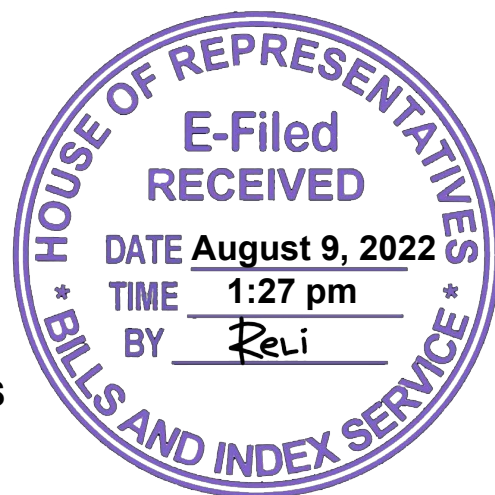


NINETEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
*First Regular Session* )



HOUSE OF REPRESENTATIVES  
H. No. 3393

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Introduced by **Representative Raul C. Tupas**

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**AN ACT INSTITUTIONALIZING A PHILIPPINE SELF-RELIANT DEFENSE POSTURE PROGRAM AND PROMOTING THE DEVELOPMENT OF A NATIONAL DEFENSE INDUSTRY PURSUANT THERETO**

**EXPLANATORY NOTE**

The bill aims to: (1) Strengthen the development of the national defense industry and attain self-reliance in defense materiel manufacturing and related services; (2) Provide incentives for firms within the industry to locate and grow domestically; and (3) Streamline government processes in support of strengthening the local defense industry.

This bill was deliberated and approved on Third Reading by the House of Representatives in the 18<sup>th</sup> Congress. The following key provisions were adopted in this bill:

- Enunciates the State policies that strengthen the Self-Reliant Defense Posture (SRDP) Program as follows:
  - (a) The defense industry has a key role in nation-building, hence its development must be prioritized in support of the goal of protecting national sovereignty;
  - (b) The implementation of the SRDP should be consistent with the Filipino First Policy;
  - (c) The attainment of a self-reliant defense posture can only be successful with the indispensable participation and cooperation of the private sector;
  - (d) The pursuit of a self-reliant defense posture requires that the country improve its capability to ensure adequate supply of affordable and quality defense implements, systems, and materiel.

- Revitalizes the National Defense Industry and provide incentives to industry participants
  - (a) Enterprises may avail of the incentives and conditions in the National Internal Revenue Code of 1997, as amended provided that the manufacture, servicing, and operation of materiel for the government as an industry sector, or its subsectors shall undergo the standard processes involved in the identification of preferred activities under the Strategic Investments Priorities Plan (SIPP) and shall be accompanied by a cost-benefit analysis showing the need for incentives;
  - (b) Government financial institutions are directed to support the defense industry with the view to hastening its development.
- Rationalizes Defense Acquisition
  - (a) Provides for Multi-Year Contracts and Other Contractual Arrangements;
  - (b) Provides for the Government's performance undertakings and mandates the Department of Finance (DOF) to consider the acquisitions of the department and its bureaus as obligations of the State;
  - (c) Provides that countertrade for defense-related acquisitions must be significant, meaningful, and to the benefit of the PH's defense industry.
- Creates the Office of the Undersecretary for Defense Technology Research and Industry Development;
- Provides for the specific oversight roles and obligations of the National Economic and Development Authority, Commission on Audit and the Congress in the implementation of this Act;
  - (1) The Secretary of National Defense is mandated to provide to the President and the Congress no later than the end of the first quarter of the succeeding year, an annual report on the acquisitions made under this Act and copies of the multi-year contracts and other agreements entered into by the DND and its bureaus;
  - (2) The NEDA shall conduct an annual review of all defense-related acquisitions, identify causes of delays, reasons for bottlenecks, actual and prospective cost overruns, determine the continued viability of the SRDP, and submit its findings and

recommendations to the Congress not later than June 30 of each year;

- (3) The Commission on Audit shall conduct an audit on each ongoing and completed acquisition and render a report to the Congress thereon not later than June 30 each year; and
- (4) The Congress shall create a Congressional Oversight Committee.

- Provides for Promotion and Marketing Support

- (a) Locally made materiel will be promoted by the Government to local markets as well as to other countries;
- (b) Mandates the provision of sufficient financing for marketing.

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

  
RAUL "BOBOY" C. TUPAS

**HOUSE OF REPRESENTATIVES**  
**H. No. 3393**

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**AN ACT INSTITUTIONALIZING A PHILIPPINE SELF-RELIANT  
DEFENSE POSTURE PROGRAM AND PROMOTING THE  
DEVELOPMENT OF A NATIONAL DEFENSE INDUSTRY PURSUANT  
THERE TO**

*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 “Philippine Self-  
2 Reliant Defense Posture Program Act”.

3  
4 *Sec. 2. Declaration of Policy.*— It is hereby declared the policy of the  
5 State to promote and spur the growth of an independent national  
6 defense by establishing a self-reliant defense posture program that  
7 shall prioritize the development of the country’s national defense  
8 capabilities, including a competent domestic defense  
9 industry.

10  
11 \_ In view thereof, the State shall endeavor to develop a  
12 National Defense Industry, hereinafter referred to as Industry, as an  
13 indispensable element of national defense.

14  
15 The State recognizes that:

16  
17 (a) The industry plays a vital role in nation-building in the  
18 achievement of the national vision of an independent and self-  
19 reliant sovereign state, capable of providing its own resources for  
20 defense, security, and national survival, specifically during war and  
21 other national emergencies;

1 (b) The active participation of development of collaborative  
2 partnerships with the private sector is an important strategy in the  
3 development of a viable, world-class defense industry and that the  
4 grant of incentives for such participation can help ensure the  
5 sector's meaningful contribution thereto;

6  
7 (c) The continued observance of the "*Filipino First*" policy in  
8 developing the Philippine's defense capability is consistent with  
9 the country's national security aspirations; and,

10  
11 (d) The Philippines has adequate human and other resources that  
12 can help ensure the adequate supply of affordable, globally-  
13 competitive, high-quality defense implements, equipment,  
14 machinery, systems and solutions, conduct defense technology  
15 research, provide and develop defense-related technology, as  
16 well as engineering and design education and training services  
17 that are necessary to the development of the Industry.

18  
19 (e) Science and technology, academic research and development  
20 institutions, and technology transfer all play an important role in  
21 the development of effective defense capabilities, the  
22 undertaking of successful defense missions, and the  
23 achievement of peace and meaningful modernization.

24  
25 Therefore, to foster the progressive growth of the industry and  
26 hasten defense self-sufficiency, the government shall strengthen and  
27 revitalize the Self-Reliant Defense Posture Program (SRDP),  
28 incentivize private sector participation in the Industry, rationalize  
29 defense acquisition, and create the Office of the Undersecretary for  
30 Defense Technology Research and Industry Development

31  
32 *Sec. 3. Definition of Terms.*— As used in this Act:

33  
34 (a) *Acquisition* refers to the management and procurement process  
35 of the government that helps ensure the proper and timely

1 investment in technologies, programs and product support  
2 necessary for the purposes of the Philippine Armed Forces in  
3 promoting national defense and security. It shall include the  
4 acquisition of raw material, competent human resources, critical  
5 components and materiel;

6  
7 (b) *Countertrade* refers to international trade by exchange of goods  
8 rather than by currency purchase;

9  
10 (c) *Critical components* refer to components, systems,  
11 subsystems, and related special tooling and test equipment  
12 essential to the production, repair, maintenance, or operation  
13 of weapon systems or other items of equipment identified as  
14 being essential to the execution of any national defense and  
15 national security strategy;

16  
17 (d) *Highest rated bid* refers to the offer with the highest calculated  
18 rating based on the criteria and parameters not limited to  
19 capability, quality, timeliness of delivery, life cycle cost, after-  
20 sales support, transfer of technology, warranty, prerequisites  
21 and price;

22  
23 (e) *In-country enterprise* refers to a Filipino-owned enterprises  
24 engaged in the manufacturing, servicing and operation of materiel  
25 in the Philippines, or to a foreign-owned enterprise engaged in  
26 the manufacturing, servicing, and operation of materiel, and  
27 which has located a substantial portion of its production  
28 activities within the Philippines;

29  
30 (f) *Integrated logistics support* refers to an integrated and iterative  
31 process for developing materiel and a support strategy that  
32 optimizes functional support, leverages existing resources, and  
33 guides the system engineering process to quantify and lower  
34 life cycle cost and decrease the logistics footprint, making the  
35 system easier to support;

1  
2 (g) *Materiel* refers to military technology, materials and equipment,  
3 including arms and ammunition and combat clothing;

4  
5 (h) *Minimum local content* refers to the minimum percentage of  
6 intermediate goods used in the manufacturing processes to be  
7 sourced from in-country enterprises;

8  
9 (i) *National defense* refers to the policies, measures and initiatives  
10 intended to provide the necessary protection to the State  
11 against external and internal threats;

12  
13 (j) *National security* refers to a state or condition wherein the  
14 people's welfare, well-being, way of life; government and its  
15 institutions; territorial integrity; sovereignty; and core values are  
16 enhanced and protected;

17  
18 (k) *Servicing* refers to the process of maintaining, repairing or  
19 overhauling materiel;

20  
21 (l) *Strategic Investments Priorities Plan (SSIP)* refers to the  
22 government's list of priority areas and preferred activities that  
23 shall be entitled to tax incentives under law.

24  
25 Sec. 4. *Self-Reliant Defense Posture Program.*— The Self-Reliant  
26 Defense Posture Program is hereby established and instituted as the  
27 tool of the State to undertake the development of a national defense  
28 industry. The underlying concept of self-reliance shall be manifested in the  
29 continued preference on local production when feasible, of materiel for the  
30 country's defense forces through the partnership between the military and  
31 civilian establishments, and taking the recourse to importation only for  
32 those requirements that cannot be locally produced with the ultimate  
33 objective of acquiring the technology for the production of these  
34 materiel. Paramount to the attainment of this objective is the  
35 responsibility of the military and other government agencies to provide

1 technical and financial assistance to civilian defense manufacturers.

2  
3 *Sec. 5. National Defense Industry.* – The National Defense Industry shall  
4 be developed in accordance with the following principles:

5  
6 (a) The foreign support for defense requirements shall be subject to  
7 this Act and the policies approved by the President;

8  
9 (b) To develop the defense capability of the country, the State shall:

10  
11 (1) Rely primarily on and give preference to In-country  
12 enterprises, allocate substantial resources and manpower to  
13 defense research, and provide relevant technical and  
14 financial assistance to the private sector;

15  
16 (2) Utilize to the fullest the country's natural resources as the  
17 source of the country's defense needs, and rely on  
18 materiel readily available, produced, manufactured or  
19 otherwise created locally; and

20  
21 (3) Use materiel from foreign sources only when such materiel  
22 cannot be locally produced, manufactured or otherwise  
23 created: *Provided, That,* importation from such foreign  
24 sources shall be for the ultimate objective of acquiring  
25 technology for the production of such unavailable materiel;

26  
27 (c) In order to reduce foreign exchange outflow, generate local  
28 employment opportunities, and enhance technology transfer to  
29 the Philippines, the Secretary of National Defense, hereinafter  
30 referred to as Secretary, shall, as far as practicable, incorporate in  
31 each agreement involving the government the manufacturing,  
32 servicing or operation of materiel special foreign exchange  
33 reduction schemes and countertrade, in-country manufacture co-  
34 production, or other innovative arrangements or combinations  
35 thereof.

1           Sec. 6. *Incentives.*—

- 2
- 3           (a) Any provision of law to the contrary notwithstanding, foreign  
4           and local enterprises engaged or proposing to engage in the  
5           manufacture, servicing and operation of materiel for the  
6           government may be registered and may avail of the incentives  
7           under and subject to the conditions in the National Internal  
8           Revenue Code of 1997, as amended: *Provided*, That the  
9           manufacture, servicing, and operation of materiel for the  
10          government as an industry sector, or its subsectors shall  
11          undergo the standard processes involved in the identification of  
12          preferred activities under the Strategic Investments Priorities  
13          Plan (SIPP) and shall be accompanied by a cost-benefit  
14          analysis showing the need for incentives.

15

16                   In the interest of national security, the Board of  
17                   Investments (BOI) shall adopt a special procedure in the  
18                   processing of applications for registration of enterprises that  
19                   desire to participate in the Industry and offer goods or services to  
20                   the government under the SRDP.

- 21
- 22          (b) Government financial institutions shall support the industry by  
23          formulating and extending financial products that would hasten its  
24          development.

25

26           Sec. 7. *Rationalization of Defense Acquisition.*—

- 27          (a) Any provision of law to the contrary notwithstanding, the  
28          Secretary, in behalf of the government, is hereby authorized to  
29          enter into contracts, under such terms and conditions as may be  
30          agreed upon, with any natural or juridical person, with or without  
31          public bidding, for the manufacture, servicing or operation of  
32          materiel or components thereof, facilities, utilities and  
33          appurtenances thereto necessary for national defense: *Provided*,  
34          That, in the exercise of such authority, the Secretary shall  
35          comply with the reportorial requirements under Section 13 of this

1 Act.

2  
3 (b) Any provision of law to the contrary notwithstanding, contracts  
4 for the manufacture, procurement of services of local  
5 providers, servicing or operation of materiel or components  
6 thereof, facilities, utilities and appurtenances thereto  
7 which are necessary for national defense and which are  
8 determined by the Secretary as not requiring public bidding, shall  
9 only be awarded to in-country enterprises; *Provided*, That such  
10 materiel or components thereof, facilities, utilities and  
11 appurtenances thereto can be locally produced, manufactured or  
12 otherwise created.

13  
14 (c) In the event that a public bidding is required by the Secretary,  
15 and the manufacture, servicing, or operation of materiel or  
16 components thereof, facilities, utilities and appurtenances  
17 thereto which are necessary for national defense cannot be  
18 locally produced, manufactured, or otherwise created, and  
19 whenever several bidders shall participate in the bidding, the  
20 following principles shall be observed in the evaluation of the  
21 criteria on price, when comparing foreign enterprises with in-  
22 country enterprises:

23  
24 (1) In the event a public bidding utilizes the standard of  
25 lowest and calculated and responsive bid, the bids of in-  
26 country enterprises shall be considered as having a price  
27 less than that proposed by foreign enterprises as long as  
28 such bids shall not be more than fifteen percent (15%) in  
29 excess of the bid of such foreign enterprise; and

30  
31 (2) In the event a public bidding utilizes the standard of  
32 highest rated bid, the bids of in-country enterprises shall be  
33 considered as having won the criteria of price as long as  
34 such bids shall not be more than fifteen percent (15%) in  
35 excess of the bid of such foreign enterprise.

1 (d) In the event that public bidding is required by the Secretary,  
2 and the manufacture, servicing or operation of materiel or  
3 components thereof, facilities, utilities and appurtenances  
4 thereto which are necessary for national defense cannot be  
5 locally produced, manufactured or otherwise created, and only  
6 foreign enterprises participate, the Department shall have the  
7 ultimate objectives of acquiring and transferring technology  
8 and knowledge, and generating local expertise towards the  
9 eventual local production of such materiel or components thereof.

10  
11 (e) Nothing in this Act shall prohibit or restrict lawful  
12 government-to-government transactions for the manufacture,  
13 servicing or operation of materiel or components thereof,  
14 facilities, utilities and appurtenances thereto, which are  
15 necessary for national defense.

16  
17 (f) The Department, in consultation with representatives of  
18 in-country enterprises shall issue reasonable regulations on the  
19 minimum local content for all defense-related acquisitions. The  
20 Department may consult with other government agencies to  
21 determine such minimum local content.

22  
23 To support the economic and employment generation thrusts  
24 of the country, all manpower needs of the industry requiring the  
25 engagement or hiring of civilian labor shall be sourced locally and,  
26 as far as practicable, be Filipino.

27  
28 (g) Logistics support must be incorporated in all contracts on  
29 defense-related acquisitions.

30  
31 *Sec. 8. Multi-Year Contracts and Other Contractual Arrangements.*— For  
32 the purpose of materiel acquisition, notwithstanding existing laws to the  
33 contrary, and subject to Section 13 of this Act, the Department and its  
34 bureaus shall be authorized to enter into multi-year contracts and other  
35 multi-year contractual arrangements: *Provided*, That Congress shall,

1 upon issuance of a multi-year obligation authority by the Department of  
2 Budget and Management (DBM), make the corresponding  
3 appropriation for the ensuing fiscal years: *Provided further*, That the  
4 Department shall, in consultation with the DBM, issue implementing  
5 guidelines to ensure consistency with the Revised AFP Modernization  
6 Program and this Act: *Provided furthermore*, That the Department and its  
7 bureaus shall coordinate and conduct acquisition planning for the purpose  
8 of implementing multi-year contractual arrangements and other multi-  
9 year obligations. *Provided finally*, That the DBM shall expedite the  
10 issuance of multi-year obligation authorities as necessary:

11  
12 *Sec. 9. Performance Undertakings.*— The Department of Finance  
13 (DOF) is authorized to recognize the obligations of the Department and its  
14 bureaus with respect to acquired materiel as obligations of the Republic of  
15 the Philippines and to undertake to pay the same in the event of non-  
16 payment by the Department and its bureaus.

17  
18 *Sec. 10. Countertrade.*— Countertrade for defense-related acquisition  
19 shall be significant, meaningful and must be of benefit to the Industry.

20  
21 *Sec. 11. Exemption from the SLCC requirement.* – In-country  
22 enterprises participating in the acquisition of materiel by the Department  
23 and its bureaus shall, upon the effectivity of this Act, be exempt from the  
24 Single Largest Completed Contract (SLCC) requirement as provided for  
25 under Sec. 23.5.1.3 of the revised rules and regulations issued to  
26 implement Republic Act No. 9184, otherwise known as the  
27 Government Procurement Reform Act.

28  
29 *Sec. 12. Creation of the Office of the Undersecretary for Defense*  
30 *Technology Research and Industry Development.*— There is hereby  
31 created in the Department an Office of the Undersecretary for  
32 Defense Technology Research and Industry Development. The  
33 Office shall be headed by an officer with the rank of Undersecretary,  
34 assisted by an Assistant Secretary, and supported by at least three (3)  
35 directors with the equivalent rank of Director IV. The Office will be

1 charged with the responsibility of managing and administering a databank  
2 for analysis, conducting research and development and technology  
3 transfer, facilitating defense industry promotion, establishing public-  
4 private partnerships, and setting up domestic and foreign  
5 collaborations, and advising, recommending policies, rules and  
6 regulations to the Secretary on all matters pertaining to the development  
7 of the Industry and the implementation of this Act. Such Undersecretary,  
8 Assistant Secretary and Directors shall be appointed by the President of  
9 the Philippines.

10  
11 *Sec. 13. Reporting and Oversight.*— The Secretary shall, not later than the  
12 end of the first quarter of the succeeding year, submit to the President and  
13 the Congress:

- 14  
15 (a) An annual report on the acquisitions made under this Act; and  
16  
17 (b) Copies of the multi-year contracts and other agreements entered  
18 into by the Department and its bureaus.

19  
20 Pursuant to its constitutional duties, the Executive Department,  
21 particularly the National Economic and Development Authority (NEDA),  
22 the Commission on Audit, and the Congress shall discharge oversight  
23 functions over the implementation of the program in the following  
24 manner:

25  
26 (1) The NEDA shall conduct an annual review of the status of all  
27 defense-related acquisitions exercised by the Secretary in  
28 Section 7 of this Act, identify causes of delays, the reasons for  
29 bottlenecks, actual and prospective cost overruns, determine the  
30 continued viability of the SRDP and the industry, and submit its  
31 findings and recommendations to the Congress not later than June  
32 30 of each year;

33  
34 (2) The Commission on Audit shall conduct an audit on each  
35 ongoing and completed acquisition and render a report to the

1 Congress thereon not later than June 30 each year; and

2  
3 (3) There shall be a Congressional Oversight Committee  
4 composed of the Chairpersons of the Committee on National  
5 Defense and Security of both Senate and House of  
6 Representatives who shall serve as Co-Chairpersons of the  
7 Oversight Committee, the Chairpersons of the Committee on  
8 Ways and Means of both Senate and House of Representatives  
9 who shall serve as Co-Vice-Chairpersons, four (4) members  
10 each from the Senate and the House representing the  
11 majority and two (2) members each from the Senate and the  
12 House representing the minority to be designated by the  
13 leaders of the majority and minority in their respective chambers.  
14

15 *Sec. 14. Promotion and Marketing Support.*— The government shall  
16 promote the export of locally-made materiel and the in-country enterprises  
17 to other countries, and shall provide financial and marketing support for  
18 the purpose of such promotion.  
19

20 *Sec. 15. Cooperation of Government Agencies.*— The DBM, DOF,  
21 BOI, Government Procurement Policy Board (GPPB) and other  
22 government agencies are enjoined to support the provisions of this Act.  
23 The Department and its bureaus, in consultation with the DBM, AND  
24 THE GPPB, shall strengthen their systems and procedures to support  
25 the objectives of the SDRP and the acquisition of materiel under this Act.  
26

27 *Sec. 16. Appropriations.*— The amount necessary for the  
28 effective implementation of this Act shall be charged to the appropriations  
29 of the Department of National Defense under the current General  
30 Appropriations Act. Thereafter, such sum as may be necessary for its  
31 continued implementation shall be included in the Annual General  
32 Appropriations Act.  
33

34 *Sec. 17. Role of the GPPB.*— The GPPB shall continue to fulfill its  
35 functions as provided in Republic Act No. 9184, subject however to the

1 provisions of this Act: *Provided*, That in no case shall the GPPB  
2 interpret Republic Act No. 9184 or any subsequent general law on  
3 procurement as overriding any of the provisions of this specific law. The  
4 Secretary shall continue to serve as a member of the GPPB.

5  
6 *Sec. 18. Rule of Interpretation.*— Rights and obligations existing on the  
7 date of effectivity of this Act and arising out of contracts shall be  
8 governed by the original terms and conditions of said contracts or the law  
9 in force at the time such rights were vested.

10  
11 *Sec. 19. Implementing Rules and Regulations; Supplementary*  
12 *Regulations.*— The Secretary shall issue the necessary rules and  
13 regulations and standard forms for the effective implementation of this Act  
14 and issue supplemental regulations to facilitate its implementation.

15  
16 *Sec. 20. Separability Clause.*— If any provision of this Act shall be  
17 held unconstitutional or invalid, the other provisions not otherwise affected  
18 shall remain in full force and effect.

19  
20 *Sec. 21. Repealing Clause.*— Sections 1 and 2 of Presidential Decree No.  
21 415, Authorizing The Secretary Of National Defense To Enter Into  
22 Defense Contracts To Implement Projects Under The Self-Reliant  
23 Defense Programs And For Other Purposes, as amended by  
24 Presidential Decree No. 1081 are hereby repealed. The following laws,  
25 orders and regulations are hereby modified or supplemented, as the  
26 case may be, in accordance with this Act:

27  
28 (a) An exception to Government Procurement Policy Board Resolution  
29 No. 06-2003 in relation to its amendment to Section 1 of  
30 Presidential Decree No. 415 shall be observed with respect to  
31 provisions of this specific law;

32  
33 (b) An exception to Republic Act No. 10667, otherwise known as the  
34 Philippine Competition Law, in relation to its repeal of Section 4 of  
35 Commonwealth Act No. 138, entitled “An Act To Give Native Products

1 And Domestic Entities The Preference In The Purchase Of Articles  
2 For The Government” shall be observed with respect to provisions  
3 of this specific law;

4  
5 (c) An exception to Republic Act No. 9184 insofar as it covers  
6 procurement of materiel shall be observed;

7  
8 (d) An exception to Republic Act No. 1884 entitled, “An Act To  
9 Establish A Government Arsenal, Provide For Its Operation And  
10 For Other Purposes”, insofar as the exercise of the responsibility  
11 of the Office of the Undersecretary of Defense for Munitions in  
12 Research and Development; and

13  
14 (e) Section 9 of Republic Act No. 7898 entitled, “An Act Providing For  
15 The Modernization Of The Armed Forces Of The Philippines And  
16 For Other Purposes”, as amended by Section 5 of Republic Act No.  
17 10349 entitled, “An Act Amending Republic Act No. 7898,  
18 Establishing the Revised AFP Modernization Program and for  
19 Other Purposes” is hereby modified.

20  
21 All other provisions of existing laws, orders, and regulations  
22 contrary to or inconsistent with this Act are hereby repealed or modified  
23 accordingly.

24  
25 Sec. 22. *Effectivity.*— This Act shall take effect after fifteen (15) days from  
26 its publication in the *Official Gazette* or in a newspaper of national  
27 circulation.

28  
29 Approved,