

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

Fifteenth Congress
Second Regular Session

HOUSE BILL NO. 005 5416



Introduced by **Reps. Rodolfo G. Valencia, Walden F. Bello, Bernadette Herrera-Dy, Edwin L. Olivarez and Lani Mercado-Revilla**

EXPLANATORY NOTE

Executive Order No. 648, s. 1981 which reorganized the Human Settlements Regulatory Commission was amended by Executive Order No. 90, s. 1986, renaming it as the Housing and Land Use Regulatory Board (HLURB) and attaching the same to the Housing and Urban Development Coordinating Council.

This bill seeks to repeal EO 648 and strengthen the HLURB through a new law to enable the Board to meet the current demands of the functions it is mandated to perform, specifically, the regulation of real estate trade and business, the regulation and supervision of homeowners' associations, the extension of technical assistance on land use planning to local government units, and adjudication.

The widespread adverse effects of climate change and other natural and man-made disasters are being felt with increasing frequency in all parts of the country, causing considerable damage to the life, health, and property of our citizens, thereby threatening the stability and security of their communities. There is, therefore, an undeniable urgency for local governments to make their respective Comprehensive Land Use Plans (CLUPs) adapt to such climatic changes. Sadly, not all local government units (LGUs) have completed their respective CLUPs, a requirement mandated to be prepared under the Local Government Code of 1991. Those that have complied need to review the same in order to make them disaster risk-ready and adaptable to climate change.

The HLURB, while tasked to assist the LGUs in the preparation of CLUPs, can do much more. To strengthen this function of the HLURB, the measure includes a new objective, in particular, a vehicle for national physical planning that shall: 1) ensure a well-balanced utilization of land resources with the end in view of guaranteeing a well-planned development of urban centers and rural areas throughout the country; 2) reduce disaster risk, adapt to climate change, and secure lives and properties through the proper identification and delineation of geohazard areas such as fault lines, landslide-prone areas and flood-prone areas, including danger areas such as riverbanks, esteros, drainage, seawalls, and the like; 3) serve as a functional tool in the management of the natural resources of the local government units (LGUs) and ensure that prime agricultural lands, especially irrigated and irrigable lands, shall be non-negotiable for land conversion and reclassification; and 4) ensure the optimization of the strong potential for other uses and purposes of lands ascertained to be unirrigable and not suitable for agriculture and prevent the perpetuation of the existence of idle lands that could otherwise be better designated for

development into socialized housing or resettlement purposes, or industrial or commercial uses that could spur local economic development and improve local taxation.

In order to expedite the compliance by the LGUs with the preparation or review and updating of respective CLUPs, they are allowed under the measure to make use of the National Disaster Risk Reduction and Management Fund, the former Calamity Fund appropriated under the annual General Appropriations Act, established under Section 22 of RA 10121, to fund such preparation or review and updating of their CLUP as a disaster risk reduction or mitigation, prevention and preparedness activity.

In addition, the bill proposes to give the Board the power to conduct en banc hearings on any opposition to an application for a license, permit or clearance impressed with vital economic, social, environmental, or national implications. The Board is mandated under this bill to exercise exclusive jurisdiction over all cases decided upon by the Housing and Land Use Arbiters and to directly assume over cases involving projects declared by the President as priority or cases affecting the national interest or questions of social justice and general welfare. The bill likewise transfers the venue for the appeal of its decisions from the Office of the President to the Court of Appeals.

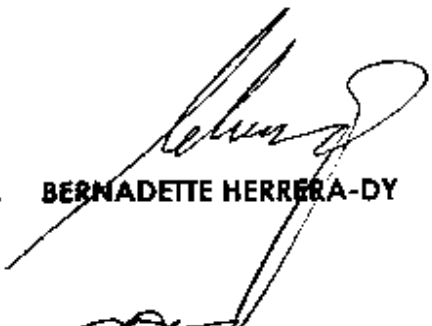
The proposed measure seeks to increase the maximum imposable fines for violation of the provisions of the measure.

The bill seeks to increase the composition of the Board of Directors from nine to fifteen and seeks to include in the Board representatives from the private sector and the homeowners associations.

To further ensure its effective and efficient operations, this bill allows the Board to appoint Housing and Land Use Arbiters and its own sheriffs and enforcement officers.

Finally, this bill seeks to transfer from the Board to the LGUs the function to take-over the development and completion of a subdivision or condominium project which a developer failed to develop or complete at the expense of said developer.

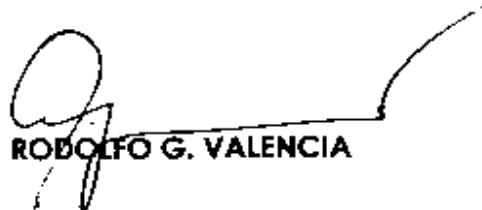
Approval of this bill is earnestly sought.



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FIFTEENTH CONGRESS

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AN ACT
FURTHER STRENGTHENING THE HOUSING AND LAND USE REGULATORY
BOARD, AND FOR OTHER PURPOSES

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

ARTICLE I
TITLE

SECTION 1. Title. - This Act shall be known as the "Housing and Land Use Regulatory Board Act of 2011."

ARTICLE II
DECLARATION OF POLICIES

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the State to undertake a comprehensive and continuing program of housing and urban development that promotes innovative and effective land development and land use regulation as a technology for building communities and for making available at affordable cost decent housing and basic services to the people, especially the underprivileged and homeless Filipinos.

SEC. 3. Statement of Objectives. - Toward this end, the State shall integrate all laws, orders, issuances, and administrative circulars relating to the implementation of housing and land use regulation and further strengthen the housing and land use regulatory arm of government to effectively achieve the following objectives:

(a) To foster the growth and renewal of urban and rural communities in an integrative and sustainable manner that promotes optimum land use, adequate shelter, and environmental protection, disaster risk reduction, and climate change adaptation;

(b) To bring about the optimum use of land as a national resource for public welfare rather than as a commodity of trade subject to price speculation and indiscriminate use and ensure a rational approach of allocating available land resources as equitably as possible among the various competing uses;

(c) To provide for the rational use and development of urban land in order to bring about the following:

(1) equitable utilization of residential lands in urban and urbanizable areas with particular attention to the needs and requirements of the underprivileged and homeless citizens and not merely on the basis of market forces;

(2) optimization of the use and productivity of land and urban resources;

(3) development of urban areas conducive to commercial and industrial activities which can generate more economic opportunities for the people;

(4) reduction in urban dysfunctions, particularly those that adversely affect public health, safety and ecology; and

(5) access to land and housing by the underprivileged and homeless citizens.

(d) To enforce, implement, coordinate, streamline, improve and optimize land use policies and regulations on housing and urban development, including the implementation and enforcement of the regulatory aspect of the Urban Land Reform Program, the Subdivision and Condominium Buyer's Protective Decree, the Magna Carta for Homeowners and Homeowners' Associations and other related laws.

(e) To provide a vehicle for national physical planning that shall:

(1) ensure a well-balanced utilization of land resources with the end in view of guaranteeing a well-planned development of urban centers and rural areas throughout the country;

(2) reduce disaster risk, adapt to climate change, and secure lives and properties through the proper identification and delineation of geohazard areas such as fault lines, landslide-prone areas and flood-prone areas, including danger areas such as riverbanks, esteros, drainage, seawalls, and the like;

(3) serve as a functional tool in the management of the natural resources of the local government units (LGUs) and ensure that prime agricultural lands, especially irrigated and irrigable lands, shall be non-negotiable for land conversion and reclassification;

(4) ensure the optimization of the strong potential for other uses and purposes of lands ascertained to be unirrigable and not suitable for agriculture and prevent the perpetuation of the existence of idle lands that could otherwise be better designated for development into socialized housing or resettlement purposes, or industrial or commercial uses that could spur local economic development and improve local taxation.

ARTICLE III

ESTABLISHMENT, CONSTITUTION, POWERS, DUTIES

SEC. 4. *The Housing and Land Use Regulatory Board.* - To carry out the aforementioned policy and objectives, there is hereby created the Housing and Land Use Regulatory Board of 2011, herein referred to as the "Board," with principal office in Metro Manila, which shall replace the Human Settlements Regulatory Commission established under Executive Order No. 648, issued on 07 February 1981, and renamed the Housing and Land Use Regulatory Board by virtue of Executive Order No. 90 issued on 17 December 1986.

SEC. 5. *Powers and Authorities of the Board.* - In the exercise of its regulatory and quasi-judicial functions, the Board shall perform the following:

a) Formulate guidelines in the preparation of Comprehensive Land Use Plans (CLUPs) and zoning ordinances of LGUs; the zoning components of civil works and infrastructure projects of the national, regional and local governments; subdivision or estate development projects of both the public and private sectors; and urban renewal plans, programs and projects: *Provided, That the zoning and other land use regulation standards and guidelines to be promulgated hereunder shall respect the classification of public lands for forest or timber purposes, mineral lands, and national parks as certified by the Department of Environment Natural Resources, the irrigated and irrigable lands as certified by the National Irrigation Administration and the Department of Agriculture, and take into consideration the geohazard areas as indicated in the geohazard maps produced by the Bureau of Mines and Geosciences.*

b) Formulate guidelines in the preparation of Provincial Physical Framework Plans (PPFPs) in accordance with the National Urban Development and Housing Framework (NUDHF) formulated by the Board and assist LGUs in land inventory for use in socialized housing as mandated by Republic Act No. (RA) 7279.

c) Assist the LGUs in the preparation or the review and updating of their respective CLUPs in conformity with the objectives cited in Section 3 of this Act and with the application of information technology like the Geographic Information System and Satellite Imagery as a tool for accurately identifying, analyzing, recording, and retrieving

all spatial data and information pertaining to the physical layout, characteristics, and relationships of parcels of land and other resources within their respective territories.

d) Review and approve the PFPs of provinces and the CLUPs of highly urbanized and independent component cities as well as all cities and municipalities in the National Capital Region (NCR); and the zoning component of civil works and infrastructure projects of national, regional and the foregoing local governments; monitor compliance with approved subdivision or condominium plans of subdivisions, condominiums or estate development projects including industrial estates, of both the public and private sectors and urban renewal plans, programs and projects: *Provided, That the Comprehensive Land Use Plans and zoning ordinances of the aforementioned LGUs which are subject of review, evaluation and approval of the Board shall respect the classification of public lands for forest or timber purposes, mineral lands, and national parks as certified by the Department of Environment and Natural Resources, the irrigated and irrigable lands as certified by the National Irrigation Administration and the Department of Agriculture, and take into consideration the geohazard areas as indicated in the geohazard maps produced by the Bureau of Mines and Geosciences : Provided, further, That the reclassification of agricultural lands by the aforementioned LGUs shall be in accordance with Section 20, Chapter 2, Title One, Book 1 of RA 7160.*

e) Issue rules and regulations to enforce the land use policies as provided for in Presidential Decrees No. 399, 815, 933, 957, 1216, 1344, 1396, 1517, Letter of Instructions No. 713, 729, 833, 935 and other related laws.

f) Regulate real estate trade and business through: the formulation of standards in subdivision, condominium and other real estate developments; the issuance of development permits for condominium projects; the issuance of Licenses to Sell for subdivision and condominium projects, memorial parks and columbariums; enforcement of the compliance by the developers of proposed subdivision projects with the balanced housing development program requirements as mandated under Section 18 of RA 7279; approval/issuance of other permits, clearances and certificates relative to housing and real estate development; and approval of the amendment to the master deed of condominium projects, and; encourage greater private participation in low-cost housing through liberalization of development standards, simplification of regulations and decentralization of approvals for permits and licenses.

g) Register and supervise homeowners associations, and formulate and promulgate the appropriate guidelines and rules and regulations in accordance with RA 9904.

h) Conduct public hearings relating to its functions.

i) Hear *en banc* opposition to an application for a license, permit or clearance impressed with significant economic, social, environmental or national implications.

j) Act as the appellate body on decisions and actions of local and regional planning and zoning bodies and exercise exclusive appellate jurisdiction over all cases decided upon by the Housing and Land Use Arbiters: *Provided, however,* That in cases of vital priority projects as declared by the President or of novel cases involving policy issues affecting national interest or questions of social justice and general welfare, upon certification by the Chairman of the Board, it may directly assume and take over any case cognizable by any arbiter for the purpose of expeditious resolution thereof.

k) Promote, encourage, coordinate and assist private enterprises and government agencies and instrumentalities in planning, developing and coordinating human settlements plans and programs by furnishing legal, technical and professional assistance.

l) Develop and implement prototype projects supportive of its regulatory functions either by itself or as part of an inter-agency group or by contract with such appropriate public or private entities as it may deem proper.

m) Call on any government employee or any department, bureau, office, agency or instrumentality of the government or private entities, non-government organizations (NGOs), and people's organizations (POs) for cooperation and assistance in the exercise of its functions.

n) Promulgate rules and regulations governing the hearing and disposition of cases filed before it and those pertaining to its internal functions and such other regulations as may be necessary to carry out the objectives of this Act.

o) Administer oaths, summon the parties to a controversy, issue subpoenas requiring the attendance and testimony of witnesses or the production of such books, papers, contracts, records, agreements, and other documents of similar nature as may be material to a just determination of the matter under consideration in a hearing being conducted.

p) Issue cease and desist orders, preliminary or permanent injunctions, whether prohibitory or mandatory, in all cases over which it has jurisdiction.

q) Staff its organization with Housing and Land Use Arbiters as well as appropriate and qualified personnel in accordance with what is deemed proper or necessary to achieve the objectives of the Board and, for this purpose, it may appoint its own sheriffs and

enforcement officers.

r) Make or enter into contracts of any kind of nature to enable it to discharge its functions under this Act.

s) Acquire, purchase, own, lease, mortgage, sell or otherwise dispose of any land, or any improvements thereon, or property of any kind, movable and immovable, exercise the right of eminent domain by expropriating the land improvements thereon, which in the opinion of the Board, are vital and necessary to develop and implement prototype projects supportive of its regulatory functions.

t) Charge and collect fees in the performance of its functions.

u) Impose administrative fines and/or penalties for violation of this Act, including pertinent rules and regulations, order, decisions and rulings.

v) Issue orders after conducting the appropriate investigation for the cessation or closure of any use or activity and to issue orders to vacate or demolish any building or structure that is determines to have violated or failed to comply with any of the laws, presidential decrees, letters of instructions, executive orders and other presidential issuances and directives being implemented by it, either on its own motion or upon complaint of any interested party.

w) Cite and declare any person, entity or enterprise in contempt of the Board in the following case:

(1) Whenever any person entity or enterprise commits any disorderly or disrespectful conduct before the Board or in the presence of its members or authorized representatives actually engaged in the exercise of their official functions or during the conduct of any hearing or official inquiry by the said Board, at the place or near the premises where such hearing or proceeding is being conducted with obstruct, distract, interfere or in any other way disturb, the performance of such functions or the conduct of such hearing or proceeding;

(2) Whenever any person, enterprise or entity fails or refuses to comply with or obey without justifiable reason, any lawful order, decision, writ or process of the Board. In connection therewith, it may in cases falling within the first paragraph hereof, summarily impose a fine of an amount not exceeding Ten Thousand Pesos (P10,000.00) and order the confinement of the violator for a period that shall not exceed the duration of the hearing or proceeding or the performance of such functions, and in cases falling within the second paragraph, hereof, it may, in

addition to the administrative fine abovementioned, impose a fine of Two Thousand Pesos (P2,000.00) for each day that the violation or failure or refusal to comply continues, and order the confinement of the offender until the order or decision shall have been complied with;

In case the offender is a partnership, corporation or association or enterprise, the above fine shall be imposed on the assets of such entity and the president, managing partner or chief executive officer shall be ordered confined.

x) Designate or deputize, when necessary, special sheriffs or any law enforcement agency in the execution of its final orders, rulings, or decisions.

y) Issue writs or orders to execute demolition or seizure or closure of property in accordance with its decision.

z) Exercise such other powers as implied, necessary, or incidental to carry out the express powers granted to the Board.

No injunction or restraining order shall lie against the Board upon the *ex parte* motion or petition filed by any person or entity in the exercise by the Board of its regulatory functions.

Decisions of the Board shall be appealable to the Court of Appeals.

SEC. 6. The Board Proper – (a) *Composition, Appointment, Qualifications, and Salary.* – The powers of the Board shall be vested in a fifteen-man Board hereinafter referred to as the Board Proper whose members shall consist of the following:

(1) The Chairman of the Housing and Urban Development Coordinating Council who shall serve as the *ex-officio* Chairman;

(2) Ten (10) full-time members of the Board with a rank equivalent to that of the members of the National Labor Relations Commission, to be appointed by the President, one as the chief executive officer, and nine (9) who shall be assigned specific functions by the Board Proper;

(3) An *ex-officio* representative each from the Department of Justice, the National Economic & Development Authority, Department of the Interior and Local Government, and Department of Public Works and Highways with the rank of at least an Assistant Secretary.

The Board shall have an Executive Committee composed of the Chairman and eight (8) full-time members which can act for and in behalf of the Board.

The Board shall maintain its Secretary who shall be a lawyer, to be appointed by the Chairman upon the recommendation of the Chief Executive Officer. He shall have the same rank, salary and privileges as the members of the Board.

At least eight (8) members of the Board, including the Chief Executive Officer, shall be lawyers while the other members shall have a bachelor's degree and background or experience in urban planning, environmental planning, architecture, management, or such other fields that are related to real estate. The members of the Board shall have at least been engaged in the practice of their respective profession or field of specialization or employed in an appropriate office for a period of at least five (5) years.

The full-time members of the Board shall receive such salary and enjoy such privileges in accordance with existing laws.

(b) *Exercise of Adjudicatory and Other Powers.* - The Board shall exercise its adjudicatory and all other powers, functions and duties through its three (3) divisions composed each of five (5) members: *Provided, however,* That the Board shall sit *en banc* for purposes of promulgating rules and regulations governing the hearing and disposition of cases before its divisions and regional branches; hearing and disposition of motion for reconsideration, and; formulation of policies affecting its administration and operations.

SEC. 7. The Chief Executive Officer, Duties and Responsibilities. - The Chief Executive Officer shall have the following duties and responsibilities:

(a) To execute and/or administer the policies and measures approved by the Board Proper.

(b) To appoint and maintain an adequate technical, legal and administrative staff; subject to the approval of the Board Proper. The Board Proper may delegate this appointing power to the Chief Executive Officer.

(c) To direct, manage and supervise the day-to-day operations and internal administration of the Board in accordance with the policies laid down by the Board Proper.

(d) To establish the internal organization of the Board subject to the approval of the Board Proper.

(e) To prepare the agenda for the meetings of the Board Proper.

(f) To submit, for the consideration of the Board Proper the policies and measures which he or she believes necessary to carry out the purposes and provisions of this Act.

(g) To enter into contracts or agreements pursuant to policies or guidelines set by the Board.

(h) To represent the Board in all dealings with other offices, agencies, and instrumentalities of the government, persons and entities, public or private, domestic, local or foreign, unless the chairman provides otherwise;

(i) To represent the Board, either personally or through counsel, in any legal proceedings or actions;

(j) To exercise such other duties and responsibilities as may be vested in or assigned to him or her by the Board Proper.

Decisions of the Chief Executive Officer shall be appealable to the Board Proper.

The Chief Executive Officer may delegate any of his administrative responsibilities to other officials or employees of the Board subject to the approval of the Board Proper.

SEC. 8. Housing and Land Use Arbiters, Jurisdiction, Qualifications, and Salary. - For the effective and efficient operation of the Board, there shall be ten (10) Housing and Land Use Arbiters in the NCR, one (1) arbiter each in every region except for Region IV which shall have at least five (5) arbiters, and one (1) arbiter each in highly urbanized cities. The NCR and Region IV Branches shall each be headed by an Executive Housing and Land Use Arbiter.

The Housing and Land Use Arbiters shall exercise original and exclusive jurisdiction to hear and decide within ninety (90) days after the submission of a case by the parties for decision the following cases:

- (a) Unsound and fraudulent real estate business practices;
- (b) Claims for refund against project owners, developers, dealers, brokers or salespersons;
- (c) Specific performance of contractual and statutory obligation filed by buyers of subdivision lots or house and lots or of condominium units against the project owner, developer, dealer, broker, or salesperson;
- (d) Cases for nullity of mortgage filed by the unit buyer against the developer as mortgagor and the financial institution as mortgagee;
- (e) Cases filed by subdivision or condominium owners or developers against lot or unit buyers for collection or unpaid amortizations;
- (f) Other related cases arising from contractual or statutory obligations of owners, dealers, brokers, or salespersons toward lot or house and lot or unit buyers, and; (g) Intra-corporate disputes involving homeowners' associations.

The Executive Housing and Land Use Arbiters and the Housing and Land Use Arbiters shall be members of the Philippine Bar and must have been engaged in the practice of law in the Philippines for at least five (5) years.

The Executive and Land Use Arbiters shall receive an annual salary at least equivalent to, and be entitled to the same allowances and benefits as, that of the Executive Labor Arbiters. The Housing and Land Use Arbiters shall receive an annual salary at least equivalent to, and be entitled to the same allowances and benefits as, that of the Labor Arbiters.

ARTICLE IV GENERAL PROVISIONS

SEC. 9. *Income* - Authority is hereby vested on the Board to directly utilize income generated from fees, fines, charges and other collections in the performance of its functions to defray operating expenses and provide allowances for its personnel.

SEC. 10. *Administrative Fines*. - The Board may prescribe and impose fines not exceeding Fifty Thousand Pesos (P50,000.00) for violation of any provision of this Act or of any rule or regulations thereunder. Fines shall be payable to the Board and enforceable through writs of execution in accordance with the provisions of the Rules of Court. These fines shall be in addition to such other administrative sanctions as the Board may impose.

SEC. 11. *Penalties*. - Any person who shall violate any of the provisions of this Act and/or any rule or regulation that may be issued pursuant to this thereunder shall, upon conviction by the appropriate court, be punished by a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than Two Hundred Fifty Thousand (P250,000.00) pesos and/or imprisonment of *prision correccional*: *Provided*, That in the case of corporations, partnership, cooperatives or associations, the president, manager or administrator or the person who has charge of the administration of the business shall be criminally responsible for any violation of this Act and/or the rules and regulations promulgated pursuant thereto without prejudice to the cancellation or revocation of these entities' license or accreditation issued to them by any licensing or accrediting body of the government.

SEC. 12. *Funding for the Preparation or Review and Updating of the CLUP*. - In order for the LGUs to expedite compliance with the preparation or the review and updating of their respective CLUPs, they are hereby authorized, upon favorable recommendation by the Board and the National Disaster Risk Reduction and Management Council, and the approval by the President, to utilize the National Disaster Risk Reduction and Management Fund, the former Calamity Fund appropriated under the annual General Appropriations Act, established under Section 22 of RA 10121, to fund such preparation or review and updating of their CLUP as a disaster risk reduction or mitigation, prevention and preparedness activity.

SEC. 13. Appropriations. - The amount needed for the initial implementation of this Act shall be charged against the current year's appropriation of the Board. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be

ARTICLE V TRANSITORY PROVISION

SEC. 14. Transfer of Take-Over Development Function. - In the event that the owner or developer of a subdivision or condominium project has refused or failed to complete the development of the project after the period provided for in Presidential Decree No. 957 from the date of the issuance of the license for the project, and unless the Board sets another time for completion which it may do so if upon its determination it is able to establish that the reason for the non-completion is a fortuitous event, the Board shall, upon written notice to the developer or through publication where the developer cannot be located, declare the project abandoned. The function of the Board to take over or cause the development and completion of the subdivision or condominium project at the expense of the owner or developer, jointly and severally, in case of such non-completion and after the subsequent declaration of abandonment is hereby being transferred to the LGU which is tasked under Section 39 of RA 7279 with the responsibility of implementing a housing program within its own locality. In the implementation of this Take-Over Development function, the LGU may engage the assistance of the National Housing Authority.

With the Board's official declaration of the project being abandoned, the roads therein shall become public in character and the LGU shall be charged with their development.

The LGU concerned and/or the National Housing Authority may, after such take-over, demand, collect and receive from the buyers the installment payments due on the lots or houses and lots, which shall be utilized for the development of the subdivision.

ARTICLE VI FINAL PROVISIONS

SEC. 15. Reports. - The Board shall submit an annual report to the President of the Philippines and to both chambers of the Congress of the Philippines.

SEC. 16. Implementing Rules and Regulations. - The implementing rules and regulations to effectively carry out the provisions of this Act shall be adopted and promulgated by the Board not later than ninety (90) days after the approval of this Act which shall be published in at least one (1) national newspaper of general circulation.

SEC. 17. Repealing Clause. - Executive Order No. 648, series of 1981, as amended by Executive Order No. 90, series of 1986, is hereby repealed. All other laws,