



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

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 8938



Introduced by Representative Junie E. Cua
Lone District, Quirino

AN ACT
TO DEEPEN THE CAPITAL MARKET
BY DEVELOPING A ROBUST INSTITUTIONAL INVESTOR BASE
AND STRENGTHENING THE REGULATORY ENVIRONMENT

EXPLANATORY NOTE

The Role of a Robust Capital Market

Developing deep and broad capital markets is an important aspect of nation-building. Capital markets mobilize savings from households and firms with surplus funds, and channel these to those sectors with a need for such funds. It provides the link for the direct intermediation of funds from savers to borrowers through the bond and stock markets, while indirect financial intermediation channels funds from savers through the banking system. For all these channels, the tasks are to allocate savings to their most productive uses.

The impact on economic growth via all these channels takes place over several decades and is not trivial. In fact, the literature provides much evidence of the strong links between financial sector development and real per capita economic growth. In addition, financial sector development can reduce verification costs, help alleviate credit rationing, and provide for more efficient government to person transactions.

Recognizing these benefits, the Government of the Philippines is prioritizing efforts to further enlarge and deepen the financial sector, and to increase financial inclusion. Broadening our country's financial sector is consistent with enhancing financial inclusion and increasing the liquidity of financial markets. It implies growing the country's investor base. A wide domestic investor base supports the development of local currency capital markets. It ensures varied sources of demand by encouraging the participation of a variety of financial entities (banks, pension funds, insurance companies, mutual funds), and nonfinancial entities (nonfinancial corporations, retail investors) practicing a variety of business models, as well as foreign investors.

A comparison of the financial sector in the Philippines with other countries suggests ours is smaller, lacks depth, and is more inaccessible. This is unfortunate, because there are many qualitative benefits to financial sector development, including; i) improved corporate governance, ii) allowing for risk mitigation and intertemporal risk sharing, iii) a reduction of liquidity risk, iv) a reduction in trading costs, v) facilitation of exchange, and vi) specialization and innovation.

But, sadly, the Philippines has a relatively small institutional investor base, and a low level of assets held by the contractual savings sector (e.g., pensions, insurance companies and mutual funds) as a percentage of GDP. Contractual savings, and pensions in particular, complement financial sector development, which drives growth.

Widening Institutional Investor Base

Pension systems around the world are active participants in capital markets. They mobilize savings that will not be withdrawn until retirement – long-term savings - which are appropriate for financing productive long-term investments, like infrastructure investment. These investments include tangible assets (roads, bridges, ports, machinery, factories, commercial buildings, hospitals, and new housing units) and intangible assets (such as education and research and development) that increase future prospects for innovation and competitiveness.

Given that pension systems are important sources of productivity-enhancing savings, how these systems are designed determine their contribution to capital markets development, long-term investment, improving corporate governance and ultimately, productivity and real per capita economic growth.

Our current pension system has a problem - it is small, underfunded and inadequate to provide enough income to support old-age retirement. Our pension assets under management represent just 16% of Gross Domestic Product (GDP). The Organisation for Economic Co-operation and Development (OECD) average is 124% of GDP while the non-OECD average is 36% of GDP. Said another way, we have 1.3 pensions assets per worker. Thailand has 126 pension assets per worker and Singapore has 900,000 pension assets per worker.

The private pension system, which is meant to supplement the Social Security System (SSS) and Government Service Insurance System (GSIS) pensions, has not developed. It has its own problems. Foremost of which, is the structure of the law and its implementing regulations. Republic Act (RA) No. 7641 does not require pensions to be prefunded, hence, pensions are paid out of pocket rather than built-up over the duration of employment, thus, no pool of investible assets is created. The pension benefits do not vest until they are sixty (60) years old and on the last day of their employment. Because pension benefits only vest at their final place of employment, pensions are not portable, and the employee is at risk in the event of the employer's bankruptcy. In addition, many are working in the informal sector which makes it difficult to enforce pension requirements under the current law.

With this as background, there is a need to reform the private pension fund system. This will not be easy, but the potential benefits are high not only for our old age citizens but more so for the development of the capital market.

- ***First, a large domestic institutional investor base will allow us to largely fund our own development.*** Demand for treasury securities and corporate bonds will increase significantly. In addition, professional fund managers can, with the proper incentives, police the market, thereby increasing the effectiveness of our regulatory regime.
- ***Second, our country's real per capita GDP will grow much more rapidly.*** This means lower poverty, higher savings rates, greater allocative efficiency in financial markets, potentially better corporate governance, greater labor supply by more productive workers responding to higher future retirement benefits, better infrastructure, and less effective pressure from external fund providers.
- ***Third, reformed pension system will provide workers with enough income to cover old age living expenses. This will allow their children to build wealth and break generational poverty.***

No less than the Philippine Constitution mandates that the State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all (*Article II, Section 9, 1987 Philippine Constitution*).

Along this line, the Constitution highlights the importance of a viable pension system in the country, particularly in the grant of various benefits to pensioners or retirees, thus, mandating that:

“The State shall, from time to time, review to increase the pensions and other benefits due to retirees of both the government and the private sectors” (*Article XVI, Section 8, 1987 Philippine Constitution*).

In the 2020 Melbourne Mercer Global Pension Index (MMGPI), the country’s pension system had been ranked 36th out of thirty-nine (39) countries. It garnered an index value of 43, the highest score being 82.6 and, with “A” as the highest, got a grade of “D” (i.e. has some desirable features, but also has major weaknesses and/or omissions that need to be addressed). The index measures each country’s pension system through the three sub-indices of sustainability, adequacy and integrity. Given these myriads of issues plaguing our current pension system, we should already be past the phase of diagnosis and review.

The much-needed reforms to deepen our capital markets by developing a robust institutional investor base and strengthening the regulatory environment, especially in these pandemic times, is of crucial importance. We must start the ball rolling by institutionalizing a mandatory, portable, fully funded, and adequate corporate pension fund system.

And it is demanded of us to act NOW.

In view of the foregoing, passage of this measure is earnestly sought.



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

1 **SECTION 1. Title.** - This Act shall be known as the "*Capital Market Development Act of 2021*".

2
3 **SEC. 2. Declaration of Policy.** - It is the declared policy of the State to promote a just and dynamic
4 social order that will ensure the prosperity of the country and free the people from poverty through
5 policies providing adequate social services, promote full employment, a rising standard of living, and
6 an improved quality of life for all. Towards this end, the Government shall develop a deep and broad
7 capital market that shall serve as engine for economic growth and financial inclusion, eventually leading
8 to the early attainment of such declared policy.

9
10 An important component of deepening the capital market is to develop a wide institutional investor base
11 that could best be achieved by adopting a robust pension fund system. Timely, our pension fund system
12 has long been due for reform. As old age income support is now among the major social and economic
13 challenges facing many nations, including the Philippines, it is imperative to institute the much-awaited
14 reforms in our retirement and pension system.

15
16 Thus, this Act seeks to establish a private retirement and pension system that is fully-funded, portable,
17 more actuarially fair and stable that will enhance the current pension, at the same time, promoting and
18 encouraging national savings and prudential investments on the part of employees, and in so doing,
19 vigorously stimulate the development of the capital market, in particular, and contribute to the desired
20 economic growth of the country, in general.

21
22 **SEC. 3. Definition of Terms.** - As used in this Act:

- 23
24 a. *Contributor* refers to any person or entity, such as the employer, employee, or those availing
25 under voluntary coverage, making the required contributions to a private pension and retirement
26 fund under this Act;
27

- 1 b. *Covered Employee* refers to any person in the employ of an employer as defined under the Labor
2 Code, who is compulsorily covered under Section 5 of this Act;
3
4 c. *Covered Employer* refers to any person, natural or juridical, employing the services of the employee
5 as defined under the Labor Code, who is compulsorily covered under Section 5 of this Act;
6
7 d. *Early withdrawal* refer to any withdrawal, either wholly or partially, made prior to the period
8 of distribution or vesting as set forth under Section 17 hereof;
9
10 e. *Employee Pension and Retirement Income (EPRI) Account* refers to the pension account created
11 for the pension owner or EPRI owner under this Act;
12
13 f. *EPRI Administrator* refers to an entity accredited by the Regulatory Authorities that is
14 responsible for the general administration of the EPRI;
15
16 g. *EPRI Asset* refers to the aggregate of the assets in the EPRI at any one time, including the cash
17 funds and the EPRI investment products into which they are invested and reinvested, and all
18 the income earned therefrom;
19
20 h. *EPRI Custodian* refers to a separate and distinct entity unrelated to the Administrator,
21 accredited by the Regulatory Authorities, that provides services in connection with the
22 custodianship of funds and securities comprising the EPRI investments. The Custodian shall
23 operate independently from the Administrator;
24
25 i. *EPRI Owner* refers to the employee owning, holding and maintaining the EPRI under its name
26 and full control. It shall also refer, unless otherwise indicated, to one under voluntary coverage
27 as provided under this Act;
28
29 j. *Investment Manager* refers to a regulated person or entity authorized by a Contributor to make
30 investment decisions for his EPRI Account. As such, it shall assume fiduciary duty and
31 responsibility for EPRI investments. An Investment Manager shall act with utmost fidelity by
32 observing policies directed towards confidentiality, scrupulous care, safety and prudent
33 management of EPRI Assets;
34
35 k. *Investment Product* refers to a unit investment trust fund, mutual fund, annuity contract,
36 insurance pension products, pre-need pension plan, shares of stock and other securities listed
37 and traded in a local exchange, exchange-traded bonds or any other investment product or outlet
38 which the concerned Regulatory Authorities may allow or accredit. Provided, however, That to
39 qualify as an accredited EPRI investment product it must be non-speculative, readily
40 marketable, and with a track record of regular income payments to investors;
41
42 l. *Voluntary EPRI FUND Owner* refers to a person allowed by this act to voluntarily establish an
43 EPRI Account in his. It shall include, but not limited to, persons specifically excluded from
44 compulsory or mandatory coverage under Section 5 hereof, as well as self-employed
45 individuals and individuals in the practice of profession;
46
47 m. *Start of Employment* refers to the first day on which the employee is authorized or required by
48 the employer to be on duty on the employer's premises or at a prescribed workplace.
49

50 ESTABLISHMENT OF EPRI ACCOUNT

51
52 **SEC. 4. *Establishment of an Employee Pension and Retirement Income Account.*** – There shall be
53 established at the start of employment a mandatory, fully funded and portable Employee Pension and
54 Retirement Income (EPRI) Account. The creation of the EPRI account for the employee shall be the
55 responsibility of both the employer and the employee.

1
2 The EPRI account shall be under the name of the employee bearing the employee's PhilSys Number
3 (PSN) under Republic Act 11055. If said PSN is not yet available at the time of the EPRI establishment,
4 a Pension Retirement and Income Number (PRIN) shall be assigned in the interim under the rules issued
5 by the Regulatory Authorities. Such PRIN shall be changed to PSN upon its availability.
6

7 An employee or those voluntarily covered, shall only have one EPRI Account. The EPRI Account shall
8 be his permanent EPRI account until retirement and shall be owned, maintained, and managed by him
9 regardless of changes in employment or transfer of employer.
10

11 **SEC. 5. Compulsory Coverage of Employees and Employers.** – EPRI shall cover all employees and
12 employers as defined under the Labor Code of the Philippines and its implementing regulations. It will
13 also cover, all corporations, whether domestic or resident foreign corporation, general professional
14 partnerships and such other entities, whether registered or not, having persons under its employ.
15

16 The following are not covered under this Act:
17

- 18 a. Employees of the National Government and its political subdivisions, including
19 Government-owned and/or controlled corporations;
- 20 b. Domestic workers under Republic Act No. 10361 or the "Domestic Workers Act" or "Batas
21 Kasambahay"; and
- 22 c. All those specifically excluded by the Regulatory Authorities in an implementing
23 regulation.
24

25 **SEC. 6. Voluntary Coverage.** – Self-employed and professionals, as well as those excluded under
26 Section 5 hereof, may opt for voluntary coverage under this Act. The contributions to the EPRI will be
27 borne and paid solely by those opting for voluntary coverage. Once under voluntary coverage, all the
28 provisions of this Act as well as the governing policies, rules and regulations thereof shall equally apply
29 to them similar to those under compulsory coverage.
30

31 **SEC. 7. Change of Status from Mandatory to Voluntary Coverage. Vice-versa.** – Any interruption
32 in the contribution to EPRI account due to changes in the status of the EPRI Owner from mandatory to
33 voluntary, or vice-versa, shall not cause the termination or cancellation of the EPRI Account. An EPRI
34 account already established shall continue to exist until vesting or upon the retirement of the EPRI
35 Owner except in instances as may be determined by the Regulatory Agency under the implementing
36 regulations.
37

38 The changes in status contemplated under this Section shall include:
39

- 40 1. Change in employment from a covered private employer to a non-covered employer,
41 whether private or government;
- 42 2. Change of employment from employed to self-employed;
- 43 3. Change from voluntary to mandatory coverage.
- 44 4. Other similar situations that will disrupt the contributions, or will change the status of the
45 EPRI Owner, as may be determined by the Regulatory Authorities in the implementing
46 regulations.
47
48
49
50

51 **SEC. 8. EPRI Account Ownership.** - The EPRI Account shall be owned, held, and maintained under
52 the name of the employee and under his sole and full control. The employee, as EPRI Owner, shall
53 exercise all the complete and unrestricted rights, privileges, discretion and prerogatives as to the
54 management, investment and maintenance of the EPRI Account during its lifetime and until vesting.
55

Any income, interest or gains derived from the investment of the EPRI shall form part of the EPRI Asset as owned or held by the EPRI Owner.

SEC. 9. *Mandatory Funding and Contribution.* – Both the employee and the employer shall be obliged to mandatorily contribute to the EPRI Account. The amount of such contribution, which shall be fair, equitable, affordable, adequate and sustainable, shall be determined by the Regulatory Authorities in an implementing rules and regulations.

Such amount of contribution shall be subject to a periodic evaluation to determine its actuarial sufficiency, fairness and sustainability. The review, revisions and adjustments of such contributions, shall be undertaken by the Regulatory Authorities.

SEC. 10. *Investments. Default Investment Option.* - The EPRI Owner shall make all investment decisions pertaining to his EPRI Asset but limited to EPRI investments products as defined under Section 3(j) of this Act.

In the absence of an investment choice made, there shall be a default investment product or products determined and prescribed by the Regulatory Authorities on which the EPRI shall be invested. This default option shall be periodically reviewed by the Regulatory Authorities as to investment risks, profitability and sustainability, and to prescribe a new default option, as and when necessary.

The EPRI Owner shall, at his option, appoint an Investment Manager from among the accredited Investment Managers as defined under Section 3 hereof, to provide financial advice and make sound and prudent investment decisions on his behalf.

SEC. 11. *Retirement Age.* - A covered employee upon reaching the age of sixty (60) years but not beyond sixty-five (65) years, which is hereby declared the compulsory retirement age, shall retire and avail of the benefits under Section 10 of this Act.

Those persons under voluntary coverage will also be subject to the same conditions relative to the compulsory retirement age of sixty-five (65) with optional early retirement at age sixty (60).

SEC. 12. *Availment and Vesting of Benefits.* - Upon reaching the optional or compulsory age under Section 11 or on any of the instances allowed by the Regulatory Authorities for vesting or termination, the retiring employee, or EPRI Owner shall be entitled to all the EPRI Assets at the time of vesting or retirement. Such assets shall include all contributions and all the fruits thereof, including any investments that have been made out of the EPRI account,

The distribution of benefits shall be made in either lump sum or pension payments, the latter being paid either for a specific fixed period or a lifetime pension. The choice for the manner of payment as well as the payment period shall be made by the EPRI Owner on or before the time of vesting or benefit availment.

SEC. 13. *Mandatory Minimum Benefits.* – Other than the benefits under Section 12 hereof, and except for those covered by the transitory provision, there shall be no required minimum benefits to be vested to the employee at the time of his retirement.

SEC. 14. *Beneficiary.* – An EPRI owner can designate his Beneficiary of choice. Upon vesting, retirement or termination, he/she can assign his/her rights over the EPRI Assets or pension benefits to whomsoever he/she wishes.

However, if the EPRI owner dies before vesting or termination under Section 12 hereof without designating a Beneficiary, for purposes of determining the beneficiary, the Laws on Succession of the New Civil Code of the Philippines shall apply.

1 An EPRI owner with no compulsory heirs can designate his/her beneficiary or beneficiaries and have
2 the right to change his/her beneficiaries anytime.

3
4 **SEC. 15. EPRI Asset Sustainability, Adequacy and Actuarial Fairness.** – All the necessary policies
5 and measures shall be promulgated, implemented and undertaken by the Regulatory Authorities to
6 ensure that the EPRI Asset shall be adequate and sustainable.

7
8 The sustainability of the EPRI Asset shall take into consideration the desired replacement rate as
9 determined by the Department of Finance (DOF) and Department of Labor and Employment (DOLE)
10 jointly. The desired replacement rate shall be subject to periodic review and evaluation.

11 12 **EARLY WITHDRAWAL**

13
14 **SEC. 16. Early Withdrawal; Exceptions.** – Except in cases allowed under this Section, early
15 withdrawals shall not be allowed.

16
17 Early withdrawal or premature termination other than those allowed under Section 12 shall be subject
18 to penalties under Section 28 hereof. But no penalty shall be imposed on any withdrawal of, or any
19 portion of, the EPRI Asset for the following purposes:

- 20
21 a. For payment of accident or illness-related hospitalization in excess of thirty (30) days;
22
23 b. For payment to an employee who has been subsequently rendered permanently totally
24 disabled as defined under the Employees Compensation Law, Social Security Law or
25 Government Service Insurance System Law;
26
27 c. Death of EPRI Owner; and
28
29 d. For such purposes as may be declared by the Regulatory Authorities.
30

31 The transfer of an employee to a non-covered employer such as the government, or on self-employment,
32 shall not be a ground for early withdrawal or termination. The EPRI account shall remain to be alive
33 although dormant as to contributions, or at the option of the EPRI Owner, it can be made active under
34 voluntary coverage, until the date of retirement or vesting period. If the employee subsequently becomes
35 employed by a covered employer at any time prior to retirement, the EPRI Account shall revert to
36 mandatory coverage.

37 38 **TAXATION OF EPRI OR THE FUND**

39
40 **SEC. 17. Tax Treatment.** – The contributions, income, and benefits made or received under this Act
41 shall be treated as follows:

- 42
43 a. **Taxation of Contributions.** - The employer's contribution made under Section 9 of this Act,
44 shall be allowed as deductible expense of the employer subject to the substantiation
45 requirements under our National Internal Revenue Code. Such mandatory contributions made
46 by the employer to the employee's EPRI account shall not also be considered as part of the
47 employee's compensation subject to income tax. On the other hand, the employee's
48 contribution out of his/her compensation received from the employer, shall form part of the
49 employee's compensation income subject to income tax.
50
51 b. **Taxation of Investment Income.** - All income of whatever nature earned by the EPRI,
52 including interest and gains earned from the placements or investments of the EPRI assets, shall
53 be exempt from all taxes. In case of transactions subject to Documentary Stamp Tax (DST), the
54 DST shall be borne by the other party who is not exempt.
55

- 1 c. ***Taxation of Benefits.*** - All benefits and distributions received by the employee at the time of
2 vesting or retirement under Section 12 hereof, shall be exempt from all taxes.
3

4 At no instance shall the EPRI Account be considered engaged in business subject to VAT or to business
5 tax under Title IV and V of the National Internal Revenue Code, as amended, notwithstanding the
6 regularity of its investment activities.
7

8 **REGULATION, SUPERVISION AND ADMINISTRATION OF EPRI OR THE FUND** 9

10 **SEC. 18. *Regulatory Authorities.*** - The EPRI Account created under this Act, including those involved
11 in the administration, management and custody of its fund and assets, shall be placed under the
12 regulation, supervision and administration of the Department of Finance (DOF), the Insurance
13 Commission (IC), the Securities and Exchange Commission (SEC), and the Bangko Sentral ng Pilipinas
14 (BSP), either jointly or singly, as laid down in the succeeding Sections hereof.
15

16 For this purpose, the current administrative, supervisory and regulatory authorities and powers of the
17 Regulatory Authorities are deemed expanded, modified and amended to include the exercise of
18 administrative, supervisory and regulatory authority over the EPRI accounts constituted under this Act,
19 including the exercise of quasi-legislative and quasi-judicial powers relative thereto.
20

21 All matters and issues under this Act and specifically pertaining to the EPRI Account shall be within
22 the exclusive jurisdiction of the Regulatory Authorities.
23

24 **SEC. 19. *Functions of the Bangko Sentral ng Pilipinas*** – The BSP shall have the following functions:
25

- 26 1. Formulate, promulgate and implement the needed and required policies, mechanisms and rules,
27 for matters including, but not limited to:
28 a. Qualification and disqualification, and accreditation standards of banks, trust entities,
29 and other entities or individuals to act as Investment Managers, including directors and
30 officers thereof;
31 b. Minimum capital requirement;
32 c. Pre-operating requirements of banks to engage in investment management activities;
33 d. Conduct of investment management activities;
34 e. Reasonableness of fees to be charged by the Investment Manager, including the
35 imposition of fee cap as may be necessary;
36 2. Impose administrative sanctions against banks, or its principal officers and/or majority
37 stockholders, if found to engage in unauthorized investment management activities;
38 3. Set basic security deposit requirements for the faithful performance of investment management
39 activities and required retained earnings reserved;
40 4. All other pertinent matters as may be necessary for the full and efficient implementation of this
41 Act.
42 43

44 **SEC. 20. *Functions of the Securities and Exchange Commission*** – The SEC shall have the following
45 functions:
46

- 47 1. Formulate, promulgate and implement the needed and required policies, mechanisms and rules,
48 for matters including, but not limited to:
49 a. Qualification and disqualification, and accreditation standards of licensed investment
50 company advisers, and other entities or individuals to act as Investment Managers,
51 including directors and officers thereof;
52 53
54 55

- b. Qualification and disqualification, and accreditation standards for Administrators and Custodians, including directors and officers thereof;
 - c. Reasonableness of fees to be charged by the Administrator and Custodian including the imposition of fee cap as may be necessary;
 - d. Minimum requirements imposed on the Administrators as regards inculcating financial literacy to investors;
 - e. Record-keeping, reporting and audit requirement of Administrators and Custodians pertaining to records for all contributions, earnings and total account balances
2. Promote financial literacy to EPRI Owners by formulating, promulgating and disseminating the needed and appropriate intervention such as educational and training materials;
 3. All other pertinent matters as may be necessary for the full and efficient implementation of this Act.

Sec. 21. Functions of the Insurance Commission – The IC shall, in addition to all other powers and functions vested to and required of it under this law, have the following functions:

1. Formulate, promulgate and implement the needed and required policies, mechanisms and rules for matters including, but not limited to:
 - a. Qualification and/or eligibility of EPRI investment products, in coordination with BSP and SEC;
 - b. Valuation standards for EPRI investments;
 - c. Disclosure requirements on the terms and conditions of the EPRI investments;
 - d. Ascertainment of EPRI Owner's suitability for EPRI products, in coordination with BSP and SEC;
2. Determine the amount of contributions of the employer, employee, or those under voluntary coverage, which shall be subject to periodic review every five (5) years thereafter from the effectivity of this Act;
3. Assist and advise the DOF and DOLE of the desired replacement rate at intervals specified under the rules and regulations to be issued;
4. Submit reports to DOF and DOLE as may be required by them; and
5. All other pertinent matters as may be necessary for the full and efficient implementation of this Act.

ADMINISTRATION and MANAGEMENT OF EPRI

SEC. 22. EPRI Administration and Management. - The administration, management and custody of the EPRI Account and its Assets shall be undertaken by qualified private companies to act as the EPRI Administrator which will be chosen by the employee from among those accredited by the Regulatory Authorities.

SEC. 23. Functions of EPRI Administrator. – The EPRI Administrator shall have the following functions:

1. Oversee, administer, and manage the EPRI Account on behalf of the EPRI Owner;
2. Undertake reporting on contributions made to the account, computing the values of investments, enforcing EPRI contributions and withdrawal limits, collecting appropriate taxes and penalties for the government, consolidating reports on all investments, income,

1 expenses and withdrawals on the account and ensuring that EPRI contributions are invested
2 in accordance with the prudential guidelines set by the Regulatory Authorities;

3
4 3. Educate the Contributors; and

5
6 4. Report to the EPRI Owner as well as to the concerned Regulatory Authorities at designated
7 regular intervals or periods all the funds, financial transactions and all documents under its
8 management and administration and, if applicable, in its custody
9

10 The EPRI Administrator, subject to the strict rules and guidelines issued by the Regulatory Authorities,
11 cannot simultaneously act for the same account as EPRI Custodian, by receiving all the funds and
12 maintaining custody of such cash and all original securities, evidence of deposits or other evidence of
13 investment.

14
15 The Custodian shall be responsible for receiving all funds in connection with the EPRI, maintaining
16 custody of all original securities, evidence of deposits or other evidence of investment. The Custodian
17 is required to report to the Contributor and the concerned Regulatory Authorities at regular intervals all
18 financial transactions and all documents in its custody under the EPRI.
19

20 **SEC. 24. *Fiduciary Relation and Exercise of Prudence.*** - The EPRI Administrator and/or Custodian
21 is at all times deemed to have a fiduciary relationship with the EPRI Owner. The EPRI Administrator
22 and/or Custodian shall perform his responsibilities and duties and manage, administer and take care of
23 the EPRI under its management and/or custody with the diligence that a prudent man would exercise in
24 the conduct of an enterprise of a like character and with similar aims.
25

26 **SEC. 25. *Transparency and Regular Audit.*** - The EPRI and the EPRI Administrator and Custodian
27 shall be subject to a regular audit in accordance with the audit and monitoring guidelines promulgated
28 by the Regulatory Authorities. Policies and measures for complete transparency as promulgated by the
29 Regulatory Authorities will be adopted, implemented and observed by the EPRI Administrator and/or
30 Custodian at all times, including about the EPRI and its management, administration and custody as
31 well as the costs or expenses incurred relative to such management, administration and custody.
32

33 TRANSITORY PROVISIONS

34
35 **SEC. 26. *Transition to EPRI.*** - All pension plans existing at the time of the effectivity of this Act shall
36 be converted to EPRI: Provided, That, the employee may exercise the option to retain the existing
37 pension plan within five (5) years from the effectivity of this Act, subject to the approval by the
38 Regulatory Authorities after compliance with its prescribed rules and regulations; Provided, Further,
39 that all pension plans shall, within a period of five (5) years from the effectivity of this act, shall be
40 transferred to EPRI Accounts, and mandatorily covered by this Act.
41

42 Any employee who is retiring within the next five (5) years from the effectivity of this Act, and is likely
43 qualified for the minimum defined benefit under Republic Act (RA) 7641, whether or not covered by a
44 retirement plan, shall have the following options:
45

- 46 a. To stay under RA 7641 until retirement;
- 47
- 48 b. To stay with the retirement plan with which he is currently enrolled until his retirement;
- 49
- 50 c. To be covered by the provisions of this EPRI Act upon its effectivity. Any retirement
- 51 benefit, contribution or pension amount that has accrued under RA 7641 or existing
- 52 retirement plan shall be transferred to an EPRI account to be created under his name upon
- 53 the effectivity of this Act.
54

- d. To stay with the retirement plan with which he is currently enrolled but only up to the effectivity of this Act, and thereafter, to be covered by the provisions of this Act until retirement or vesting under Section 12 hereof.

FINES AND PENALTIES

SEC. 27. Penalties for Violations of Act. - A fine of not less than Fifty thousand pesos (P50,000.00) nor more than Two hundred thousand pesos (P200,000.00) or imprisonment of not less than six (6) years and one (1) day to not more than twelve (12) years or both such fine and imprisonment, at the discretion of the court, shall be imposed upon any person, association, partnership or corporation, its officer, employee or agent, who, acting alone or in connivance with others, shall commit the following:

- a. Failure of employer to remit the contributions to the EPRI Account;
- b. Act as EPRI Administrator/Custodian or Investment Manager or Advisor without being properly qualified or without being granted prior accreditation by the concerned Regulatory Authorities;
- c. Invest the contribution without any authority from the EPRI Owner, or invest the EPRI in contravention with the instructions or authorization of the EPRI Owner;
- d. Knowingly and willfully make any statement in any application, report, or document required to be filed under this Act, which statement is false or misleading with respect to any material fact;
- e. Misappropriate or convert, to the prejudice of the employee or employer, contributions to and investments or income from the EPRI;
- f. By gross negligence, cause any loss, conversion, or misappropriation of the contributions to, or investments from, the EPRI; or
- g. Violate any provision of this Act or rules and regulations issued pursuant to this Act.

The above penalty shall not preclude the EPRI Owner and the Regulatory Authorities from recovering from the Administrator, Custodian or Investment Manager the amount misappropriated or lost in situations covered under (c), (e) and (f) of this Section. The Regulatory Authorities shall assist, and if warranted, file the case for recovery, for and on behalf of the owner. Any amount spent by the Regulatory Authorities to pursue the case shall be reimbursed by the EPRI Owner to be deducted from the amount recovered.

Likewise, the above penalties shall be without prejudice to whatever civil and criminal liability provided for under applicable laws for the same act or omission.

SEC. 28. Penalties for Early Withdrawal. Abuse of Tax Exemption and Privileges. - Any EPRI Owner, who prematurely withdraws from the EPRI Account, unless excepted under Section 17 hereof, shall refund or pay to the government an amount equivalent to fifty percent (50%) of any amount withdrawn consisting of income earned by the fund plus the employer's contributions.

For purposes of determining the amount subject to penalty, the amount withdrawn less employee contributions at the time of withdrawal shall be considered the amount subject to the penalty of fifty percent (50%).

MISCELLANEOUS PROVISIONS

SEC. 29. Non-Assignability and Free from Levy. - Any provision of law to the contrary notwithstanding, no portion of the EPRI or assets of the EPRI may be assigned, alienated, pledged, encumbered, attached, garnished, seized or levied upon, by or under any administrative, legal or equitable process whatsoever.

1 **SEC. 30. *Separate Asset.*** - The EPRI Assets shall be kept separate and not considered assets of the
2 EPRI Owner, including that of the employee, self-employed or professional, or for purposes of
3 insolvency and estate taxes.

4
5 **SEC. 31. *Implementing Regulations*** – The BSP, SEC and IC shall issue a joint implementing
6 regulations to implement the provisions of this law within six (6) months from its effectivity.

7
8 **SEC. 32. *Separability Clause.*** - If any provision or part hereof is held invalid or unconstitutional, the
9 remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

10
11 **SEC. 33. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations or parts thereof
12 inconsistent with this Act are hereby amended, repealed or modified accordingly.

13
14 **SEC. 34. *Effectivity.*** -This Act shall take effect fifteen (15) days following its publication in a
15 newspaper of general circulation in the Philippines.