

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 877



Introduced by Representative EDGAR MARY S. SARMIENTO

EXPLANATORY NOTE

Enacted in 1980, the Corporation Code, while still good law for the most part, is failing to keep up with the changing times. While other countries reap the benefits of a more long-term focus and the acceptance of new business models, the Philippines lags behind, remaining bound by express limitations in the Code on the life of corporations, who may incorporate, and the form and manner of incorporation. Traditional procedures and processes embedded in the Code, which were expedient and effective thirty years ago, have been reduced to stumbling blocks for businesses struggling to thrive in an increasingly fast-paced environment where communication and information exchange steadily accelerate. The constant evolution and escalating prevalence of abuses and fraudulent practices in the corporate scene, and the more technologically advanced ways of propagating the same, have rendered once-effective safeguards in the Code grossly inadequate.

In addition, the Philippines' performance in international evaluations indicates a need for reform. While garnering the distinction of "most improved" in the Ease of Doing Business ranking for 2013 (after jumping 30 places to 108th of 189 countries), the Philippines is still in the bottom half of the list, trailing far behind several of its Southeast Asian counterparts. In the 2012-2013 ASEAN corporate governance scorecard report and assessment of its top 100 publicly listed companies, the Philippine PLCs merely scored an average of 48.9%. Additionally, in the 2012 Civil Society Report by Transparency and Accountability Network (presented to the Conference of the States Parties to the United Nations Convention against Corruption in 2012), the Philippines was found as having only partially complied with the standards and principles of the UN Convention Against Corruption, indicating a vulnerability to "Napoles-like" scams.

Under this light, the proposed amendments incorporate international best standards and practices, specifically tailored to address the needs and realities of the Philippine corporate setting, and introduce new concepts and mechanisms to help the Philippines keep up with the changing times. In the same manner, the amendments are geared towards enabling the Philippines to move towards full compliance with the requirements of international bodies and, in the process, make it more attractive to investors. Thus, amendments have been introduced to, among others, encourage new businesses, contribute to the ease of doing business, strengthen corporate governance, better protect the rights of stockholders, minimize/deter corporate abuses and fraud, strengthen anti-corruption measures, and fortify the regulatory authority of the Commission.

To encourage new businesses, the amendments include shifting to perpetuity, removing the minimum number of incorporators, and allowing the formation of one person corporations. Thus, corporations in general will have perpetual existence, enabling a more long-term mindset that will foster sustainability; smaller businesses may reap the advantages of the corporate vehicle with as few as two incorporators; and single proprietors may protect their personal properties by setting up one person corporations.

To improve on the ease of doing business, the name verification process will be simplified with the use of only “distinguishability” as a criterion, electronic submissions and notices will be accepted, and the Commission will have the authority to develop new systems such as online registration. Additionally, the amendments clarify the procedures for dissolution, as well as give non-compliant corporations a grace period for compliance. In lieu of immediate revocation, action on matters brought by delinquent corporations to the Commission shall be withheld until full compliance is made.

A good number of the amendments are proposed to strengthen corporate governance, which will also better protect the rights of stockholders, and deter corporate abuses and fraud as well as graft and corrupt practices. These amendments incorporate into the Code most of the standards for good corporate governance found in the ASEAN corporate governance scorecard. The Philippines would be the first to apply these standards not only to publicly listed companies but to all corporations. Thus, provisions have been introduced for increased disclosure and transparency, increased director disqualifications, independent directors, allowing attendance at meetings by remote communication, and allowing voting *in absentia*, among others. The concept of an emergency board is also introduced to enable the board to act in an emergency even when there is a failure of quorum.

In addition, the amendments to improve corporate governance also protect stockholders. Other amendments have likewise been introduced for this particular purpose, including expressly extending the right of inspection to a stockholder’s counsel or representative and providing a solution to the problem of perpetual holdovers. With respect to the latter, the Commission will have the authority to

direct the holding of a meeting upon notice of a failure to hold the same, and will have access to corporate records necessary for this purpose. The meeting called by the Commission will have a special measure of quorum, *i.e.* whoever is in attendance, in order to compel attendance at the meeting and to reduce instances of deliberate non-attendance to avoid quorum.

The proposed amendments for corporate governance are also intended to curb corporate abuses and fraud, as well as strengthen anti-corruption measures. In the fight against corporate abuses and fraud, and graft and corrupt practices, whistleblower provisions have been included and a code of ethics/standards of conduct will be required in the by-laws. These are in addition to the proposal to include criminal liability for the usage of the corporate vehicle for fraud, and graft and corrupt practices whether done directly or through an intermediary (including the dissolution of the corporation and the forfeiture of its assets) and for retaliation against whistleblowers. In these instances, corporate criminal liability shall be separate and distinct from the criminal liability of responsible officers and directors.

The other amendments are intended to fortify the regulatory authority of the Commission. Thus, provisions on the following, among others, have been included: the harmonization of its powers with those in the Securities and Regulation Code, greater visitorial powers, powers to remove signages of deregistered names, issuance of *ex parte* cease and desist orders to prevent fraud or injury to the public, forfeiture of assets when the corporate vehicle is used for fraud or graft and corrupt practices, and fiscal autonomy.

With the foregoing backdrop and objectives in mind, the urgency of the amendments becomes apparent. It is hoped that these amendments will be given priority status so that the vision of a globally competitive Philippines may be achieved.



EDGAR MARY S. SARMIENTO

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2 HOUSE OF REPRESENTATIVES
3 Quezon City, Metro Manila

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5 SEVENTEENTH CONGRESS
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8 House Bill No. 877
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10
11 Introduced by Representative EDGAR MARY S. SARMIENTO
12

13
14 AN ACT AMENDING BATAS PAMBANSA BLG. 68
15 OR THE CORPORATION CODE OF THE PHILIPPINES
16

17 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*
18

19 **SECTION 1.** Section 6 of Batas Pambansa Blg. 68 or The Corporation Code of the
20 Philippines (hereinafter, Code), is hereby amended to read as follows:

21 *"Sec. 6. Classification of shares.* – The shares of stock of stock corporations
22 may be divided into classes or series of shares, or both, any of which classes or
23 series of shares may have such rights, privileges or restrictions as may be
24 stated in the articles of incorporation: *Provided,* That no share may be deprived
25 of voting rights except those classified and issued as "preferred" or
26 "redeemable" shares, unless otherwise provided in this Code: *Provided further,*
27 That there shall always be a class or series of shares [which have] **WITH**
28 complete voting rights. Any or all of the shares or series of shares may have a
29 par value or have no par value as may be provided for in the articles of
30 incorporation: *Provided, however,* That banks, trust companies, insurance
31 companies, **PRE-NEED COMPANIES**, public utilities, and building and loan
32 associations shall not be permitted to issue no-par value shares of stock.

33 Preferred shares of stock issued by any corporation may be given
34 preference in the distribution of the assets of the corporation in case of
35 liquidation and in the distribution of dividends, or such other preferences as
36 may be stated in the articles of incorporation which are not violative of the
37 provisions of this Code: *Provided,* That preferred shares of stock may be issued

only with a stated par value. The board of directors, where authorized in the articles of incorporation, may fix the terms and conditions of preferred shares of stock or any series thereof: *Provided*, That such terms and conditions shall be effective upon[filing of a certificate thereof with the Securities and Exchange Commission]THE ISSUANCE BY THE SECURITIES AND EXCHANGE COMMISSION, HEREINAFTER REFERRED TO AS THE "COMMISSION", OF A CERTIFICATE THAT THE TERMS AND CONDITIONS OF THE PREFERRED SHARES ARE NOT INCONSISTENT WITH THE PROVISIONS OF THIS CODE, THE CONSTITUTION OF THE PHILIPPINES, AND OTHER EXISTING LAWS, RULES AND REGULATIONS.

xxx xxx xxx"

SECTION 2. Section 7 of the Code is hereby amended to read as follows:

"Sec. 7. *Founders' shares.* - Founders' shares classified as such in the articles of incorporation may be given certain rights and privileges not enjoyed by the owners of other stocks, provided that where the exclusive right to vote and be voted for in the election of directors is granted, it must be for a limited period not to exceed five (5) years subject to the approval of the [Securities and Exchange]Commission. The five-year period shall commence from the date of the aforesaid approval by the [Securities and Exchange] Commission: **PROVIDED, THAT THE EXCLUSIVE RIGHT TO VOTE OR BE VOTED FOR SHALL NOT BE ALLOWED IF ITS EXERCISE WILL VIOLATE THE RULES AND REGULATIONS OF THE COMMISSION,COMMONWEALTH ACT NO. 108, AND REPUBLIC ACT 7042;PROVIDED, FURTHER, THAT THE SAID RIGHT SHALL BE GRANTED ONLY ONCE.**

AFTER THE LAPSE OF THE FIVE-YEAR PERIOD, THE SHARES SHALL AUTOMATICALLY HAVE THE SAME VOTING RIGHTS AND PRIVILEGES AS COMMON SHARES."

SECTION 3. Section 8 of the Code is hereby amended to read as follows:

"Sec. 8. *Redeemable shares.* -Redeemable shares may be issued by the corporation when expressly so provided in the articles of incorporation. [They may be purchased or taken up by the corporation upon the expiration of a fixed period, regardless of the existence of unrestricted retained earnings in the books of the corporation, and upon such other terms and conditions as may be

1 stated in the articles of incorporation, which terms and conditions must also be
2 stated in the certificate of stock representing said shares.]THE
3 CORPORATION MAY REDEEM THE SAID SHARES ONLY IF, AFTER
4 SUCH REDEMPTION, IT SHALL STILL HAVE SUFFICIENT ASSETS IN
5 ITS BOOKS TO COVER LIABILITIES INCLUSIVE OF THE SUBSCRIBED
6 CAPITAL STOCK, AND SUCH REDEMPTION IS IN ACCORDANCE
7 WITH THE TERMS AND CONDITIONS STATED IN THE ARTICLES OF
8 INCORPORATION AND/OR THE CERTIFICATE OF STOCK
9 REPRESENTING SAID SHARES.

10 EXCEPT AS PROVIDED IN THE IMMEDIATELY PRECEDING
11 PARAGRAPH, NO CORPORATION SHALL REDEEM, REPURCHASE OR
12 REACQUIRE ITS OWN SHARES OF WHATEVER CLASS, UNLESS IT
13 HAS SUFFICIENT UNRESTRICTED RETAINED EARNINGS TO FUND
14 THE COST OF SUCH REDEMPTION, REPURCHASE OR
15 REACQUISITION;PROVIDED, THAT SUCH REQUIREMENT SHALL
16 NOT APPLY IF THE REDEMPTION, REPURCHASE OR REACQUISITION
17 IS MADE UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

18 a) PURSUANT TO A CONVERSION RIGHT PROVIDED FOR IN
19 THE ARTICLES OF INCORPORATION;

20 b) TO EFFECT A DECREASE IN THE AUTHORIZED CAPITAL
21 STOCK OF THE CORPORATION AS APPROVED BY THE
22 COMMISSION; AND

23 c) UPON INSTRUCTION TO A CLOSE CORPORATION BY THE
24 COMMISSION TO RESOLVE A DEADLOCK."

25 **SECTION 4.** Section 10 of the Code is hereby amended to read as follows:

26 "Sec. 10. *Number and qualifications of incorporators.* - Any number of
27 **PERSONS**,natural**OR JURIDICAL**,[persons not less than five (5)] but not more
28 than fifteen (15), [all of legal age] and a majority of whom are residents of the
29 Philippines], may form a private corporation for any lawful purpose or
30 purposes. Each of the incorporators of a stock corporation must own or be a
31 subscriber to at least one (1) share of the capital stock of the corporation."

32 **SECTION 5.** Section 11 of the Code is hereby amended to read as follows:

33 "Sec. 11.*Corporate term.* - **UNLESS SOONER DISSOLVED**,a corporation
34 shall exist [for a period] **PERPETUALLY, OR AS OTHERWISE STATEDIN**

1 THE ARTICLES OF INCORPORATION. A TERM LESS THAN
2 PERPETUAL[not exceeding fifty (50) years from the date of incorporation
3 unless sooner dissolved or unless said period is] MAY BE extended[. The
4 corporate term as originally stated in the articles of incorporation may be
5 extended for periods not exceeding fifty (50) years in any single instance] by an
6 amendment of the articles of incorporation, in accordance with this Code;
7 Provided, That no extension can be made earlier than [five (5)]THREE (3) years
8 prior to the original or subsequent expiry date(s) unless there are justifiable
9 reasons for an earlier extension as may be determined by the [Securities and
10 Exchange] Commission; PROVIDED, FURTHER, THAT SUCH EXTENSION
11 OF THE CORPORATE TERM SHALL TAKE EFFECT ONLY ON THE DAY
12 FOLLOWING THE ORIGINAL OR SUBSEQUENT EXPIRY DATE(S).

13 THE CORPORATE TERM MAY BE SHORTENED BY AN
14 AMENDMENT OF THE ARTICLES OF INCORPORATION IN
15 ACCORDANCE WITH THIS CODE.

16 REGARDLESS OF THE TERM, ALL CORPORATIONS SHALL
17 REMAIN UNDER THE SUPERVISION AND REVIEW OF THE
18 COMMISSION. A CORPORATION WITH A PERPETUAL TERM OR A
19 TERM EXCEEDING TWENTY-FIVE YEARS SHALL COMPLY WITH THE
20 RENEWAL REQUIREMENTS THE COMMISSION MAY PRESCRIBE
21 THEREFOR ON THE TWENTY-FIFTH YEAR AND EVERY TWENTY-FIVE
22 YEARS THEREAFTER, OR AT SUCH INTERVALS AS THE COMMISSION
23 MAY LATER DETERMINE. THE COMMISSION SHALL CHARGE SUCH
24 PENALTIES AS IT MAY DEEM APPROPRIATE AND WITHHOLD
25 ACTION ON ANY MATTER BROUGHT BY A RENEWING
26 CORPORATION, INCLUDING BUT NOT LIMITED TO APPLICATIONS
27 FOR THE AMENDMENT OF THE ARTICLES OF INCORPORATION
28 AND/OR BY-LAWS AND THE ISSUANCE OF CERTIFICATIONS OF
29 GOOD STANDING OR THOSE REQUIRED FOR TRANSACTIONS WITH
30 OTHER GOVERNMENT AGENCIES, UNTIL FULL COMPLIANCE WITH
31 THE COMMISSION'S RENEWAL REQUIREMENTS IS MADE.

32 A CORPORATION WHOSE TERM EXPIRED OR LAPSED WITHIN
33 TEN YEARS PRIOR TO THE EFFECTIVITY OF THIS CODE, AND WHICH
34 HAS NOT REINCORPORATED, MAY APPLY WITH THE COMMISSION
35 FOR THE REVIVAL OF ITS CERTIFICATE OF INCORPORATION IF IT
36 CAN SHOW THAT REINCORPORATION WOULD BE DIFFICULT OR
37 DELETERIOUS TO IT AND THAT IT CONTINUES TO BE A GOING
38 CONCERN OR CAN READILY REVIVE ITS OPERATIONS. UPON
39 APPROVAL BY THE COMMISSION AND SUBJECT TO THE

1 CORPORATION'S COMPLIANCE WITH THE COMMISSION'S
2 REQUIREMENTS OR CONDITIONS FOR REVIVAL AND THE PAYMENT
3 OF THE PRESCRIBED FEES, THE COMMISSION SHALL REVIVE THE
4 CORPORATION'S CERTIFICATE OF INCORPORATION AND THE
5 CORPORATION SHALL THENCEFORTH EXIST IN ACCORDANCE WITH
6 THIS SECTION."

7 SECTION 6. Section 12 of the Code is hereby amended to read as follows:

8 "Sec. 12. *Minimum capital stock required of stock corporations.* -Stock
9 corporations incorporated under this Code shall [not be required to have
10 any] HAVE A minimum authorized capital stock OF ONE MILLION
11 (P1,000,000.00) PESOS [except as] OR SUCH AMOUNT AS MAY BE
12 DETERMINED BY THE COMMISSION AFTER DUE NOTICE TO THE
13 PUBLIC, UNLESS A DIFFERENT AMOUNT IS REQUIRED BY ANY
14 LAW [otherwise specifically provided for by special law], and subject to the
15 provisions of the following section[.]; PROVIDED, HOWEVER, THAT FOR
16 CORPORATIONS ISSUING NO PAR VALUE SHARES, THE MINIMUM
17 AUTHORIZED CAPITAL STOCK SHALL BE 200,000 SHARES; AND
18 PROVIDED, FURTHER, THAT WHERE CAPITAL CONSISTS OF BOTH
19 PAR AND NO-PAR VALUE SHARES, THE MINIMUM AUTHORIZED
20 CAPITAL STOCK SHALL BE ONE MILLION (P1,000,000.00) PESOS."

21 SECTION 7. Section 13 of the Code is hereby amended to read as follows:

22 "Sec. 13. *Amount of capital stock to be subscribed and paid for purposes of*
23 *incorporation.* -EXCEPT WITH RESPECT TO ONE PERSON
24 CORPORATIONS AND SMALL CORPORATIONS WHOSE CAPITAL
25 STOCK SHALL BE PAID IN FULL UPON SUBSCRIPTION, at least twenty-
26 five (25%) percent of the NUMBER OF SHARES OF THE authorized capital
27 stock as stated in the articles of incorporation must be subscribed at the time of
28 incorporation, and at least twenty-five (25%) percent of the VALUE OF THE
29 total subscription must be paid upon subscription, the balance to be payable on
30 a date or dates fixed in the contract of subscription without need of call, or in
31 the absence of a fixed date or dates, upon call for payment by the board of
32 directors: *Provided, however,* That in no case shall the paid-up capital be less
33 than [five thousand (P5,000.00) pesos.] SIXTY TWO THOUSAND FIVE
34 HUNDRED (P62,500.00) PESOS, OR SUCH AMOUNT AS MAY BE
35 DETERMINED BY THE COMMISSION OR REQUIRED IN OTHER LAWS;
36 PROVIDED, HOWEVER, THAT WITH RESPECT TO NO PAR VALUE
37 SHARES, AT LEAST TWENTY-FIVE PERCENT (25%) OF SAID SHARES

1 **OF THE AUTHORIZED CAPITAL STOCK MUST BE SUBSCRIBED AND**
2 **FULLY PAID UPON SUBSCRIPTION."**

3 **SECTION 8.** Section 14 of the Code is hereby amended to read as follows:

4 "Sec. 14. *Contents of articles of incorporation.* - All corporations organized
5 under this Code shall file with the [Securities and Exchange] Commission
6 articles of incorporation in any of the official languages, duly signed and
7 acknowledged by all of the incorporators, containing substantially the
8 following matters, except as otherwise prescribed by this Code or by special
9 law:

10 1. The name of the corporation;

11 xxx xxx xxx

12 3. [The place where the principal office of the corporation is to be
13 located, which must be within the Philippines] **THE SPECIFIC ADDRESS,**
14 **WHICH SHALL INCLUDE, WHERE APPLICABLE, THE STREET**
15 **NUMBER, STREET NAME, BARANGAY, CITY OR MUNICIPALITY, AND**
16 **PROVINCE OF THE PRINCIPAL OFFICE OF THE CORPORATION,**
17 **WHICH MUST BE WITHIN THE PHILIPPINES;**

18 4. [The term for which the corporation is to exist] **A PROVISION**
19 **LIMITING THE DURATION OF THE CORPORATION'S EXISTENCE TO**
20 **A SPECIFIED DATE; OTHERWISE, THE CORPORATION SHALL HAVE**
21 **PERPETUAL EXISTENCE;**

22 xxx xxx xxx

23 9. If it be a non-stock corporation, [the amount of its capital,] the names,
24 nationalities and residences of the contributors and [the amount contributed by
25 each] **THE TOTAL AMOUNT OF CONTRIBUTED CAPITAL BY THE**
26 **INCORPORATORS AND MEMBERS THEREOF; [and]**

27 **10. IF IT BE A STOCK CORPORATION, A STATEMENT OF THE**
28 **TREASURER, WHO SHALL BE AN INCORPORATOR, THAT AT LEAST**
29 **TWENTY-FIVE PERCENT (25%) OF THE NUMBER OF SHARES IN THE**
30 **AUTHORIZED CAPITAL STOCK OF THE CORPORATION HAS BEEN**
31 **SUBSCRIBED AND AT LEAST TWENTY-FIVE PERCENT (25%) OF THE**
32 **TOTAL SUBSCRIPTION HAS BEEN FULLY PAID TO HIM IN ACTUAL**

1 CASH AND/OR IN PROPERTY THE FAIR VALUATION OF WHICH IS
2 EQUAL TO AT LEAST TWENTY-FIVE (25%) PERCENT OF THE SAID
3 SUBSCRIPTION, SUCH PAID-UP CAPITAL BEING NOT LESS THAN
4 SIXTY TWO THOUSAND FIVE HUNDRED PESOS (P62,500.00) ;" AND

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6 [The Securities and Exchange Commission shall not accept the articles of
7 incorporation of any stock corporation unless accompanied by a sworn
8 statement of the Treasurer elected by the subscribers showing that at least
9 twenty-five (25%) percent of the authorized capital stock of the corporation has
10 been subscribed, and at least twenty-five (25%) of the total subscription has
11 been fully paid to him in actual cash and/or in property the fair valuation of
12 which is equal to at least twenty-five (25%) percent of the said subscription,
13 such paid-up capital being not less than fivethousand (P5,000.00) pesos.]

14 ARTICLES OF INCORPORATION OR AMENDMENTS THERETO
15 MAY BE FILED IN THE FORM OF AN ELECTRONIC DOCUMENT, IN
16 ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
17 COMMISSION ON THE USE OF ELECTRONIC DATA MESSAGES."

18 SECTION 9. Section 15 is hereby amended to delete the form on the Treasurer's
19 Affidavit and to read as follows:

20 "Sec. 15. *Form[s]of articles of incorporation; Filing.* - Unless otherwise
21 prescribed by special law, articles of incorporation of all domestic corporations
22 shall comply substantially with the following form:

23 ARTICLES OF INCORPORATION
24 OF

25 _____
26 (Name of Corporation)
27

28 KNOW ALL [MEN] PERSONSBY THESE PRESENTS:
29

30 xxx xxx xxx
31

32
33 TENTH: That _____ has been elected by the subscribers as
34 Treasurer of the Corporation to act as such until his successor is duly elected
35 and qualified in accordance with the by-laws, [and] that as such Treasurer, he

has been authorized to receive for and in the name and for the benefit of the corporation, all subscription (or fees) or contributions or donations paid or given by the subscribers or members, **THAT HE CERTIFIES THE INFORMATION SET FORTH IN THE SEVENTH, EIGHT AND NINTH CLAUSES ABOVE, AND THAT HE HAS RECEIVED THE PAID-UP PORTION OF THE SUBSCRIPTION IN CASH OR PROPERTY FOR THE BENEFIT AND CREDIT OF THE CORPORATION.**

xxx xxx xxx

IN WITNESS WHEREOF, we have hereunto signed these Articles of Incorporation, this day of, [19]20..... in the City/Municipality of Province of Republic of the Philippines.

xxx xxx xxx

[TREASURER'S AFFIDAVIT

xxx xxx xxx

NOTARY PUBLIC

My commission expires on, 19

Doc. No.;

Page No.;

Book No.;

Series of 19]

SECTION 10. Section 16 of the Code is hereby amended to delete "Securities and Exchange" from "Securities and Exchange Commission" in each instance.

SECTION 11. Section 17 of the Code is hereby amended to read as follows:

*"Sec. 17. Grounds when articles of incorporation or amendment may be rejected or disapproved. - The [Securities and Exchange] Commission may reject the articles of incorporation or disapprove any amendment thereto if the same is not in compliance with the requirements of this Code: Provided, That the Commission shall give the incorporators, **DIRECTORS, TRUSTEES OR OFFICERS** a reasonable time within which to correct or modify the*

objectionable portions of the articles or amendment. The following are grounds for such rejection or disapproval:

1. That the articles of incorporation or any amendment thereto is not substantially in accordance with the form prescribed herein;

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[No articles of incorporation or amendment to articles of incorporation of banks, banking and quasi-banking institutions, building and loan associations, trust companies and other financial intermediaries, insurance companies, public utilities, educational institutions, and other corporations governed by special laws shall be accepted or approved by the Commission unless accompanied by a favorable recommendation of the appropriate government agency to the effect that such articles or amendment is in accordance with law.]

THE COMMISSION MAY REQUIRE AN ENDORSEMENT OR FAVORABLE RECOMMENDATION FROM ANOTHER APPROPRIATE GOVERNMENT AGENCY.

SECTION 12. Section 18 of the Code is hereby amended to read as follows:

"Sec. 18. Corporate name. - No corporate name may be allowed by the [Securities and Exchange] Commission if the proposed name is [identical or deceptively or confusingly similar] **NOT DISTINGUISHABLE**[to that of] **FROM THAT ALREADY RESERVED OR REGISTERED IN FAVOR OF** any existing corporation or to any other name already protected by law, or **WHEN THE SAME**is [patently deceptive, confusing or] contrary to existing laws.

THE COMMISSION SHALL DETERMINE WHETHER A NAME IS DISTINGUISHABLE FROM ANOTHER NAME FOR PURPOSES OF THIS CODE. WITHOUT EXCLUDING OTHER NAMES WHICH MAY NOT CONSTITUTE DISTINGUISHABLE NAMES AS DETERMINED BY THE COMMISSION, AND SUBJECT TO THE RULES OR GUIDELINES THE COMMISSION MAY SET WITH RESPECT THERETO, A NAME IS NOT CONSIDERED DISTINGUISHABLE FOR PURPOSES OF THIS CODE SOLELY BECAUSE IT CONTAINS ONE OR MORE OF THE FOLLOWING:

1. THE WORD "CORPORATION", "COMPANY", "INCORPORATED", OR "LIMITED", "LIMITED LIABILITY" OR AN ABBREVIATION OF ONE OF SUCH WORDS;

2. PUNCTUATIONS, ARTICLES, CONJUNCTIONS,
CONTRACTIONS, ABBREVIATIONS, DIFFERENT TENSES,
SPACING OR NUMBER OF THE SAME WORD OR PHRASE.

THE FACT THAT A CORPORATE NAME COMPLIES WITH THIS
SECTION DOES NOT CREATE SUBSTANTIVE RIGHTS TO THE USE OF
THAT CORPORATE NAME. THE COMMISSION SHALL HAVE THE
AUTHORITY TO SUMMARILY REMOVE FROM REGISTRATION OR
RESERVATION ANY NAME WHICH IT LATER DETERMINES TO BE
NOT DISTINGUISHABLE AS STATED ABOVE.

WHEN A CORPORATE NAME IS REMOVED FROM
REGISTRATION, THE CORPORATION SHALL IMMEDIATELY CEASE
FROM USING THE SAME AND APPLY FOR THE REGISTRATION OF A
NEW CORPORATE NAME. SIMILARLY, A CORPORATION DIRECTED
BY FINAL JUDGMENT TO CHANGE ITS CORPORATE NAME SHALL
NOT USE THE SAME IN ITS OPERATIONS OR IN ANY OTHER WAY,
EVEN AFTER ITS DISSOLUTION OR REVOCATION AS A
CORPORATION.

When a change in the corporate name is approved, the Commission
shall issue an amended certificate of incorporation under the amended name.

IF A CORPORATION USES OR CONTINUES TO USE A
CORPORATE NAME ALREADY REMOVED FROM REGISTRATION OR
RESERVATION, OR WHICH HAS BEEN DIRECTED TO BE CHANGED
BY FINAL JUDGMENT, THE COMMISSION SHALL DULY NOTIFY SAID
CORPORATION AND REQUIRE IT TO CEASE AND DESIST FROM THE
CONTINUED USE OF SUCH CORPORATE NAME WITHIN A PERIOD OF
FIVE (5) DAYS. IF THE CORPORATION FAILS TO COMPLY WITH THE
COMMISSION'S ORDER WITHIN THE FIVE-DAY PERIOD, THE
COMMISSION MAY HOLD THE CORPORATION AND/OR ITS
RESPONSIBLE DIRECTORS OR OFFICERS IN CONTEMPT, AND/OR
CAUSE THE REMOVAL OF ALL VISIBLE SIGNAGES, MARKS,
ADVERTISEMENTS, LABELS, PRINTS AND OTHER EFFECTS BEARING
SUCH CORPORATE NAME IN THEIR POSSESSION. LIABILITY UNDER
THIS SECTION SHALL BE WITHOUT PREJUDICE TO THE
CORPORATION'S AND/OR ITS RESPONSIBLE DIRECTORS' OR
OFFICERS' LIABILITY FOR OTHER ADMINISTRATIVE, CIVIL, OR
CRIMINAL SANCTIONS UNDER THIS CODE AND OTHER LAWS."

1 **SECTION 13.** Section 19 of the Code is hereby amended to read as follows:

2 "Sec. 19. *REGISTRATION, INCORPORATION AND commencement of*
3 *corporate existence.*—A PERSON OR GROUP OF PERSONS DESIRING TO
4 INCORPORATE SHALL SUBMIT THE INTENDED CORPORATE NAME
5 TO THE COMMISSION FOR VERIFICATION. IF THE COMMISSION
6 FINDS THAT THE NAME IS DISTINGUISHABLE, THE NAME SHALL BE
7 RESERVED IN FAVOR OF THE INCORPORATORS. THE
8 INCORPORATORS SHALL THEN: (A) SUBMIT, AS MAY BE
9 APPLICABLE, THEIR ARTICLES OF INCORPORATION, THEIR BY-
10 LAWS, AND SUCH OTHER DOCUMENTS AND/OR INFORMATION AS
11 MAY BE REQUIRED BY THE COMMISSION; AND (B) PAY THE
12 PRESCRIBED FEES.

13 INCORPORATORS SHALL HAVE THE OPTION OF RESERVING A
14 CORPORATE NAME, SUBMITTING THE REQUIREMENTS FOR
15 INCORPORATION AND PAYING THE PRESCRIBED FEES EITHER
16 THROUGH THE MANUAL PROCESS AT THE OFFICE OF THE
17 COMMISSION OR THROUGH ANY OTHER SYSTEM OF
18 REGISTRATION AND INCORPORATION WHICH THE COMMISSION
19 MAY ESTABLISH, SUBJECT TO THE CORRESPONDING RULES AND
20 PROCEDURES THE COMMISSION SHALL PRESCRIBE THEREFOR.

21 IF THE COMMISSION FINDS THAT THE SUBMITTED
22 DOCUMENTS, INFORMATION AND PAYMENT ARE COMPLETE AND
23 IN FULL COMPLIANCE OF THE REQUIREMENTS UNDER THIS CODE
24 AND THE RULES OF THE COMMISSION, AND THERE IS NO OTHER
25 GROUND TO REJECT OR DISAPPROVE ANY OF THE SUBMISSIONS,
26 THE COMMISSION SHALL ISSUE THE CORRESPONDING
27 CERTIFICATE OF INCORPORATION AND REGISTER THE
28 CORPORATE NAME EARLIER RESERVED.

29 A private corporation formed or organized under this Code commences
30 to have corporate existence and juridical personality and is deemed
31 incorporated from the date the [Securities and Exchange] Commission issues
32 [a] THE certificate of incorporation under its official seal; PROVIDED, THAT
33 THE COMMISSION MAY ISSUE THE CERTIFICATE OF
34 INCORPORATION IN THE FORM OF AN ELECTRONIC DOCUMENT, IN
35 ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
36 COMMISSION ON THE USE OF ELECTRONIC DATA MESSAGES; and
37 thereupon the incorporators, stockholders/members and their successors shall
38 constitute a body politic and corporate under the name stated in the articles of

1 incorporation for the period of time mentioned therein, unless said period is
2 extended or the corporation is sooner dissolved in accordance with law.

3 **SECTION 14.** Section 22 of the Code is hereby amended to read as follows:

4 *"Sec. 22. Effects of non-use of corporate charter and continuous inoperation of*
5 *a corporation; DELINQUENCY AND REVOCATION.* - If a corporation does not
6 formally organize and commence [the transaction of] its business or the
7 construction of its works within [two (2)] **FIVE (5)** years from the date of its
8 incorporation, its [corporate powers cease and the corporation] **CERTIFICATE**
9 **OF INCORPORATION** shall be deemed [dissolved] **REVOKED AS OF THE**
10 **DAY FOLLOWING THE END OF SAID FIVE-YEAR PERIOD, WITHOUT**
11 **NEED OF FURTHER ACTION BY THE COMMISSION.**

12 However, if a corporation [has] commenced [the transaction of] its
13 business but subsequently [becomes] **BECAME** [continuously] inoperative for a
14 period of at least five (5) **CONSECUTIVE** years, [the same shall be a ground for
15 the suspension or revocation of its corporate franchise or certificate of
16 incorporation] **THE COMMISSION MAY, AFTER DUE NOTICE AND**
17 **HEARING, EITHER REVOKE THE CORPORATION'S CERTIFICATE OF**
18 **INCORPORATION OR PLACE THE CORPORATION UNDER**
19 **DELINQUENCY STATUS. THE CORPORATION'S FAILURE TO COMPLY**
20 **WITH THE REPORTORIAL REQUIREMENTS UNDER SECTION 180**
21 **SHALL RENDER IT INOPERATIVE FOR PURPOSES OF THIS CODE.**

22 **THE COMMISSION SHALL GIVE A DELINQUENT**
23 **CORPORATION A PERIOD OF TWO YEARS WITHIN WHICH IT MUST**
24 **RESUME OPERATIONS, COMPLY WITH ALL REQUIREMENTS, AND**
25 **PAY ALL FINES THE COMMISSION SHALL PRESCRIBE. THE**
26 **COMMISSION SHALL CHARGE SUCH PENALTIES AS IT MAY DEEM**
27 **APPROPRIATE AND WITHHOLD ACTION ON ANY MATTER**
28 **BROUGHT BY A DELINQUENT CORPORATION, INCLUDING BUT NOT**
29 **LIMITED TO APPLICATIONS FOR THE AMENDMENT OF THE**
30 **ARTICLES OF INCORPORATION AND/OR BY-LAWS AND THE**
31 **ISSUANCE OF CERTIFICATIONS OF GOOD STANDING OR THOSE**
32 **REQUIRED FOR TRANSACTIONS WITH OTHER GOVERNMENT**
33 **AGENCIES, UNTIL FULL COMPLIANCE WITH THE COMMISSION'S**
34 **REQUIREMENTS AND PAYMENT OF ALL FINES AND PENALTIES ARE**
35 **MADE.**

36 **ONCE COMPLIANCE WITH THE COMMISSION'S**
37 **REQUIREMENTS AND PAYMENT OF FINES AND PENALTIES ARE**

1 COMPLETED, THE COMMISSION SHALL ISSUE AN ORDER LIFTING
2 THE DELINQUENCY STATUS. FAILURE TO RESUME OPERATIONS,
3 COMPLY WITH THE COMMISSION'S REQUIREMENTS, AND PAY THE
4 PENALTIES PRESCRIBED WITHIN THE PERIOD GIVEN BY THE
5 COMMISSION OR ANY EXTENSION GRANTED BY IT, HOWEVER,
6 SHALL RENDER THE CORPORATION'S CERTIFICATE OF
7 INCORPORATION REVOKED AS OF THE LAPSE OF SAID PERIOD
8 WITHOUT NEED OF FURTHER ACTION BY THE COMMISSION.

9 THE COMMISSION SHALL REVOKE THE CERTIFICATE OF
10 INCORPORATION OF A CORPORATION WHEN DIRECTED BY FINAL
11 JUDGMENT OF A COMPETENT COURT OR WHEN, AFTER DUE
12 NOTICE AND HEARING, THE COMMISSION DETERMINES THAT THE
13 CORPORATION COMMITTED VIOLATIONS OF THIS CODE OR ITS
14 RULES WHICH WARRANT THE REVOCATION OF ITS CERTIFICATE
15 OF INCORPORATION.

16 ONCE THE REVOCATION BECOMES FINAL, I.E. AFTER THE
17 LAPSE OF FIFTEEN DAYS FROM THE DATE OF REVOCATION, THE
18 CORPORATION SHALL BE BANNED FROM ANY FURTHER USE OF
19 THE CORPORATE NAME AND SHALL BE DISSOLVED IN
20 ACCORDANCE WITH THE PROVISIONS ON DISSOLUTION UNDER
21 TITLE XIV OF THIS CODE.

22 [The provision shall not apply if the failure to organize, commence the
23 transaction of its business or the construction of its works, or to continuously
24 operate is due to causes beyond the control of the corporation as may be
25 determined by the Securities and Exchange Commission]."

26 **SECTION 15.** Section 23 of the Code is hereby amended to read as follows:

27 "Sec. 23. *The board of directors or trustees.* - Unless otherwise provided in
28 this Code, the corporate powers of all corporations formed under this Code
29 shall be exercised, all business conducted and all property of such corporations
30 controlled and held by the board of directors or trustees [to be elected from
31 among the holders of stocks, or where there is no stock, from among the
32 members of the corporation,] who shall hold office for one (1) year until their
33 successors are elected and qualified.

34 ONE PERSON CORPORATIONS SHALL HAVE ONLY ONE (1)
35 DIRECTOR OR TRUSTEE. SMALL CORPORATIONS SHALL HAVE AS
36 MANY DIRECTORS AS THERE ARE INCORPORATORS, NOT

1 EXCEEDING THREE (3). A CORPORATION SHALL BE DEEMED TO BE
2 A SMALL CORPORATION WHEN IT HAS ONLY TWO (2) OR THREE (3)
3 INCORPORATORS AND ITS TOTAL ASSETS DO NOT EXCEED FIVE
4 MILLION PESOS (PHP5,000,000.00)

5 CORPORATIONS WITH TEN (10) OR MORE MEMBERS, AS WELL
6 AS THOSE WITH TEN (10) OR MORE STOCKHOLDERS AND WITH
7 TOTAL ASSETS OF AT LEAST ONE HUNDRED MILLION PESOS
8 (P100,000,000.00), OR SUCH NUMBER AND AMOUNT AS MAY BE LATER
9 SET BY THE COMMISSION, SHALL HAVE AT LEAST ONE (1)
10 INDEPENDENT DIRECTOR OR TRUSTEE, OR SUCH OTHER MINIMUM
11 NUMBER WHICH THE COMMISSION MAY DETERMINE AS
12 NECESSARY FOR GOOD CORPORATE GOVERNANCE. THE
13 COMMISSION SHALL PRESCRIBE THE MINIMUM STANDARDS OR
14 CRITERIA IN DETERMINING THE INDEPENDENCE OF A DIRECTOR.

15 EXCEPT WITH RESPECT TO INDEPENDENT DIRECTORS,
16 DIRECTORS SHALL BE ELECTED FROM AMONG THE HOLDERS OF
17 STOCKS [Every director] AND must EACH own at least one (1) share of the
18 capital stock of the corporation of which he is a director, which share shall
19 stand in his name [on] IN the books of the corporation. [Any] IF ANY SUCH
20 director [who] ceases to be the owner of at least one (1) share of the capital
21 stock of the corporation, [of which he is a director] HE shall thereby cease to be
22 a director.

23 Trustees of non-stock corporations [must be members thereof.], OTHER
24 THAN INDEPENDENT TRUSTEES, SHALL BE ELECTED FROM AMONG
25 THE MEMBERS OF THE CORPORATION. IF ANY SUCH TRUSTEE
26 CEASES TO BE A MEMBER OF THE CORPORATION, HE SHALL
27 THEREBY CEASE TO BE A TRUSTEE.

28 A majority of the directors or trustees of all corporations organized
29 under this Code, INCLUSIVE OF INDEPENDENT DIRECTORS OR
30 TRUSTEES, must be residents of the Philippines.

31 IT SHALL BE THE DUTY OF ALL DIRECTORS OR TRUSTEES TO
32 ATTEND ALL MEETINGS OF THE BOARD AND OF THE
33 STOCKHOLDERS OR MEMBERS AND THEIR ABSENCE MAY BE
34 EXCUSED ONLY FOR JUSTIFIABLE REASONS. WHEN RELATED
35 PARTY TRANSACTIONS OR SELF-DEALINGS OF A DIRECTOR ARE
36 TAKEN UP, THE CONCERNED DIRECTOR SHALL ABSENT HIMSELF
37 FROM THE MEETING AND HIS ABSENCE SHALL NOT BE COUNTED

1 AGAINST HIM. DIRECTORS AND TRUSTEES SHALL HAVE SUCH
2 OTHER DUTIES AND RESPONSIBILITIES PROVIDED IN THE
3 CORPORATION'S BY-LAWS AND AS MAY BE PRESCRIBED BY THE
4 COMMISSION FOR GOOD CORPORATE GOVERNANCE.

5 SECTION 16. Section 24 of the Code is hereby amended to read as follows:

6 "Sec. 24. *Election of directors or trustees.* - OTHER THAN IN
7 INSTANCES WHEN THE EXCLUSIVE RIGHT IS WITHHELD FOR
8 HOLDERS OF FOUNDERS' SHARES UNDER SECTION 7, EACH
9 STOCKHOLDER OR MEMBER SHALL HAVE THE RIGHT TO
10 NOMINATE ANY DIRECTOR OR TRUSTEE WHO POSSESSES ALL OF
11 THE QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS SET
12 FORTH IN THIS CODE OR IN THE RULES OF THE COMMISSION.

13 EXCEPT AS PROVIDED IN SECTION 26 OF THIS CODE, at all
14 elections of directors or trustees, there must be present, either in person, BY
15 REMOTE COMMUNICATION, or by representative authorized to act by
16 written proxy, the owners of a majority of the outstanding capital stock, or if
17 there be no capital stock, a majority of the members entitled to vote;
18 PROVIDED THAT WHEN A VOTE IS CAST IN ABSENTIA, THE
19 STOCKHOLDER OR MEMBER WHO CAST THE VOTE SHALL BE
20 DEEMED PRESENT FOR PURPOSES OF QUORUM.

21 EACH STOCKHOLDER OR MEMBER SHALL HAVE THE RIGHT
22 TO VOTE IN PERSON, BY REMOTE COMMUNICATION, BY PROXY,
23 AND/OR IN ABSENTIA; PROVIDED THAT VOTING BY REMOTE
24 COMMUNICATION OR IN ABSENTIA MAY BE RESORTED TO ONLY
25 WHEN ALLOWED EITHER BY THE BY-LAWS OF THE CORPORATION
26 OR BY A MAJORITY OF THE BOARD OF DIRECTORS AND WHEN THE
27 CORPORATION HAS INSTITUTED REASONABLE MEASURES TO
28 VERIFY THAT THE PERSON PERMITTED TO PARTICIPATE OR VOTE
29 BY REMOTE COMMUNICATION OR IN ABSENTIA IS A
30 STOCKHOLDER OR MEMBER, OR A HOLDER OF A PROXY FROM A
31 STOCKHOLDER OR MEMBER, AND TO RECORD ALL VOTES AND
32 OTHER ACTIONS TAKEN AT THE MEETING. WHEN ATTENDANCE
33 AT THE MEETING IS BY REMOTE COMMUNICATION, THE
34 CORPORATION SHALL PROVIDE THE STOCKHOLDER OR MEMBER,
35 OR PROXY-HOLDER, A REASONABLE OPPORTUNITY TO
36 PARTICIPATE IN THE MEETING, HEAR OR SEE THE PROCEEDINGS
37 AS WELL AS BE HEARD OR SEEN BY OTHER STOCKHOLDERS OR
38 MEMBERS, AND TO CAST THEIR VOTE SUBSTANTIALLY

1 CONCURRENTLY WITH SUCH PROCEEDINGS. WHEN VOTING IN
2 ABSENTIA, IS ALLOWED, THE CORPORATION SHALL INSTITUTE
3 REASONABLE MEASURES TOTIMELY PROVIDE THE STOCKHOLDER
4 OR MEMBER WITH INFORMATION ON THE NOMINEES AND GIVE
5 THEM A REASONABLE OPPORTUNITY TO ASK QUESTIONS BEFORE
6 CASTING THEIR VOTES. THE COMMISSION SHALL PRESCRIBE THE
7 MINIMUM STANDARDS OR GUIDELINES TO MAKE ATTENDANCE
8 BY REMOTE COMMUNICATION AND VOTING IN ABSENTIA
9 EFFICIENT AND ACCESSIBLE FORA FOR STOCKHOLDERS OR
10 MEMBERS.

11 The election must be by ballot if requested by any voting stockholder or
12 member.

13 In stock corporations, every stockholder entitled to vote shall have the
14 right to vote [in person or by proxy] the number of shares of stock standing, at
15 the time fixed in the by-laws, in his own name [on] IN the stock books of the
16 corporation, or where the by-laws are silent, at the time of the election; and
17 said stockholder may vote such number of shares for as many persons as there
18 are directors to be elected or he may cumulate said shares and give one
19 candidate as many votes as the number of directors to be elected multiplied by
20 the number of his shares shall equal, or he may distribute them on the same
21 principle among as many candidates as he shall see fit: Provided, That the total
22 number of votes cast by him shall not exceed the number of shares owned by
23 him as shown in the books of the corporation multiplied by the whole number
24 of directors to be elected: Provided, however, That no delinquent stock shall be
25 voted. Unless otherwise provided in the articles of incorporation or in the by-
26 laws, members of corporations which have no capital stock may cast as many
27 votes as there are trustees to be elected but may not cast more than one vote for
28 one candidate. Candidates receiving the highest number of votes shall be
29 declared elected.

30 [Any meeting of the stockholders or members called for an election may
31 adjourn from day to day or from time to time but not sine die or indefinitely]
32 If, for any reason, no election is held, or if there are not present or represented
33 by proxy, at the meeting, the owners of a majority of the outstanding capital
34 stock, or if there be no capital stock, a majority of the members entitled to vote,
35 THE MEETING MAY BE ADJOURNED AND THE CORPORATION
36 SHALL PROCEED IN ACCORDANCE WITH SECTION 26 OF THIS
37 CODE."

1 **SECTION 17.** Section 25 of the Code is hereby amended to read as follows:

2 *"Sec. 25. Corporate officers; quorum.* - Immediately after their election, the
3 directors of a corporation must formally organize by the election of a
4 president **OR CHIEF EXECUTIVE OFFICER**, who shall be a director, a
5 treasurer **OR CHIEF FINANCIAL OFFICER**, who may or may not be a
6 director, a secretary who shall be a resident and citizen of the Philippines, **A**
7 **COMPLIANCE OFFICER WHO SHALL REPORT DIRECTLY TO THE**
8 **CHAIRMAN OF THE BOARD**, and such other officers as may be provided
9 for in the by-laws. Any two (2) or more positions **OTHER THAN THAT OF**
10 **THE COMPLIANCE OFFICER** may be held concurrently by the same person,
11 except that no one shall act as president and secretary or as president and
12 treasurer at the same time.

13 [The directors or trustees and officers to be elected shall perform the
14 duties enjoined on them by law and by the by-laws of the corporation.] Unless
15 the articles of incorporation or the by-laws provide for a greater majority, a
16 majority of the number of directors or trustees as fixed in the articles of
17 incorporation shall constitute a quorum for the transaction of corporate
18 business, and every decision of at least a majority of the directors or trustees
19 present at a meeting at which there is a quorum shall be valid as a corporate
20 act, except for the election of officers which shall require the vote of a majority
21 of all the members of the board.

22 [Directors or trustees cannot attend or vote by proxy at board
23 meetings]; **HOWEVER, WHEN ALLOWED BY THE BY-LAWS, THEY CAN**
24 **ATTEND BOARD MEETINGS THROUGH REMOTE COMMUNICATION**
25 **SUCH AS VIDEOCONFERENCING, TELECONFERENCING OR OTHER**
26 **TECHNOLOGY THAT ALLOWS THEM A REASONABLE OPPORTUNITY**
27 **TO PARTICIPATE."**

28 **SECTION 18.** Section 26 of the Code is hereby amended to read as follows:

29 *"Sec. 26. Report of election of directors, trustees and officers],* **NON-**
30 **HOLDING OF ELECTION AND CESSATION FROM OFFICE.** - Within thirty
31 (30) days after the election of the directors, trustees and officers of the
32 corporation, the secretary, or any other officer of the corporation, shall submit
33 to the [Securities and Exchange] Commission, the names, nationalities,
34 **SHAREHOLDINGS** and residences of the directors, trustees, and officers
35 elected.

1 THE NON-HOLDING OF ANY ELECTION AND THE REASONS
2 THEREFOR, SHALL BE REPORTED TO THE COMMISSION WITHIN
3 THREE (3) DAYS FROM THE DATE OF THE SCHEDULED ELECTION;
4 PROVIDED THAT, THE NOTICE OF NON-HOLDING MAY BE
5 SUBMITTED IN THE FORM OF AN ELECTRONIC DOCUMENT, IN
6 ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
7 COMMISSION ON THE USE OF ELECTRONIC DATA MESSAGES.

8 WHEN PERTAINING TO THE ORIGINAL SCHEDULE, THE
9 REPORT OF NON-HOLDING SHALL FURTHER SPECIFY A NEW DATE
10 FOR THE ELECTION, WHICH SHALL NOT BE LATER THAN THIRTY
11 DAYS FROM THE ORIGINAL DATE.

12 IF NO NEW DATE HAS BEEN DESIGNATED, OR IF THE NEWLY-
13 SCHEDULED ELECTION BE LIKEWISE NOT HELD, THE COMMISSION
14 MAY, *MOTU PROPRIO* OR UPON THE APPLICATION OF ANY
15 STOCKHOLDER, MEMBER, DIRECTOR OR TRUSTEE AND AFTER
16 VERIFICATION OF THE NON-HOLDING OF THE ELECTION OF
17 DIRECTORS OR TRUSTEES, REQUIRE THE CORPORATE SECRETARY
18 ON RECORD TO IMMEDIATELY ISSUE A LIST OF STOCKHOLDERS OR
19 MEMBERS, THEIR ADDRESSES AND CONTACT NUMBERS AND
20 SIMILAR INFORMATION, AND SUMMARILY ORDER THAT THE
21 ELECTION BE HELD. IN THIS REGARD, THE COMMISSION SHALL
22 HAVE THE POWER TO ISSUE SUCH ORDERS AS MAY BE
23 APPROPRIATE, INCLUDING, WITHOUT LIMITATION, ORDERS
24 DESIGNATING THE TIME AND PLACE OF THE ELECTION, THE
25 RECORD DATE OR DATES FOR DETERMINATION OF
26 STOCKHOLDERS OR MEMBERS ENTITLED TO NOTICE OF THE
27 ELECTION AND TO VOTE THEREAT, AND THE FORM OF NOTICE OF
28 SUCH ELECTION.

29 THE SHARES OF STOCK OR MEMBERSHIP REPRESENTED AT
30 SUCH MEETING AND ENTITLED TO VOTE THEREAT, EITHER IN
31 PERSON, BY REMOTE COMMUNICATION, *IN ABSENTIA*, OR BY PROXY,
32 SHALL CONSTITUTE A QUORUM FOR THE PURPOSE OF SUCH
33 MEETING, NOTWITHSTANDING ANY PROVISION OF THE ARTICLES
34 OF INCORPORATION OR BY-LAWS TO THE CONTRARY. THE
35 MEETING SCHEDULED BY THE COMMISSION AND THE ELECTION
36 HELD THEREAT SHALL HAVE THE SAME EFFECT OF A VALID
37 MEETING AND ELECTION OF THE CORPORATION.

1 Should a director, trustee or officer die, resign or in any manner cease to
2 hold office, his heirs in case of his death, the secretary, or any other officer of
3 the corporation, or the director, trustee or officer himself, shall [immediately]
4 report such fact to the [Securities and Exchange] Commission **IN**
5 **WRITING WITHIN THREE (3) DAYS FROM CESSATION FROM OFFICE,**
6 **PROVIDED THAT SUCH NOTICE MAY GIVEN IN THE FORM OF AN**
7 **ELECTRONIC DOCUMENT, IN ACCORDANCE WITH THE RULES AND**
8 **REGULATIONS OF THE COMMISSION ON THE USE OF ELECTRONIC**
9 **DATA MESSAGES.**

10 **IN ELECTING DIRECTORS OR TRUSTEES TO FILL VACANCIES,**
11 **THE PROCEDURE SET FORTH IN SECTION 24 AND IN THIS SECTION**
12 **SHALL APPLY."**

13 **SECTION 19.** Section 27 of the Code is hereby amended to read as follows:

14 *"Sec. 27. Disqualification of directors, trustees or officers. - THE*
15 **FOLLOWING PERSONS SHALL BE DISQUALIFIED FROM BEING**
16 **ELECTED AS DIRECTOR, TRUSTEE OR OFFICER OF ANY**
17 **CORPORATION:**

18 1. [No person] **THOSE WHO HAVE BEEN** convicted by final judgment
19 of an offense punishable by imprisonment for a period exceeding six (6) years,
20 or a violation of this Code **OR REPUBLIC ACT 8799** [, committed] within five
21 (5) years prior to the date of his election or appointment[, shall qualify as a
22 director, trustee or officer of any corporation];

23 2. **THOSE WHO, BY FINAL JUDGMENT, ARE CONVICTED OF, OR**
24 **FOUND ADMINISTRATIVELY LIABLE FOR, ANY OFFENSE**
25 **INVOLVING MORAL TURPITUDE, FRAUD, EMBEZZLEMENT, THEFT,**
26 **ESTAFA, COUNTERFEITING, MISAPPROPRIATION, FORGERY,**
27 **BRIBERY, FALSE OATH, PERJURY AND OTHER FRAUDULENT ACTS;**

28 3. **THOSE CONVICTED BY FINAL JUDGMENT OF A FOREIGN**
29 **COURT OR EQUIVALENT REGULATORY AUTHORITY OF ACTS,**
30 **VIOLATIONS OR MISCONDUCT THE SAME AS OR SIMILAR TO**
31 **THOSE ENUMERATED IN PARAGRAPHS 1 AND 2 ABOVE; AND**

32 4. **THOSE WHO HAVE BEEN CONVICTED BY FINAL**
33 **JUDGMENT OF ANY THREE OF THE OFFENSES AND/OR VIOLATIONS**
34 **IN PARAGRAPHS 1 TO 3 ABOVE, REGARDLESS OF WHEN THE**
35 **JUDGMENTS BECAME FINAL.**

1 THE MAXIMUM NUMBER OF BOARD REPRESENTATIONS ANY
2 INDEPENDENT DIRECTOR OR TRUSTEE SHALL HAVE IN OTHER
3 CORPORATIONS SHALL BE FIVE (5), OR SUCH LOWER NUMBER AS
4 MAY BE PROVIDED IN THE BY-LAWS OF THE CORPORATION OR AS
5 THE COMMISSION MAY LATER PRESCRIBE.

6 THE FOREGOING IS WITHOUT PREJUDICE TO
7 QUALIFICATIONS OR OTHER DISQUALIFICATIONS WHICH THE
8 COMMISSION MAY IMPOSE IN ITS PROMOTION OF, AMONG
9 OTHERS, GOOD CORPORATE GOVERNANCE."

10 SECTION 20. Section 28 of the Code is hereby amended to read as follows:

11 "Sec. 28. *Removal of directors or trustees.* - Any director or trustee of a
12 corporation may be removed from office by a vote of the stockholders holding
13 or representing at least two-thirds (2/3) of the outstanding capital stock, or if
14 the corporation be a non-stock corporation, by a vote of at least two-thirds
15 (2/3) of the members entitled to vote: Provided, That such removal shall take
16 place either at a regular meeting of the corporation or at a special meeting
17 called for the purpose, and in either case, after previous notice to stockholders
18 or members of the corporation of the intention to propose such removal at the
19 meeting. A special meeting of the stockholders or members of a corporation for
20 the purpose of removal of directors or trustees, or any of them, must be called
21 by the secretary on order of the president or on the written demand of the
22 stockholders representing or holding at least a majority of the outstanding
23 capital stock, or, if it be a non-stock corporation, on the written demand of a
24 majority of the members entitled to vote. Should the secretary fail or refuse to
25 call the special meeting upon such demand or fail or refuse to give the notice,
26 or if there is no secretary, the call for the meeting may be addressed directly to
27 the stockholders or members by any stockholder or member of the corporation
28 signing the demand. Notice of the time and place of such meeting, as well as of
29 the intention to propose such removal, must be given by publication or by
30 written notice prescribed in this Code. Removal may be with or without cause:
31 Provided, That removal without cause may not be used to deprive minority
32 stockholders or members of the right of representation to which they may be
33 entitled under Section 24 of this Code.

34 THE COMMISSION SHALL, *MOTU PROPRIO* OR UPON
35 VERIFIED COMPLAINT AND AFTER DUE NOTICE AND HEARING,
36 ORDER THE REMOVAL OF ANY DISQUALIFIED DIRECTOR OR
37 TRUSTEE ELECTED DESPITE THE DISQUALIFICATION, OR WHOSE

1 DISQUALIFICATION IS DISCOVERED OR AROSE SUBSEQUENT TO
2 ELECTION, THE REMOVAL OF ANY DISQUALIFIED DIRECTOR SHALL
3 BE WITHOUT PREJUDICE TO OTHER SANCTIONS THE COMMISSION
4 MAY IMPOSE IN ACCORDANCE WITH THIS CODE, UPON SHOWING
5 OF A WILLFUL OR DELIBERATE CONCEALMENT OF THE
6 DISQUALIFICATION. "

7 **SECTION 21.** Section 29 of the Code is hereby amended to read as follows:

8 "Sec. 29. *Vacancies in the office of director or trustee.* - Any vacancy
9 occurring in the board of directors or trustees [other than by removal by the
10 stockholders or members or by expiration of term, may be filled by the vote of
11 at least a majority of the remaining directors or trustees, if still constituting a
12 quorum; otherwise, said vacancies] must be filled by the stockholders in a
13 regular or special meeting called for that purpose.

14 **WHEN THE VACANCY IS DUE TO EXPIRATION OF TERM, THE**
15 **ELECTION SHALL BE HELD NO LATER THAN THE DAY OF SUCH**
16 **EXPIRATION OF TERM AT A MEETING CALLED FOR THAT PURPOSE.**
17 **WHEN THE VACANCY ARISES AS A RESULT OF REMOVAL BY THE**
18 **STOCKHOLDERS OR MEMBERS, THE ELECTION MUST BE HELD ON**
19 **THE SAME DAY OF THE MEETING AUTHORIZING THE REMOVAL**
20 **AND THIS FACT MUST BE SO STATED IN THE AGENDA AND NOTICE**
21 **OF SAID MEETING. IN ALL OTHER CASES, THE ELECTION MUST BE**
22 **HELD NO LATER THAN FORTY-FIVE (45) DAYS FROM WHEN THE**
23 **VACANCY ARISES. A director or trustee so elected to fill a vacancy shall be**
24 **elected only for the unexpired term of his predecessor in office.**

25 **HOWEVER, WHEN THE VACANCY PREVENTS THE REMAINING**
26 **DIRECTORS FROM CONSTITUTING A QUORUM AND EMERGENCY**
27 **ACTION IS REQUIRED TO PREVENT GRAVE, SUBSTANTIAL AND**
28 **IRREPARABLE LOSS OR DAMAGE TO THE CORPORATION, THE**
29 **VACANCY MAY BE TEMPORARILY FILLED BY UNANIMOUS VOTE OF**
30 **THE REMAINING DIRECTORS OR TRUSTEESFROM AMONG THE**
31 **OFFICERS OF THE CORPORATION, PROVIDED THAT ACTION BY THE**
32 **APPOINTED DIRECTOR OR TRUSTEE SHALL BE LIMITED TO THE**
33 **EMERGENCY ACTION NECESSARY TO PREVENT GRAVE,**
34 **SUBSTANTIAL OR IRREPARABLE LOSS TO THE COMPANY AND HIS**
35 **TERM SHALL NOT CONTINUE FOR LONGER THAN REASONABLY**
36 **NECESSARY AFTER THE TERMINATION OF THE EMERGENCY.**

1 Any directorship or trusteeship to be filled by reason of an increase in
2 the number of directors or trustees shall be filled only by an election at a
3 regular or at a special meeting of stockholders or members duly called for the
4 purpose, or in the same meeting authorizing the increase of directors or
5 trustees if so stated in the notice of the meeting.

6 **IN ALL ELECTIONS TO FILL VACANCIES UNDER THIS**
7 **SECTION, THE PROCEDURE SET FORTH IN SECTIONS 24 AND 26**
8 **SHALL APPLY."**

9 **SECTION 22.** Section 30 of the Code is hereby amended to read as follows:

10 "Sec. 30. *Compensation of directors.* -In the absence of any provision in the
11 by-laws fixing **THE PARAMETERS OF**their compensation, the directors**OR**
12 **TRUSTEES** shall not receive any compensation[,] as such directors**OR**
13 **TRUSTEES**,except for reasonable per diems: *Provided, however,* That any such
14 compensation other than per diems may be granted to directors **OR**
15 **TRUSTEES**by the vote of the stockholders representing at least a majority of
16 the outstanding capital stock **OR BY MAJORITY OF THE MEMBERS** at a
17 regular or special meeting.

18 **NO DIRECTOR OR TRUSTEE SHALL PARTICIPATE IN THE**
19 **DETERMINATION OF HIS OWN PER DIEMS OR COMPENSATION.**
20 **PER DIEMS OR COMPENSATION GRANTED TO DIRECTORS OR**
21 **TRUSTEES SHALL LIKEWISE BE APPROVED BY THE VOTE OF THE**
22 **STOCKHOLDERS REPRESENTING AT LEAST A MAJORITY OF THE**
23 **OUTSTANDING CAPITAL STOCK OR BY MAJORITY OF THE**
24 **MEMBERS AT A REGULAR OR SPECIAL MEETING.**

25 In no case shall the total yearly compensation of directors**OR**
26 **TRUSTEES**, as such directors**OR TRUSTEES**, exceed ten (10%) percent of the
27 net income before income tax of the corporation during the preceding year.

28 **THE CORPORATION SHALL SUBMIT AN ANNUAL REPORT ON**
29 **THE COMPENSATION OF DIRECTORS OR TRUSTEES AS PRESCRIBED**
30 **UNDER THIS CODE."**

31 **SECTION 23.** Section 35 of the Code is hereby amended to read as follows:

32 "Sec. 35. *Executive committee AND OTHER SPECIAL COMMITTEES.* -
33 The by-laws of a corporation may create an executive committee, composed of

not less than three members of the board, to be appointed by the board. Said committee may act, by majority vote of all its members, on such specific matters within the competence of the board, as may be delegated to it in the by-laws or on a majority vote of the board, except with respect to: (1) approval of any action for which shareholders' approval is also required; (2) the filling of vacancies in the board; (3) the amendment or repeal of by-laws or the adoption of new by-laws; (4) the amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable; and (5) a distribution of cash dividends to the shareholders.

FOR MERITORIOUS REASONS, THE BOARD MAY, UPON DUE AMENDMENT OF THE BY-LAWS, ORDER THE FORMATION OF OTHER SPECIAL COMMITTEES AND DETERMINE THE MEMBERS' TERM, COMPENSATION, POWERS AND RESPONSIBILITIES.

WHEN NECESSARY TO ENSURE GOOD CORPORATE GOVERNANCE AND/OR COMBAT GRAFT AND CORRUPT PRACTICES, OR WHEN THE PARAMOUNT INTEREST OF THE PUBLIC OTHERWISE REQUIRES, THE COMMISSION SHALL HAVE THE POWER TO REQUIRE THE FORMATION OF OTHER COMMITTEES AND DESIGNATE THEIR POWERS AND RESPONSIBILITIES; PROVIDED THAT THE TERM AND COMPENSATION OF SUCH COMMITTEES SHALL BE DETERMINED BY THE BOARD AND THE CORPORATION'S BY-LAWS SHALL BE AMENDED ACCORDINGLY WITHIN THE PERIOD PRESCRIBED BY THE COMMISSION."

SECTION 24. Section 36 of the Code is hereby amended to read as follows:

"Sec. 36. Corporate powers and capacity. - Every corporation incorporated under this Code has the power and capacity:

1. To sue and be sued in its corporate name;

2. Of **PERPETUAL** succession by its corporate name [for the], **UNLESS A LIMITED** period of time **IS** stated in the articles of incorporation and the certificate of incorporation;

xxxxxx xxx

8. [To enter into merger or consolidation with other corporations as provided in this Code]**TO ENTER INTO A JOINT VENTURE OR OTHER**

1 COMMERCIAL AGREEMENT WITH PERSONS, JURIDICAL OR
2 OTHERWISE, AND MERGE OR CONSOLIDATE WITH OTHER
3 CORPORATIONS.

4 xxx xxx xxx"

5 SECTION 25. Section 37 of the Code is hereby amended to read as follows:

6 "Sec. 37. *Power to extend or shorten corporate term.* - A private corporation
7 may extend or shorten its term as stated in the articles of incorporation when
8 approved by a majority vote of the board of directors or trustees and ratified at
9 a meeting by the stockholders representing at least two-thirds (2/3) of the
10 outstanding capital stock or by at least two-thirds (2/3) of the members in case
11 of non-stock corporations. Written notice of the proposed action and of the
12 time and place of the meeting shall be addressed to each stockholder
13 or member at his place of residence as shown on the books of the corporation
14 and deposited to the addressee in the post office with postage prepaid, [or]
15 served personally[.], OR, WHEN ALLOWED IN THE BY-LAWS OR DONE
16 WITH THE CONSENT OF THE CONCERNED STOCKHOLDER, NOTICE
17 UNDER THIS SECTION MAY BE GIVEN IN THE FORM OF AN
18 ELECTRONIC DOCUMENT, IN ACCORDANCE WITH THE RULES AND
19 REGULATIONS OF THE COMMISSION ON THE USE OF ELECTRONIC
20 DATA MESSAGES; Provided, That in case of extension of corporate term, any
21 dissenting stockholder may exercise his appraisal right under the conditions
22 provided in this code."

23 SECTION 26. Section 38 of the Code is hereby amended to read as follows:

24 "Sec. 38. *Power to increase or decrease capital stock; incur, create or increase*
25 *bonded indebtedness.* - xxx xxx xxx

26 [(5) The actual indebtedness of the corporation on the day of the
27 meeting;]

28 xxx xxx xxx

29 Any increase or decrease in the capital stock or the incurring, creating or
30 increasing of any bonded indebtedness shall require prior approval of the
31 [Securities and Exchange] Commission. THE FILING OF THE
32 APPLICATION WITH THE COMMISSION SHALL BE MADE WITHIN
33 THREE (3) MONTHS FROM THE DATE OF APPROVAL BY THE BOARD

1 OF DIRECTORS AND STOCKHOLDERS. PRIOR TO THE
2 COMMISSION'S APPROVAL, THE RECOGNITION OF THE
3 SUBSCRIPTION TO MEET THE REQUIRED PAID-UP CAPITAL SHALL
4 BE IN ACCORDANCE WITH REQUIREMENTS SET BY THE
5 COMMISSION. NON-PAYMENT OF THE ADDITIONAL PAID-UP
6 CAPITAL WITHIN ONE (1) YEAR FROM THE DATE OF THE BOARD OF
7 DIRECTORS AND STOCKHOLDERS' APPROVAL SHALL RENDER THE
8 PROPOSAL ABANDONED AND INEFFECTIVE.

9 One of the duplicate certificates shall be kept on file in the office of the
10 corporation and the other shall be filed with the [Securities and Exchange]
11 Commission and attached to the original articles of incorporation. From and
12 after approval by the [Securities and Exchange] Commission and the issuance
13 by the Commission of its certificate of filing, the capital stock shall stand
14 increased or decreased and the incurring, creating or increasing of any bonded
15 indebtedness authorized, as the certificate of filing may declare: Provided, That
16 the [Securities and Exchange] Commission shall not accept for filing any
17 certificate of increase of capital stock unless accompanied by the sworn
18 statement of the treasurer of the corporation lawfully holding office at the time
19 of the filing of the certificate, showing that at least twenty-five (25%) percent of
20 [such increased] **THE INCREASE IN** capital stock has been subscribed and
21 that at least twenty-five (25%) percent of the amount subscribed has been paid
22 either in actual cash to the corporation or that there has been transferred to the
23 corporation property the valuation of which is equal to twenty-five (25%)
24 percent of the subscription: Provided, further, That no decrease of the capital
25 stock shall be approved by the Commission if its effect shall prejudice the
26 rights of corporate creditors.

27 xxx xxx xxx

28 Bonds issued by a corporation shall be registered with the [Securities
29 and Exchange] Commission, which shall have the authority to determine the
30 sufficiency of the terms thereof."

31 **SECTION 27.** Section 40 of the Code is hereby amended to read as follows:

32 "Sec. 40. *Sale or other disposition of assets.* - Subject to the provisions of
33 existing laws on illegal combinations and monopolies **AND SUBJECT,**
34 **FURTHER, TO SEC. 81 OF THIS CODE ON DE FACTO MERGERS,** a
35 corporation may, by a majority vote of its board of directors or trustees, sell,
36 lease, exchange, mortgage, pledge or otherwise dispose of [all or substantially

1 all of its property and assets, including its goodwill, upon such terms and
2 conditions and for such consideration, which may be money, stocks, bonds or
3 other instruments for the payment of money or other property or
4 consideration, as its board of directors or trustees may deem expedient.

5 **WHEN THE SALE IS OF ALL OR SUBSTANTIALLY ALL OF THE**
6 **CORPORATION'S PROPERTY AND ASSETS, IT MUST BE [when]**
7 authorized by the vote of the stockholders representing at least two-thirds
8 (2/3) of the outstanding capital stock, or in case of non-stock corporation, by
9 the vote of at least to two-thirds (2/3) of the members, in a stockholder's or
10 member's meeting duly called for the purpose[.];**WHEN THE SALE IS OF**
11 **LESS THAN ALL OR SUBSTANTIALLY ALL OF THE CORPORATION'S**
12 **PROPERTY AND ASSETS, A MAJORITY VOTE SHALL BE REQUIRED.** In
13 non-stock corporations where there are no members with voting rights, the
14 vote of at least a majority of the trustees in office will be sufficient
15 authorization for the corporation to enter into any transaction authorized by
16 this section.

17 Written notice of the proposed action and of the time and place of the
18 meeting shall be addressed to each stockholder or member at his place of
19 residence as shown on the books of the corporation and deposited to the
20 addressee in the post office with postage prepaid, or served personally:
21 Provided, That any dissenting stockholder may exercise his appraisal right
22 under the conditions provided in this Code.

23 [A sale or other disposition shall be deemed to cover substantially all
24 the corporate property and assets if thereby the corporation would be rendered
25 incapable of continuing the business or accomplishing the purpose for which it
26 was incorporated.]

27 After such authorization or approval by the stockholders or members,
28 the board of directors or trustees may, nevertheless, in its discretion, abandon
29 such sale, lease, exchange, mortgage, pledge or other disposition of property
30 and assets, subject to the rights of third parties under any contract relating
31 thereto, without further action or approval by the stockholders or members.

32 Nothing in this section is intended to restrict the power of any
33 corporation, without the authorization by the stockholders or members, to sell,
34 lease, exchange, mortgage, pledge or otherwise dispose of any of its property
35 and assets if the same is necessary in the usual and regular course of business

1 of said corporation or if the proceeds of the sale or other disposition of such
2 property and assets be appropriated for the conduct of its remaining business.

3 [In non-stock corporations where there are no members with voting
4 rights, the vote of at least a majority of the trustees in office will be sufficient
5 authorization for the corporation to enter into any transaction authorized by
6 this section.]”

7
8 **SECTION 28.** Section 43 of the Code is hereby amended to read as follows:

9 “Sec. 43. *Power to declare dividends.* - The board of directors of a stock
10 corporation may declare dividends out of the unrestricted retained earnings
11 which **SHALL BE DETERMINED IN ACCORDANCE WITH THE**
12 **GUIDELINES SET BY THE COMMISSION ON UNREALIZED EARNINGS**
13 **AND LOSSES.** SUCH DIVIDENDS shall be payable in cash, in property, or in
14 stock to all stockholders on the basis of outstanding stock held by them:
15 Provided, That any cash dividends due on delinquent stock shall first be
16 applied to the unpaid balance on the subscription plus costs and expenses,
17 while stock dividends shall be withheld from the delinquent stockholder until
18 his unpaid subscription is fully paid: Provided, further, That no stock dividend
19 shall be issued without the approval of stockholders representing not less than
20 two-thirds (2/3) of the outstanding capital stock at a regular or special meeting
21 duly called for the purpose.

22 Stock corporations are prohibited from retaining surplus profits in
23 excess of one hundred (100%) percent of their paid-in capital stock, except: (1)
24 when justified by definite corporate expansion projects or programs approved
25 by the board of directors; or (2) when the corporation is prohibited under any
26 loan agreement with any financial institution or creditor, whether local or
27 foreign, from declaring dividends without its/his consent, and such consent
28 has not yet been secured; or (3) when it can be clearly shown that such
29 retention is necessary under special circumstances obtaining in the
30 corporation, such as when there is need for special reserve for probable
31 contingencies.”

32 **SECTION 29.** Section 46 of the Code is hereby amended to read as follows:

33 “Sec. 46. *Adoption of by-laws.* - Every corporation formed under this Code
34 must, within one (1) month after receipt of official notice of the issuance of its

1 certificate of incorporation by the [Securities and Exchange] Commission,
2 adopt a code of by-laws for its government not inconsistent with this Code. For
3 the adoption of by-laws by the corporation the affirmative vote of the
4 stockholders representing at least a majority of the outstanding capital stock, or
5 of at least a majority of the members in case of non-stock corporations, shall be
6 necessary. The by-laws shall be signed by the stockholders or members voting
7 for them and shall be kept in the principal office of the corporation, subject to
8 the inspection of the stockholders or members during office hours. A copy
9 thereof, duly certified to by a majority of the directors or trustees
10 countersigned by the secretary of the corporation, shall be filed with the
11 [Securities and Exchange] Commission which shall be attached to the original
12 articles of incorporation.

13 Notwithstanding the provisions of the preceding paragraph, by-laws
14 may be adopted and filed prior to incorporation; in such case, such by-laws
15 shall be approved and signed by all the incorporators and submitted to the
16 [Securities and Exchange] Commission, together with the articles of
17 incorporation.

18 **BY-LAWS OR AMENDMENTS THERETO MAY BE FILED IN THE**
19 **FORM OF AN ELECTRONIC DOCUMENT, IN ACCORDANCE WITH**
20 **THE RULES AND REGULATIONS OF THE COMMISSION ON THE USE**
21 **OF ELECTRONIC DATA MESSAGES.**

22 In all cases, by-laws shall be effective only upon the issuance by the
23 [Securities and Exchange] Commission of a certification that the by-laws are
24 not inconsistent with this Code.

25 The [Securities and Exchange] Commission shall not accept for filing the
26 by-laws or any amendment thereto of any bank, banking institution, building
27 and loan association, trust company, insurance company, public utility,
28 educational institution or other special corporations governed by special laws,
29 unless accompanied by a certificate of the appropriate government agency to
30 the effect that such by-laws or amendments are in accordance with law."

31 **SECTION 30.** Section 47 of the Code is hereby amended to read as follows:

32 "Sec. 47. *Contents of by-laws.* - Subject to the provisions of the
33 Constitution, this Code, other special laws, and the articles of incorporation, a
34 private corporation [may] **SHALL** provide in its by-laws for:

1. The time, place and manner of calling and conducting regular or special meetings of the directors or trustees;

2. The time and manner of calling and conducting regular or special meetings of the stockholders or members, **PROVIDED THAT THE BY-LAWS SHALL CONTAIN NO PROVISION SUPPRESSING OR OTHERWISE LIMITING IN ANY MANNER THE RIGHT OF ANY MEMBER OR STOCKHOLDER TO PROPOSE THE HOLDING OF MEETINGS AND THE ITEMS FOR DISCUSSION IN THE AGENDA;**

xxx xxx xxx

5. The qualifications, duties AND RESPONSIBILITIES, and THE PARAMETERS OR GUIDELINES TO CONSIDER IN SETTING THE compensation, of directors or trustees AND[,] officers [and employees], AS WELL AS THE MAXIMUM NUMBER OF OTHER BOARD REPRESENTATIONS AN INDEPENDENT DIRECTOR OR TRUSTEE MAY HAVE WHICH SHALL, IN NO CASE, BE MORE THAN FIVE (5) OR SUCH OTHER NUMBER THE COMMISSION MAY LATER PRESCRIBE;

xxx xxx xxx

9. In the case of stock corporations, the manner of issuing stock certificates; [and]

10. THE TIME AND MANNER BY WHICH ACCURATE AND TIMELY INFORMATION SHALL BE GIVEN TO STOCKHOLDERS OR MEMBERS ON MATTERS AFFECTING THE CORPORATION, WHICH MAY INCLUDE BUT SHALL NOT BE LIMITED TO THE PUBLICATION OF SUCH INFORMATION ON THE CORPORATION'S WEBSITE:

11. A CODE OF ETHICS OR STANDARDS OF CONDUCT FOR THE CORRECT, HONORABLE AND PROPER PERFORMANCE OF A CORPORATION'S BUSINESS AND ITS DEALINGS, DIRECT OR INDIRECT, WITH THE GOVERNMENT AND ITS AGENCIES, AS WELL AS MECHANISMS TO ENFORCE SUCH CODE OF ETHICS OR STANDARDS OF CONDUCT, WHICH SHALL CONTAIN THE MINIMUM REQUIREMENTS THE COMMISSION MAY PROVIDE;

12. INTERNAL PROCEDURES TO PROVIDE AVENUES OF COMMUNICATION BY, TO PROTECT THE IDENTITY AND SECURITY OF TENURE/COMPENSATION OF, AND TO PROVIDE PROTECTION

1 FROM RETALIATION BEFORE AND AFTER EMPLOYMENT OF: (A)
2 THOSE WHO REPORT VIOLATIONS OF THE CORPORATION'S CODE
3 OF ETHICS OR STANDARDS OF CONDUCT, GRAFT AND CORRUPT
4 PRACTICES, IMPROPRIETIES IN MATTERS OF FINANCIAL
5 REPORTING, OR OTHER UNLAWFUL OR ILLEGAL CONDUCT
6 COMMITTED BY THE CORPORATION OR ANY OF ITS DIRECTORS,
7 TRUSTEES, OFFICERS, EMPLOYEES OR AGENTS; (B) THOSE
8 WHO REPORT INSTRUCTIONS OR PRESSURE FROM HIERARCHICAL
9 SUPERIORS TO COMMIT ANY OF THE ACTS IN (A); AND/OR (C)
10 THOSE WHO RAISE CONCERNS ABOUT THREATS OF OR POSSIBLE
11 ACTS CONSTITUTING ANY OF THE ACTS IN (A) ABOVE;

12 13.A SYSTEM, INCLUDING THE APPOINTMENT OF A
13 COMPLIANCE OFFICER, THAT WILL MONITOR COMPLIANCE WITH
14 THE RULES AND REGULATIONS ON GOOD CORPORATE
15 GOVERNANCE; AND

16 [10] 14. Such other matters as may be necessary for the proper or
17 convenient transaction of its corporate business and affairs OR AS MAY BE
18 DEEMED NECESSARY BY THE COMMISSION FOR THE PROMOTION
19 OF GOOD GOVERNANCE AND/OR ITS POLICY AGAINST GRAFT AND
20 CORRUPTION.

21 THE COMMISSION SHALL FORMULATE AND MAKE
22 AVAILABLE SAMPLE BY-LAWS WITH THE FOREGOING
23 REQUIREMENTS."

24 SECTION 31. Section 48 of the Code is hereby amended to read as follows:

25 Section 48. Amendment to by-laws. - The board of directors or trustees,
26 by a majority vote thereof, and the owners of at least [a majority] TWO-
27 THIRDS (2/3) of the outstanding capital stock, or at least [a majority] TWO-
28 THIRDS (2/3) of the members of a non-stock corporation, at a regular or
29 special meeting duly called for the purpose, may amend or repeal any by-laws
30 or adopt new by-laws. The owners of two-thirds (2/3) of the outstanding
31 capital stock or two-thirds (2/3) of the members in a non-stock corporation
32 may delegate to the board of directors or trustees the power to amend or repeal
33 any by-laws or adopt new by-laws: Provided, That any power delegated to the
34 board of directors or trustees to amend or repeal any by-laws or adopt new by-
35 laws shall be considered as revoked whenever stockholders owning or
36 representing a majority of the outstanding capital stock or a majority of the

1 members in non-stock corporations, shall so vote at a regular or special
2 meeting.

3 Whenever any amendment or new by-laws are adopted, such
4 amendment or new by-laws shall be attached to the original by-laws in the
5 office of the corporation, and a copy thereof, duly certified under oath by the
6 corporate secretary and a majority of the directors or trustees, **INCLUDING**
7 **THE STOCKHOLDERS' OR MEMBERS' RESOLUTION ON THE**
8 **DELEGATION OF THE POWER TO AMEND OR ADOPT NEW BY-LAWS**
9 **OR ON THE REVOCATION OF SUCH DELEGATION, IF ANY,** shall be
10 filed with the [Securities and Exchange] Commission the same to be attached
11 to the original articles of incorporation and original by-laws.

12 The amended or new by-laws shall only be effective upon the issuance
13 by the [Securities and Exchange] Commission of a certification that the same
14 are not inconsistent with this Code."

15 **SECTION 32.** Section 50 of the Code is hereby amended to read as follows:

16 "Sec. 50. *Regular and special meetings of stockholders or members.* - Regular
17 meetings of stockholders or members shall be held annually on a date fixed in
18 the by-laws, or if not so fixed, on any date in April of every year as determined
19 by the board of directors or trustees.: *Provided,* That written notice of regular
20 meetings shall be sent to all stockholders or members of record at least [two
21 (2)] **THREE(3)weeks** prior to the meeting, unless a [different] **LONGER** period
22 is required by the by-laws**OR BY ANY RELEVANT LAW OR REGULATION,**
23 **AND IN SUCH A MANNER AS TO BE RECEIVED AT LEAST FIVE DAYS**
24 **BEFORE THE SCHEDULED MEETING.**

25 **AT EACH REGULAR MEETING OF STOCKHOLDERS OR**
26 **MEMBERS, THE BOARD OF DIRECTORS OR TRUSTEES SHALL,**
27 **AMONG OTHERS, PRESENT TO SUCH STOCKHOLDERS OR**
28 **MEMBERS THE FOLLOWING:**

29 a. **THE MINUTES OF THE MOST RECENT REGULAR**
30 **MEETING WHICH SHALL INCLUDE, AMONG OTHERS:**

31 (i) **A DESCRIPTION OF THE VOTING AND VOTE**
32 **TABULATION PROCEDURES USED AND TO BE USED IN**
33 **THE CURRENT MEETING,**

1 (ii) THE OPPORTUNITY GIVEN TO
2 STOCKHOLDERS OR MEMBERS TO ASK QUESTIONS, AS
3 WELL AS A RECORD OF THE QUESTIONS THEY ASKED
4 AND THE ANSWERS RECEIVED,

5 (iii) THE MATTERS DISCUSSED AND
6 RESOLUTIONS REACHED,

7 (iv) A RECORD OF THE VOTING RESULTS FOR
8 EACH AGENDA ITEM, AND

9 (v) A LIST OF THE DIRECTORS OR TRUSTEES,
10 OFFICERS AND STOCKHOLDERS OR MEMBERS WHO
11 ATTENDED THE MEETING;

12 b. A MEMBERS' LIST FOR NON-STOCK
13 CORPORATIONS AND, FOR STOCK CORPORATIONS,
14 MATERIAL INFORMATION ON THE CURRENT STOCK
15 OWNERSHIP STRUCTURE AND VOTING RIGHTS, INCLUDING
16 GROUP STRUCTURES, INTRA-GROUP RELATIONS,
17 OWNERSHIP DATA, AND BENEFICIAL OWNERSHIP WITH
18 SPECIFIC DISCLOSURES ON THE DIRECT AND INDIRECT
19 STOCKHOLDINGS OF DIRECTORS AND OFFICERS;

20 c. A DETAILED, DESCRIPTIVE, BALANCED AND
21 COMPREHENSIBLE ASSESSMENT OF THE CORPORATION'S
22 PERFORMANCE WHICH SHALL INCLUDE INFORMATION ON
23 THE CHANGES IN THE CORPORATION OR ITS BUSINESS AND
24 ITS STRATEGY;

25 d. A FINANCIAL REPORT OF THE OPERATIONS OF
26 THE CORPORATION FOR THE PRECEDING YEAR, WHICH
27 SHALL INCLUDE FINANCIAL STATEMENTS DULY SIGNED AND
28 CERTIFIED IN ACCORDANCE WITH THIS CODE AND THE
29 RULES THE COMMISSION MAY PRESCRIBE, A STATEMENT ON
30 THE ADEQUACY OF THE CORPORATION'S INTERNAL
31 CONTROLS OR RISK MANAGEMENT SYSTEMS, AND A
32 STATEMENT OF ALL EXTERNAL AUDIT AND NON-AUDIT FEES;

33 e. AN EXPLANATION OF THE DIVIDEND POLICY AND
34 THE FACT OF PAYMENT OF DIVIDENDS OR THE REASONS FOR
35 NON-PAYMENT THEREOF;

1 f. DIRECTOR OR TRUSTEE PROFILES WHICH SHALL
2 INCLUDE, AMONG OTHERS, THEIR QUALIFICATIONS AND
3 RELEVANT EXPERIENCE, LENGTH OF SERVICE IN THE
4 CORPORATION, THE TRAININGS AND CONTINUING
5 EDUCATION THEY ATTENDED, AND THE NUMBER OF THEIR
6 BOARD REPRESENTATIONS IN OTHER CORPORATIONS;

7 g. A DIRECTOR OR TRUSTEE ATTENDANCE REPORT,
8 INDICATING THE ATTENDANCE OF EACH DIRECTOR OR
9 TRUSTEE AT EACH OF THE MEETINGS OF THE BOARD AND ITS
10 COMMITTEES AND IN REGULAR OR SPECIAL STOCKHOLDER
11 MEETINGS;

12 h. A BOARD APPRAISAL OR PERFORMANCE REPORT
13 AND THE STANDARDS OR CRITERIA AND PROCEDURE USED
14 TO ASSESS THE BOARD;

15 i. A DIRECTOR OR TRUSTEE APPRAISAL OR
16 PERFORMANCE REPORT AND THE STANDARDS OR CRITERIA
17 AND PROCEDURE USED TO ASSESS EACH DIRECTOR OR
18 TRUSTEE;

19 j. A DIRECTOR OR TRUSTEE COMPENSATION
20 REPORT PREPARED IN ACCORDANCE WITH THIS CODE AND
21 THE RULES THE COMMISSION MAY PRESCRIBE;

22 k. DIRECTOR DISCLOSURES ON SELF-DEALINGS
23 AND RELATED PARTY TRANSACTIONS;

24 l. THE PROFILES OF DIRECTORS NOMINATED OR
25 SEEKING ELECTION OR RE-ELECTION;

26 m. THE COMPENSATION/BENEFITS OF EMPLOYEES
27 WHO ARE IMMEDIATE FAMILY MEMBERS OF A DIRECTOR OR
28 TRUSTEE OR ANY OFFICER OF THE CORPORATION OR WHOSE
29 EMPLOYMENT WAS MADE WITH THEIR ENDORSEMENT; AND

30 n. DETAILS OF THE ORIENTATION PROGRAM FOR
31 NEW DIRECTORS.

32 ANY DIRECTOR, TRUSTEE, STOCKHOLDER OR MEMBER MAY
33 PROPOSE ANY OTHER MATTER FOR DISCUSSION OR INCLUSION IN

1 THE AGENDA AT ANY REGULAR MEETING OF STOCKHOLDERS OR
2 MEMBERS.

3 SUBJECT TO THE RIGHT OF ANY MEMBER OR STOCKHOLDER
4 TO PROPOSE THE HOLDING OF SPECIAL MEETINGS AND THE ITEMS
5 FOR DISCUSSION IN THE AGENDA THEREOF, special meetings of
6 stockholders or members shall be held at any time deemed necessary or as
7 provided in the by-laws: Provided, however, That at least [one (1)week]
8 written notice shall be sent to all stockholders or membersAT LEAST THREE
9 (3) WEEKS PRIOR TO THE MEETING, unless [otherwise] A LONGER
10 PERIOD IS provided in the by-lawsOR BY ANY RELEVANT LAW OR
11 REGULATION, AND IN SUCH A MANNER AS TO BE RECEIVED AT
12 LEAST FIVE DAYS BEFORE THE SCHEDULED MEETING.

13 Notice of any meeting may be waived, expressly or impliedly, by any
14 stockholder or member[.]; PROVIDED THAT GENERAL WAIVERS OF
15 NOTICE IN THE ARTICLES OF INCORPORATION OR THE BY-LAWS
16 SHALL NOT BE ALLOWED; PROVIDED, FURTHER, THAT
17 ATTENDANCE AT A MEETING SHALL CONSTITUTE A WAIVER OF
18 NOTICE OF SUCH MEETING, EXCEPT WHEN THE PERSON ATTENDS
19 A MEETING FOR THE EXPRESS PURPOSE OF OBJECTING AT THE
20 BEGINNING OF THE MEETING, TO THE TRANSACTION OF ANY
21 BUSINESS BECAUSE THE MEETING IS NOT LAWFULLY CALLED OR
22 CONVENED.

23 Whenever, for any cause, there is no person authorized to call a
24 meeting, the [Securities and Exchange] Commission, upon petition of a
25 stockholder or member on a showing of good cause therefor, may issue an
26 order to the petitioning stockholder or member directing him to call a meeting
27 of the corporation by giving proper notice required by this Code or by the by-
28 laws. The petitioning stockholder or member shall preside thereat until at least
29 a majority of the stockholders or members present have chosen one of their
30 number as presiding officer.

31 UNLESS THE BY-LAWS PROVIDE FOR A LONGER PERIOD, THE
32 STOCK AND TRANSFER BOOK/MEMBERSHIP BOOK SHALL BE
33 CLOSED AT LEAST TWENTY (20) DAYS BEFORE THE SCHEDULED
34 DATE OF THE MEETING.

35 IN CASE OF POSTPONEMENT OF STOCKHOLDERS' OR
36 MEMBERS' MEETINGS, WRITTEN NOTICE THEREOF AND THE
37 REASON THEREFOR SHALL BE SENT TO ALL STOCKHOLDERS OR

1 MEMBERS OF RECORD AT LEAST TWO (2) WEEKS PRIOR TO THE
2 DATE OF THE MEETING, UNLESS A DIFFERENT PERIOD IS REQUIRED
3 BY THE BY-LAWS OR BY ANY RELEVANT LAW OR REGULATION, AND
4 IN SUCH A MANNER AS TO BE RECEIVED AT LEAST FIVE DAYS
5 BEFORE THE DATE OF THE MEETING."

6 SECTION 33. Section 51 of the Code is hereby amended to read as follows:

7 Sec. 51. *Place and time of meetings of stockholders of members.* -
8 Stockholder's or member's meetings, whether regular or special, shall be held
9 in the PRINCIPAL OFFICE OF THE CORPORATION AS SET FORTH IN
10 THE ARTICLES OF INCORPORATION, OR, IF NOT PRACTICABLE, IN
11 THE city or municipality where the principal office of the corporation is located
12 [, and if practicable in the principal office of the corporation]: Provided, That
13 Metro Manila shall, for purposes of this section, be considered a city or
14 municipality.

15 WHEN ALLOWED BY THE BY-LAWS OR BY A MAJORITY OF THE
16 BOARD OF DIRECTORS OR TRUSTEES, ATTENDANCE AT REGULAR
17 OR SPECIAL MEETINGS MAY BE BY REMOTE COMMUNICATION
18 AND VOTING MAY BE MADE *IN ABSENTIA*. WHEN ATTENDANCE BY
19 REMOTE COMMUNICATION IS ALLOWED, THE CORPORATION
20 SHALL PROVIDE THE STOCKHOLDER OR MEMBER, OR PROXY-
21 HOLDER, A REASONABLE OPPORTUNITY TO PARTICIPATE IN THE
22 MEETING, TO HEAR OR SEE THE PROCEEDINGS AS WELL AS BE
23 HEARD OR SEEN BY OTHER STOCKHOLDERS OR MEMBERS, AND TO
24 CAST THEIR VOTE SUBSTANTIALLY CONCURRENTLY WITH SUCH
25 PROCEEDINGS. WHEN VOTING *IN ABSENTIA*, IS ALLOWED, THE
26 CORPORATION SHALL INSTITUTE REASONABLE MEASURES TO
27 TIMELY PROVIDE THE STOCKHOLDER OR MEMBER WITH
28 INFORMATION ON THE MATTERS TO BE TAKEN UP AT THE
29 MEETING AND GIVE THEM A REASONABLE OPPORTUNITY TO ASK
30 QUESTIONS BEFORE CASTING THEIR VOTES. THE COMMISSION
31 SHALL PRESCRIBE THE MINIMUM STANDARDS OR GUIDELINES TO
32 MAKE ATTENDANCE BY REMOTE COMMUNICATION AND VOTING
33 *IN ABSENTIA* EFFICIENT AND ACCESSIBLE FORA FOR
34 STOCKHOLDERS OR MEMBERS.

35 Notice of meetings shall be in writing, and the time and place thereof
36 stated therein. EACH NOTICE OF MEETING SHALL FURTHER STATE OR
37 BE ACCOMPANIED BY THE FOLLOWING:

- 1 (A) THE AGENDA FOR THE MEETING;
- 2 (B) A PROXY FORM;
- 3 (C) WHEN ATTENDANCE IS ALLOWED BY REMOTE
4 COMMUNICATION, THE FACT THEREOF AND THE
5 REQUIREMENTS AND PROCEDURES TO BE FOLLOWED
6 WHEN A STOCKHOLDER OR MEMBER ELECTS SUCH
7 OPTION;
- 8 (D) WHEN VOTING IS ALLOWED *IN ABSENTIA*, THE FACT
9 THEREOF AND THE REQUIREMENTS AND PROCEDURES
10 TO BE FOLLOWED WHEN A STOCKHOLDER OR MEMBER
11 ELECTS SUCH OPTION;
- 12 (E) WHEN THE MEETING IS FOR THE ELECTION OF
13 DIRECTORS OR TRUSTEES, THE REQUIREMENTS AND
14 PROCEDURE FOR NOMINATING AND THE
15 CURRICULUM VITAE OR OTHER RELEVANT
16 INFORMATION OF THOSE ALREADY NOMINATED
17 INCLUDING, BUT NOT LIMITED TO, SUCH NOMINEES'
18 OTHER EXECUTIVE FUNCTIONS OR MEMBERSHIP IN
19 OTHER BOARDS;
- 20 (F) OTHER EXPLANATORY MATERIALS OR A STATEMENT
21 THAT SUCH EXPLANATORY MATERIALS ARE
22 AVAILABLE FOR INSPECTION DURING OFFICE HOURS
23 AT THE CORPORATION'S PRINCIPAL OFFICE AND/OR
24 ONLINE AT THE CORPORATION'S WEBSITE, OR THAT
25 SOFT COPIES THEREOF MAY BE SENT TO A
26 STOCKHOLDER OR MEMBER UPON HIS REQUEST; AND
- 27 (G) THE PROCEDURE FOR MAKING INQUIRIES OR
28 SOLICITING ADDITIONAL INFORMATION ABOUT THE
29 AGENDA ITEMS BEFORE THE MEETING.

30 WHEN ALLOWED BY THE BY-LAWS OF THE CORPORATION,
31 NOTICES OF MEETING MAY BE SENT ELECTRONICALLY, PROVIDED
32 THAT THE SAME IS DONE IN ACCORDANCE WITH THE RULES OF
33 THE COMMISSION AND, PROVIDED FURTHER, THAT ANY
34 STOCKHOLDER OR MEMBER MAY, AT ANY TIME, OPT OUT OF
35 RECEIVING NOTICE BY ELECTRONIC COMMUNICATION AND

1 REQUEST THAT WRITTEN NOTICE BE SENT IN A TRADITIONAL
2 MANNER, I.E. BY PERSONAL SERVICE, BY POST OR BY COURIER.

3 All proceedings had and any business transacted at any meeting of the
4 stockholders or members, if within the powers or authority of the corporation,
5 shall be valid even if the meeting be improperly held or called, provided all the
6 stockholders or members of the corporation are present or duly represented at
7 the meeting AND NONE OF THEM EXPRESSLY STATE AT THE
8 BEGINNING OF THE MEETING THAT THE PURPOSE OF THEIR
9 ATTENDANCE IS TO OBJECT TO THE TRANSACTION OF ANY
10 BUSINESS BECAUSE THE MEETING IS NOT LAWFULLY CALLED OR
11 CONVENED."

12 SECTION 34. Section 53 of the Code is hereby amended to read as follows:

13 "Sec. 53. *Regular and special meetings of directors or trustees.* - Regular
14 meetings of the board of directors or trustees of every corporation shall be held
15 monthly, unless the by-laws provide otherwise.

16 Special meetings of the board of directors or trustees may be held at any
17 time upon the call of the president or as provided in the by-laws.

18 Meetings of directors or trustees of corporations may be held anywhere
19 in or outside of the Philippines, unless the by-laws provide otherwise. Notice
20 of regular or special meetings stating the date, time and place of the meeting
21 must be sent to every director or trustee at least [one (1) day] FIVE (5) DAYS
22 prior to the scheduled meeting, unless [otherwise] A LONGER TIME IS
23 provided by the by-laws. A director or trustee may waive this requirement,
24 either expressly or impliedly.

25 DIRECTORS OR TRUSTEES CANNOT ATTEND OR VOTE BY
26 PROXY AT BOARD MEETINGS; HOWEVER, WHEN ALLOWED BY THE
27 BY-LAWS, THEY CAN ATTEND BOARD MEETINGS THROUGH
28 REMOTE COMMUNICATION SUCH AS VIDEOCONFERENCING,
29 TELECONFERENCING OR OTHER TECHNOLOGY THAT ALLOWS
30 THEM A REASONABLE OPPORTUNITY TO PARTICIPATE.

31 SECTION 35. Section 58 of the Code is hereby amended to read as follows:

32 Sec. 58. *MANNER OF VOTING; Proxies.* - Stockholders and members
33 may vote in person, *IN ABSENTIA* or by proxy in all meetings of stockholders

1 or members. VOTING DONE WHEN ATTENDANCE IS BY REMOTE
2 COMMUNICATION SHALL BE EQUIVALENT TO VOTING IN PERSON.
3 A STOCKHOLDER OR MEMBER MAY VOTE WITHOUT ATTENDING
4 THE MEETING FOR AS LONG AS THE VOTE IS CAST AND RECEIVED
5 ON OR BEFORE THE TALLY OF VOTES IS COMPLETED AT THE
6 MEETING, AND THE VOTE IS MADE IN ACCORDANCE WITH THE
7 CORPORATION'S REQUIREMENTS AND PROCEDURES FOR VOTING
8 IN ABSENTIA. THE COMMISSION SHALL PRESCRIBE THE MINIMUM
9 STANDARDS AND GUIDELINES FOR VOTING WHEN ATTENDANCE
10 IS DONE BY REMOTE COMMUNICATION OR WHEN VOTING IS IN
11 ABSENTIA.

12 Proxies shall be in writing, signed by the stockholder or member and
13 filed before the scheduled meeting with the corporate secretary. Unless
14 otherwise provided in the proxy, it shall be valid only for the meeting for
15 which it is intended. No proxy shall be valid and effective for a period longer
16 than five (5) years at any one time."

17 **SECTION 36.** Section 59 of the Code is hereby amended to read as follows:

18 Section 59. *Voting Trusts.* -One or more stockholders of a stock
19 corporation may create a voting trust for the purpose of conferring upon a
20 trustee or trustees the right to vote and other rights pertaining to the shares for
21 a period not exceeding five (5) years at any time: Provided, That in the case of a
22 voting trust specifically required as a condition in a loan agreement, said
23 voting trust may be for a period exceeding five (5) years but shall automatically
24 expire upon full payment of the loan. A voting trust agreement must be in
25 writing and notarized, and shall specify the terms and conditions thereof. A
26 certified copy of such agreement shall be filed with the corporation and with
27 the [Securities and Exchange] Commission]; otherwise, said agreement is
28 ineffective and unenforceable] **AND SHALL BE EFFECTIVE AND**
29 **ENFORCEABLE ONLY UPON APPROVAL THEREOF BY THE**
30 **COMMISSION.** The certificate or certificates of stock covered by the voting
31 trust agreement shall be cancelled and new ones shall be issued in the name of
32 the trustee or trustees stating that they are issued pursuant to said agreement.
33 In the books of the corporation, it shall be noted that the transfer in the name of
34 the trustee or trustees is made pursuant to said voting trust agreement.

35 **SECTION 37.** Section 61 of the Code is hereby amended to delete "Securities and
36 Exchange" from "Securities and Exchange Commission".

SECTION 38. Section 62 of the Code is hereby amended to read as follows:

"Sec.62. Consideration for stocks. - Stocks shall not be issued for a consideration less than the par or issued price thereof. Consideration for the issuance of stock may be any or a combination of any two or more of the following:

1. Actual cash paid to the corporation;
2. Property, tangible or intangible, actually received by the corporation and necessary or convenient for its use and lawful purposes at a fair valuation equal to the par or issued value of the stock issued;
3. Labor performed for or services actually rendered to the corporation;
4. Previously incurred indebtedness of the corporation;
5. Amounts transferred from unrestricted retained earnings to stated capital; [and]
6. Outstanding shares exchanged for stocks in the event of reclassification or conversion[.];
7. **SHARES OF STOCK OF ANOTHER CORPORATION; AND**
8. **SUCH OTHER FORM OF CONSIDERATION THAT THE COMMISSION MAY DETERMINE TO BE ACCEPTABLE SUBJECT TO THE PROVISIONS OF THE CODE.**

Where the consideration is other than actual cash, or consists of intangible property such as patents or copyrights, the valuation thereof shall initially be determined by the incorporators or the board of directors, **WHO SHALL THEN SUBMIT SUCH DETERMINATION, WITH SUPPORTING DOCUMENTS AS THE COMMISSION MAY PRESCRIBE, FOR THE** [subject to] approval[by] **OF** the [Securities and Exchange] Commission.

xxx xxx xxx"

SECTION 39. Section 63 of the Code is hereby amended to read as follows:

"Sec. 63. *Certificate of stock and transfer of shares.* - The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation so as to show the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred; **THE COMMISSION MAY REQUIRE CORPORATIONS WHOSE SECURITIES ARE TRADED IN AN EXCHANGE OR OTHER AUTHORIZED TRADING MARKETS TO ISSUE ITS SECURITIES OR SHARES OF STOCKS IN UNCERTIFICATED OR SCRIPLESS FORM BY VIRTUE OF, AND IN ACCORDANCE WITH, THE RULES OF THE COMMISSION.**

xxx xxx xxx''

SECTION 40. Section 74 of the Code is hereby amended to read as follows:

"Sec. 74. *Books to be kept; stock transfer agent.* - Every corporation shall keep and carefully preserve at its principal office ALL INFORMATION RELATIVE TO THE CORPORATION INCLUDING, BUT NOT LIMITED TO: (a) THE ARTICLES OF INCORPORATION AND BY-LAWS OF THE CORPORATION AND ALL THEIR AMENDMENTS, (b) THE CURRENT OWNERSHIP STRUCTURE AND VOTING RIGHTS OF THE CORPORATION, INCLUDING LISTS OF STOCKHOLDERS OR MEMBERS, GROUP STRUCTURES, INTRA-GROUP RELATIONS, OWNERSHIP DATA, AND BENEFICIAL OWNERSHIP, (c) THE NAMES AND ADDRESSES OF ALL THE MEMBERS OF THE BOARD OF DIRECTORS OR TRUSTEES AND OF THE EXECUTIVE OFFICERS, (d) a record of all business transactions, (e) A RECORD OF THE RESOLUTIONS OF THE BOARD OF DIRECTORS OR TRUSTEES AND OF THE STOCKHOLDERS OR MEMBERS, (f) COPIES OF THE LATEST REPORTORIAL REQUIREMENTS SUBMITTED TO THE COMMISSION, and (g) THE minutes of all meetings of stockholders or members, or of the board of directors or trustees[.]. SUCH MINUTES [in which] shall [be] set forth in detail, AMONG OTHERS: the time and place of holding the meeting, how authorized, the notice given, THE AGENDA THEREFOR, whether the meeting was regular or special, if special its object, those present and absent, THE VOTING AND VOTE TABULATION PROCEDURES USED AND

1 THE RESULTS OF ALL VOTING DONE, THE OPPORTUNITY GIVEN TO
2 STOCKHOLDERS OR MEMBERS TO ASK QUESTIONS, AS WELL AS A
3 RECORD OF THE QUESTIONS THEY ASKED AND THE ANSWERS
4 RECEIVED, and every act done or ordered done at the meeting. Upon the
5 demand of any director, trustee, stockholder or member, the time when any
6 director, trustee, stockholder or member entered or left the meeting must be
7 noted in the minutes; and on a similar demand, the yeas and nays must be
8 taken on any motion or proposition, and a record thereof carefully made. The
9 protest of any director, trustee, stockholder or member on any action or
10 proposed action must be recorded in full on his demand.

11 The FOREGOING records SHALL BE RETAINED FOR SUCH
12 PERIODS AS THE COMMISSION MAY PRESCRIBE BY RULE AND, [of all
13 business transactions of the corporation and the minutes of any
14 meetings] REGARDLESS OF THE FORM IN WHICH THEY
15 ARE STORED, shall be open to inspection by any director, trustee, stockholder
16 or member of the corporation, IN PERSON OR BY COUNSEL OR OTHER
17 REPRESENTATIVE POSSESSING AND EXHIBITING DUE AUTHORITY,
18 at reasonable hours on business days and he may demand, in writing, for [a
19 copy of] COPIES of SUCH RECORDS OR excerpts from said records [or
20 minutes,] at his expense. THE INSPECTING OR REPRODUCING PARTY
21 UNDER THIS SECTION SHALL REMAIN BOUND BY
22 CONFIDENTIALITY UNDER PREVAILING LAWS.

23 IF A REQUEST FOR INSPECTION AND/OR REPRODUCTION IS
24 DENIED, THE AGGRIEVED PARTY MAY REPORT THE DENIAL TO THE
25 COMMISSION. WITHIN FIVE (5) DAYS FROM RECEIPT OF SUCH
26 REPORT, THE COMMISSION SHALL CONDUCT A SUMMARY
27 INVESTIGATION AND ISSUE AN ORDER EITHER DIRECTING THE
28 INSPECTION/REPRODUCTION REQUESTED OR FINDING THAT THE
29 REQUESTING PARTY, NOT BEING A STOCKHOLDER OR MEMBER OF
30 RECORD, IS NOT ENTITLED TO THE RIGHT.

31 Any officer or agent of the corporation who shall refuse to allow [any
32 director, trustee, stockholder or member of the corporation to examine and/OR
33 copy excerpts from its records or minutes,] THE INSPECTION AND/OR
34 REPRODUCTION OF RECORDS in accordance with the provisions of this
35 Code, shall be liable to such director, trustee, stockholder or member for
36 damages, and in addition, shall be guilty of an offense which shall be
37 punishable under Section 163 of this Code: Provided, That if such refusal is
38 made pursuant to a resolution or order of the board of directors or trustees, the
39 liability under this section for such action shall be imposed upon the directors

1 or trustees who voted for such refusal; and [Provided, further, That it shall be a
2 defense to any action under this section that the person demanding to examine
3 and copy excerpts from the corporation's records and minutes has improperly
4 used any information secured through any prior examination of the records or
5 minutes of such corporation or of any other corporation, or was not acting in
6 good faith or for a legitimate purpose in making his demand.]

7 THE DIRECTOR, TRUSTEE, STOCKHOLDER OR MEMBER
8 WHOSE RIGHT TO INSPECTION AND/OR REPRODUCTION OF
9 RECORDS WAS DENIED MAY FILE,BEFORE A COURT OF COMPETENT
10 JURISDICTION, AN ACTION TO COMPEL INSPECTIONOF
11 CORPORATE RECORDS SHOWING THAT, DESPITE THE LAPSE OF
12 FIVE (5) DAYS FROM RECEIPT OF HIS WRITTEN REQUEST OR
13 DEMAND AND DESPITE HAVING BEEN ORDERED BY THE
14 COMMISSION TO DO SO, THE CORPORATION, OR AN OFFICER OR
15 AGENT THEREOF, REFUSED TO ALLOW THE INSPECTION AND/OR
16 REPRODUCTION OR FAILED TO REPLY TO THE WRITTEN REQUEST
17 OR DEMAND OR THE ORDER OF THE COMMISSION. THE COURT
18 MAY, AFTER SUMMARY PROCEEDINGS, ORDER THE CORPORATION
19 TO PERMIT THE INSPECTION AND/OR REPRODUCTION OR ISSUE
20 ANY SUCH OTHER OR FURTHER RELIEF AS IT MAY DEEM JUST AND
21 PROPER.

22 Stock corporations must also keep a book to be known as the "stock and
23 transfer book", in which must be kept a record of all stocks in the names of the
24 stockholders alphabetically arranged; the installments paid and unpaid on all
25 stock for which subscription has been made, and the date of payment of any
26 installment; a statement of every alienation, sale or transfer of stock made, the
27 date thereof, and by and to whom made; and such other entries as the by-laws
28 may prescribe. The stock and transfer book shall be kept in the principal office
29 of the corporation or in the office of its stock transfer agent and shall be open
30 for inspection by any director or stockholder of the corporation at reasonable
31 hours on business days.

32 No stock transfer agent or one engaged principally in the business of
33 registering transfers of stocks in behalf of a stock corporation shall be allowed
34 to operate in the Philippines unless he secures a license from the [Securities
35 and Exchange] Commission and pays a fee as may be fixed by the
36 Commission, which shall be renewable annually: Provided, That a stock
37 corporation is not precluded from performing or making transfers of its own
38 stocks, in which case all the rules and regulations imposed on stock transfer
39 agents, except the payment of a license fee herein provided, shall be

1 applicable[.]; PROVIDED, FURTHER, THAT THE COMMISSION MAY
2 REQUIRE AN INDEPENDENT TRANSFER AGENT IN THE CASE OF
3 STOCK CORPORATIONS WHICH TRANSFER AND/OR TRADE STOCKS
4 IN SECONDARY MARKETS."

5 **SECTION 41.** Section 75 of the Code is hereby amended to read as follows:

6 "Sec. 75. *Right to financial statements.* - Within ten (10) days from receipt
7 of a written request of any stockholder or member, the corporation shall
8 furnish to him its most recent financial statement, **IN THE FORM AND**
9 **SUBSTANCE OF THE FINANCIAL REPORTING REQUIRED BY THE**
10 **COMMISSION**, [which shall include a balance sheet as of the end of the last
11 taxable year and a profit or loss statement for said taxable year, showing in
12 reasonable detail its assets and liabilities and the result of its operations.]

13 At the regular meeting of stockholders or members, the board of
14 directors or trustees shall present to such stockholders or members a financial
15 report of the operationsof the corporation for the preceding year, which shall
16 include financial statements, duly signed and certified[by an independent
17 certified public accountant] **IN ACCORDANCE WITH THIS CODE AND**
18 **THE RULES THE COMMISSION MAY PRESCRIBE.**

19 However, if the [paid-up capital] **TOTAL ASSETS OR TOTAL**
20 **LIABILITIES** of the corporation [is] **ARE**less than [P50,000.00] **P500,000.00 OR**
21 **SUCH HIGHER AMOUNT AS MAY BE LATER SET BY THE**
22 **COMMISSION**, the financial statements may be certified under oath by the
23 **CORPORATION'S INTERNAL AUDITOR**[treasurer or any responsible
24 officer of the corporation], **AND SHALL BE ACCOMPANIED BY THE**
25 **FURTHER CERTIFICATION BY THE CORPORATION'S OFFICERS AS**
26 **REQUIRED UNDER SECTION 180 OF THIS CODE.**

27 **SECTION 42.** Section 77 of the Code is hereby amended to read as follows:

28 *Sec. 77. Stockholder's or member's approval.* - Upon approval by majority
29 vote of each of the board of directors or trustees of the constituent corporations
30 of the plan of merger or consolidation, the same shall be submitted for
31 approval by the stockholders or members of each of such corporations at
32 separate corporate meetings duly called for the purpose. Notice of such
33 meetings shall be given to all stockholders or members of the respective
34 corporations**IN THE SAME MANNER AS NOTICE OF REGULAR OR**
35 **SPECIAL MEETINGS UNDER SECTION 51.** [, at least two (2) weeks prior to

1 the date of the meeting, either personally or by registered mail.] Said notice
2 shall state, **IN ADDITION TO THE REQUIREMENTS FOR NOTICE OF**
3 **REGULAR OR SPECIAL MEETINGS UNDER SECTION 51**, the purpose of
4 the meeting and shall include a copy or a summary of the plan of merger or
5 consolidation.

6 xxx xxx xxx"

7 **SECTION 43.** Section 78 of the Code is hereby amended to read as follows:

8 *"Sec. 78. Articles of merger or consolidation.* - After the approval by the
9 stockholders or members as required by the preceding section, articles of
10 merger or articles of consolidation shall be executed by each of the constituent
11 corporations, to be signed by the president or vice-president and certified by
12 the secretary or assistant secretary of each corporation setting forth:

- 13 1. The plan of the merger or the plan of consolidation;
- 14 2. As to stock corporations, the number of shares
15 outstanding, or in the case of non-stock corporations, the number of
16 members; [and]
- 17 3. As to each corporation, the number of shares or members
18 voting for and against such plan, respectively[.];
- 19 4. **THE CARRYING AMOUNTS AND FAIR VALUES OF**
20 **THE ASSETS AND LIABILITIES OF THE RESPECTIVE**
21 **COMPANIES AS OF CUT-OFF DATE AGREED BY THE PARTIES;**
- 22 5. **THE METHOD THAT WILL BE USED IN THE**
23 **MERGER OR CONSOLIDATION OF ACCOUNTS OF THE**
24 **COMPANIES;**
- 25 6. **THE PROVISIONAL OR PRO-FORMA VALUES, AS**
26 **MERGED OR CONSOLIDATED, USING THE ACCOUNTING**
27 **METHOD; AND**
- 28 7. **SUCH OTHER INFORMATION AS MAY BE**
29 **PRESCRIBED BY THE COMMISSION.**

30 **SECTION 44.** Section 79 of the Code is hereby amended to read as follows:

1 *"Sec. 79. Effectivity of merger or consolidation.* - The articles of merger or of
2 consolidation, signed and certified as herein above required, shall be submitted
3 to the [Securities and Exchange] Commission in quadruplicate for its approval:
4 Provided, That in the case of merger or consolidation of banks or banking
5 institutions, building and loan associations, trust companies, insurance
6 companies, public utilities, educational institutions and other special
7 corporations governed by special laws, the favorable recommendation of the
8 appropriate government agency shall first be obtained[.]; **PROVIDED,**
9 **FURTHER, THAT THE SUBMISSION OF ARTICLES OF MERGER OR**
10 **CONSOLIDATION, IN THE FORM OF AN ELECTRONIC DOCUMENT,**
11 **SHALL BE IN ACCORDANCE WITH THE RULES AND REGULATIONS**
12 **OF THE COMMISSION ON THE USE OF ELECTRONIC DATA**
13 **MESSAGES.** If the Commission is satisfied that the merger or consolidation of
14 the corporations concerned is not inconsistent with the provisions of this Code
15 and existing laws, it shall issue a certificate of merger or of consolidation, at
16 which time the merger or consolidation shall be effective.

17 If, upon investigation, the [Securities and Exchange] Commission has
18 reason to believe that the proposed merger or consolidation is contrary to or
19 inconsistent with the provisions of this Code or existing laws, it shall set a
20 hearing to give the corporations concerned the opportunity to be heard.
21 Written notice of the date, time and place of hearing shall be given to each
22 constituent corporation at least two (2) weeks before said hearing. The
23 Commission shall thereafter proceed as provided in this Code."

24 **SECTION 45.** A new provision is inserted in the Code as Section 81 as follows:

25 **SEC. 81. DE FACTO MERGERS.** - A SALE OF THE ASSETS OF A
26 CORPORATION, WHETHER EFFECTUATED THROUGH A SINGLE OR
27 A SERIES OF TRANSACTIONS, SHALL BE DEEMED A *DE FACTO*
28 MERGER AND TREATED AS A MERGER OR CONSOLIDATION UNDER
29 THIS CODE WHEN THE BUYER AND SELLER CORPORATIONS
30 ENGAGE IN THE SAME OR SIMILAR BUSINESS, WHETHER WHOLE
31 OR IN PART, AND THE TRANSACTION IS COUPLED WITH OR
32 RESULTS IN ANY, SOME, OR ALL OF THE FOLLOWING OR OTHER
33 SIMILAR CIRCUMSTANCES:

34 1. THE SALE IS OF ALL OR SUBSTANTIALLY ALL OF THE
35 ASSETS OF THE CORPORATION. A SALE SHALL BE DEEMED TO BE
36 OF ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE
37 CORPORATION WHEN:

1 a. AT LEAST EIGHTY PERCENT (80%) OF THE SELLER
2 CORPORATION'S ASSETS ARE INCLUDED IN THE SALE,

3 b. THE SELLER CORPORATION IS LEFT WITH ONLY
4 BAD OR TOXIC ASSETS OR MASSIVE LIABILITIES,

5 c. THE REMAINING ASSETS ARE NOT SUFFICIENT
6 FOR THE CONTINUATION OF THE SELLER CORPORATION'S
7 ORDINARY OPERATIONS, OR

8 d. UNDER CIRCUMSTANCES CONGRUOUS TO THE
9 FOREGOING.

10 2. THE TRANSACTION RESULTS IN THE CESSATION OF
11 THE ORDINARY BUSINESS OF THE SELLER CORPORATION. SUCH
12 CESSATION SHALL BE DEEMED TO EXIST DESPITE THE NON-
13 DISSOLUTION OF THE SELLER CORPORATION WHEN:

14 a. THE SELLER CORPORATION BECOMES MERELY A
15 SHELL CORPORATION,

16 b. THE SELLER CORPORATION HAS NO OPERATIONS
17 WHICH ARE BY THEMSELVES ECONOMICALLY VIABLE,

18 c. THE SELLER CORPORATION IS RENDERED
19 INCAPABLE OF DOING BUSINESS EXCEPT THROUGH THE
20 BUYER CORPORATION, OR

21 d. UNDER CIRCUMSTANCES CONGRUOUS TO THE
22 FOREGOING.

23 3. THERE IS AN INTEGRATION OF THE SELLER
24 CORPORATION'S PRODUCTIVE ASSETS AND OPERATIONS INTO
25 THE BUYER CORPORATION'S OWN BUSINESS OR A CONTINUITY OF
26 THE SELLER CORPORATION'S BUSINESS IN THE BUSINESS OF THE
27 BUYER CORPORATION. SUCH INTEGRATION OR CONTINUITY
28 SHALL BE DEEMED TO EXIST WHEN THE BUYER CORPORATION,
29 WHETHER WHOLLY OR IN PART, CONTINUES THE SELLER
30 CORPORATION'S BUSINESS IN TERMS OF MANAGEMENT,
31 PERSONNEL, PHYSICAL LOCATION, ASSETS, PROCESS,
32 TECHNOLOGY ACTIVITIES, OR GENERAL BUSINESS OPERATIONS,
33 OR INTEGRATES AND COMBINES THESE ASPECTS WITH ITS OWN
34 BUSINESS MODEL, WHETHER OR NOT THERE IS A COMPLETE
35 IDENTITY OR UNIFORMITY IN EVERY MATERIAL CHARACTERISTIC.

36 4. THERE IS AN ASSUMPTION BY THE BUYER
37 CORPORATION OF THE SELLER CORPORATION'S LIABILITIES
38 WHICH WOULD ORDINARILY BE NECESSARY TO CONTINUE THE

1 SELLER CORPORATION'S BUSINESS OPERATIONS WITHOUT
2 INTERRUPTION.

3 5. THE BUYER CORPORATION PAYS FOR THE SELLER
4 CORPORATION'S ASSETS WITH SHARES OF ITS OWN STOCK.

5 6. UNDER THE TERMS OF THE SALE OF THE ASSETS, THE
6 SELLER CORPORATION IS PROHIBITED BY THE BUYER
7 CORPORATION FROM CONTINUING OR ENGAGING IN THE SAME
8 OR SIMILAR BUSINESS.

9 THIS PROVISION SHALL APPLY WHETHER THE BUYER
10 CORPORATION CARRIES OUT THE WHOLE OR A PART OF THE
11 TRANSACTION OR SERIES OF TRANSACTIONS IN ITS OWN NAME
12 OR THROUGH ANY OF ITS WHOLLY OWNED AND CONTROLLED
13 SUBSIDIARIES OR OTHER RELATED PARTIES.

14 SECTION 46. Section 81 of the Code is hereby Section 82 and amended to read as
15 follows:

16 Sec.[81]82. *Instances of appraisal right; REMEDY AGAINST OPPRESSIVE*
17 *ACTS.* - Any stockholder of a corporation shall have the right to dissent and
18 demand payment of the fair value of his shares in the following instances:

19 1. In case any amendment to the articles of incorporation has
20 the effect of changing or restricting the rights of any stockholder or class
21 of shares, or of authorizing preferences in any respect superior to those
22 of outstanding shares of any class, or of extending or shortening the
23 term of corporate existence;

24 2. In case of sale, lease, exchange, transfer, mortgage, pledge
25 or other disposition of all or substantially all of the corporate property
26 and assets as provided in the Code; [and]

27 3. In case of merger or consolidation **WHETHER DE JURE**
28 **OR DE FACTO[.];**

29 4. **WHEN THE CORPORATION SUBMITS FALSE OR**
30 **INACCURATE FINANCIAL STATEMENTS AND/OR**
31 **REPORTORIAL REQUIREMENTS OR WHEN THEY CONTAIN**
32 **MISSTATEMENTS OR MISREPRESENTATIONS;**

1 5. WHEN THE CORPORATION REFUSES TO HOLD THE
2 REGULAR MEETINGS OF STOCKHOLDERS OR UNDULY
3 PREVENTS ANY STOCKHOLDER FROM PARTICIPATING IN
4 MEETINGS HELD;

5 6. WHEN STOCKHOLDERS REPRESENTING A
6 MAJORITY APPOINT THEIR NOMINEES AS DIRECTORS,
7 WITHOUT HOLDING ELECTIONS;

8 7. WHEN DIRECTORS AUTHORIZE PAYMENTS TO
9 ENTITIES RELATED TO THEM OR OTHERWISE ENGAGE IN
10 RELATED PARTY TRANSACTIONS; AND

11 8. IN INSTANCES WHEN THE CORPORATION IS
12 VIOLATING THE PROVISIONS OF THIS CODE, ITS RULES, OR
13 OTHER LAWS."

14 **SECTION 47.** Sections 82 and 83 of the Code are hereby renumbered as Sections 83
15 and 84, respectively.

16 **SECTION 48.** Section 84 of the Code is hereby renumbered as Section 85 and
17 amended to delete "Securities and Exchange" from "Securities and Exchange Commission"
18 in each instance.

19 **SECTION 49.** Sections 85 to 88 of the Code are hereby renumbered as Sections 86 to
20 89 accordingly.

21 **SECTION 50.** Section 89 of the Code is hereby renumbered as Section 90 and
22 amended to read as follows:

23 "Sec. [89]90. *Right to vote.* -**EXCEPT AS OTHERWISE PROVIDED IN**
24 **THIS CODE**, the right of the members of any class or classes to vote may be
25 limited, broadened or denied to the extent specified in the articles of
26 incorporation or the by-laws. Unless so limited, broadened or denied, each
27 member, regardless of class, shall be entitled to one vote.

28 [Unless otherwise provided in the articles of incorporation or the by-
29 laws,] A member may vote **IN PERSON, IN ABSENTIA, OR**by proxy in
30 accordance with the provisions of this Code.

[Voting by mail or other similar means by members of non-stock corporations may be authorized by the by-laws of non-stock corporations with the approval of, and under such conditions which may be prescribed by, the Securities and Exchange Commission.]”

SECTION 51. Sections 90 and 91 of the Code are hereby renumbered as Sections 91 and 92, respectively.

SECTION 52. Section 92 of the Code is hereby renumbered as Section 93 and amended to read as follows:

“Sec. [92]93. *Election and term of trustees.*—[Unless otherwise provided in the articles of incorporation or the by-laws,]The board of trustees of non-stock corporations**SHALL BE IN SUCH NUMBER AS MAY BE FIXED IN THE ARTICLES OF INCORPORATION OR BY-LAWS** [, which may be more than]NOT EXCEEDING fifteen (15) [in number as may be fixed in their articles of incorporation or by-laws, shall]. **THEY SHALL HOLD OFFICE FOR ONE YEARUNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED.**[as soon as organized, so classify themselves that the term of officeof one-third (1/3) of their number shall expire everyyear; and subsequent elections of trustees comprising one-third (1/3) of the board of trustees shall be held annually and trustees so elected shall have a term of three (3) years.] Trustees [thereafter] elected to fill vacancies occurring before the expiration of a particular term shall hold office only for the unexpired period.

EXCEPT WITH RESPECT TO INDEPENDENT TRUSTEES UNDER SECTION 23, no person shall be elected as trustee unless he is a member of the corporation.

Unless otherwise provided in the articles of incorporation or the by-laws, officers of a non-stock corporation may be directly elected by the members.”

SECTION 53. Section 93 of the Code is hereby renumbered as Section 94 and amended to read as follows:

“Sec. [93]94. *[Place of meetings]***LIST OF MEMBERS AND PROXIES.** – **THE CORPORATION SHALL, AT ALL TIMES, KEEP A LIST OF ITS MEMBERS AND THEIR PROXIES ON SITE AT ITS PRINCIPAL OFFICE, IN THE FORM THE COMMISSION MAY REQUIRE, WHICH LIST SHALL BE UPDATED IN A MANNER AS TO REFLECT THE MEMBERS AND**

1 **PROXIES OF RECORD AS OF TWENTY DAYS PRIOR TO ANY**
2 **SCHEDULED ELECTION.** [The by-laws may provide that the members of a
3 non-stock corporation may hold their regular or special meetings at any place
4 even outside the place where the principal office of the corporation is located:
5 Provided, That proper notice is sent to all members indicating the date, time
6 and place of the meeting: and Provided, further, That the place of meeting shall
7 be within the Philippines.]

8 **SECTION 54.** Section 94 of the Code is hereby renumbered as Section 95 and
9 amended to read as follows:

10 *"Sec. [94]95. Rules of distribution. -* In case of dissolution of a non-stock
11 corporation in accordance with the provisions of this Code **FOR REASONS**
12 **OTHER THAN THOSE SET FORTH IN SECTION 136 (4) (B) to (I),** its assets
13 shall be applied and distributed as follows:

14 xxx xxx xxx"

15
16 **SECTION 55.** Sections 95 to 103 of the Code are hereby renumbered as Sections 96
17 to 104 accordingly.

18 **SECTION 56.** Sections 104, 105, and 107 of the Code are hereby amended by
19 deleting "Securities and Exchange" from "Securities Exchange Commission" in each instance
20 and, in Section 107, changing "Ministry of Education and Culture" to "Department of
21 Education Culture and Sports". Further Sections 104 to 107 are renumbered as Sections 105
22 to 108 accordingly.

23 **SECTION 57.** Section 108 of the Code is hereby deleted.

24 **SECTION 58.** Sections 111, 112, 113, 114, 115, and 116 of the Code are hereby
25 amended by deleting "Securities and Exchange" from "Securities Exchange Commission" in
26 each instance.

27 **SECTION 59.** A new chapter is hereby added to Title XIII on Special Corporations
28 and the succeeding provisions are renumbered accordingly.

29 CHAPTER III

30 ONE PERSON CORPORATIONS

1 SEC. 117. *APPLICABILITY OF PROVISIONS TO ONE PERSON*
2 *CORPORATIONS.* -THE PROVISIONS OF THIS CODE ARE APPLICABLE
3 TO ONE PERSON CORPORATIONS EXCEPT AS OTHERWISE
4 PROVIDED IN THIS TITLE AND IN THE OTHER SPECIFIC
5 PROVISIONS OF THIS CODE.

6 SEC. 118. *ONE PERSON CORPORATION.* -A ONE PERSON
7 CORPORATION IS A CORPORATION WITH ONLY A SINGLE
8 STOCKHOLDER WHO IS A NATURAL PERSON OR A JURIDICAL
9 PERSON.

10 SEC. 119. *SINGLE STOCKHOLDER.* - FOR PURPOSES OF THIS
11 CODE, THE FOLLOWING SHALL BE DEEMED A SINGLE
12 STOCKHOLDER:

- 13 a. A NATURAL PERSON WHO WHOLLY OWNS THE SHARES IN
14 THE ONE PERSON CORPORATION;
- 15 b. A JURIDICAL PERSON WHO WHOLLY OWNS THE SHARES IN
16 THE ONE PERSON CORPORATION AND WHO ACTS AS
17 SINGLE STOCKHOLDER THROUGH A DULY AUTHORIZED
18 REPRESENTATIVE; AND
- 19 c. A TRUST, ESTATE OR ACCOUNT WHO WHOLLY OWNS THE
20 SHARES IN THE ONE PERSON CORPORATION AND WHO
21 SHALL ACT AS STOCKHOLDER THROUGH ITS TRUSTEE,
22 ADMINISTRATOR, EXECUTOR, GUARDIAN, CONSERVATOR,
23 CUSTODIAN OR OTHER PERSON EXERCISING FIDUCIARY
24 CAPACITIES AND DULY AUTHORIZED AS SUCH.

25 SEC. 120. *MINIMUM AMOUNT OF CAPITAL STOCK TO BE PAID*
26 *FOR PURPOSES OF INCORPORATION.* - THE MINIMUM AMOUNT OF
27 AUTHORIZED CAPITAL STOCK FOR A ONE PERSON CORPORATION
28 IS ONE MILLION PESOS (PHP1,000,000.00), THE PAYMENT OF WHICH
29 SHALL BE MADE BY THE SINGLE STOCKHOLDER IN ONE LUMP SUM
30 AT THE TIME OF INCORPORATION AND PHYSICALLY SEPARATED
31 FROM THE PERSONAL FUNDS OF THE SINGLE STOCKHOLDER.

32 SEC. 121. *ARTICLES OF INCORPORATION; BY-LAWS NOT*
33 *REQUIRED.* - INsofar AS APPLICABLE, A ONE PERSON
34 CORPORATION SHALL FILE ARTICLES OF INCORPORATION IN
35 ACCORDANCE WITH THE REQUIREMENTS UNDER SECTION 14 OF
36 THIS CODE, SUBJECT TO THE FOLLOWING:

1 (1) THERE SHALL BE A STATEMENT AS TO
2 WHETHER THE CAPITAL STOCK IS THE SOLE
3 INVESTMENT OF A NATURAL OR OF A JURIDICAL
4 PERSON, OR OF A TRUST, ESTATE OR ACCOUNT;

5 (2) IF THE SINGLE STOCKHOLDER IS A
6 JURIDICAL PERSON, IT SHALL CLEARLY INDICATE THE
7 NAME, NATIONALITY AND RESIDENCE OF THE
8 NATURAL PERSON AUTHORIZED TO ACT ON ITS
9 BEHALF AND ATTACH PROOF OF SUCH AUTHORITY;

10 (3) IF THE SINGLE STOCKHOLDER IS A TRUST,
11 ESTATE OR ACCOUNT, IT SHALL CLEARLY INDICATE
12 THE NAME, NATIONALITY AND RESIDENCE OF THE
13 TRUSTEE, ADMINISTRATOR, EXECUTOR, GUARDIAN,
14 CONSERVATOR, CUSTODIAN OR OTHER PERSON
15 EXERCISING FIDUCIARY CAPACITIES AND ATTACH
16 PROOF OF SUCH AUTHORITY TO ACT ON BEHALF OF
17 THE TRUST, ESTATE OR ACCOUNT;

18 (4) IN ACCORDANCE WITH SECTION 127, IT
19 SHALL DESIGNATE A NOMINEE AND ALTERNATE
20 NOMINEE AND ATTACH THERETO THEIR PRIOR
21 WRITTEN CONSENT, AS WELL AS STATE THE
22 COMPENSATION THEY SHALL RECEIVE AND THE
23 EXTENT OF OR LIMITATIONS ON THEIR AUTHORITY;

24 (5) THE ARTICLES OF INCORPORATION SHALL
25 BE ACCOMPANIED BY A SWORN STATEMENT BY THE
26 STOCKHOLDER AS TO THE AMOUNT OF THE CAPITAL
27 STOCK AND THAT THE SAME HAS BEEN PAID IN FULL
28 AND MAINTAINED IN AN ACCOUNT SEPARATE FROM
29 THAT OF THE STOCKHOLDER;

30 (6) THERE SHALL BE ATTACHED TO THE
31 ARTICLES OF INCORPORATION A CODE OF ETHICS OR
32 STANDARDS OF CONDUCT AS SET FORTH IN SECTION
33 47, SUBPARAGRAPH 11 OF THIS CODE; AND

34 (7) THERE SHALL BE ATTACHED TO THE
35 ARTICLES OF INCORPORATION INTERNAL PROCEDURES
36 FOR WHISTLEBLOWERS AS SET FORTH IN SECTION 47,
37 SUBPARAGRAPH 12 OF THIS CODE.

1 THE ONE PERSON CORPORATION SHALL BE EXEMPT FROM
2 THE FILING OF BY-LAWS.

3 SEC. 122. PROHIBITION AGAINST MULTIPLE ONE PERSON
4 CORPORATIONS. - ANY PERSON, TRUST, ESTATE OR ACCOUNT MAY
5 ONLY INCORPORATE AND MAINTAIN ONE ONE PERSON
6 CORPORATION AT ANY GIVEN INSTANCE. A ONE PERSON
7 CORPORATION MAY NOT INCORPORATE A NEW ONE PERSON
8 CORPORATION.

9 SEC. 123. DISPLAY OF CORPORATE NAME. - A ONE PERSON
10 CORPORATION SHALL INDICATE EITHER BELOW OR AT THE END
11 OF ITS CORPORATE NAME, THE WORDS "ONE PERSON
12 CORPORATION" OR THE LETTERS "OPC", WHEREVER ITS NAME IS
13 PRINTED, AFFIXED, ENGRAVED OR OTHERWISE PRESENTED.

14 SEC. 124. SINGLE STOCKHOLDER AS DIRECTOR, PRESIDENT AND
15 TREASURER. - THE SINGLE STOCKHOLDER SHALL BE THE SOLE
16 DIRECTOR, PRESIDENT (OR CHIEF EXECUTIVE OFFICER) AND
17 TREASURER (OR CHIEF FINANCE OFFICER) OF THE ONE PERSON
18 CORPORATION.

19 SEC. 125. CORPORATE SECRETARY AND OTHER OFFICERS. -
20 WITHIN FIFTEEN DAYS FROM THE ISSUANCE OF ITS CERTIFICATE
21 OF INCORPORATION, THE ONE PERSON CORPORATION SHALL
22 APPOINT A CORPORATE SECRETARY, WHO SHALL BE OTHER THAN
23 THE SINGLE STOCKHOLDER, AND NOTIFY THE COMMISSION
24 THEREOF WITHIN FIVE DAYS FROM APPOINTMENT.

25 THE ONE PERSON CORPORATION MAY APPOINT SUCH OTHER
26 OFFICERS AS IT MAY DEEM NECESSARY.

27 SEC. 126. SPECIAL FUNCTIONS OF THE CORPORATE SECRETARY.
28 - IN ADDITION TO THE FUNCTIONS DESIGNATED BY THE ONE
29 PERSON CORPORATION AND REQUIRED ELSEWHERE IN THIS CODE,
30 THE CORPORATE SECRETARY SHALL:

- 31 (a) BE RESPONSIBLE FOR MAINTAINING THE MINUTES-
32 BOOK OF THE CORPORATION;
- 33 (b) NOTIFY THE NOMINEE, OR ALTERNATE NOMINEE AS
34 THE CASE MAY BE, OF THE DEATH OR INCAPACITY OF
35 THE SINGLE STOCKHOLDER, WHICH NOTICE SHALL BE

1 GIVEN NOT LATER THAN FIVE (5) DAYS FROM THE
2 SINGLE STOCKHOLDER'S DEATH OR INCAPACITY;

3 (c) NOTIFY THE COMMISSION OF THE DEATH OF THE
4 SINGLE STOCKHOLDER WITHIN A PERIOD OF FIVE (5)
5 DAYS FROM SUCH DEATH AND STATING IN SUCH
6 NOTICE THE NAMES, RESIDENCES AND CONTACT
7 DETAILS OF ALL KNOWN LEGAL HEIRS; AND

8 (d) CALL THE NOMINEE OR ALTERNATIVE NOMINEE TO A
9 MEETING WITH THE KNOWN LEGAL HEIRS AND GIVE
10 GUIDANCE ON THE OPTIONS OF THE LEGAL HEIRS
11 WITH REGARD TO THE ONE PERSON CORPORATION,
12 INCLUDING THE ELECTION OF A NEW DIRECTOR,
13 AMENDING THE ARTICLES OF INCORPORATION AND
14 OTHER ANCILLARY AND/OR CONSEQUENTIAL
15 MATTERS.

16 SEC. 127. *NOMINEE AND ALTERNATE NOMINEE.* - THE SINGLE
17 STOCKHOLDER SHALL DESIGNATE A NOMINEE AND AN
18 ALTERNATE NOMINEE WHO SHALL, IN THE EVENT OF THE SINGLE
19 STOCKHOLDER'S DEATH OR INCAPACITY AND AFTER RECEIVING
20 DUE NOTICE THEREOF FROM THE CORPORATE SECRETARY, TAKE
21 THE PLACE OF THE SINGLE STOCKHOLDER AS DIRECTOR AND
22 MANAGE THE AFFAIRS OF THE CORPORATION AS PROVIDED IN
23 THE ARTICLES OF INCORPORATION.

24 THE ARTICLES OF INCORPORATION SHALL STATE THE
25 NAMES, RESIDENCES AND CONTACT DETAILS OF THE NOMINEE
26 AND ALTERNATE NOMINEE, THE COMPENSATION THEY SHALL BE
27 ENTITLED TO RECEIVE, AS WELL AS THE EXTENT OF AND
28 LIMITATIONS ON THEIR AUTHORITY IN MANAGING THE AFFAIRS
29 OF THE ONE PERSON CORPORATION.

30 THE WRITTEN CONSENT OF THE NOMINEE AND ALTERNATE
31 NOMINEE SHALL BE SUBMITTED TO THE COMMISSION TOGETHER
32 WITH THE FILING OF THE ONE PERSON CORPORATION'S ARTICLES
33 OF INCORPORATION. SUCH CONSENT MAY BE WITHDRAWN IN
34 WRITING BY FURNISHING COPIES THEREOF TO THE SINGLE
35 STOCKHOLDER AND THE COMMISSION ANYTIME BEFORE THE
36 DEATH OR INCAPACITY OF THE SINGLE STOCKHOLDER.

1 THE NOMINEE SHALL, IN THE EVENT OF THE SINGLE
2 STOCKHOLDER'S DEATH OR INCAPACITY AND AFTER RECEIVING
3 DUE NOTICE THEREOF FROM THE CORPORATE SECRETARY, TAKE
4 THE PLACE OF THE SINGLE STOCKHOLDER AS DIRECTOR AND
5 MANAGE THE AFFAIRS OF THE ONE PERSON CORPORATION.

6 SEC. 128. *TERM OF NOMINEE AND ALTERNATE NOMINEE.* -
7 WHEN THE INCAPACITY OF THE SINGLE STOCKHOLDER IS
8 TEMPORARY, THE NOMINEE SHALL SIT AS DIRECTOR AND
9 MANAGE THE AFFAIRS OF THE ONE PERSON CORPORATION ONLY
10 UNTIL THE SINGLE STOCKHOLDER, BY HIS OWN DETERMINATION,
11 REGAINS HIS CAPACITY. IN CASE OF DEATH OR PERMANENT
12 INCAPACITY OF THE SINGLE STOCKHOLDER, THE NOMINEE SHALL
13 SIT AS DIRECTOR AND MANAGE THE AFFAIRS OF THE ONE PERSON
14 CORPORATION ONLY UNTIL THE LEGAL HEIRS OF THE SINGLE
15 STOCKHOLDER HAVE BEEN LAWFULLY DETERMINED, THE SHARES
16 ARE TRANSFERRED IN THEIR NAME, AND/OR THEY HAVE
17 DESIGNATED ONE OF THEM TO ACT ON THEIR BEHALF AS THE
18 SINGLE STOCKHOLDER OF THE ONE PERSON CORPORATION.

19 THE ALTERNATE NOMINEE SHALL SIT AS DIRECTOR AND
20 MANAGE THE ONE PERSON CORPORATION IN CASE OF THE
21 NOMINEE'S INABILITY, INCAPACITY OR DEATH AND ONLY FOR THE
22 SAME TERM AND UNDER THE SAME CONDITIONS APPLICABLE TO
23 THE NOMINEE.

24 SEC. 129. *CHANGE OF NOMINEE OR ALTERNATE NOMINEE.* -
25 THE SINGLE STOCKHOLDER MAY, AT ANY TIME, CHANGE THE
26 NAME OF THE NOMINEE OR ALTERNATE NOMINEE BY SUBMITTING
27 NEW NAMES AND NEW WRITTEN CONSENTS TO THE COMMISSION,
28 WHICH SHALL BE APPENDED TO THE ONE PERSON
29 CORPORATION'S ARTICLES OF INCORPORATION. THE ARTICLES
30 OF INCORPORATION NEED NOT BE AMENDED FOR SUCH CHANGE
31 IN NOMINEE OR ALTERNATE NOMINEE.

32 SEC. 130. *RECORDS IN LIEU OF MEETINGS.* - NO
33 STOCKHOLDERS MEETING NEED BE HELD IN A ONE PERSON
34 CORPORATION. WHEN ACTION IS NEEDED ON ANY MATTER, IT
35 SHALL BE SUFFICIENT, FOR PURPOSES OF VALIDITY, IF THE
36 RESOLUTION THEREON IS MADE IN WRITING, SIGNED AND DATED
37 BY THE SINGLE STOCKHOLDER/DIRECTOR, AND RECORDED IN THE
38 MINUTES-BOOK OF THE ONE PERSON CORPORATION. THE DATE

1 RECORDED IN THE MINUTES-BOOK SHALL BE DEEMED TO BE THE
2 DATE OF THE MEETING FOR ALL PURPOSES UNDER THIS CODE.

3 SEC. 131. *MINUTES-BOOK.* - EACH ONE PERSON CORPORATION
4 SHALL MAINTAIN A MINUTES-BOOK IN WHICH SHALL BE ENTERED
5 IN WRITING ALL ACTIONS, DECISIONS, RESOLUTIONS TAKEN BY
6 THE ONE PERSON CORPORATION, SIGNED AND DATED BY THE
7 SINGLE STOCKHOLDER/DIRECTOR, AT THE TIME THE ACTION,
8 DECISION OR RESOLUTION IS MADE.

9 SEC. 132. *CO-MINGLING OF PROPERTY.* - WHERE THE SINGLE
10 STOCKHOLDER CANNOT PROVE THAT THE PROPERTY OF THE ONE
11 PERSON CORPORATION IS INDEPENDENT OF HIS OWN PROPERTY,
12 HE SHALL ASSUME THE JOINT AND SEVERAL LIABILITY FOR THE
13 DEBTS AND OTHER LIABILITIES OF THE ONE PERSON
14 CORPORATION.

15 SEC. 133. *REPORTORIAL SUBMISSIONS.* - THE ONE PERSON
16 CORPORATION SHALL SUBMIT THE FOLLOWING TO THE
17 COMMISSION ANNUALLY AND WITHIN SUCH PERIODS AS THE
18 COMMISSION MAY PRESCRIBE:

- 19 1. FINANCIAL STATEMENTS CERTIFIED BY THE CHIEF
20 EXECUTIVE OFFICER AND CORPORATE SECRETARY AND
21 DULY AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC
22 ACCOUNTANT ACCREDITED BY THE BOARD OF
23 ACCOUNTANCY;
- 24 2. A REPORT CONTAINING EXPLANATIONS OR COMMENTS
25 BY THE CHIEF EXECUTIVE DIRECTOR ON EVERY
26 QUALIFICATION, RESERVATION OR ADVERSE REMARK OR
27 DISCLAIMER MADE BY THE AUDITOR IN HIS REPORT; AND
- 28 3. A DISCLOSURE OF ALL SELF-DEALINGS AND RELATED
29 PARTY TRANSACTIONS ENTERED INTO BETWEEN THE ONE
30 PERSON CORPORATION AND THE SINGLE STOCKHOLDER.

31 FOR PURPOSES OF THIS PROVISION, THE FISCAL YEAR OF A
32 ONE PERSON CORPORATION SHALL BE THAT SET FORTH IN ITS
33 ARTICLES OF INCORPORATION OR, IN THE ABSENCE THEREOF, THE
34 CALENDAR YEAR.

1 SEC. 134. *CHANGE OF STATUS FROM A REGULAR STOCK*
2 *CORPORATION TO A ONE PERSON CORPORATION.* - WHEN A SINGLE
3 STOCKHOLDER, AS DEFINED UNDER THIS TITLE, ACQUIRES ALL
4 THE STOCKS OF A REGULAR STOCK CORPORATION, THE LATTER
5 MAY APPLY FOR CONVERSION INTO A ONE PERSON
6 CORPORATION, SUBJECT TO THE SUBMISSION OF SUCH
7 DOCUMENTS THE SEC MAY REQUIRE. IF THE APPLICATION FOR
8 CONVERSION IS APPROVED, THE SEC SHALL FORTHWITH ISSUE AN
9 AMENDED CERTIFICATE OF INCORPORATION REFLECTING THE
10 CONVERSION. THE ONE PERSON CORPORATION CONVERTED
11 FROM A REGULAR STOCK CORPORATION SHALL SUCCEED TO AND
12 BE LEGALLY RESPONSIBLE FOR ALL THE LATTER'S OUTSTANDING
13 LIABILITIES AS OF THE DATE OF CONVERSION.

14 SEC. 135. *CHANGE IN STATUS OF A ONE PERSON*
15 *CORPORATION.* - A ONE PERSON CORPORATION MAY BE
16 CONVERTED INTO A REGULAR STOCK CORPORATION AFTER DUE
17 NOTICE TO THE SEC OF SUCH FACT, OF THE CIRCUMSTANCES
18 LEADING TO THE CONVERSION, AND OF COMPLIANCE WITH ALL
19 OTHER REQUIREMENTS FOR STOCK CORPORATIONS UNDER THIS
20 CODE AND APPLICABLE RULES. SUCH NOTICE SHALL BE FILED
21 WITH THE SEC WITHIN SIXTY (60) DAYS FROM THE OCCURRENCE OF
22 THE CIRCUMSTANCES LEADING TO THE CONVERSION INTO A
23 REGULAR STOCK CORPORATION. IF ALL REQUIREMENTS HAVE
24 BEEN DULY COMPLIED WITH, THE SEC SHALL FORTHWITH ISSUE
25 AN AMENDED CERTIFICATE OF INCORPORATION REFLECTING THE
26 CONVERSION.

27 IN CASE OF DEATH OF THE SINGLE STOCKHOLDER, THE
28 NOMINEE OR ALTERNATE NOMINEE, AS THE CASE MAY BE, SHALL
29 TRANSFER THE SHARES IN THE NAME OF THE SINGLE
30 STOCKHOLDERS' LEGAL HEIRS WITHIN SEVEN (7) DAYS FROM
31 RECEIPT OF EITHER AN AFFIDAVIT OF HEIRSHIP OR OF SELF-
32 ADJUDICATION BY A SOLE HEIR, OR ANY OTHER LEGAL
33 DOCUMENT DECLARING THE LEGAL HEIRS OF THE SINGLE
34 STOCKHOLDER AND, WITHIN THE SAME PERIOD, NOTIFY THE SEC
35 OF THE TRANSFER. WITHIN SIXTY (60) DAYS FROM THE TRANSFER
36 OF THE SHARES IN THEIR NAME, THE LEGAL HEIRS SHALL NOTIFY
37 THE SEC IF THEY DECIDE TO WIND UP AND DISSOLVE THE ONE
38 PERSON CORPORATION OR CONVERT IT INTO A REGULAR STOCK
39 CORPORATION.

1 THE REGULAR STOCK CORPORATION CONVERTED FROM A
2 ONE PERSON CORPORATION SHALL SUCCEED TO AND BE LEGALLY
3 RESPONSIBLE FOR ALL THE LATTER'S OUTSTANDING LIABILITIES
4 AS OF THE DATE OF CONVERSION.

5 SECTION 60. Section 117 of the Code is hereby renumbered as Section 136 and
6 amended to read as follows:

7 "TITLE XIV - DISSOLUTION"

8 "Sec. [117]136. *Methods of dissolution; EFFECTIVE DATE OF*
9 *DISSOLUTION.* - A corporation formed or organized under the provisions of
10 this Code may be dissolved IN ANY OF THE FOLLOWING
11 WAYS:[voluntarily or involuntarily.]

12 1. AUTOMATICALLY BY EXPIRATION OF THE CORPORATE
13 TERM STATED IN THE ARTICLES OF INCORPORATION, AS
14 ORIGINALLY STATED, OR AS LENGTHENED OR SHORTENED IN
15 ACCORDANCE WITH THE PROVISIONS OF THIS CODE.

16 2. BY ACTION OF A MAJORITY OF THE INCORPORATORS
17 OR A MAJORITY OF THE DIRECTORS OR TRUSTEES WHEN THE
18 CORPORATION:

- 19 a. HAS NOT COMMENCED BUSINESS,
- 20 b. BEING A STOCK CORPORATION, HAS NOT ISSUED
21 SHARES,
- 22 c. HAS NO DEBTS OR OTHER LIABILITIES, AND
- 23 d. HAS RECEIVED NO PAYMENTS ON
24 SUBSCRIPTIONS FOR SHARES IN THE CASE OF STOCK
25 CORPORATIONS, OR CONTRIBUTIONS IN THE CASE OF NON-
26 STOCK CORPORATIONS, OR, HAVING RECEIVED THEM, HAS
27 RETURNED THEM TO THOSE ENTITLED THERETO, LESS
28 AMOUNTS DISBURSED FOR LAWFUL EXPENSES.

29 3. BY ACTION OF THE BOARD OF DIRECTORS AND
30 STOCKHOLDERS, OR THE BOARD OF TRUSTEES AND MEMBERS AS
31 THE CASE MAY BE, WHEN:

1 a. NOT QUALIFYING UNDER SECTION 136 (2) ABOVE,
2 THE CORPORATION FAILS TO COMMENCE OR CONTINUE ITS
3 BUSINESS OR THE CONSTRUCTION OF ITS WORKS AND ITS
4 CERTIFICATE OF INCORPORATION HAS NOT YET BEEN
5 REVOKED IN ACCORDANCE WITH SECTION 22 OF THIS CODE,
6 OR

7 b. FOR ANY OTHER REASON PROPOSED AND VOTED
8 UPON BY THEM AT A MEETING CALLED SPECIFICALLY FOR
9 THAT PURPOSE.

10 4. BY ORDER OF THE COMMISSION WHEN THE
11 CORPORATION:

12 a. FAILED TO COMMENCE OR CONTINUE ITS
13 BUSINESS OR THE CONSTRUCTION OF ITS WORKS AND THE
14 REVOCATION OF ITS CERTIFICATE OF INCORPORATION HAS
15 ATTAINED FINALITY IN ACCORDANCE WITH SECTION 22 OF
16 THIS CODE;

17 b. HAS BEEN FOUND TO HAVE PROCURED ITS
18 ORGANIZATION THROUGH FRAUD;

19 c. HAS BEEN FOUND TO HAVE BEEN CREATED FOR
20 THE PURPOSE OF COMMITTING OR CONCEALING, OR AIDING
21 IN THE COMMISSION OR CONCEALMENT OF, SECURITIES
22 VIOLATIONS, SMUGGLING, TAX EVASION, MONEY
23 LAUNDERING, OR GRAFT AND CORRUPT PRACTICES;

24 d. HAS BEEN FOUND TO HAVE COMMITTED OR
25 AIDED IN THE COMMISSION OF SECURITIES VIOLATIONS,
26 SMUGGLING, TAX EVASION, MONEY LAUNDERING, OR
27 GRAFT AND CORRUPT PRACTICES, AND ITS STOCKHOLDERS
28 KNEW OR WERE IN A POSITION TO KNOW ABOUT SUCH
29 ILLEGAL ACTS;

30 e. FOR THE PURPOSE OF SHIELDING ITSELF FROM
31 LIABILITY FOR GRAFT AND CORRUPT PRACTICES, HAS BEEN
32 FOUND TO HAVE ENGAGED THE SERVICES OF AN
33 INTERMEDIARY WHO COMMITS GRAFT AND CORRUPT
34 PRACTICES FOR THE CORPORATION'S BENEFIT OR IN ITS

INTEREST, AND ITS STOCKHOLDERS KNEW OR WERE IN A POSITION TO KNOW ABOUT THE ENGAGEMENT;

f. HAS BEEN FOUND TO HAVE REPEATEDLY AND KNOWINGLY TOLERATED THE COMMISSION OF GRAFT AND CORRUPT PRACTICES OR OTHER FRAUDULENT OR ILLEGAL ACTS BY ITS DIRECTORS, TRUSTEES, OFFICERS, OR EMPLOYEES, FAILING TO SANCTION THEM, REPORT THEIR ACTIONS TO THE PROPER AGENCIES, AND/OR FILE THE APPROPRIATE ACTION AGAINST THEM;

g. HAS BEEN FOUND TO HAVE REPEATEDLY AND WILLFULLY EXCEEDED THE AUTHORITY CONFERRED UPON IT BY LAW;

h. HAS BEEN FOUND TO HAVE REPEATEDLY AND WILLFULLY FALSIFIED, MISSTATED OR OTHERWISE MISREPRESENTED INFORMATION CONTAINED IN ITS REPORTORIAL REQUIREMENTS;

i. HAS BEEN FOUND TO HAVE REPEATEDLY AND WILLFULLY CONDUCTED ITS BUSINESS IN A FRAUDULENT OR OTHERWISE UNLAWFUL MANNER; OR

j. HAS BEEN FOUND TO HAVE OTHERWISE VIOLATED THE PROVISIONS OF THIS CODE.

5. BY ORDER OF THE COMMISSION WHEN, BY FINAL JUDGMENT, A COURT ORDERS THE DISSOLUTION OF THE CORPORATION.

IN THE CASE OF EXPIRATION OF CORPORATE TERM UNDER SECTION 136 (1) ABOVE, DISSOLUTION SHALL AUTOMATICALLY TAKE EFFECT ON THE DAY FOLLOWING THE LAST DAY OF THE CORPORATE TERM STATED IN THE ARTICLES OF INCORPORATION, WITHOUT NEED FOR THE ISSUANCE BY THE COMMISSION OF A CERTIFICATE OF DISSOLUTION. IN ALL OTHER CASES, THE DISSOLUTION SHALL TAKE EFFECT ONLY UPON AND AS OF THE ISSUANCE BY THE COMMISSION OF A CERTIFICATE OF DISSOLUTION, AND SHALL BE WITHOUT PREJUDICE TO SECTION 141 OF THIS CODE."

1 **SECTION 61.** Section 118 of the Code is hereby renumbered as Section 137 and
2 amended to read as follows:

3 "Sec. [118]137. [*Voluntary dissolution*] **DISSOLUTION** where no creditors
4 are affected; **PROCEDURE.** - **DISSOLUTION PURSUANT TO SECTION 136**
5 **(2) OF THIS CODE MAY BE MADE BY FILING A VERIFIED REQUEST**
6 **FOR DISSOLUTION WITH THE COMMISSION:**

7 a. **STATING THE NAME OF THE CORPORATION AND**
8 **THE NAMES AND ADDRESSES OF THE INCORPORATORS AND**
9 **DIRECTORS OR TRUSTEES;**

10 b. **STATING THE REASON FOR THE DISSOLUTION OF**
11 **THE CORPORATION;**

12 c. **ATTESTING TO THE EXISTENCE AND**
13 **CONCURRENCE OF ALL THE CONDITIONS SET FORTH IN**
14 **SECTION 136 (2) (A) TO (D) OF THIS CODE;**

15 d. **STATING THE NAMES OF THE INCORPORATORS,**
16 **OR OF THE DIRECTORS OR TRUSTEES, CONSTITUTING A**
17 **MAJORITY, WHO APPROVED THE DISSOLUTION AND THE**
18 **DATE, PLACE, AND TIME OF THE MEETING IN WHICH THE**
19 **VOTE WAS MADE, WHICH REQUIREMENT MAY BE DISPENSED**
20 **WITH IF THE REQUEST ITSELF IS DULY VERIFIED BY SUCH**
21 **MAJORITY; AND**

22 e. **WHEN APPLICABLE, ATTACHING: (i) A LIST OF THE**
23 **NAMES AND ADDRESSES OF THE PERSONS ENTITLED TO A**
24 **RETURN OF PAID SUBSCRIPTIONS OR CONTRIBUTIONS AS**
25 **SET FORTH IN SECTION 136 (2) (D), (ii) A SUMMARY OF THE**
26 **AMOUNTS OF THEIR PAID SUBSCRIPTIONS OR**
27 **CONTRIBUTIONS, (iii) A SUMMARY OF THE AMOUNTS**
28 **DISBURSED FOR LAWFUL EXPENSES WITH COPIES OF THE**
29 **OFFICIAL RECEIPTS THEREFOR, AND (iv) A SUMMARY OF THE**
30 **AMOUNTS RETURNED WITH PROOF THAT THEY WERE DULY**
31 **RECEIVED BY THOSE ENTITLED THERETO.**

32 If dissolution of a corporation **PURSUANT TO SECTION 136 (3) OF**
33 **THIS CODE** does not prejudice the rights of any creditor having a claim
34 against it, the dissolution may be effected by majority vote of the board of
35 directors or trustees, and by a resolution duly adopted by the affirmative vote

1 of the stockholders owning at least two-thirds (2/3) of the outstanding capital
2 stock or of at least two-thirds (2/3) of the members of a meeting to be held
3 upon call of the directors or trustees.

4 **AT LEAST THIRTY (30) DAYS PRIOR TO THE MEETING, NOTICE**
5 **SHALL BE GIVEN TO EACH SHAREHOLDER OR MEMBER OF RECORD,**
6 **WHETHER OR NOT ENTITLED TO VOTE AT THE MEETING, IN THE**
7 **MANNER PROVIDED IN SECTION 50 OF THIS CODE AND SHALL**
8 **STATE THAT THE PURPOSE OF THE MEETING IS TO VOTE ON THE**
9 **DISSOLUTION OF THE CORPORATION.** [after publication of the notice]
10 NOTICE of THE time, place and object of the meeting **SHALL LIKEWISE BE**
11 **MADE BY PUBLICATION** for three (3) consecutive weeks **PRIOR TO THE**
12 **DATE OF THE MEETING** in a newspaper published in the place where the
13 principal office of said corporation is located; and if no newspaper is published
14 in such place, then in a newspaper of general circulation in the Philippines.

15 [, after sending such notice to each stockholder or member [either] by
16 registered mail or by personal delivery at least thirty (30) days prior to said
17 meeting.]

18 **ONCE THE REQUIRED VOTES OF THE BOARD AND SHAREHOLDERS**
19 **OR MEMBERS ARE ACHIEVED, A VERIFIED REQUEST FOR**
20 **DISSOLUTION SHALL BE FILED WITH THE COMMISSION**

21 **a. STATING THE NAME OF THE CORPORATION AND**
22 **THE NAMES AND ADDRESSES OF THE DIRECTORS OR**
23 **TRUSTEES;**

24 **b. STATING THE REASON FOR THE DISSOLUTION OF**
25 **THE CORPORATION;**

26 **c. CERTIFYING THAT NO CREDITOR SHALL BE**
27 **PREJUDICED BY THE DISSOLUTION AND SUBSTANTIATING**
28 **THE SAME WITH FINANCIAL STATEMENTS AND OTHER**
29 **RECORDS;**

30 **d. STATING THE NAMES OF THE DIRECTORS OR**
31 **TRUSTEES, CONSTITUTING A MAJORITY, WHO APPROVED**
32 **THE DISSOLUTION AND THE DATE, PLACE, AND TIME OF THE**
33 **MEETING IN WHICH THE VOTE WAS MADE;**

e. STATING WHEN THE NOTICES TO SHAREHOLDERS OR MEMBERS WERE GIVEN, THE MANNER AND FORM IN WHICH THEY WERE GIVEN, THE DETAILS OF PUBLICATION AND ATTACHING PROOF THEREOF, AND THE DATE, PLACE, AND TIME OF THE MEETING IN WHICH THE VOTE WAS MADE; AND

f. ATTACHING THERETO a copy of the resolution authorizing the dissolution WHICH shall HAVE BEEN certified by a majority of the board of directors or trustees and countersigned by the secretary of the corporation.

WITHIN FIFTEEN (15) DAYS FROM RECEIPT OF THE VERIFIED REQUEST FOR DISSOLUTION, AND IN THE ABSENCE OF ANY WITHDRAWAL WITHIN SAID PERIOD, [The Securities and Exchange] THE Commission shall APPROVE THE REQUEST AND thereupon issue the certificate of dissolution."

SECTION 62. Section 119 of the Code is hereby renumbered as Section 138 and amended to read as follows:

"Sec. [119]138. *[Voluntary dissolution]*DISSOLUTION where creditors are affected; **PROCEDURE AND CONTENTS OF PETITION.** - Where the dissolution of a corporation may prejudice the rights of any creditor, [the petition] **A VERIFIED PETITION** for dissolution shall be filed with the [Securities and Exchange] Commission. The petition shall be signed by a majority of [its] **THE CORPORATION'S** board of directors or trustees or other officers having the management of its affairs, verified by its president or secretary or one of its directors or trustees, and shall set forth all claims and demands against it, and that its dissolution was resolved upon by the affirmative vote of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock or by at least two-thirds (2/3) of the members at a meeting of its stockholders or members called for that purpose. **THE PETITION SHALL LIKEWISE STATE: (a) THE REASON FOR THE DISSOLUTION; (b) THE FORM, MANNER AND TIME WHEN THE NOTICES WERE GIVEN; AND (c) THE DATE, PLACE, AND TIME OF THE MEETING IN WHICH THE VOTE WAS MADE. THE PETITION SHALL HAVE AS ANNEXES (a) A COPY OF THE RESOLUTION AUTHORIZING THE DISSOLUTION, WHICH SHALL HAVE BEEN CERTIFIED BY A MAJORITY OF THE BOARD OF DIRECTORS OR TRUSTEES AND COUNTERSIGNED BY THE SECRETARY OF THE CORPORATION; AND (b) A LIST OF ALL ITS CREDITORS.**

1 If the petition is sufficient in form and substance, the Commission shall,
2 by an order reciting the purpose of the petition, fix a date on or before which
3 objections thereto may be filed by any person, which date shall not be less than
4 thirty (30) days nor more than sixty (60) days after the entry of the order.
5 Before such date, a copy of the order shall be published at least once a week for
6 three (3) consecutive weeks in a newspaper of general circulation published in
7 the municipality or city where the principal office of the corporation is situated,
8 or if there be no such newspaper, then in a newspaper of general circulation in
9 the Philippines, and a similar copy shall be posted for three (3) consecutive
10 weeks in three (3) public places in such municipality or city.

11 Upon five (5) day's notice, given after the date on which the right to file
12 objections as fixed in the order has expired, the Commission shall proceed to
13 hear the petition and try any issue made by the objections filed; and if no such
14 objection is sufficient, and the material allegations of the petition are true, it
15 shall render judgment dissolving the corporation and directing such
16 disposition of its assets as justice requires, and may appoint a receiver to collect
17 such assets and pay the debts of the corporation."

18 **SECTION 63.** Section 120 of the Code is hereby renumbered as Section 139 and
19 amended to read as follows:

20 "Sec. [120]139. **WITHDRAWAL OF REQUEST FOR** Dissolution [by
21 shortening corporate term] **AND WITHDRAWAL OF PETITION FOR**
22 **DISSOLUTION.** - [A voluntary dissolution may be effected by amending the
23 articles of incorporation to shorten the corporate term pursuant to the
24 provisions of this Code. A copy of the amended articles of incorporation shall
25 be submitted to the Securities and Exchange Commission in accordance with
26 this Code. Upon approval of the amended articles of incorporation of the
27 expiration of the shortened term, as the case may be, the corporation shall be
28 deemed dissolved without any further proceedings, subject to the provisions of
29 this Code on liquidation.]

30 **A WITHDRAWAL OF THE REQUEST FOR DISSOLUTION SHALL:**

- 31 a. **BE MADE IN WRITING;**
- 32 b. **BE DULY VERIFIED BY ANY INCORPORATOR,**
33 **DIRECTOR, SHAREHOLDER OR MEMBER;**

1 c. HAVE THE SIGNATURES OF THE SAME NUMBER
2 OF INCORPORATORS, DIRECTORS, SHAREHOLDERS OR
3 MEMBERS NECESSARY TO REQUEST FOR A DISSOLUTION AS
4 SET FORTH IN THE FOREGOING SECTIONS; AND

5 d. BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM
6 THE RECEIPT BY THE COMMISSION OF THE REQUEST FOR
7 DISSOLUTION.

8 UPON RECEIPT OF A DULY SUBMITTED WITHDRAWAL OF
9 REQUEST FOR DISSOLUTION, THE COMMISSION SHALL WITHHOLD
10 ACTION ON THE REQUEST FOR DISSOLUTION AND SHALL, AFTER
11 INVESTIGATION, ISSUE AN ORDER:

12 a. WITHHOLDING THE ISSUANCE OF THE
13 CERTIFICATE OF DISSOLUTION AND DEEMING THE REQUEST
14 FOR DISSOLUTION WITHDRAWN; OR

15 b. DIRECTING THAT A JOINT MEETING OF THE
16 BOARD AND OF THE STOCKHOLDERS BE HELD FOR THE
17 PURPOSE OF ASCERTAINING WHETHER OR NOT TO PROCEED
18 WITH DISSOLUTION.

19 THE COMMISSION SHALL HAVE THE POWER TO ISSUE SUCH
20 ORDERS AS MAY BE APPROPRIATE, INCLUDING, WITHOUT
21 LIMITATION, ORDERS DESIGNATING THE TIME AND PLACE OF THE
22 JOINT MEETING, DIRECTING THE SENDING OF NOTICES, AND
23 SPECIFYING THE FORM OF SUCH NOTICE. THE CONDUCT OF THE
24 JOINT MEETING SHALL BE SUPERVISED BY THE COMMISSION
25 THROUGH A DULY AUTHORIZED REPRESENTATIVE WHO SHALL,
26 IMMEDIATELY AFTER THE JOINT MEETING, CERTIFY ITS OUTCOME
27 WITH A RECOMMENDATION AS TO WHETHER THE CERTIFICATE OF
28 DISSOLUTION SHOULD BE ISSUED OR THE REQUEST FOR
29 DISSOLUTION BE DEEMED ABANDONED. THEREAFTER, THE
30 COMMISSION SHALL ISSUE AN ORDER EITHER APPROVING THE
31 WITHDRAWAL OF THE REQUEST OR A CERTIFICATE OF
32 DISSOLUTION OR PROCEEDING TO ACT ON SUCH REQUEST.

33 A MOTION FOR THE WITHDRAWAL OF THE PETITION FOR
34 DISSOLUTION SHALL BE SIMILAR IN SUBSTANCE AS A
35 WITHDRAWAL OF REQUEST FOR DISSOLUTION BUT SHALL BE
36 VERIFIED AND FILED PRIOR TO PUBLICATION OF THE ORDER

1 SETTING THE DATE FOR OBJECTIONS TO THE PETITION. THE
2 COMMISSION SHALL RESOLVE THE MOTION WITHIN THE SAME
3 PROCEEDINGS AS THE PETITION AND ISSUE AN ORDER DEEMING
4 THE PETITION WITHDRAWN OR DENYING THE WITHDRAWAL AND
5 PROCEEDING TO HEAR OBJECTIONS ON THE PETITION."

6 SECTION 64. Section 121 of the Code is hereby renumbered as Section 140 and
7 amended to read as follows:

8 "Sec. [121]140. [Involuntary dissolution] **DISSOLUTION BY THE**
9 **COMMISSION.** - [A corporation may be dissolved by the Securities and
10 Exchange] **DISSOLUTION PROCEEDINGS PURSUANT TO THE**
11 **GROUND SET FORTH IN SECTION 136 (4) AND (5), SECTION 173, OR**
12 **WHEN PROVIDED IN OTHER LAWS, RULES AND REGULATIONS, MAY**
13 **BE COMMENCED BY THE Commission MOTU PROPRIO OR** upon filing of
14 a verified complaint **BY ANY INTERESTED PARTY.** [and after]

15 AFTER proper notice and hearing, THE COMMISSION MAY
16 DISSOLVE THE CORPORATION OR ISSUE SUCH OTHER ORDER AS IT
17 MAY DEEM APPROPRIATE IN ACCORDANCE WITH THE PROVISIONS
18 OF THIS CODE OR THE RULES AND REGULATIONS OF THE
19 COMMISSION.

20 IF THE CORPORATION IS DISSOLVED BY THE COMMISSION
21 PURSUANT TO ANY OF THE GROUND SET FORTH IN SECTION 136
22 (4) (B) TO (I), ITS ASSETS, AFTER PAYMENT OF ITS OUTSTANDING
23 LIABILITIES, SHALL BE FORFEITED IN FAVOR OF THE COMMISSION.
24 SUCH FORFEITURE SHALL BE WITHOUT PREJUDICE TO ANY OTHER
25 PENALTY OR SANCTION FOR THOSE LIABLE UNDER THIS CODE OR
26 OTHER LAWS.[on the grounds provided by existing laws, rules and
27 regulations]."

28 SECTION 65. Section 122 of the Code is hereby renumbered as Section 141 and
29 amended to read as follows:

30 "Sec. [122]141. *Corporate liquidation.*- Every corporation whose charter
31 expires by its own limitation or is annulled by forfeiture or otherwise, or
32 whose corporate existence for other purposes is terminated in any other
33 manner, shall nevertheless be continued as a body corporate for three (3) years
34 after the [time when it would have been so dissolved] **EFFECTIVE DATE OF**
35 **DISSOLUTION AS PROVIDED IN SECTION 136 OF THIS CODE,** for the

1 purpose of prosecuting and defending suits by or against it and enabling it to
2 settle and close its affairs, to dispose of and convey its property and to
3 distribute its assets, but not for the purpose of continuing the business for
4 which it was established.

5 xxx xxxxxx

6 **EXCEPT AS OTHERWISE PROVIDED FOR IN SECTIONS 95AND**
7 **96OF THIS CODE**, upon the winding up of corporate affairs, any asset
8 distributable to any creditor or stockholder or member who is unknown or
9 cannot be found shall be escheated[to the city or municipality where such
10 assets are located]**IN FAVOR OF THE NATIONAL GOVERNMENT.**

11 xxx xxx xxx"

12 **SECTION 66.** Section 125 is amended to delete "Securities and Exchange" from
13 "Securities and Exchange Commission" in each instance. Further, Sections 123, 124 and 125
14 of the Code are hereby renumbered as Sections 142, 143 and 144, respectively.

15 **SECTION 67.** Section 126 of the Code is hereby renumbered as Section 145 and
16 amended to read as follows:

17 "Sec. [126]**145. Issuance of a license.**- If the [Securities and Exchange]
18 Commission is satisfied that the applicant has complied with all the
19 requirements of this Code and other special laws, rules and regulations, the
20 Commission shall issue a license to the applicant to transact business in the
21 Philippines for the purpose or purposes specified in such license. Upon
22 issuance of the license, such foreign corporation may commence to transact
23 business in the Philippines and continue to do so for as long as it retains its
24 authority to act as a corporation under the laws of the country or state of its
25 incorporation, unless such license is sooner surrendered, revoked, suspended or
26 annulled in accordance with this Code or other special laws.

27 Within sixty (60) days after the issuance of the license to transact
28 business in the Philippines, the licensee, except foreign banking or insurance
29 corporations, shall deposit with the [Securities and Exchange] Commission for
30 the benefit of present and future creditors of the licensee in the Philippines,
31 securities satisfactory to the [Securities and Exchange] Commission, consisting
32 of bonds or other evidence of indebtedness of the Government of the
33 Philippines, its political subdivisions and instrumentalities, or of government-
34 owned or controlled corporations and entities, shares of stock **OR DEBT**

1 **SECURITIES THAT ARE REGISTERED UNDER THE SECURITIES**
2 **REGULATION CODE** [in "registered enterprises" as this term is defined in
3 Republic Act No. 5186], shares of stock in domestic corporations [registered]
4 **LISTED** in the stock exchange, [or] shares of stock in domestic insurance
5 companies and banks, **OR ANY FINANCIAL INSTRUMENT DETERMINED**
6 **SUITABLE BY THE COMMISSION**, or any combination **THEREOF** [of these
7 kinds of securities,] in the actual market value of at least [one] **FIVE** hundred
8 thousand [(P100,000.00)] **(P500,000)** pesos **OR SUCH OTHER AMOUNT THAT**
9 **MAY BE SET BY THE COMMISSION**; Provided, however, That within six (6)
10 months after each fiscal year of the licensee, the [Securities and Exchange]
11 Commission shall require the licensee to deposit additional securities **OR**
12 **FINANCIAL INSTRUMENTS** equivalent in actual market value to two (2%)
13 percent of the amount by which the licensee's gross income for that fiscal year
14 exceeds [five] **TEN** million [(P5,000,000.00)] **(P10,000,000.00)** pesos. The
15 [Securities and Exchange] Commission shall also require **THE** deposit of
16 additional securities **OR FINANCIAL INSTRUMENTS** if the actual market
17 value of the securities **OR FINANCIAL INSTRUMENTS** on deposit has
18 decreased by at least ten (10%) percent of their actual market value at the time
19 they were deposited. The [Securities and Exchange] Commission may at its
20 discretion release part of the additional [securities] deposit[ed with it] if the
21 gross income of the licensee has decreased, or if the actual market value of the
22 total [securities on] deposit has increased, by more than ten (10%) percent of
23 their actual market value [of the securities] at the time they were deposited.
24 The [Securities and Exchange] Commission may, from time to time, allow the
25 licensee to **MAKE** substitute **DEPOSITS**[other securities] for those already on
26 deposit as long as the licensee is solvent. Such licensee shall be entitled to collect
27 the interest or dividends on [the] **SUCH**[securities]depositS[ed]. In the event
28 the licensee ceases to do business in the Philippines, **ITS** [the
29 securities]depositS[ed as aforesaid] shall be returned, upon the licensee's
30 application therefor and upon proof to the satisfaction of the [Securities and
31 Exchange] Commission that the licensee has no liability to Philippine residents,
32 including the Government of the Republic of the Philippines. **FOR PURPOSES**
33 **OF COMPUTING THE SECURITIES DEPOSIT, THE COMPOSITION OF**
34 **GROSS INCOME AND ALLOWABLE DEDUCTIONS THEREFROM**
35 **SHALL BE IN ACCORDANCE WITH THE RULES OF THE**
36 **COMMISSION."**

37 **SECTION 68.** Sections 128, 130, 131, 132, 134, 135, and 136 of the Code are hereby
38 amended to delete "Securities and Exchange" from "Securities and Exchange Commission"
39 in each instance. Further, Sections 127 to 136 are hereby renumbered as Sections 146 to 155
40 accordingly.

1 SECTION 69. A new title is inserted in the Code containing Sections 156 to 175,
2 thus:

3 **TITLE XVI - INVESTIGATIONS, OFFENSES**
4 **AND PENALTIES**

5 *"Sec. 156. INVESTIGATION AND PROSECUTION OF OFFENSES. -*
6 THE COMMISSION MAY, UPON COMPLAINT OR *MOTU PROPRIO*,
7 MAKE SUCH INVESTIGATIONS AS IT DEEMS NECESSARY TO
8 DETERMINE WHETHER ANY PERSON HAS VIOLATED OR IS ABOUT
9 TO VIOLATE ANY PROVISION OF THIS CODE, ANY RULE,
10 REGULATION OR ORDER THEREUNDER, AND MAY REQUIRE OR
11 PERMIT ANY PERSON TO FILE WITH IT A STATEMENT IN WRITING,
12 UNDER OATH OR OTHERWISE, AS THE COMMISSION SHALL
13 DETERMINE, AS TO ALL FACTS AND CIRCUMSTANCES CONCERNING
14 THE MATTER TO BE INVESTIGATED.

15 THE COMMISSION MAY PUBLISH INFORMATION
16 CONCERNING ANY SUCH VIOLATIONS, AND TO INVESTIGATE ANY
17 FACT, CONDITION, PRACTICE OR MATTER WHICH IT MAY DEEM
18 NECESSARY OR PROPER TO AID IN THE ENFORCEMENT OF THE
19 PROVISIONS OF THIS CODE, IN THE PRESCRIBING OF RULES AND
20 REGULATIONS THEREUNDER, OR IN SECURING INFORMATION TO
21 SERVE AS A BASIS FOR RECOMMENDING FURTHER LEGISLATION
22 CONCERNING THE MATTERS TO WHICH THIS CODE RELATES:
23 *PROVIDED, HOWEVER, THAT ANY PERSON REQUESTED OR*
24 SUBPOENAED TO PRODUCE DOCUMENTS OR TESTIFY IN ANY
25 INVESTIGATION SHALL SIMULTANEOUSLY BE NOTIFIED IN
26 WRITING OF THE PURPOSE OF SUCH INVESTIGATION: *PROVIDED,*
27 *FURTHER,* THAT ALL CRIMINAL COMPLAINTS FOR VIOLATION OF
28 THIS CODE, AND THE IMPLEMENTING RULES AND REGULATIONS
29 ENFORCED OR ADMINISTERED BY THE COMMISSION SHALL BE
30 REFERRED TO THE DEPARTMENT OF JUSTICE FOR PRELIMINARY
31 INVESTIGATION AND PROSECUTION BEFORE THE PROPER COURT:
32 *PROVIDED, FURTHERMORE, THAT IN INSTANCES WHERE THE LAW*
33 ALLOWS INDEPENDENT CIVIL OR CRIMINAL PROCEEDINGS OF
34 VIOLATIONS ARISING FROM THE SAME ACT, THE COMMISSION
35 SHALL TAKE APPROPRIATE ACTION TO IMPLEMENT THE SAME.

36 SEC. 157. ADMINISTRATION OF OATHS, AND SUBPOENA OF
37 WITNESSES AND DOCUMENTS. - FOR THE PURPOSE OF THE
38 INVESTIGATIONS IN THE PRECEDING SECTION, OR ANY OTHER

1 PROCEEDING UNDER THIS CODE, THE COMMISSION OR ANY
2 OFFICER DESIGNATED BY IT IS EMPOWERED TO ADMINISTER
3 OATHS AND AFFIRMATIONS, SUBPOENA WITNESSES, COMPEL
4 ATTENDANCE, TAKE EVIDENCE, REQUIRE THE PRODUCTION OF ANY
5 BOOK, PAPER, CORRESPONDENCE, MEMORANDUM, OR OTHER
6 RECORD WHICH THE COMMISSION DEEMS RELEVANT OR
7 MATERIAL TO THE INQUIRY, AND TO PERFORM SUCH OTHER ACTS
8 NECESSARY IN THE CONDUCT OF SUCH INVESTIGATION OR
9 PROCEEDINGS.

10 SECTION 158. *CEASE AND DESIST ORDERS.* - WHENEVER IT
11 SHALL APPEAR TO THE COMMISSION THAT ANY PERSON HAS
12 ENGAGED OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE
13 CONSTITUTING A VIOLATION OF ANY PROVISION OF THIS CODE,
14 ANY RULE, REGULATION OR ORDER THEREUNDER, IT MAY ISSUE AN
15 ORDER FOR SUCH PERSON TO DESIST FROM COMMITTING SUCH
16 ACT OR PRACTICE. AFTER FINDING THAT SUCH PERSON HAS
17 ENGAGED IN ANY SUCH ACT OR PRACTICE AND THAT THERE IS A
18 REASONABLE LIKELIHOOD OF SUCH PERSON CONTINUING
19 FURTHER OR FUTURE VIOLATIONS, THE COMMISSION MAY ISSUE,
20 *EX PARTE* A CEASE AND DESIST ORDER ENJOINING SUCH PERSON
21 FROM FURTHER OR FUTURE VIOLATIONS FOR A MAXIMUM PERIOD
22 OF TWENTY (20) DAYS.

23 THEREAFTER, THE COMMISSION MAY PROCEED
24 ADMINISTRATIVELY AGAINST SUCH PERSON IN ACCORDANCE
25 WITH SECTION 160, AND/OR TRANSMIT SUCH EVIDENCE AS MAY BE
26 AVAILABLE CONCERNING ANY VIOLATION OF ANY PROVISION OF
27 THIS CODE, OR ANY RULE, REGULATION OR ORDER THEREUNDER,
28 TO THE DEPARTMENT OF JUSTICE, WHICH MAY INSTITUTE THE
29 APPROPRIATE CRIMINAL PROCEEDINGS UNDER THIS CODE,
30 AND/OR TO THE PROPER COURT, TRIBUNAL, OR QUASI-JUDICIAL
31 AGENCY IN INSTANCES WHERE THE LAW ALLOWS INDEPENDENT
32 CIVIL OR CRIMINAL PROCEEDINGS OF VIOLATIONS ARISING FROM
33 THE SAME ACT.

34 SEC. 159. *CONTEMPT.* - ANY PERSON WHO, WITHIN HIS POWER
35 BUT WITHOUT JUSTIFIABLE OR LAWFUL CAUSE, FAILS OR REFUSES
36 TO COMPLY WITH ANY LAWFUL ORDER, DECISION OR SUBPOENA
37 ISSUED BY THE COMMISSION SHALL, AFTER DUE NOTICE AND
38 HEARING, BE GUILTY OF CONTEMPT OF THE COMMISSION. SUCH
39 PERSON SHALL BE FINED IN SUCH AMOUNT AS THE COMMISSION

1 MAY DETERMINE. WHEN THE FAILURE OR REFUSAL IS A CLEAR AND
2 OPEN DEFIANCE OF THE COMMISSION'S ORDER, DECISION OR
3 SUBPOENA, THE PERSON SHALL BE FINED ON A DAILY BASIS IN AN
4 AMOUNT THE COMMISSION MAY DETERMINE AND DETAINED
5 UNDER AN ARREST ORDER ISSUED BY THE COMMISSION UNTIL
6 SUCH ORDER, DECISION OR SUBPOENA IS COMPLIED WITH.

7 SEC. 160. ADMINISTRATIVE SANCTIONS. - IF, AFTER DUE
8 NOTICE AND HEARING INITIATED EITHER BY COMPLAINT OR MOTU
9 PROPRIO, THE COMMISSION FINDS THAT ANY PROVISION OF THIS
10 CODE, OR ANY OF THE COMMISSION'S RULES OR ORDERS HAS BEEN
11 VIOLATED, THE COMMISSION MAY IMPOSE ANY OR ALL OF THE
12 FOLLOWING SANCTIONS ON THOSE FOUND RESPONSIBLE FOR THE
13 VIOLATION:

14 (A) A FINE RANGING FROM FIVE THOUSAND PESOS
15 (PHP5,000.00) TO TWO MILLION PESOS (PHP2,000,000.00) PLUS
16 NOT MORE THAN ONE THOUSAND PESOS (PHP1,000.00) FOR
17 EACH DAY OF CONTINUING VIOLATION, IN NO CASE TO
18 EXCEED TWO MILLION PESOS (PHP2,000,000.00);

19 (B) ARREST AND DETENTION IN CONNECTION WITH
20 ITS CONTEMPT POWER UNDER SECTION 159;

21 (C) SUSPENSION OR REVOCATION OF THE
22 CERTIFICATE OF INCORPORATION;

23 (D) DISSOLUTION OF THE CORPORATION AND
24 FORFEITURE OF ITS ASSETS UNDER THE CONDITIONS IN
25 TITLE XV OF THIS CODE; AND

26 (E) OTHER PENALTIES WITHIN THE POWER OF THE
27 COMMISSION TO IMPOSE OR AS PRESCRIBED IN ITS RULES
28 AND REGULATIONS.

29 THE IMPOSITION OF THE FOREGOING ADMINISTRATIVE
30 SANCTIONS SHALL BE WITHOUT PREJUDICE TO THE FILING OF
31 CIVIL COMPLAINTS AND/OR CRIMINAL CHARGES UNDER THIS
32 CODE AND OTHER LAWS AGAINST THE CORPORATION AND/OR
33 THOSE RESPONSIBLE FOR THE VIOLATION, IN INSTANCES WHERE
34 THE LAW ALLOWS INDEPENDENT CIVIL OR CRIMINAL
35 PROCEEDINGS OF VIOLATIONS ARISING FROM THE SAME ACT.

1 SEC. 161. *CONTINUED AND UNJUSTIFIED USE OF FORMER*
2 *CORPORATE NAME; PENALTIES.* - A CORPORATION THAT
3 CONTINUES TO USE A CORPORATE NAME ALREADY PREVIOUSLY
4 REMOVED FROM REGISTRATION OR RESERVATION SHALL BE
5 PUNISHED WITH A FINE RANGING FROM FIFTY THOUSAND PESOS
6 (PHP50,000.00) TO TWO HUNDRED THOUSAND PESOS (PHP200,000.00)
7 AND/OR IMPRISONMENT OF SIX (6) MONTHS TO TWO (2) YEARS AT
8 THE DISCRETION OF THE COURT; PROVIDED THAT THE
9 CORPORATION MAY CLAIM THE DEFENSE THAT IT, OR ANY OF ITS
10 STOCKHOLDERS OR OTHER DIRECTORS/OFFICERS EXERTED
11 REASONABLE EFFORTS AGAINST THE CONTINUED AND
12 UNJUSTIFIED USE OF THE FORMER CORPORATE NAME, IN WHICH
13 CASE ONLY THE RESPONSIBLE DIRECTORS/OFFICERS SHALL BE
14 HELD CRIMINALLY LIABLE UNDER THIS PROVISION.

15 Sec. 162. *CONCEALMENT OF DISQUALIFICATION; PENALTIES.* -
16 EACH WILLFUL OR DELIBERATE CONCEALMENT BY A DIRECTOR OR
17 TRUSTEE OF ANY DISQUALIFICATION UNDER SECTION 27 ALREADY
18 EXISTING AT THE TIME HE ACCEPTED THE POST, SHALL BE
19 PUNISHED BY A FINE RANGING FROM FIFTY THOUSAND PESOS
20 (PHP50,000.00) TO TWO HUNDRED THOUSAND PESOS (PHP200,000.00)
21 AND/OR IMPRISONMENT OF SIX (6) MONTHS TO TWO (2) YEARS AT
22 THE DISCRETION OF THE COURT, AND BY A PERMANENT
23 DISQUALIFICATION FROM FURTHER ACTING AS DIRECTOR OF ANY
24 CORPORATION. FOR PURPOSES OF THIS SECTION, CONCEALMENT
25 SHALL BE WILLFUL OR DELIBERATE WHEN, DESPITE HAVING
26 KNOWLEDGE OF THE EXISTENCE OF THE DISQUALIFICATION, THE
27 DIRECTOR OR TRUSTEE ACCEPTS THE POST.

28 Sec. 163. *VIOLATION OF DUTY TO KEEP OR MAINTAIN RECORDS*
29 *AND/OR ALLOW THEIR INSPECTION OR REPRODUCTION; PENALTIES.*
30 - THE UNJUSTIFIED FAILURE OR REFUSAL BY THE CORPORATION,
31 OR BY THOSE RESPONSIBLE FOR KEEPING AND MAINTAINING THE
32 CORPORATION'S RECORDS, TO COMPLY WITH SECTIONS 46, 74, 93,
33 180 AND OTHER PROVISIONS OF THIS CODE AND THE RULES OF THE
34 COMMISSION WITH RESPECT TO THE RETENTION, MAINTENANCE
35 AND KEEPING OF RECORDS AND ALLOWING THEIR INSPECTION OR
36 REPRODUCTION, AS THE CASE MAY BE, SHALL BE PUNISHED WITH A
37 FINE RANGING FROM FIFTY THOUSAND PESOS (PHP50,000.00) TO
38 FIVE HUNDRED THOUSAND PESOS (PHP500,000.00) AND
39 IMPRISONMENT OF THIRTY (30) DAYS TO TWO (2) YEARS AT THE
40 DISCRETION OF THE COURT.

1 THE PENALTIES IMPOSED UNDER THIS SECTION SHALL BE IN
2 ADDITION TO THE SANCTIONS IMPOSED BY THE COMMISSION IN
3 THE EXERCISE OF ITS CONTEMPT POWERS UNDER SECTION 159 TO
4 COMPEL COMPLIANCE WITH THE DUTIES UNDER THE MENTIONED
5 PROVISIONS.

6 SEC. 164. KNOWING OR WILLFUL CERTIFICATION OF
7 INCOMPLETE, INACCURATE, FALSE OR MISLEADING STATEMENTS OR
8 REPORTS; PENALTIES. - ANY PERSON WHO CERTIFIES ANY REPORT
9 OR MATTER AS SET FORTH IN THIS CODE KNOWING, OR BEING IN A
10 POSITION TO KNOW, THAT THE SAME IS INCOMPLETE,
11 INACCURATE, OR CONTAINS FALSE OR MISLEADING INFORMATION
12 OR STATEMENTS SHALL BE PUNISHED WITH A FINE RANGING FROM
13 TWO HUNDRED THOUSAND PESOS (PHP200,000.00) TO TWO MILLION
14 PESOS (PHP2,000,000.00) AND/OR IMPRISONMENT OF TWO (2) TO TEN
15 (10) YEARS. WHEN THE VIOLATION IS WILLFUL, THE PENALTY SHALL
16 BE A FINE RANGING FROM FOUR HUNDRED THOUSAND PESOS
17 (PHP400,000.00) TO FOUR MILLION PESOS (PHP4,000,000.00) AND/OR
18 IMPRISONMENT OF FOUR (4) TO TWENTY (20) YEARS.

19 SEC. 165. INDEPENDENT AUDITOR COLLUSION; PENALTIES. -
20 WHEN AN INDEPENDENT AUDITOR COLLUDES WITH A
21 CORPORATION OR ITS REPRESENTATIVES AND CERTIFIES THE
22 CORPORATION'S FINANCIAL STATEMENTS WHICH ARE EITHER
23 INCOMPLETE OR WHICH CONTAIN INACCURATE, FALSE OR
24 MISLEADING STATEMENTS OR REPORTS, OR WHICH DO NOT GIVE
25 A FAIR AND ACCURATE PRESENTATION OF THE CORPORATION'S
26 CONDITION, SUCH AUDITOR SHALL BE PUNISHED WITH A FINE
27 RANGING FROM FOUR HUNDRED THOUSAND PESOS (PHP400,000.00)
28 TO FOUR MILLION PESOS (PHP4,000,000.00) AND/OR IMPRISONMENT
29 OF FOUR (4) TO TWENTY (20) YEARS.

30 SEC. 166. PROCURING THE ORGANIZATION OF A CORPORATION
31 THROUGH FRAUD; PENALTIES. - THOSE RESPONSIBLE FOR
32 PROCURING THE ORGANIZATION OF A CORPORATION THROUGH
33 FRAUD, OR ASSISTING DIRECTLY OR INDIRECTLY THEREIN, SHALL
34 BE PUNISHED WITH A FINE RANGING FROM FIVE HUNDRED
35 THOUSAND PESOS (PHP500,000.00) TO TWO MILLION PESOS
36 (PHP2,000,000.00) AND/OR IMPRISONMENT OF TWO (2) TO TEN (10)
37 YEARS AT THE DISCRETION OF THE COURT.

1 Sec. 167. *FRAUDULENT OR UNLAWFUL CONDUCT OF BUSINESS;*
2 *PENALTIES.* - A CORPORATION THAT WILLFULLY CONDUCTS ITS
3 BUSINESS IN A FRAUDULENT OR OTHERWISE UNLAWFUL MANNER
4 SHALL BE PUNISHED WITH A FINE RANGING FROM FIVE HUNDRED
5 THOUSAND PESOS (PHP500,000.00) TO TWO MILLION PESOS
6 (PHP2,000,000.00) AND/OR IMPRISONMENT OF FIVE (5) TO TEN (10)
7 YEARS AT THE DISCRETION OF THE COURT.

8 Sec. 168. *THEFT OF IDENTITY; PENALTIES.* - ANY
9 CORPORATION WHO WILLFULLY OBTAINS ANY IDENTIFYING
10 INFORMATION OF A PERSON, WHETHER NATURAL OR JURIDICAL,
11 AND USES THAT INFORMATION FOR ANY UNLAWFUL
12 PURPOSE, INCLUDING BUT NOT LIMITED TO OBTAINING, OR
13 ATTEMPTING TO OBTAIN, CREDIT, GOODS, SERVICES, OR REAL
14 PROPERTY WITHOUT THE CONSENT OF THAT PERSON, SHALL BE
15 PUNISHED WITH A FINE RANGING FROM ONE MILLION PESOS
16 (PHP1,000,000.00) TO FIVE MILLION PESOS (PHP5,000,000.00) AND
17 IMPRISONMENT OF TEN (10) YEARS. THE SAME PENALTY SHALL BE
18 IMPOSED WHEN THE OFFENDER IS A NATURAL PERSON, OR A
19 GROUP THEREOF, AND THE IDENTITY STOLEN IS THAT OF A
20 CORPORATION.

21 Sec. 169. *ACTING AS INTERMEDIARIES FOR GRAFT AND*
22 *CORRUPT PRACTICES; PENALTIES.* - A CORPORATION CREATED FOR
23 THE PURPOSE OF COMMITTING, OR AIDING IN THE COMMISSION
24 OF, GRAFT AND CORRUPT PRACTICES OR IN THE CONCEALMENT
25 THEREOF SHALL BE PUNISHED BY A FINE RANGING FROM ONE
26 MILLION (PHP1,000,000.00) TO FIVE MILLION (PHP5,000,000.00) PESOS
27 AND IMPRISONMENT OF TEN (10) YEARS.

28 THE CORPORATION'S FAILURE TO SHOW THAT IT HAS
29 INSTALLED SAFEGUARDS TO ENSURE THAT IT IS CARRYING OUT
30 ITS SERVICES IN A TRANSPARENT AND LAWFUL MANNER, AND
31 THAT IT HAS INSTALLED POLICIES, CODES OF ETHICS AND
32 PROCEDURES AGAINST GRAFT AND CORRUPTION, WHEN COUPLED
33 WITH A FINDING OF GRAFT AND CORRUPT PRACTICES AGAINST
34 ANY OF THEIR DIRECTORS, OFFICER, EMPLOYEES, AGENTS, OR
35 REPRESENTATIVES, SHALL BE PRIMA FACIE EVIDENCE OF LIABILITY
36 UNDER THIS SECTION.

37 Sec. 170. *ENGAGING INTERMEDIARIES FOR GRAFT AND*
38 *CORRUPT PRACTICES; PENALTIES.* - A CORPORATION THAT, FOR THE

PURPOSE OF SHIELDING ITSELF FROM LIABILITY FOR GRAFT AND CORRUPT PRACTICES, ENGAGES THE SERVICES OF AN INTERMEDIARY WHO COMMITS GRAFT AND CORRUPT PRACTICES FOR THE CORPORATION'S BENEFIT OR IN ITS INTEREST, SHALL BE PUNISHED BY A FINE OF ONE MILLION PESOS (PHP1,000,000.00) AND IMPRISONMENT OF TEN (10) YEARS.

THE CORPORATION'S FAILURE TO SHOW THAT IT HAS USED THE HIGHEST DEGREE OF DILIGENCE AND CARE WHEN ACQUIRING THE SERVICES OF AN INTERMEDIARY, THAT IT HAS SUFFICIENT KNOWLEDGE AND HAS INSTALLED SAFEGUARDS TO ENSURE THAT THE INTERMEDIARY IS CARRYING OUT THE CONTRACTED SERVICES IN A TRANSPARENT AND LAWFUL MANNER, AND THAT IT HAS INSTALLED POLICIES, CODES OF ETHICS AND PROCEDURES DESIGNED TO PREVENT GRAFT AND CORRUPTION, WHEN COUPLED WITH A FINDING OF GRAFT AND CORRUPT PRACTICES AGAINST THE INTERMEDIARY, SHALL BE PRIMA FACIE EVIDENCE OF LIABILITY UNDER THIS SECTION.

Sec. 171. TOLERATING GRAFT AND CORRUPT PRACTICES; PENALTIES. -A DIRECTOR, TRUSTEE, OR OFFICER OF THE CORPORATION WHO KNOWINGLY ALLOWS OR TOLERATES THE COMMISSION OF GRAFT AND CORRUPT PRACTICES OR OTHER FRAUDULENT ACTS BY ITS DIRECTORS, TRUSTEES, OFFICERS, OR EMPLOYEES, FAILING TO SANCTION THEM, REPORT THEIR ACTIONS TO THE PROPER AGENCIES, AND/OR FILE THE APPROPRIATE ACTION AGAINST THEM, SHALL BE PUNISHED BY A FINE OF ONE MILLION PESOS (PHP1,000,000.00) AND IMPRISONMENT TEN (10) YEARS.

SEC. 172. RETALIATION AGAINST WHISTLEBLOWERS. -ANY PERSON WHO, KNOWINGLY AND WITH THE INTENT TO RETALIATE, TAKES ANY ACTION HARMFUL TO ANOTHER PERSON, INCLUDING BUT NOT LIMITED TO INTERFERENCE WITH THE LAWFUL EMPLOYMENT OR LIVELIHOOD OF ANY PERSON, FOR PROVIDING ANY TRUTHFUL INFORMATION RELATING TO THE COMMISSION OR POSSIBLE COMMISSION OF ANY OFFENSE OR VIOLATION UNDER THIS CODE, SHALL BE PUNISHED WITH A FINE RANGING FROM FIVE HUNDRED THOUSAND PESOS (PHP500,000.00) TO ONE MILLION PESOS (PHP1,000,000.00) AND/OR IMPRISONMENT OF FIVE (5) TO TEN (10) YEARS, AT THE DISCRETION OF THE COURT.

1 "Sec.[141]173.OTHER *Violations of the Code; SEPARATE LIABILITY.* -
2 Violations of any of the other provisions of this Code or its amendments not
3 otherwise specifically penalized herein shall be punished by a fine of not less
4 than [one] FIFTY thousand [P1,000.00] (P50,000.00) pesos but not more than
5 ONE MILLION (P1,000,000.00) [ten thousand (P10,000.00)] pesos AND/or by
6 imprisonment [for] OF not less than thirty (30) days but not more than five (5)
7 years, or both, [in] AT the discretion of the court. If the violation is committed
8 by a corporation, the same may, after notice and hearing, be dissolved in
9 appropriate proceedings before the [Securities and Exchange] Commission:
10 Provided, That such dissolution shall not preclude the institution of appropriate
11 action against the director, trustee or officer of the corporation responsible for
12 said violation: Provided, further, That nothing in this section shall be construed
13 to repeal the other causes for dissolution of a corporation provided in this Code.

14 LIABILITY FOR ANY OF THE FOREGOING OFFENSES SHALL BE
15 SEPARATE FROM AND WITHOUT PREJUDICE TO ANY OTHER
16 ADMINISTRATIVE CIVIL, CRIMINAL LIABILITY UNDER THIS CODE
17 AND OTHER LAWS.

18 SEC. 174. *LIABILITY OF DIRECTORS, TRUSTEES, OFFICERS OR*
19 *OTHER EMPLOYEES.* - IF THE OFFENDER IS A CORPORATION THE
20 PENALTY MAY, AT THE DISCRETION OF THE COURT, BE IMPOSED
21 UPON SUCH CORPORATION AND/OR UPON ITS DIRECTORS,
22 TRUSTEES, STOCKHOLDERS, MEMBERS, OFFICERS OR EMPLOYEES
23 RESPONSIBLE FOR THE VIOLATION OR INDISPENSABLE TO ITS
24 COMMISSION.

25 SEC. 175. *LIABILITY OF AIDERS AND ABETTORS AND OTHER*
26 *SECONDARY LIABILITY.* - ANYONE WHO SHALL AID, ABET, COUNSEL,
27 COMMAND, INDUCE OR PROCURE ANY VIOLATION OF THIS CODE,
28 OR ANY RULE, REGULATION OR ORDER OF THE COMMISSION OR
29 WHO SHALL ASSIST THE ACT OR OMISSION OF ANY PERSON
30 PRIMARILY LIABLE FOR THE VIOLATION, WITH KNOWLEDGE OR IN
31 RECKLESS DISREGARD THAT SUCH ACT OR OMISSION IS
32 WRONGFUL SHALL BE PUNISHED WITH A FINE AND/OR
33 IMPRISONMENT NOT EXCEEDING THAT IMPOSED ON THE
34 PRINCIPAL OFFENDERS, AT THE DISCRETION OF THE COURT AFTER
35 TAKING INTO ACCOUNT THEIR PARTICIPATION IN THE OFFENSE.

36 SECTION 70. Title XVI on Miscellaneous Provisions is hereby renumbered as Title
37 XVII.

1 **SECTION 71.** Sections 137 and 138 of the Code are renumbered as Sections 176 and
2 177, respectively.

3 **SECTION 72.** Section 140 of the Code is hereby renumbered as Section 179 and
4 amended to read as follows:

5 "Sec. [140]179. NATIONALITY AND Stock ownership OF [in certain]
6 corporations. -THE NATIONALITY OF A CORPORATION SHALL BE
7 DETERMINED BY COMPUTING THE REQUIRED PERCENTAGE OF
8 FILIPINO OWNERSHIP BASED ON BOTH (A) THE ENTIRE
9 OUTSTANDING CAPITAL STOCK, AND (b) THE VOTING STOCKS,
10 TAKING INTO CONSIDERATION THE FULL BENEFICIAL OWNERSHIP
11 OF THE STOCKS.

12 EXCEPT WHEN THE CORPORATION IS REQUIRED BY THE
13 CONSTITUTION OR BY STATUTE TO BE WHOLLY NATIONALIZED,
14 OR WHEN THE CORPORATION HAS A CORPORATE STOCKHOLDER
15 OWNING LESS THAN 60% OF BOTH ITS OUTSTANDING CAPITAL
16 STOCK AND VOTING STOCKS, THE CONTROL TEST SHALL BE
17 APPLIED WHEN DETERMINING ITS NATIONALITY.

18
19 EXCEPT WHEN A MORE STRINGENT MEASURE IS REQUIRED IN THE
20 CONSTITUTION OR OTHER LAWS, A CORPORATION SHALL BE
21 DEEMED A PHILIPPINE NATIONAL WHEN:

22
23 (A) IT IS ORGANIZED UNDER THE LAWS OF THE
24 PHILIPPINES AND AT LEAST SIXTY PERCENT (60%) OF
25 THE CAPITAL STOCK OUTSTANDING AND ENTITLED TO
26 VOTE IS OWNED AND HELD BY CITIZENS OF THE
27 PHILIPPINES, PROVIDED, THAT WHERE A
28 CORPORATION AND ITS NON-FILIPINO STOCKHOLDERS
29 OWN STOCKS IN ANOTHER CORPORATION, AT LEAST
30 SIXTY PERCENT (60%) OF THE CAPITAL STOCKS
31 OUTSTANDING AND ENTITLED TO VOTE OF BOTH
32 CORPORATIONS MUST BE OWNED AND HELD BY
33 CITIZENS OF THE PHILIPPINES AND AT LEAST SIXTY
34 PERCENT (60%) OF THE MEMBERS OF THE BOARD OF
35 DIRECTORS OF BOTH CORPORATIONS MUST BE
36 CITIZENS OF THE PHILIPPINES; OR

37 (B) ALTHOUGH ORGANIZED ABROAD, IT IS REGISTERED AS
38 DOING BUSINESS IN THE PHILIPPINES UNDER THIS
39 CODE AND ONE HUNDRED PERCENT (100%) OF THE
40 CAPITAL STOCK OUTSTANDING AND ENTITLED TO
41 VOTE IS WHOLLY OWNED BY FILIPINOS.
42

1 [Pursuant to the duties specified by Article XIV of the Constitution, the] THE
2 National Economic and Development Authority shall, from time to time,
3 **UPON FINDING OR RECOMMENDATION FROM THE COMMISSION**
4 **OR FROM OTHER APPROPRIATE GOVERNMENT AGENCIES**, make a
5 determination of whether the corporate vehicle has been used by any
6 corporation or by business or industry to frustrate the provisions thereof or of
7 applicable laws, and shall submit to the [Batasang Pambansa] **CONGRESS**,
8 whenever deemed necessary, a report of its findings, including
9 recommendations for their prevention or correction.

10
11 Maximum limits may be set by the [Batasang Pambansa] **CONGRESS** for
12 stockholdings in corporations declared by it to be vested with a public interest
13 pursuant to the provisions of this section, belonging to individuals or groups of
14 individuals related to each other by consanguinity or affinity or by close
15 business interests, or whenever it is necessary to achieve national objectives,
16 prevent illegal monopolies or combinations in restraint or trade, or to
17 implement national economic policies declared in laws, rules and regulations
18 designed to promote the general welfare and foster economic development.

19
20 In recommending to the [Batasang Pambansa] **CONGRESS** corporations,
21 businesses or industries to be declared vested with a public interest and in
22 formulating proposals for limitations on stock ownership, the National
23 Economic and Development Authority shall consider the type and nature of
24 the industry, the size of the enterprise, the economies of scale, the geographic
25 location, the extent of Filipino ownership, the labor intensity of the activity, the
26 export potential, as well as other factors which are germane to the realization
27 and promotion of business and industry."

28 **SECTION 73.** Section 141 of the Code is hereby renumbered as Section 180 and
29 amended to read as follows:

30 "Sec. [141]180. [Annual report] **REPORTORIAL REQUIREMENTS** of
31 **corporations. - EXCEPT AS OTHERWISE PROVIDED IN THIS CODE**, every
32 corporation, domestic or foreign, [lawfully] doing business in the Philippines
33 shall submit to the [Securities and Exchange] Commission, **IN THE FORM**
34 **AND SUBSTANCE PRESCRIBED BY IT:**

35 [an annual report of its operations, together with a financial statement of
36 its assets and liabilities, certified by any independent certified public
37 accountant in appropriate cases, covering the preceding fiscal year and such
38 other requirements as the Securities and Exchange Commission may require.]

39 **1. ANNUAL FINANCIAL STATEMENTS DULY AUDITED BY**
40 **THE CORPORATION'S INTERNAL AUDITOR AND BY AN**
41 **INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT WHO IS**

1 ACCREDITED BY THE BOARD OF ACCOUNTANCY AND WHO
2 POSSESSES SUCH OTHER ACCREDITATION AS THE COMMISSION
3 MAY REQUIRE;

4 2. A GENERAL INFORMATION SHEET;

5 3. A DIRECTOR OR TRUSTEE COMPENSATION REPORT
6 WHICH SHALL CONTAIN, AMONG OTHERS, THE FOLLOWING:

7 a. THE CORPORATION'S POLICY ON DIRECTOR OR
8 TRUSTEE REMUNERATION, INCLUDING THE FRAMEWORK
9 FOR DETERMINING THE REMUNERATION LEVELS FOR
10 INDIVIDUAL DIRECTORS OR TRUSTEES;

11 b. A CLEAR, CONCISE AND EASILY
12 UNDERSTANDABLE STATEMENT OF ALL FIXED AND
13 VARIABLE COMPENSATION PAID AND ALL INCENTIVES,
14 AWARDS, AND/OR OPTIONS GIVEN, DIRECTLY OR
15 INDIRECTLY, TO DIRECTORS OR TRUSTEES DURING THE
16 PRECEDING FISCAL YEAR; AND

17 c. A STATEMENT OF OTHER FORMS OF
18 REMUNERATION AND/OR COMPENSATION ARRANGEMENTS
19 NOT COVERED UNDER THE PRECEDING SUB-PARAGRAPHS;

20 4. A DIRECTOR OR TRUSTEE APPRAISAL OR
21 PERFORMANCE REPORT AND THE STANDARDS OR CRITERIA USED
22 TO ASSESS EACH DIRECTOR OR TRUSTEE;

23 5. A DIRECTOR OR TRUSTEE ATTENDANCE REPORT,
24 INDICATING THE ATTENDANCE OF EACH DIRECTOR OR TRUSTEE
25 AT EACH OF THE MEETINGS OF THE BOARD AND ITS COMMITTEES;

26 6. A STATEMENT OF ALL EXTERNAL AUDIT AND NON-
27 AUDIT FEES;

28 7. SUCH OTHER REPORTS THAT THE COMMISSION MAY
29 REQUIRE BY RULE.

30 THE FOREGOING REPORTORIAL REQUIREMENTS SHALL BE
31 ACCOMPANIED BY A CERTIFICATION FROM THE CHAIRMAN OF

1 THE BOARD, THE PRESIDENT, THE TREASURER AND THE
2 CORPORATE SECRETARY (OR THEIR EQUIVALENT) TO WIT:

3 1. AS TO THE ANNUAL FINANCIAL STATEMENTS,
4 THAT THE INFORMATION CONTAINED THEREIN IS
5 COMPLETE, FAIRLY AND ACCURATELY PRESENTS, IN ALL
6 MATERIAL RESPECTS, THE FINANCIAL CONDITION OF THE
7 CORPORATION AND DOES NOT CONTAIN ANY FALSE OR
8 MISLEADING STATEMENT OR MISREPRESENTATION;

9 2. AS TO THE GENERAL INFORMATION SHEET, THAT
10 THE INFORMATION CONTAINED THEREIN IS COMPLETE,
11 ACCURATE AND DOES NOT CONTAIN ANY FALSE OR
12 MISLEADING STATEMENT OR MISREPRESENTATION; AND

13 3. AS TO THE DIRECTOR OR TRUSTEE
14 COMPENSATION REPORT, THAT THE INFORMATION
15 CONTAINED THEREIN IS COMPLETE, FAIRLY AND
16 ACCURATELY PRESENTS, IN ALL MATERIAL RESPECTS, THE
17 CORPORATION'S POLICY ON DIRECTOR OR TRUSTEE
18 REMUNERATION, THE ACTUAL REMUNERATIONS OF SUCH
19 DIRECTORS OR TRUSTEES, AND DOES NOT CONTAIN ANY
20 FALSE OR MISLEADING STATEMENT OR
21 MISREPRESENTATION.

22 Such [report]REPORTORIAL REQUIREMENTS shall be submitted
23 ANNUALLY AND within such period as may be prescribed by the [Securities
24 and Exchange] Commission.

25 IF A CORPORATION FAILS TO SUBMIT ANY OF THE
26 FOREGOING REPORTORIAL REQUIREMENTS THREE TIMES,
27 WHETHER INTERMITTENTLY OR CONSECUTIVELY, WITHIN A
28 PERIOD OF FIVE YEARS, THE COMMISSION MAY, AFTER DUE
29 NOTICE AND HEARING, PUT THE CORPORATION ON DELINQUENCY
30 STATUS OR REVOKE ITS CERTIFICATE OF INCORPORATION IN
31 ACCORDANCE WITH SECTION 22."

32 SECTION 74. Section 142 of the Code is hereby renumbered as Section 181 and
33 amended to read as follows:

34 "Sec. [142]181. VISITORIAL POWER AND Confidential nature of
35 examination results. - THE COMMISSION SHALL EXERCISE VISITORIAL

1 POWERS OVER ALL CORPORATIONS REGISTERED WITH IT. THESE
2 VISITORIAL POWERS SHALL INCLUDE, BUT NOT BE LIMITED TO
3 EXAMINATION, INVESTIGATION, INSPECTION OF RECORDS
4 REGARDLESS OF THE FORM IN WHICH THE INFORMATION IS
5 CONTAINED, REGULATION AND SUPERVISION OF ACTIVITIES,
6 ENFORCING COMPLIANCE AND IMPOSING SANCTIONS IN
7 ACCORDANCE WITH THIS CODE.

8 ANY UNJUSTIFIED REFUSAL OR OBSTRUCTION BY A
9 CORPORATION, OR ANYONE UNDER ITS EMPLOY, IN THE
10 COMMISSION'S EXERCISE OF THE FOREGOING AUTHORITY SHALL,
11 IN ADDITION TO THE IMPOSITION OF PENALTIES AND SANCTIONS
12 UNDER THIS CODE, CONSTITUTE A JUSTIFIABLE GROUND FOR THE
13 REVOCATION OF ITS CERTIFICATE OF INCORPORATION."

14 All interrogatories propounded by the [Securities and Exchange]
15 Commission and the answers thereto, as well as the results of any examination
16 made by the Commission or by any other official authorized by law to make an
17 examination of the operations, books and records of any corporation, shall be
18 kept strictly confidential, except insofar as the law may require the same to be
19 made public, WHEN NECESSARY FOR THE COMMISSION TO TAKE
20 ACTION OR ISSUE ORDERS IN THE EXERCISE OF ITS POWERS
21 UNDER THIS CODE, or where such interrogatories, answers or results are
22 necessary to be presented as evidence before any court.

23 SECTION 75. Section 143 of Code is hereby renumbered as Section 182 and
24 amended to read as follows:

25 "Sec. [143]182. [Rule-making power] **POWERS AND FUNCTIONS** of the
26 [Securities and Exchange] Commission **AND JURISDICTION OVER ACTIONS.** -
27 CONSISTENT WITH AND IN ADDITION TO THE POWERS AND
28 FUNCTIONS PROVIDED IN PRESIDENTIAL DECREE NO. 902-A, THE
29 SECURITIES REGULATION CODE, THE INVESTMENT HOUSES LAW,
30 THE FINANCING COMPANY ACT AND OTHER LAWS, [The Securities
31 and Exchange] Commission shall have [the power and authority], **AMONG**
32 **OTHERS, THE FOLLOWING POWERS AND FUNCTIONS:**

33 1. HAVE JURISDICTION AND SUPERVISION OVER
34 ALL CORPORATIONS, REGISTERED WITH IT, EXCEPT AS
35 OTHERWISE PROVIDED UNDER THIS CODE;

1 2. FORMULATE POLICIES AND RECOMMENDATIONS
2 ON ISSUES PERTAINING TO THE REGULATION AND
3 SUPERVISION OF CORPORATIONS, AND PROPOSE
4 LEGISLATION AND AMENDMENTS THERETO;

5 3. APPROVE OR REJECT APPLICATIONS, ISSUE OR
6 REVOKE OTHER CERTIFICATIONS, REQUIRE
7 ADDITIONALSUBMISSIONS OR AMENDMENTS THERETO;

8 4. REGULATE, INVESTIGATE, SUPERVISE THE
9 ACTIVITIES OF PERSONS TO ENSURE COMPLIANCE WITH THIS
10 CODE;

11 5. IMPOSE SANCTIONS FOR THE VIOLATIONS OF
12 THIS CODE AND ITS RULES, REGULATIONS AND ORDERS OF
13 THE COMMISSION ISSUED PURSUANT THERETO;

14 6. PROMOTE CORPORATE GOVERNANCE AND, IN
15 FURTHERANCE THEREOF, EXPAND OR ADD TO THE
16 REQUIREMENTS WITH RESPECT TO, AMONG OTHERS, THE
17 CONTENTS OF THE BY-LAWS, THE QUALIFICATIONS AND
18 DISQUALIFICATIONS OF DIRECTORS, AND THE RECORDS
19 THAT MUST BE ON HAND AT THE CORPORATION'S ADDRESS
20 OF RECORD AND THE ANNUAL REPORTS THAT MUST BE
21 SUBMITTED TO THE COMMISSION;

22 7. PREPARE, APPROVE, AMEND OR REPEAL RULES,
23 REGULATIONS AND ORDERS, AND ISSUE OPINIONS AND
24 PROVIDE GUIDANCE ON AND SUPERVISE COMPLIANCE WITH
25 SUCH RULES, REGULATIONS AND ORDERS

26 8. [to implement the provisions of this Code, and to
27 promulgate rules and regulations reasonably necessary to enable it to
28 perform its duties hereunder, particularly in the prevention of fraud and
29 abuses on the part of the controlling stockholders, members, directors,
30 trustees or officers.] ISSUE CEASE AND DESIST ORDERS
31 WITHOUT THE NECESSITY OF A HEARING, TO PREVENT
32 FRAUD OR INJURY TO THE PUBLIC[.];

33 9. PUNISH FOR CONTEMPT OF THE COMMISSION,
34 BOTH DIRECT AND INDIRECT;

1 10. COMPEL THE OFFICERS OF ANY REGISTERED
2 CORPORATION TO CALL MEETINGS OF STOCKHOLDERS OR
3 MEMBERS UNDER ITS SUPERVISION AND TO ISSUE SUCH
4 ORDERS AS MAY BE APPROPRIATE, INCLUDING, WITHOUT
5 LIMITATION, ORDERS DESIGNATING THE TIME AND PLACE
6 OF THE ELECTION, THE RECORD DATE OR DATES FOR
7 DETERMINATION OF STOCKHOLDERS ENTITLED TO NOTICE
8 OF THE ELECTION AND TO VOTE THEREAT, AND THE FORM
9 OF NOTICE OF SUCH ELECTION;

10 11. ISSUE SUBPOENA DUCES TECUM AND SUMMON
11 WITNESSES TO APPEAR IN PROCEEDINGS BEFORE THE
12 COMMISSION AND IN APPROPRIATE CASES ORDER THE
13 EXAMINATION, SEARCH AND SEIZURE OF ALL DOCUMENTS,
14 PAPERS, FILES AND RECORDS, TAX RETURNS, AND BOOKS OF
15 ACCOUNTS OF ANY ENTITY OR PERSON UNDER
16 INVESTIGATION AS MAY BE NECESSARY FOR THE PROPER
17 DISPOSITION OF THE CASES BEFORE IT, SUBJECT TO THE
18 PROVISIONS OF EXISTING LAWS;

19 12. SUSPEND OR REVOKE, AFTER PROPER NOTICE
20 AND HEARING, THE CERTIFICATE OF INCORPORATION OF
21 CORPORATIONS UPON ANY OF THE GROUNDS PROVIDED
22 UNDER THIS CODE OR WHEN DIRECTED BY FINAL JUDGMENT
23 OF A COURT OF COMPETENT JURISDICTION;

24 13. DISSOLVE OR OTHERWISE SANCTION
25 CORPORATIONS CREATED FOR, COMMITTING, AIDING IN
26 THE COMMISSION OF, OR IN ANY MANNER FURTHERING
27 SECURITIES VIOLATIONS, SMUGGLING, TAX EVASION,
28 MONEY LAUNDERING, GRAFT AND CORRUPT PRACTICES OR
29 OTHER FRAUDULENT OR ILLEGAL ACTS;

30 14. ISSUE WRITS OF EXECUTION AND OF
31 ATTACHMENT TO ENFORCE PAYMENT OF THE FEES,
32 ADMINISTRATIVE FINES AND OTHER DUES COLLECTIBLE
33 UNDER THIS CODE;

34 15. EXERCISE SUCH OTHER POWERS AS MAY BE
35 PROVIDED BY LAW AS WELL AS THOSE WHICH MAY BE
36 IMPLIED FROM, OR WHICH ARE NECESSARY OR INCIDENTAL
37 TO CARRYING OUT THE EXPRESS POWERS GRANTED TO THE

1 COMMISSION TO ACHIEVE THE OBJECTIVES AND PURPOSES
2 OF THIS CODE AND SUCH OTHER LAWS.

3 NO COURT BELOW THE COURT OF APPEALS SHALL HAVE
4 JURISDICTION TO ISSUE ANY RESTRAINING ORDER, PRELIMINARY
5 INJUNCTION OR PRELIMINARY MANDATORY INJUNCTION IN ANY
6 CASE, DISPUTE OR CONTROVERSY THAT, DIRECTLY OR
7 INDIRECTLY, INTERFERES WITH THE PERFORMANCE BY THE
8 COMMISSION OF ITS DUTIES AND RESPONSIBILITIES UNDER THIS
9 CODE."

10 SECTION 76. Section 144 of the Code is hereby deleted, amended and transferred
11 to Section 173.

12 SECTION 77. A new provision is inserted in the Code as Section 184:

13 SECTION 184. *DEVELOPMENT OF OTHER SYSTEMS.* - THE
14 COMMISSION SHALL, CONSIDERING ADVANCES IN TECHNOLOGY,
15 DEVELOP SUCH SYSTEMS AS IT MAY DEEM NECESSARY TO
16 FACILITATE AND EXPEDITE, AMONG OTHERS, CORPORATE NAME
17 RESERVATION AND REGISTRATION, INCORPORATION, AND THE
18 SUBMISSION OF REPORTS, NOTICES, DOCUMENTS AND OTHER
19 PAPERS REQUIRED UNDER THIS CODE, AND PRESCRIBE THE
20 CORRESPONDING RULES AND REGULATIONS THEREFOR. THE
21 COMMISSION SHALL HAVE FULL DISCRETION TO DETERMINE
22 WHICH SYSTEM OR SYSTEMS ALLOW THE MOST EFFECTIVE
23 IMPLEMENTATION AND ENFORCEMENT OF THE PROVISIONS OF
24 THIS CODE

25 SECTION 78. A new provision is inserted in the Code as Section 185:

26 "SEC. 185. *ARBITRATION.* - WHEN THE ARTICLES OF
27 INCORPORATION OR BY-LAWS OF A DOMESTIC UNLISTED
28 CORPORATION SO PROVIDE, ANY OR ALL DISPUTES BETWEEN OR
29 AMONG THE CORPORATION, ITS STOCKHOLDERS OR MEMBERS,
30 AND DIRECTORS ARISING OUT OF THE IMPLEMENTATION OF THEIR
31 ARTICLES OF INCORPORATION OR BY-LAWS, AS WELL AS OTHER
32 CONTROVERSIES ARISING OUT OF THEIR INTRACORPORATE
33 RELATIONS, INCLUDING BUT NOT LIMITED TO CONTROVERSIES IN
34 THE ELECTION OR APPOINTMENT OF THE CORPORATION'S
35 DIRECTORS, TRUSTEES, OFFICERS OR MANAGERS, SHALL BE
36 REFERRED TO ARBITRATION. HOWEVER, A DISPUTE SHALL NOT BE

1 SUBMITTED TO ARBITRATION WHEN SUCH WILL LIMIT OR
2 PRECLUDE ANY RIGHT, ACTION OR DETERMINATION BY THE
3 COMMISSION THAT IT WOULD OTHERWISE BE AUTHORIZED TO
4 ADOPT, ADMINISTER OR ENFORCE UNDER THIS CODE AND
5 EXISTING LAWS. SUCH DISPUTE SHALL BE DEEMED EXCLUDED FROM
6 THE AGREEMENT TO ARBITRATE, WHICH SHALL OTHERWISE
7 REMAIN VALID AND BINDING.

8 THE ARBITRATION AGREEMENT SHALL BE BINDING AGAINST
9 THE CORPORATION'S DIRECTORS, TRUSTEES, OFFICERS OR
10 MANAGERS, UPON ACCEPTANCE OF THEIR POST.

11 TO BE VALID, THE AGREEMENT TO ARBITRATE IN THE
12 ARTICLES OF INCORPORATION OR THE BY-LAWS SHOULD INDICATE
13 THE NUMBER AND PROCEDURE FOR THE APPOINTMENT OF
14 ARBITRATORS AND GRANT TO A DESIGNATED THIRD,
15 INDEPENDENT, AND EXTERNAL PARTY OR BODY THE POWER TO
16 APPOINT THE ARBITRATORS. IF THE THIRD PARTY OR BODY FAILS
17 TO APPOINT THE ARBITRATORS IN THE MANNER AND WITHIN THE
18 PERIOD SPECIFIED IN THE AGREEMENT TO ARBITRATE, EACH PARTY
19 TO THE ARBITRATION MAY REQUEST THAT THE APPOINTMENT OF
20 THE ARBITRATORS BE MADE BY THE COMMISSION. ARBITRATORS
21 SHALL BE THOSE WHO ARE EITHER DULY ACCREDITED BY THE
22 COMMISSION OR MEMBERS OF ORGANIZATIONS DULY-
23 ACCREDITED BY THE COMMISSION.

24 THE ARBITRAL TRIBUNAL SHALL HAVE FULL AUTHORITY TO
25 RESOLVE ALL ISSUES RELATING TO ITS JURISDICTION AND/OR THE
26 VALIDITY OR EFFECTIVITY OF THE ARBITRATION AGREEMENT. A
27 REGIONAL TRIAL COURT BEFORE WHICH AN INTRACORPORATE
28 DISPUTE IS FILED SHALL, BEFORE THE TERMINATION OF THE
29 PRETRIAL CONFERENCE, DISMISS THE CASE UPON DETERMINING
30 THE EXISTENCE OF AN AGREEMENT TO ARBITRATE IN THE ARTICLES
31 OF INCORPORATION OR BY-LAWS OF THE CORPORATION, ANY
32 AMENDMENT THEREOF, OR IN A SEPARATE AGREEMENT.

33 THE ARBITRAL TRIBUNAL SHALL HAVE THE POWER TO GRANT
34 INTERIM MEASURES NECESSARY TO ENSURE ENFORCEMENT OF THE
35 AWARD, TO PREVENT A MISCARRIAGE OF JUSTICE, OR TO
36 OTHERWISE PROTECT THE RIGHTS OF THE PARTIES.

37 A FINAL ARBITRAL AWARD UNDER THIS SECTION SHALL BE

1 EXECUTORY UPON THE LAPSE OF FIFTEEN (15) DAYS FROM RECEIPT
2 THEREOF BY THE PARTIES AND SHALL BE STAYED ONLY BY THE
3 FILING OF A BOND OR THE ISSUANCE BY THE APPELLATE COURT OF
4 AN INJUNCTIVE WRIT.

5 THE COMMISSION SHALL FORMULATE THE RULES AND
6 REGULATIONS WHICH SHALL GOVERN ARBITRATION UNDER THIS
7 SECTION."

8 SECTION 79. A new provision is inserted in the Code as Section 186 and the
9 succeeding provisions are re-numbered accordingly and amended as follows:

10 "SEC.186. JURISDICTION OVER CORPORATIONS OF SPECIAL
11 CHARACTER. - THE POWERS, AUTHORITIES AND RESPONSIBILITIES
12 THAT ARE VESTED IN THE COMMISSION UNDER THIS CODE AND
13 PRESIDENTIAL DECREE 902-A INVOLVING CORPORATIONS OF A
14 SPECIAL CHARACTER ARE TRANSFERRED TO THE COMMISSION ON
15 ELECTIONS (COMELEC) WITH RESPECT TO PARTY-LIST
16 ORGANIZATIONS, TO THE HOUSING AND LAND USE REGULATORY
17 BOARD (HLURB) WITH RESPECT TO NEIGHBORHOOD ASSOCIATIONS
18 AND HOMEOWNERS' ASSOCIATIONS, AND TO THE DEPARTMENT OF
19 TRANSPORTATION AND COMMUNICATIONS (DOTC) WITH RESPECT
20 TO THE ASSOCIATIONS OF OPERATORS AND DRIVERS OF PUBLIC
21 TRANSPORT.

22 THE MONITORING, SUPERVISION AND REGULATION OF
23 CORPORATIONS OF SUCH CHARACTER ABOVE-DESCRIBED
24 PREVIOUSLY REGISTERED WITH THE COMMISSION SHALL LIKEWISE
25 BE TRANSFERRED TO THE SAID PERTINENT GOVERNMENT
26 AGENCIES, RESPECTIVELY.

27 FOR THIS PURPOSE, THE COMELEC, HLURB, AND DOTC, IN
28 COORDINATION WITH THE COMMISSION, SHALL PROMULGATE THE
29 CORRESPONDING IMPLEMENTING RULES AND/OR ENTER INTO
30 INTER-AGENCY AGREEMENTS."

31 SECTION 80. *Implementing Rules and Regulations.* - The Commission shall
32 promulgate and/or amend the necessary rules and regulations for the effective
33 implementation of this Act.

1 **SECTION 81.** *Separability Clause.* – If any provision of this Act is declared invalid or
2 unconstitutional, other provisions hereof which are not affected thereby shall continue to be
3 in full force and effect.

4 **SECTION 82.** *Repealing Clause.* – Any law, presidential decree or issuance,
5 executive order, letter of instruction, administrative order, rule or regulation contrary to or
6 inconsistent with any provision of this Act is hereby repealed or modified accordingly.

7 **SECTION 83.** *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
8 publication in the *Official Gazette* or in at least two (2) newspapers of general circulation,
9 whichever date comes earlier.