

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
SECOND REGULAR SESSION

4942
HOUSE BILL NO. _____

Introduced by CIBAC Party List Representatives
Sherwin N. Tugna and Cinchona Cruz-Gonzales

**AN ACT AMENDING SECTIONS 3, 22, 25, 26, 27, 28, 29, 30 OF R.A. NO. 1161, AS
AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW**

EXPLANATORY NOTE

The Social Security Law was enacted to protect employees of private firms against the risks of disability, sickness, retirement and death. Thus, it is incumbent that the funds contributed for the employees are safeguarded and are ensured to benefit them when the risks mentioned have occurred.

This bill seeks to amend provisions of R.A. 1161, as amended by R.A. 8282, otherwise known as the "Social Security Law" to ensure the following: 1) the funds are managed by competent people who have the heart to use them in accordance with the mandate of the law; 2) the contributions of the employers which have become insolvent are to be considered ordinary preferred liens so as to protect the contributions of the employees; 3) in case the employee entitled to the benefits under the law does not receive at the time of his death the amount equivalent to all the contributions made on his behalf, the Commission shall pay the remaining amount to his beneficiaries.

The Social Security Commission tasked to direct and control the System must be composed of members who shall be required to have previous experience in technical and administrative fields related to the purposes of the law and must be known for their integrity. These appointive members will make decisions regarding the contributions for the employees who mostly rely on these funds when the risks have occurred. Thus, it is reasonable to require that they have the competence and skill to properly comply with their duties and the integrity to ensure that they will not divert the funds for other purposes.

The contributions to be paid must be remitted to the System. However, in case an employer has become insolvent, there is no protection granted under the law to

ensure that the contributions will still be paid. In order to protect the contributions of the employees, this bill classifies the unremitted contributions as ordinary preferred claims, having the same status as those stated in Article 2244 of the Civil Code.

There are instances when an employee has paid more than what he receives from the System. Thus, this bill adds another phrase which provides that when this happens, the System must ensure that it pays the employee or his estate all the contributions made on his behalf by his employer. The provision is added to remedy the inequity that results when the employee cannot receive all the contributions made on his behalf. The System shall not benefit at the expense of the employee. For the System to benefit from the contribution of the employer for its employees is tantamount to confiscation of one's property without due process of law. This is against the right granted under the 1987 Constitution, the fundamental law of the land. The law was enacted for the benefit of the employees and neither for the employers nor the System.

In view of the foregoing, immediate passage of the bill is earnestly sought.



Rep. Sherwin N. Tugna
CIBAC Party-List



Rep. Cinchona Cruz Gonzales
CIBAC Party-List

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

SECTION 1. Section 3 of R.A. No. 1161, as amended, is hereby amended to read as
follows:

"SEC. 3. *Social Security System.* - (a) To carry out the purposes of this Act, the Social Security System, hereinafter referred to as 'SSS', a corporate body, with principal place of business in Metro Manila, Philippines is hereby created. The SSS shall be directed and controlled by a Social Security Commission, hereinafter referred to as 'Commission', composed of the Secretary of Labor and Employment or his duly designated undersecretary, the SSS president and seven (7) appointive members, three (3) of whom shall represent the workers' group, at least one of whom shall be a woman; three (3), the employers' group, at least one (1) of whom shall be a woman; and one (1), the general public ~~{whose representative shall have adequate knowledge and experience regarding social security}~~, to be appointed by the President of the Philippines. The six (6) members representing workers and employers shall be chosen from among the nominees of workers' and employers' organizations, respectively. The Chairman of the Commission shall be designated by the President of the Philippines from among its members. The term of the appointive members shall be three (3) years: *Provided*, That the terms of the first six (6) appointive members shall be one (1), two (2) and three (3) years for every two members, respectively: *Provided, further*, That they shall continue to hold office until their successors shall have been appointed and duly qualified. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only. The appointive members shall have previous experience in the technical and

administrative fields related to the purposes of this Act and must be known for their integrity. They ~~[appointive members of the Commission]~~ shall receive at least two thousand five hundred pesos (P2,500.00) per diem for each meeting actually attended by them but not to exceed Ten thousand pesos (P10,000.00) a month: *Provided, That* members of the Commission shall also receive a per diem of at least Two thousand five hundred pesos (P2,500.00) but not to exceed Fifteen thousand pesos (P15,000.00) a month: *Provided, further, That* said members of the Commission shall also receive reasonable transportation and representation allowances as may be fixed by the Commission, but not to exceed Ten thousand pesos (P10,000.00) a month.

"(b) The general conduct of the operations and management functions of the SSS shall be vested in the SSS President who shall serve as the chief executive officer immediately responsible for carrying out the program of the SSS and the policies of the Commission. The SSS President shall be a person who has had previous experience in the technical and administrative fields related to the purposes of this Act and must be known for his integrity. He shall be appointed by the President of the Philippines and shall receive salary to be fixed by the Commission with the approval of the President of the Philippines, payable from the funds of the SSS.

SECTION 2. Section 22 (b) of R.A. No. 1161, as amended, is hereby amended to read as follows:

"SEC. 22. *Remittance of Contributions.*

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xxx

"(b) The contributions payable under this Act in cases where an employer refuses or neglects to pay the same shall be collected by the SSS in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended. Failure or refusal of the employer to pay or remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits of the coverage.

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

In case the employer has become insolvent, the claims of the System for the unremitted or unpaid contributions shall be considered item No. (3) in the ordinary preferred claims as specified under Article 2244 of the Civil

Code and enjoy preference in the distribution of the assets of the employer as provided under the Civil Code.

Section 3. A new section 25 must be added which provides:

"SEC. 25. PROTECTION FOR FULL ENJOYMENT OF BENEFITS. In any case where a covered employee, upon retirement or death, would receive less than what he and his employer had actually contributed to the System, the remaining balance of the total amount so contributed up to the time of his death or retirement must be paid to him or his estate."

Section 4. Sections 25, 26, 27, 28, 29 and 30 must be renumbered as Sections 26, 27, 28, 29, 30 and 31 respectively.

Section 5. Separability Clause. - If any provision of this Act is declared invalid, the other provisions not affected thereby shall remain valid.

Section 6. Repealing Clause. - All laws, proclamations, executive orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, modified or amended accordingly: *Provided*, That no person shall be deemed to be vested with any property or other right by virtue of the enactment or operation of this Act.

Section 7. Effectivity Clause. - This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved,