

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7217



Introduced by **HON. KRISTINE ALEXIE B. TUTOR**
Third District, Bohol

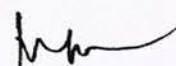
EXPLANATORY NOTE

The 1987 Philippine Constitution under Article 111, Sections 1, 2, 4, 8, 12 states that every person has the right to life, security of person and privacy, right to be free from torture, arbitrary arrest and detention, the right to be free from discrimination and the right to freedom of expression, and the right to organize associations. Further, under Section 11, the State values the dignity of every person and guarantees full respect for human rights.

Aside from the "equality of treatment" afforded by the Constitution, the Philippines is likewise a signatory to various international agreements that promotes and guarantees the same rights to equal treatment. Our country is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) of the United Nations which recognize that enjoying civil and political freedom and freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

This proposed measure seeks to provide the definition for discrimination as well as provide penalties to discrimination on the basis of one's age, racial or ethnic origin, religious belief or activity, political inclination or conviction, social class, sex, gender, sexual orientation, gender identity and expressions, marital or relationship status, disability, HIV status, profession or occupation, health status or medical history, language, physical features, and other status.

Discrimination restrains development opportunities for those being discriminated, one should never suffer discrimination based on their status. Thus, in view of the foregoing, immediate passage of this measure is earnestly sought.


REP. KRISTINE ALEXIE B. TUTOR

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Introduced by **HON. KRISTINE ALEXIE B. TUTOR**
Third District, Bohol

AN ACT

PROHIBITING DISCRIMINATION ON THE BASIS OF AGE, RACIAL OR ETHNIC ORIGIN, RELIGIOUS BELIEF OR ACTIVITY, POLITICAL INCLINATION OR CONVICTION, SOCIAL CLASS, SEX, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY AND EXPRESSIONS, MARITAL OR RELATIONSHIP STATUS, DISABILITY, HIV STATUS, PROFESSION OR OCCUPATION, HEALTH STATUS OR MEDICAL HISTORY, LANGUAGE, PHYSICAL FEATURES, AND OTHER STATUS, AND PROVIDING PENALTIES THEREFOR

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

1 **Section 1. Short Title.** – This Act shall be known as the “*Comprehensive Anti-*
2 *Discrimination Act of 2020.*”
3

4 **Sec. 2. Declaration of Policy.** – It is the policy of the State to work actively for
5 the elimination of all forms of discrimination that offends the equal protection clause of
6 the Bill of Rights, and the State’s obligations under human rights instruments acceded to
7 by the Republic of the Philippines, particularly those discriminatory practices based on
8 age, racial or ethnic origin, religious belief or activity, political inclination or conviction,
9 social class, sex, gender, sexual orientation, gender identity and expressions, marital or
10 relationship status, disability, HIV status, profession or occupation, health status or
11 medical history, language, physical features, or other status.
12

13 Towards this end, discriminatory practices as defined herein shall be proscribed
14 and penalized.

15 **Sec. 3. Definition of Terms.** – For the purposes of this Act, the following terms
16 shall be defined as follows:

- 17 a. *Disability* refers to: 1) a physical or mental impairment that substantially limits
18 one or more psychological, physiological or anatomical function of an individual
19 or activities of that individual; 2) a record of such an impairment; or, 3) being
20 regarded as having such an impairment.
21
22 b. *Discrimination* constitutes any distinction, exclusion, restriction or preference or
23 other differential treatment that is directly or indirectly based on age, racial or
24 ethnic origin, religious belief or activity, political inclination or conviction, social

1 class, sex, gender, sexual orientation, gender identity and expressions, marital or
2 relationship status, disability, HIV status, health status or medical history,
3 language, physical features, or other status, which has the purpose or effect of
4 nullifying or impairing the recognition, enjoyment or exercise, on equal footing,
5 of the political, civil, economic, social and cultural rights. Discrimination also
6 includes incitement to discriminate and harassment.

7 Direct discrimination occurs where a person is treated less favorably than
8 another person in the same or comparable circumstances on the ground of their
9 protected attribute (i.e. age, racial or ethnic origin, religious belief or activity,
10 political inclination or conviction, social class, sex, gender, sexual orientation,
11 gender identity and expressions, marital or relationship status, disability, HIV
12 status, profession or occupation, health status or medical history, language,
13 physical features, or other status).

14 Indirect discrimination occurs where an apparently neutral condition or
15 requirement is imposed which has the effect of disadvantaging a group with a
16 particular protected attribute and which is not reasonable in the circumstances.
17 Indirect discrimination may not be unlawful if a respondent can show that there
18 is an objective justification for it. This involves demonstrating a proportionate
19 means of achieving a legitimate aim.

20
21 c. *Education and Training* refers to all types and levels of education, training, and
22 other avenues for learning, and includes access thereto, the standard and quality
23 thereof and the conditions under which the same is given.

24
25 d. *Ethnic Origin* includes race, national origin, and ethno-linguistic origin.

26
27 e. *Employment* refers to all terms conditions, and privileges relating to work in
28 public and private institutions, including recruitment policies, application,
29 procedures, training, incentives, compensation, determination of benefits or
30 allowances, promotion, advancement opportunities, transfer, and dismissal.

31 This definition shall apply to regular, probationary, casual, contractual,
32 fixed-term, and seasonal workers. In legitimate contracting arrangements, the
33 contractor/subcontractor shall be deemed the employer of the contractual
34 employee.

35 For the purpose of this Act, the terms employment and occupation include
36 access to vocational training, access to employment and to particular
37 occupations, and terms and conditions of employment.

38
39 f. *Gender Identity* refers to each person's deeply felt internal and individual
40 experience of gender, which may or may not correspond with the sex assigned at
41 birth (e.g. the sex listed on their birth certificate) including the personal sense of
42 the body and other expressions of gender, including dress, speech and
43 mannerisms.

44
45 g. *Gender Expression* refers to the outward manifestations of the cultural traits that
46 enable a person to identify as male or female according to patters that, at a
47 particular moment in history, a given society defines as gender appropriate.

- 1 h. *HIV Status* refers to the presence or absence of the human immunodeficiency
2 virus (HIV) in the body of an individual.
3
- 4 i. *Indigenous Cultural Communities/ Indigenous Peoples* (ICC/IPs) shall, as provided
5 under Section 3 (h), Chapter II of Republic Act No. 8371 or the Indigenous
6 People's Rights Act (IPRA) of 1997, refer to a group of people or homogenous
7 societies identified by self-ascription and ascription by others, who have
8 continuously lived as organized community on communally bounded and
9 defined territory, and who have, under claims of ownership since time
10 immemorial, occupied, possessed and utilized such territories, sharing common
11 bonds of language, customs, traditions and other distinctive cultural traits, or
12 who have, through resistance to political, social and cultural inroads of
13 colonization, non-indigenous religions and cultures, became historically
14 differentiated from the majority of Filipinos. ICCs/IPs shall likewise include
15 peoples who are regarded as indigenous on account of their descent from the
16 populations which inhabited the country, at the time of conquest or colonization,
17 or at the time of inroads of non-indigenous religions and cultures, or the
18 establishment of present state boundaries, who retain some or all of their own
19 social, economic, cultural and political institutions, but who may have been
20 displaced from their traditional domains or who may have resettled outside their
21 ancestral domains.
22
- 23 j. *Bangsamoro People* are those who, at the advent of the Spanish colonization,
24 were considered natives or original inhabitants of Mindanao and the Sulu
25 archipelago and its adjacent islands, whether of mixed or full blood, shall have
26 the right identity themselves, their spouses and descendants, as Bangsamoro.
27
- 28 k. *Linguistic Discrimination* refers to the unfair treatment of an individual based
29 solely on the use of language. This use of language may include the individual's
30 native language or other characteristics of the person's speech, such as an accent,
31 the size of vocabulary (whether the person uses complex and varied words), and
32 syntax.
33
- 34 l. *Muslims* refer to those who are followers of Islamic faith, whether from birth or
35 by conversion.
36
- 37 m. *Marital or Relationship Status* refers to the personal status of each individual in
38 relation to the marriage laws or customs of the country. The categories of marital
39 status to be identified are the following: (a) single; (b) married; (c) separated (d)
40 widowed; or (e) de facto spouse of another person. A de facto spouse of another
41 person is defined to mean a person who cohabits or lives with another person in
42 a relationship similar to marriage but is not legally married to that person.
43
- 44 n. *Occupation* refers to a line of work, job or profession.
45
- 46 o. *Physical Features* refer to a person's height, size, weight or other bodily
47 characteristics. It shall also include features that a person chooses to acquire,
48 such as tattoos and piercings.

- 1 p. *Political Inclination* refers to a person's preference with regards to membership
2 or belief in a particular political party, organization or ideology.
3
- 4 q. *Profession* refers to a lawful occupation which requires specialized knowledge
5 and often long and intensive academic preparation.
6
- 7 r. *Profiling* means relying on the prohibited grounds of discrimination in subjecting
8 a person or group of persons to investigatory activities, which include
9 unnecessary, unjustified, illegal, and degrading searches, questioning or other
10 investigatory activities, in determining whether an individual is engaged in an
11 activity presumed to be unlawful, immoral, or socially unacceptable.
12
- 13 s. *Religious Belief* covers the profession or non-profession of religion or belief of
14 one's choice that may be publicly or privately manifested in worship,
15 observance, practice and teaching.
16
- 17 t. *Sexual Orientation* refers to each person's capacity for profound emotional,
18 affectional and sexual attraction to, and intimate relations with, individuals of a
19 different gender or the same gender or more than one gender.
20 It encompasses the broad concept of a person's sexual attraction to, and
21 sexual activity with, people of a particular gender. This can be towards people of
22 the same sex (homosexual orientation); towards people of both sexes (bisexual
23 orientation), towards neither, or towards people of the opposite sex
24 (heterosexual orientation). A person's sexual orientation is distinct from a
25 person's gender identity and expression.
26
- 27 u. *Social Class* refers to groupings of individuals usually based on wealth,
28 educational attainment, occupation, income, and membership in a subculture or
29 social network.
30
- 31 v. *Stigma* refers to the dynamic process of devaluation that significantly discredits
32 an individual in the eyes of others. When stigma is acted upon, the result is
33 discrimination.
34
- 35 w. *Other Status* refers to other forms of differential treatment or grounds of
36 discrimination which either undermines human dignity, causes or perpetuates
37 systemic disadvantage, or adversely affects the equal enjoyment of a person's
38 rights and freedoms in a serious manner that is comparable to the protected
39 attributes enumerated in Section 4 of this Act. These grounds include, but are not
40 limited to the following: pregnancy or maternity/paternity status, family
41 responsibilities, health status or medical condition, criminal record.
42

43 **Sec. 4. Prohibited Grounds for Discrimination/Protected Attributes. -**
44 Discrimination that is directly or indirectly based on the following personal
45 characteristics such as age, racial or ethnic origin, religious belief or activity, political
46 inclination or conviction, social class, sex, gender, sexual orientation, gender identity
47 and expressions, marital or relationship status, disability, HIV status, lawful profession
48 or occupation, health status or medical history, language, physical features, or other

1 status, is prohibited. For purposes of this Act, these personal characteristics shall be
2 collectively termed as Protected Attributes.

3
4 **Sec. 5. Acts of Discrimination, Unlawful.** – Subject to Section 7 of this Act, the
5 acts of discrimination include, but are not limited to, the following:

6 (a) Inflicting stigma.

7 It shall be unlawful for any person to commit any acts that promote and
8 encourage stigma based on the grounds referred to in Section 4. Content in the
9 media, in educational textbooks, or in other medium that aims to inflict stigma is
10 likewise prohibited.

11 (b) Denial of political, civil and cultural rights.

12 It shall be unlawful to deny a person enjoyment of political, civil and cultural
13 rights based on the grounds referred to in Section 4.

14 (c) Denial of right to education.

15 It is unlawful for any person to:

- 16 (1) Refuse admission or expel a person from any educational or training
17 institution on the basis of the grounds defined in Section 4, without
18 prejudice to the right of educational or training institutions to determine
19 the academic qualifications of their students or trainees;
- 20 (2) Grant or refuse to grant honors, scholarship/s, or other forms of
21 assistance on the basis of the grounds defined in Section 4; and
- 22 (3) Impose disciplinary sanctions, penalties harsher than customary, or
23 similar punishments, requirements, restrictions, or prohibitions that
24 infringe on the rights of the students on the basis of the grounds
25 identified in Section 4.

26 The prohibition to deny the right to education on the basis of the grounds in
27 Section 4 extends to acts committed against a student or trainee to discriminate
28 his or her parents or legal guardians.

29 (d) Denial of right to work.

30 It is unlawful for any person to:

- 31 (1) Use the grounds in Section 4 or require the disclosure thereof in the
32 selection, promotion, and termination of workers, and in the
33 determination of compensation, training, incentives, privileges, benefits
34 or allowances, as well as other terms and conditions of employment;
- 35 (2) Deny employment in government institutions, including police and
36 military service, based directly or indirectly on the grounds referred to in
37 Section 4;
- 38 (3) Refuse to enter into contract or agreement with persons or group of
39 persons based solely or partly on the grounds provided in Section 4; and
- 40 (4) Deny an application for or revoke a professional license issued by the
41 government directly or indirectly due to the grounds included in Section
42 4.

43 (e) Denial of access to goods and services

44 It is unlawful for any person to:

- 45 (1) Deny a person, solely or partly on the basis of the grounds in Section 4, of
46 goods and services available to the general public, such as but not limited
47 to private and public insurance, housing and other forms of
48 accommodation, medical and clinical services;

(2) Refuse entry to or evict a person from any establishment, facility or utility that is open to the general public, such as but not limited to, restaurants, bars, hotels, shopping malls, solely or partly on the basis of the grounds listed in Section 4; and,

(3) Cause undue and unjust deferral of services or provision of inferior services to persons due to the grounds in Section 4.

There is discrimination if the acts above are committed against organizations or groups of persons based on the grounds identified in Section 4.

(f) Denial of right to organize.

It shall be unlawful to prohibit, prevent, or revoke the accreditation, formal recognition, and/or registration of any organization, group, political party, institution or establishment, in educational institutions, workplaces, communities, and other settings, based partly or solely on the grounds provided for in Section 4.

Discrimination is also committed when additional requirements beyond the customary are imposed directly or indirectly due to the grounds stipulated in Section 4.

(g) Inflicting harm on health and well-being.

It shall be unlawful to subject any person, without consent, to any unnecessary medical or physical examination, psychological treatment, faith-based practices, and other similar procedures based solely or partly on any of the grounds referred to in Section 4 that aim to change identity or physical attributes or impose behavior or expressions.

(h) Engaging in profiling.

It shall be illegal for any person, including members of the military and law enforcement agencies, to engage in profiling based solely or partly on the grounds included in Section 4.

(i) Abuses by state and non-state actors.

It shall be unlawful for any government agency, including local government units, police, military, and immigration agencies, to harass verbally or physically, to curtail freedom of movement, or to extort from a person or a group of persons on the basis of the grounds stipulated in Section 4.

This prohibition applies to similar abuses committed by non-state actors.

(j) Detention and confinement.

It shall be unlawful to detain and confine a person or groups of persons based directly or indirectly on the grounds under Section 4.

(k) Inciting hatred or violence

It shall be unlawful to incite hatred or violence based on any of the grounds included in Section 4, by use of words or behavior or display of written material, publishing or distributing written material; the public performance of a play; distributing, showing or playing a recording; broadcasting or including a program in a program service, and possession of inflammatory material. The words, behavior, written material, or recordings, or program must be threatening and not just abusive or insulting.

(l) Denial of right to expression

It shall be unlawful to deny a person of his freedom of opinion and expression based on the grounds included in Section 4. This includes the expression of identity or personhood through speech, deportment, dress, bodily

characteristics, choice of name, or other means, as well as the freedom to seek, receive, and impart information and ideas of all kinds through any medium.

(m) Other analogous circumstances.

Any analogous act, which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise of the person's human rights and fundamental freedoms, are also prohibited.

Sec. 6. Persons Liable. – Any person, natural or juridical, or their representatives, including government instrumentalities and agencies, or government-owned and controlled corporations, or any private corporation, institution or company who commits discrimination through any of the acts described in Section 5 shall be liable under this Act.

Any person, natural or juridical, or their representatives, who requests, instructs, induces, encourages, authorizes or assists another to commit acts of discrimination under Section 5 shall also be liable under this Act.

Any person who is duty-bound to act on complaints of discrimination under this Act but fails or refuses to do so shall be deemed prima facie to have sanctioned the discriminatory act, and shall be held equally liable for discrimination.

All government officers and workers are obliged to promote nondiscrimination in the discharge of their duties and responsibilities.

Sec. 7. Exceptions. – Any action or conduct, otherwise prohibited under Sections 4 and 5 of this Act shall not be unlawful and shall not be considered as discrimination:

1) Where any of the protected attributes are bona fide occupational qualifications reasonably necessary to the normal operation of the particular business or where the differentiation is based on reasonable factors (Genuine Occupational Qualifications);

2) Where distinction, exclusion, or preference in respect of a particular job is based on inherent requirement and requirement is a proportionate means of achieving a legitimate aim (Inherent Requirement);

3) Where the acts or practices of a body established for religious purposes conform to the doctrines, tenets or beliefs of the relevant religion or that such acts or practices are necessary to avoid injury to the religious sensitivities of adherents of that religion;

4) Where the act or omission is done in good faith for the purpose of assisting or advancing a person or group of persons who need or may reasonably be supposed to need assistance or advancement in order to achieve an equal place in society with other members of the community (Measures of Equality or Affirmative Action Program).

Sec. 8. Penalties. – The penalty of not less than one (1) year but not more than six (6) years imprisonment or a fine of not more than Five Hundred Thousand Philippine Pesos (PhP500,000.00), or both, in the discretion of the court, and taking into consideration the circumstances and gravity of the offense.

The penalty provided under this Section shall be imposed in its maximum period:

(a) If the offender has been previously convicted under this Act;

1 (b) When the offender is an ascendant, parent, guardian, stepparent or
2 collateral relative within the second degree of consanguinity or affinity of
3 the victim;

4 (c) When the offender is the manager or owner of an establishment which
5 has no license to operate or whenever such license has expired or has
6 been previously revoked;

7 (d) When the offender is a public official, officer or employee: *Provided*, That
8 the penalty of suspension shall also be imposed: *Provided, further*, That
9 the public official, officer or employee may be asked to undergo gender
10 and development training and community service during the duration of
11 suspension.

12 When the offender is a corporation, partnership or association, the officer or
13 employee thereof who is responsible for the violation of this Act shall suffer the penalty
14 imposed in its maximum period. The corporation shall be jointly liable for any fine
15 imposed.

16 An offender who is a foreigner shall be deported immediately after service of
17 sentence and shall be barred entry into the country.

18 Whenever the courts determine that a fine shall be imposed pursuant to the
19 criminal case filed under this Act, the fine thus collected shall be remitted by the court
20 to the Commission on Human Rights which shall administer the fund for the assistance
21 of victims of discrimination.

22
23 **Sec. 9. Programs to Promote Non-discrimination and Diversity.** – The State
24 shall endeavor to eliminate all forms of discrimination and shall therefore pursue
25 initiatives and programs that seek to enable an environment free of stigma and
26 discrimination. It shall direct the machinery and resources of the State to ensure non-
27 discrimination and promote equality and shall encourage other sectors of the society to
28 engage and participate in these efforts. It shall ensure the establishment of the following
29 programs:

30 (a) Social Protection Program – The national government shall implement social
31 protection measures for communities affected by and vulnerable to stigma
32 and discrimination.

33 (b) Diversity Programs and Policies – All government agencies, government-
34 owned and controlled corporations, private companies, public and private
35 educational institutions, and other entities shall establish diversity programs
36 to ensure that discrimination and abuse are prevented. They shall also create
37 an internal redress mechanism to address cases of discrimination and grant
38 administrative remedies or sanctions for such cases.

39 The Civil Service Commission (CSC), Department of Labor and Employment
40 (DOLE), Department of Interior and Local Government (DILG), Department of Trade
41 and Industry (DTI), the Armed Forces of the Philippines (AFP), Department of
42 Education (DepEd), Commission on Higher Education (CHED), Technical Education and
43 Skills Development Authority (TESDA), Department of Justice (DOJ), Department of
44 Foreign Affairs (DFA), and Department of Health (DOH) shall ensure the
45 implementation of this Section.

46 Failure of the above agencies, without justifiable cause, to ensure the
47 implementation of this provision shall be deemed refusal to address discrimination and
48 shall be penalized as an analogous act of discrimination.

1 **Sec. 10. Enforcement.** – Criminal complaints brought under this Act shall be
2 filed with the proper court. In addition to the criminal complaint, a person who has
3 been subjected to any acts of discrimination as defined in this Act may file a complaint
4 with the Commission on Human Rights (CHR). For this purpose, the CHR may
5 investigate, *motu proprio* or on complaint by any person, acts or omissions in violation
6 of this Act.

7 In all cases under investigation, the Commission may issue legal and preventive
8 measures as well as provisional remedies. These measures or remedies shall include,
9 but are not limited to, general writs of injunction, restraining orders, status quo ante
10 orders, cease and desist orders, protection orders or such other orders to protect the
11 life and security of persons, preserve evidence, protect properties and other
12 considerations to ensure the efficient investigation of the alleged violation of this Act.

13 The Commission shall also direct the officer concerned to take appropriate
14 action against a public officer or employee at fault or who neglected to perform an act
15 or discharge a duty required under this Act, and order revocation of license, removal
16 from office or employment, suspension, demotion, fine, censure, or prosecution, and
17 ensure compliance therewith. Refusal by any officer without just cause to comply with
18 an order of the Commission to revoke the license, remove, suspend, demote, fine,
19 censure, or prosecute an officer or employee who is at fault, or who neglects to perform
20 an act or discharge a duty required under this Act, shall be a ground for disciplinary
21 action against said officer.

22
23 **Sec. 11. Administrative Proceedings and Sanctions against Public Officials**
24 **and Employees.** – Pursuant to Section 8 of this Act, which makes it a duty of the CHR to
25 investigate alleged cases of discrimination, a finding by the CHR that a department,
26 agency or instrumentality of the government, a government-owned and controlled
27 corporation, or a local government unit has violated any provision of this Act and its
28 implementing rules and regulations, shall carry with it a recommendation to the CSC
29 and/or the DILG for the imposition of sanctions under administrative law, civil service,
30 or other appropriate laws. Such recommendation shall include the names of the person
31 directly responsible for the violation, and a statement that the sanctions be imposed
32 upon the person directly responsible and the head of the agency or the local chief
33 executive.

34
35 **Sec. 12. Fines against Private Persons, Provisional Remedy.** – Upon a *prima*
36 *facie* finding that any provision of this Act was violated and upon its issuance of a cease
37 and desist order, the CHR may impose a fine of Twenty Thousand Pesos (P20,000.00),
38 for every day that the act of discrimination complained of has not ceased. The fine thus
39 collected shall be for the assistance of victims of discrimination.

40 For purposes of this section and the imposition of the provisional remedy of fine,
41 the CHR may ask the assistance of DTI, CHED, DOLE, DepEd, and TESDA.

42
43 **Sec. 13. Implementing Rules and Regulations.** – The CHR, CSC, DOLE, DILG,
44 AFP, DepEd, CHED, TESDA, DOJ, DFA, DOH, National Commission on Indigenous
45 Peoples, and National Commission on Muslim Filipinos shall promulgate the necessary
46 implementing rules and regulations within sixty (60) days from the effectivity of this
47 Act. Thereafter, this Act shall be fully implemented with or without the IRR.

1 **Sec. 14. Separability Clause.** – If, for any reason, any part, section or provision
2 of this Act is held invalid or unconstitutional, the remaining provisions not affected
3 thereby shall continue to be in force and effect.
4

5 **Sec. 15. Repealing Clause.** – All laws, decrees, executive orders, proclamations,
6 rules and regulations, and other issuances, or part or parts thereof, which are
7 inconsistent with the provisions of this Act are hereby repealed, amended or modified
8 accordingly.
9

10 **Sec. 16. Effectivity Clause.** – This Act shall take effect fifteen (15) days after its
11 publication in the *Official Gazette* or at least two (2) newspapers of general circulation,
12 whichever comes earlier.

Approved,