least five (5) years of productive employment overseas, selected and nominated by registered OFW organizations or associations, to serve for a term of two (2) years;

j) One (1) Trustee from the OFW-women Sector, who has rendered at least five (5) years of productive employment overseas, selected and nominated by registered OFW organizations or associations, to serve for a term of two (2) years;

k) One (1) Trustee from the NGO sector, whose main advocacy is the protection and advancement of the rights and welfare of OFWs, selected and nominated by the NGOs, to serve for a term of two (2) years.

The Trustees holding office as members of the OWWA Board at the time of the effectivity of this Act shall continue to serve until the expiration of their term of appointments.

In case of vacancy in the OWWA Board of any appointive position, such vacancy shall be filled by the subsequent selection and nomination by the respective sector concerned.

The successor shall be chosen in the same manner as provided for the predecessor and such successor shall hold office for the unexpired term.

Members of the Board shall serve without compensation other than actual and necessary expenses incurred in attendance of meetings of the Board or other official business authorized by the Board.

SEC. 14. *Honoraria, per diem, and other emoluments.* The members of the OWWA Board shall not receive any compensation but shall be provided with honoraria, per diem, and other emoluments as may be allowed by accounting and auditing rules and procedures.

He/she shall also be entitled to reimbursements of personal expenses incurred during actual performance of his/her official functions. *(New)*

SEC. 15. *Responsibilities and Powers of the Board of Trustees.* The Board shall exercise the following specific powers and duties:

a) To define the thrusts of the OWWA and adopt broad policy guidelines to ensure their implementation;

b) To preserve the integrity of the OWWA Trust Fund;

c) To fix the membership fee and other necessary charges, as the Board may deem proper to impose;

d) To ensure the efficiency of collection and the viability and sustainability of the fund through sound and judicious investment and fund management policies;

e) To receive and appropriate all sums as may be provided by law for the support of the OWWA to the ends specified by law, and all other sums in the manner it may, in its discretion, determine to carry out the purposes and functions of the OWWA;

f) To authorize the construction or repair of its buildings, machinery, equipment and other facilities, and the purchase and acquisition of real and personal properties, including the necessary supplies, materials and equipment;

g) To receive in trust legacies, gifts and donations of real and personal property of all kinds and to administer and dispose the same when necessary for the benefit of the OWWA general membership and subject to the instructions of the donor, if any;

h) The provisions of law to the contrary notwithstanding, to authorize any of its Board member to travel abroad for certain specific purpose relative to his/her functions: *Provided*, That such travel is within the scope and functions of the mandate of OWWA, as prescribed herein;

i) To exercise the general powers set out in the Corporation Code;

j) To delegate any of its powers to the Chairperson of the OWWA Board or any other officials or officers as it may deem necessary;

k) To prescribe such general policies, rules and regulations, not contrary to law, as are consistent with the purposes of the OWWA; and

l) To exercise such powers as may be proper and necessary to carry out the objectives of this Act.

Article VI

Meetings, Proxies, and Records Management

SEC. 16. *Schedule of Meetings and Quorum of the Board of Trustees.* The regular meetings of the Board shall be held every last Friday of the month. If a change of date becomes necessary, the same shall be held at the most convenient time set by the Board.

Special Board meetings and executive meetings may be scheduled as the need arises. A simple majority of all members of the Board holding office at the time the meeting is called shall constitute a quorum.

The Board Secretary shall distribute to all members of the Board the notice of meeting together with the discussion materials at least three (3) working days prior to the scheduled meeting.

SEC. 17. *Attendance of Proxies.* Members of the Board may designate their permanent alternate representative in writing subject to the acceptance of the Board. The designated alternate shall have voting rights. His decision shall be deemed the decision of his/her principal.

The alternate representative cannot further delegate such representation. However, in the event that the member and his permanent alternate representative are absent, any representative sent shall be on observer status.

SEC. 18. *Procedures in the Board.* All decisions of the Board shall be expressed in the form of Resolutions signed by all members present. The Resolution shall be sequentially numbered and dated. Resolutions may be modified or superseded by another resolution.

Resolutions shall take effect upon adoption and signing by the members present, subject to requisite publication.

SEC. 19. *Records Management and Archiving of Board Documents.* The Board Secretary shall ensure a thorough recording of all proceedings during a Board meeting. The minutes of the previous meeting shall be made available for approval during the scheduled Board Meeting.

The Minutes of the Meeting shall basically contain the attendance, business arising from the minutes, major agreements reached, corresponding resolutions, and other items noted or discussed, and instructions issued by the Board.

All minutes, tapes, and other documents pertaining to the business of the Board shall be kept and archived pursuant to standard records management systems and procedures and shall be made open to public at any time.

Article VII Presiding Officer and Secretariat

SEC. 20. *The Secretary of DOLE.* The Secretary of the DOLE is the *ex officio* chairperson of the OWWA Board. As such, he/she shall exercise the powers specifically provided for in this Act, those determined by the Board, and those which are related or necessary to its functions.

The Chairperson of the OWWA Board shall preside over meetings of the Board. In the absence of the Chair, a duly designated representative, with a rank of an Undersecretary, shall preside. The Administrator acts as the Vice Chairman.

The Chairperson of the OWWA Board shall not receive any compensation but shall be provided with honoraria, per diem, and other emoluments as may be allowed by accounting and auditing rules and procedures. He/she shall also be entitled to reimbursements of personal expenses incurred during actual performance of his/her official functions.

SEC. 21. *The OWWA Secretariat and of the Board of Trustees.* The OWWA Secretariat shall also function as the Secretariat of the Board. As such, it shall keep records of the OWWA Board as may be designated. As the OWWA Secretariat, the Secretariat shall likewise function as the implementing arm of OWWA.

SEC. 22. *Duties and Responsibilities of the OWWA Secretariat.* The OWWA Secretariat shall perform and assume the following duties and responsibilities:

- a) To manage programs and the delivery of welfare services locally and overseas to its members, supported by advocacy and information programs;
- b) To implement Board policies on investment and fund management;
- c) To formulate medium term development plans responsive to the welfare, needs and demands of member-OFWs;
- d) To submit work and financial plans for Board consideration;

- e) To provide policy analyses and recommendations for Board consideration;
- f) To conduct continuing researches and studies, including impact evaluation, in aid of policy and program development;
- g) To regularly monitor and conduct assessment and evaluation of organizational performance;
- h) To establish and maintain an on line management information system, to include database on membership;
- i) To establish and maintain linkages and networks with local and international social and institutional partners;
- j) To conduct annual planning, budgeting and organizational performance assessment and render the report to the Board.
- j) To submit written quarterly reports on the assessment, and evaluation of programs, projects and services and such other reports as may be required by the Board;
- k) To render annual report to the President;
- l) Undertake the periodic review of programs, standards, thrusts and policies;
- m) To perform other functions as may be instructed by the Board; and
- n) Adopt internal rules of procedure consistent with the provisions of this Act. (*Overhauled; New*)

Article VIII The Administrator

SEC. 23. *The OWWA Administrator.* The administration of the OWWA is vested in the Administrator insofar as authorized by the Board and the Secretary of DOLE. As the Chief Executive Officer of the Secretariat, the administrator administers the overall operations of the Secretariat. He exercises general supervision and control of all its personnel and resources, and assumes full responsibility and accountability thereof.

The Administrator of the OWWA shall be nominated by the President. The Administrator shall report to the President through Secretary of DOLE, and shall perform the duties and functions elsewhere stated in this Act, and all the usual, necessary and related functions of the office of the administrator, subject to the policies and rules prescribed by the Board. The Board shall determine the term and compensation of the Administrator.

SEC. 24. *The Deputy Administrators.* Two Deputy Administrator shall assist the Administrator in the administration and supervision of operations. The Board may assign specific functional responsibilities to the Deputy Administrator.

Article IX Personnel and Staffing Pattern

SEC. 25. *New Structure and Pattern.* (a) Upon effectivity of this Act, the officers and employees of the OWWA shall, in a holdover capacity, continue to perform their respective duties and responsibilities and receive the corresponding salaries and benefits unless in the meantime they are separated from the service. The new

structure and staffing pattern for the OWWA shall be approved and prescribed by the OWWA Board, not later than one (1) year from the effectivity of this Act and the authorized staff positions created thereunder shall be filled with regular appointments by the OWWA Board. (New)

(b) Those incumbents whose positions are not included therein or who are not reappointed shall be deemed separated from the service. Those separated from the service shall receive the retirement benefits to which they may be entitled under existing laws, rules and regulations. Otherwise, they shall be paid the equivalent of one-and-a-half month salary for every year of service, or fraction thereof, computed on the basis of the highest salary received, but in no case shall such payment exceed the equivalent of twelve (12) months salary.

SEC. 26. *Qualifications Upgrading Program.* Pursuant to the provision of paragraph (1) of the immediately preceding section, the OWWA Board shall design and establish a qualifications upgrading program for the staffing of the OWWA, in coordination with the DOLE and the Civil Service Commission (CSC), within one hundred twenty (120) days from the effectivity of this Act: *Provided*, That those who are already in the service from the effectivity of this Act shall have not later than five (5) years to obtain the required academic degree and/or qualification counted from the implementation of the qualifications upgrading program: *Provided, further*, That those who are already in the service from the effectivity of this Act shall have not later than one (1) year to obtain the necessary CSC qualification required for the position they are currently holding.

SEC. 27. *Authority of the Board to Reorganize the Administration.* Notwithstanding the provisions of existing law, the OWWA Board shall conduct a management audit, and prepare and submit to Congress a proposed reorganization plan of the OWWA not later than one (1) year, subject to the limitations provided under this Act and based on the following criteria:

a) increased OWWA visibility from the head office to the various regional offices and by the appointment and assignment of personnel to positions which are purely administrative, technical, clerical or menial in nature and other positions which are not actually and directly related to its operation and administration; and

b) efficient and optimized delivery of OWWA services to the OFWs and their respective families.

SEC. 28. *General qualifications for appointment.* No person shall be appointed as staff or personnel of the OWWA unless he/she possesses the following minimum qualifications:

a) a citizen of the Philippines;

b) a person of good moral conduct;

c) must have passed the psychiatric/ psychological, drug and physical tests to be administered by the PNP-accredited government hospital for the purpose of determining physical and mental health;

d) must possess a formal baccalaureate degree from a recognized institution of learning;

e) must be eligible in accordance with the standards set by the OWWA Board;

f) must not have been dishonorably discharged from any private employment or dismissed for cause from any civilian, police or military position in the government; and

g) must not have been convicted by final judgment of an offense or crime involving moral turpitude.

SEC. 29. Adherence to Attrition Law. Pursuant to the provisions of Republic Act No. 7430, otherwise known as the Attrition Law, which gives highest priority to measures that promote morale, efficiency, integrity, responsiveness, progressiveness and the optimum utilization of personnel in the civil service, no appointment shall be made to fill vacated positions at the OWWA as a result of the implementation of this Act or as a result of resignation, retirement, dismissal, death or transfer to another office of an officer or employee within five (5) years from the effectivity of this Act: *Provided, however,* That this prohibition shall not apply in the following instances:

- (a) Where the position is head of a primary organic unit such as chief of division;
- (b) Where the position is the lone position in the organizational unit and it corresponds to a particular expertise that is intrinsic to the desired basic capability of the unit concerned;
- (c) Where the positions are basic positions for the initial operations or where the positions are vital and necessary for the continued and efficient operation of said agencies;
- (d) Where the positions are difficult to fill considering the qualifications required therefor;
- (e) Appointments or designations extended by the President; and
- (f) Where the replacement come from existing employees. *Provided, further,* That exemptions from this prohibition shall require authorization by the OWWA Board and concurred by the CSC: *Provided, finally,* That no appointment shall be issued by the appointing authority nor approved by the Civil Service Commission without said authorization. Appointments made in violation of this Act shall be null and void. (New)

SEC. 30. Rationalized Promotion System. Within one (1) year after the effectivity of this Act, the OWWA Board shall establish a system of promotion for OWWA personnel and staff which shall be based on merits and on the availability of vacant positions in the OWWA staffing pattern. Such system shall be gender fair and shall ensure that women personnel shall enjoy equal opportunity for promotion.

SEC. 31. Status of Personnel and Staff. The personnel and staff of the OWWA shall be considered employees of the OWWA as a government-controlled institution and shall draw their salaries therefrom. They shall have the same salary grade level as that prescribed in the Salary Standardization Law: *Provided,* That they may be paid financial incentive by the OWWA Regional Office concerned subject to the availability of funds. (New)

SEC. 32. Early Retirement Program. Within three (3) years after the effectivity of this Act, any OWWA personnel and staff may retire and be paid separation benefits corresponding to one-and-a-half month salary for every year of service, or fraction thereof, computed on the basis of the highest salary received, but in no case shall such payment exceed the equivalent of twelve (12) months salary subject to the following conditions:

- a) that, at the time when a personnel or staff applies for retirement, he/she has already rendered at least ten (10) years of continuous service at the OWWA;
- b) the applicant is not scheduled for separation or retirement from the OWWA service due to the attrition system or separation for cause;
- c) the applicant has no pending administrative or criminal case; and
- d) the applicant has at least three (3) more years in the service before reaching the compulsory retirement age and at least a year before his/her maximum tenure in position.

SEC. 33. *Rationalization of Retirement and Separation Benefits.* The OWWA Board shall formulate a rationalized retirement and separation benefits schedule and program within one (1) year from the effectivity of this Act for approval by Congress: *Provided*, That the approved schedule and program shall have retroactive effect in favor of personnel or staff and officers retired or separated from the time specified in the law, unless the retirement or separation is for cause and the decision denies the grant of benefits. *(New)*

Article X

Fiscal Management: Nature, Source, and Administration

SEC. 34. *Nature of the Fund.* The OWWA Fund shall remain as the private funds of the OFWs and shall be utilized exclusively for their benefit.

All funds of the OWWA Trust Fund shall, upon collection thereof, be immediately deposited, interest free, by the OWWA with the bank acquired for the benefit of the OFWs under such terms and conditions as will insure that said bank can service in full the credit requirements of the OFWs.

SEC. 35. *The OWWA Trust Fund, Benefits & Services.* Pursuant to Section 2 of PD No. 1694, all monetary contributions, fees and other charges imposed pursuant to the provisions of the Letter of Instructions No. 537 issued on May 1, 1977 and its related issuances shall be accrued to the OWWA Trust Fund, as defined under this Title. The said fund shall be used to finance the legitimate benefits and programs administered by the OWWA under this Act, including providing social and welfare services to OFWs such as, but not limited to, legal assistance, placement assistance, and remittance services, provided further, that it shall no longer allocate any insurance coverage or services and health care benefits for its OFWs, one year from the passage of this Act. The OWWA shall maintain the required reserves to guarantee the fulfillment of its obligations under this Act.

The OWWA Trust fund is a single trust fund composed of membership contributions of land-based and sea-based workers, investment and interest income, and income from other sources.

Out of the membership contribution of Fifteen US Dollars (US \$15.00) per overseas employment contract, one-half shall be used for the following programs:

- a) Pre-departure Loan (5%);
- b) Family Assistance Loan (5%);
- c) Skills Upgrading Scholarship Program of OFWs(10%);
- d) Education for Development Scholarship Program of at least one qualified dependent of an OFW (20%);
- e) Reintegration Programs for the OFWs(40%);
- f) Workers Assistance and On-site Services which includes, among others, repatriation services (20%)

The last item may be augmented on a year-to-year basis, upon the approval of the Board with the necessary justifications to be contained in a report that will be submitted to the Department of Labor & Employment.

SEC. 36. *Administration.* The OWWA Trust Fund shall be administered by the OWWA Board of Trustees. No disbursements from said Fund shall be made except those which have passed the approval of the Board.

Transactions in the OWWA Trust Fund shall be subject to such rules and regulations as may be formulated by its Board of Trustees consistent with the provisions of this Act. The Board of Trustees shall fix the yearly appropriation of the Secretariat.

The annual budget of the OWWA, including the compensation of OWWA personnel and the operating expenses of the secretariat shall be charged to the OWWA Fund and incorporated in the annual General Appropriations Act, subject to the approval by the Congress.

The OWWA Trust Fund shall not be used for purposes other than what are provided for under this Act. No portion of such Fund or income thereof shall accrue to the General Fund of the national government and its political subdivisions, instrumentalities and other agencies including government-owned and controlled corporations.

SEC. 37. *Reporting of the Fund.* Within thirty (30) days after the end of each calendar year, the OWWA Board of Trustees shall submit to the President a statement showing the total collections of and the disbursements from, the OWWA Trust Fund, copies of which report shall be furnished to Congress.

SEC. 38. *Declaration of Dividends.* Pursuant to Section 1 of Presidential Decree No. 270, the OWWA is hereby mandated to declare and distribute the excess profits as dividends to stockholders, pursuant to applicable rules and regulations.

SEC. 39. *Disbursement of OWWA Collection.* Any provision of existing law to the contrary notwithstanding, all incomes generated by the OWWA shall, upon their collection, be retained by the OWWA and disbursed at the discretion of the Board for the general welfare and other benefits of the OWWA general membership and the OWWA Secretariat personnel; for the acquisition, construction, maintenance and repair of urgently needed auxiliary facilities, equipment, buildings and other infrastructure; and for expenses necessary for the attainment of its purposes under its approved program of expenditures.

Fees and charges charged to any OWWA members shall constitute the special trust funds and shall be deposited in any authorized government depository bank.

SEC. 40. *Establishment of the OFW Bank.* Subject to the approval of the Congress, an OFW Bank that is solely owned by the OFWs may be established to provide credit, commercial, development and savings banking facilities at reasonable terms to the overseas Filipino workers which shall have its principal places of business in every region of the country.

SEC. 41. *Unemployment or Involuntary Separation Benefits and Other Benefits.* Unemployment benefits in the form of monthly cash payments equivalent to fifty percent (50%) of the average monthly compensation shall be made to a bonafide OFW member who is involuntarily separated from employment due to any disability that renders him physically unfit or incapacitated for work and for other causes not attributable to the fault of the OFW: *Provided*, That he/she has been paying integrated contributions for at least two (2) full years prior to separation, *Provided, further*, that this is without prejudice to any claim he may have on an insurance contract he may have availed from private insurance companies.

All accumulated unemployment benefits paid to the employee during his/her entire membership with the OWWA shall be deducted from voluntary separation benefits.

The OWWA shall prescribe the detailed guidelines in the operationalization of this section in the rules and regulations implementing this Act.

All other benefits received such as survivorship and funeral benefits by the OFW upon his/her death of a member shall be maintained by OWWA.

Article XI

Investment Administration: Safeguards

SEC. 42. *Safeguards of OWWA Trust Fund; Acquired Assets; Unredeemed Investments and Other Receivables.* a) The OWWA Trust Fund shall be managed and expended in accordance with the purpose of the Fund and safeguarded against any possible loss and misuse.

The OWWA shall ensure an appropriate growth rate in the fund sufficient to sustain the growing needs of OFW members. It shall ensure that all investment instruments are periodically inventoried and properly kept at a government bank under a custodianship agreement.

A monthly report on all investment schedules showing the interest rates, yields, discount rates, and other relevant data, shall be submitted to the Board.

b) The OWWA shall administer all properties, acquired or foreclosed. To ensure that the properties are safeguarded and preserved, the same must be properly accounted for and documented; re-inspected, re-appraised, and insured with taxes paid.

An asset development/disposal plan shall be submitted by the Administrator for the consideration of the Board.

Foreclosed properties shall be registered as OWWA assets within one (1) month after foreclosure.

c) Unredeemed investments and other receivables shall be inventoried semi-annually and corresponding redemption plan shall be submitted to the Board. All receivables shall be supported by documents appropriately acknowledged by the accountable party.

Article XII

General Investment Policy

SEC. 43. *General Investment Policy.* As a Trust Fund, all OWWA investments shall be placed in government securities which provide optimum earnings, liquidity and protection of the Fund. The Board shall provide the policies and approve all investment decisions. (*OWWA Omnibus Policies*)

Portfolio management of investible fund shall be outsourced to government banks & financial institutions (GFIs).

The Administrator may, upon the approval of the Board, roll-over time deposits and/or re-invest matured securities/placements, provided that the original types of securities/placements are not altered. The Administrator shall advise the Board in writing prior to and after such actions.

Article XIII

Determination of Investible Fund

SEC. 44. *Determination of Investible Fund.* This Fund shall refer to the net amount available for investment after deducting the projected monthly operating, program, and contingency fund allocations.

A portion of the OWWA Trust Fund which are not needed to meet the current obligations may be invested under such terms and conditions and rules and regulations as may be prescribed by the OWWA Board: *Provided*, That investments shall satisfy the requirements of liquidity, safety/security and yield in order to ensure the actuarial solvency of the OWWA Trust Fund: *Provided, further*, That the OWWA shall submit an annual report on all investments made to both Houses of Congress of the Philippines, to wit:

- a) in interest-bearing bonds or securities or other evidence of indebtedness of the Government of the Philippines;
- b) in interest-bearing deposits or securities in any domestic bank doing business in the Philippines: *Provided*, That in the case of such deposits, there shall not exceed at any time the unimpaired capital and surplus or total private deposits of the depository bank, whichever is smaller: *Provided, further*, That the said bank has prior designation as a depository for the purpose by the Monetary Board of the Central Monetary Authority;
- c) in direct housing loans to members and group housing projects secured by first mortgage, giving priority to the low income groups and in short and medium term loans to members such as salary, policy, educational, emergency stock purchase plan and other similar loans: *Provided*, That no less than forty percent (40%) of the investible fund of the OWWA Fund shall be invested for these purposes;
- d) in bonds, securities, promissory notes or other evidence of indebtedness of educational or medical institutions to finance the construction, improvement and maintenance of schools and hospitals;
- e) in real estate property including shares of stocks involving real state property and investments secured by first mortgages on real estate or other collaterals acceptable to the OWWA: *Provided*, That such investment shall, in the determination of the OWWA Board, redound to the benefit of the OWWA and its bonafide members;
- f) in debt instruments and other securities traded in the secondary markets;
- g) in loans to, or in bonds, debentures, promissory notes or other evidence of indebtedness of any solvent corporation created or existing under the laws of the Philippines;
- h) in common and preferred stocks of any solvent corporation or financial institution created or existing under the laws of the Philippines listed in the stock exchange with proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period;
- i) in domestic mutual funds including investments related to the operations of mutual funds; and
- j) in foreign mutual funds and in foreign currency deposits or foreign currency denominated debts, non-speculative equities and other financial instruments or other assets issued in accordance with existing laws of the countries where such financial instruments are issued: *Provided*, That these instruments or assets are listed in bourses of the respective countries where these instruments or assets are issued: *Provided, further*, That the issuing company has proven track record of profitability over the last three (3) years and payment of dividends at least once over the same period.

SEC. 45. Investment Plan and Strategy. The OWWA shall formulate medium-term investment and asset management plan that shall include projected yield sufficient to sustain program and service delivery, and programmed growth for capital formation. An annual plan shall be developed to support the investment plan and strategy. Any change in the plan shall require the approval from the Board.

Article XIV

Records and Reports of Investments

SEC. 46. *Records and Reports.* The OWWA shall keep and cause to keep such records as may be necessary for the purpose of making actuarial studies, calculations and valuations of the OWWA Funds including such data needed in the computation of rates of disability, mortality, morbidity, separation and retirement among the members and any other information useful for the adjustment of the benefits of the members. The OWWA shall maintain appropriate books of accounts to record its assets, liabilities, income, expenses, receipts and disbursement of funds and other financial transactions and operations. (*modification of Sec. 37, GSIS Act*)

Article XV

Others

SEC. 47. *Examination and Valuation of the Funds.* The OWWA shall make a periodic actuarial examination and valuation of its funds in accordance with accepted actuarial principles. (*modification of Sec. 38, GSIS Act*)

SEC. 48. *Exemption from Tax, Legal Process and Lien.* It is hereby declared to be the policy of the State that the actuarial solvency of the OWWA Funds shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden existing OWWA members and other prospective members. Taxes imposed on the OWWA tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits of this Act.

Notwithstanding any laws to the contrary, the OWWA, its assets, revenues including all accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges, or duties of all kinds. These exemptions shall continue unless expressly and specifically revoked and any assessment against the OWWA as of the approval of this Act is hereby considered paid.

All laws, ordinances, regulations, issuances, opinions or jurisprudence contrary to or in derogation of this provision are hereby deemed repealed, superseded and rendered ineffective and without legal force and effect.

Moreover, these exemptions shall not be affected by subsequent laws to the contrary unless this section is expressly, specifically and categorically revoked or repealed by law and a provision is enacted to substitute or replace the exemption referred to herein as an essential factor to maintain or protect the solvency of the fund, notwithstanding and independently of the guaranty of the national government to secure such solvency or liability.

The funds and/or the properties referred to herein as well as the benefits, sums or monies corresponding to the benefits under this Act shall be exempt from attachment, garnishment, execution, levy or other processes issued by the courts, quasi-judicial agencies or administrative bodies including Commission on Audit (COA) disallowances and from all financial obligations of the members, including his pecuniary accountability arising from or caused or occasioned by his exercise or performance of his official functions or duties, or incurred relative to or in connection with his position or work except when his monetary liability, contractual or otherwise, is in favor of the OWWA. (*modification of Sec. 39, GSIS Act*)

Article XVI

Fiscal and Budget Policy: Management

SEC. 49. *Fiscal and Budget Policy.* The OWWA Secretariat shall prepare its annual budget for operational requirements and estimated claims on insurance following the national government budget system.

The operating budget shall support planned work programs and priorities for the year. It shall include the requirements for personal services, maintenance and other operating expenses, commitments, and capital outlay.

The Board shall set the annual budget at a level sufficient to meet the needs of membership obligations to be appropriated from the OWWA Trust Fund. The proposed budget for any given year shall observe annual allocation pattern where the cost of service provision shall not exceed the cost of programs, claims and benefits.

A budget cap for an incoming year shall be determined by the Board to ensure fund viability. The budget cap will be reviewed annually with the end in view of achieving comparative efficiency levels of other similar agencies.

SEC. 50. *Automatic Appropriation.* In case the proposed annual budget has not been approved by the Board at the start of the year, OWWA shall operate within the budget level of the previous year allocated on a month to month basis. All savings realized within a previous year shall be deducted from a current year's budget.

SEC. 51. *Work and Financial Plans.* All cost centers/offices/units of OWWA shall submit their annual work and financial plans (WFP), which should correspond to the approved budget. The Directors shall endorse the WFP of their respective units for approval of the Administrator. The consolidated OWWA-WFP shall be reported to the Board. (Sec.7, Art. VII, OWWA Omnibus Policies)

SEC. 52. *Budget Realignment.* Realignment of funds including adjustments in targets shall be submitted to the Board for approval. Similarly, in the event that extra ordinary circumstances may occur which require additional funds beyond the coverage of the approved budget, the same shall be submitted for approval by the Board. (Sec. 8, Art. VII, OWWA Omnibus Policies)

SEC. 53. *Branch Accounting System; Financial Reports; Auditing Procedures; Annual Reports.* The OWWA Regional Units shall maintain their respective books of account which shall be consolidated by the central office.

The OWWA shall install sound internal control and monitoring systems and submit quarterly prescribed Financial Statements to COA such as income statement, balance sheet, and cash flow as prescribed in post auditing reports by the COA.

The OWWA Secretariat is mandated to submit a monthly fund utilization report to the Board. It is further mandated to render an Annual Report on its overall performance for the previous year within the first sixty (60) days of the following year. Copies of the said report shall be submitted to the Board and the President.

Article XVII

Miscellaneous Provisions

SEC. 54. *Auditing of Accounts.* All accounts and disbursements of the University shall be audited by the Commission on Audit.

SEC. 55. *Institutional Autonomy.* To provide greater flexibility to the OWWA, it shall be treated in a manner consistent with its institutional requirements insofar as this Charter prescribes.

SEC. 56. *Rules of Construction.* No statutory or other issuances shall diminish the powers, rights, privileges, and benefits accorded to the OWWA under this Act or enjoyed at present by the OWWA under other issuances not otherwise modified or repealed under this Act, unless subsequent legislation expressly provides for

their repeal, amendment or modification. Any case of doubt in the interpretation of any of the provisions of this Charter shall be resolved in favor of the benefits of the OFWs.

TITLE XVIII FINAL PROVISIONS

SEC. 57. *Penalty.* (a) Any person found to have participated directly or indirectly in the commission of fraud, collusion, falsification, or misrepresentation in any transaction with the OWWA, whether for him or for some other persons, shall suffer the penalties provided for in Article 172 of the Revised Penal Code.

(b) Whoever shall obtain or receive any money or check invoking any provision of this Act or any agreement thereunder, without being entitled thereto with the intent to defraud any member, the OWWA, or any third party, shall be punished by a fine of not less than Twenty-five thousand pesos (P25,000.00) nor more than Fifty thousand pesos (P50,000.00) or by imprisonment of not less than six (6) years and one (1) day to twelve (12) years, or both, at the discretion of the court.

(c) Whoever fails or refuses to comply with the provisions of this Act or with the rules and regulations adopted by the OWWA, shall be punished by a fine of not less than Twenty five thousand pesos (P25,000.00) nor more than Fifty thousand pesos (P50,000.00) or imprisonment of not less than six (6) years and one (1) day to twelve (12) years, or both, at the discretion of the court.

(d) 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 employer and employee 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) months and one (1) day to six (6) years, and a fine of not less than Ten thousand pesos (P10,000.00) but not more than Twenty thousand pesos (P20,000.00), and in addition, shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

e) Any employee or member who receives or keeps fund or property belonging, payable or deliverable to the OWWA and appropriates the same, or takes or misappropriates or uses the same for any purpose other than authorized by this Act, or permits another person to take, misappropriate or use said fund or property by expressly consenting thereto, or through abandonment or negligence, or is otherwise guilty of the misappropriation of said fund or property, in whole or in part, shall suffer the penalties provided in Article 217 of the Revised Penal Code, and in addition, shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

f) Any employee who, after deducting the monthly contribution or loan amortization from a member's compensation, fails to remit the same to the OWWA within thirty (30) days from the date they should have been remitted, shall be presumed to have misappropriated such contribution or loan amortization and shall suffer the penalties provided in Article 315 of the Revised Penal Code, and in addition, shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

(g) OWWA officers and personnel stationed in other countries who are involved in the collection of premium contributions, loan amortization and other accounts due the OWWA who shall fail, refuse or delay the payment, turnover, remittance or delivery of such accounts to the OWWA within thirty (30) days from the time that the same shall have been due and demandable shall, upon conviction by final judgment, suffer the penalties of imprisonment of not less than one (1) year nor more than five (5) years and a fine of not less than Ten thousand pesos (P10,000.00) nor more than Twenty thousand pesos (P20,000.00), and in addition, shall suffer absolute

perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

(h) The officers and/or personnel referred to in paragraph (g) of this section shall be liable not only criminally but also civilly to the OWWA or to the employee or member concerned in the form of damages, including surcharges and interests.

(i) For the charges or complaints referred to in paragraph (g) of this section, the liabilities therein set forth shall be construed as waiver of the State of its immunity from suit, hence, the above-mentioned officials and/or personnel may not invoke the defense of nonsuability of the State.

(j) Criminal actions arising from violations of the provisions of this Act may be commenced by the OWWA or by the aggrieved member, either under this Act or, in appropriate cases, under the Revised Penal Code.

SEC. 58. *Implementing Rules and Regulations.* The implementing rules and regulations to carry out the provisions of this Act shall be adopted and promulgated by the OWWA not later than ninety (90) days after the approval of this Act.

SEC. 59. *Non-impairment of Benefits, Powers, Jurisdiction, Rights, Privileges, Functions and Activities.* Nothing in this Act shall be construed to repeal, amend or limit any provision of existing laws, Presidential Decrees and Letters of Instructions, not otherwise specifically inconsistent with the provisions of this Act.

SEC. 60. *Exclusiveness of Benefits.* Whenever other laws provide similar benefits for the same contingencies covered by this Act, the member who qualifies to the benefits shall have the option to choose which benefits will be paid to him. However, if the benefits provided by the law chosen are less than the benefits provided under this Act, the OWWA shall pay only the difference.

SEC. 61. *Separability Clause.* Should any provision herein be declared unconstitutional, the same shall not affect the validity of the other provisions of this Act.

SEC. 62. *Repealing Clause.* All Board Resolutions, Administrative Orders, Memoranda of Instructions, Special Orders, and other issuances, or part/s thereof, which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 63. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in any newspaper of general circulation in the Philippines.

Approved.