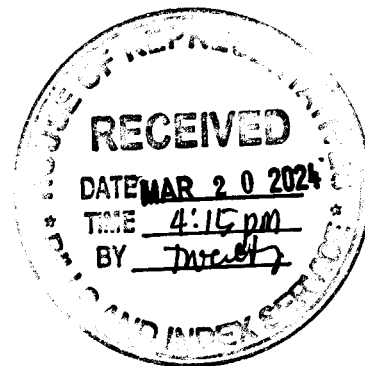




Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Nineteenth Congress

Second Regular Session
House Bill No. **10206**



Introduced by:

HON. MARISSA "DEL MAR" MAGSINO
OFW PARTY LIST

EXPLANATORY NOTE

The Filipino LGBTQ+ (lesbian, gay, bisexual, transgender, and queer) community's struggle for acceptance continues. Though through the years there has been change in the mindset of people on long-standing stereotypes and generalizations with social perceptions becoming more accommodating of the LGBTQ+ community, there's still no legislation that guarantees equal rights for everybody regardless of sexual orientation or gender identity. At present, marriage or union between same-sex couples remains legally unrecognized.

Without the right to get married, LGBTQ+ couples end up 'living-in' together or cohabiting in continuance of their relationship in expression of their love for one another. In Philippine law, the term 'cohabitation' specifically means 'to dwell together, in the manner of husband and wife, for some period of time, as distinguished from occasional, transient sexual relationships'. 'Live-in relationships' or 'co-habitations' are in some features similar to that of married couples, albeit without the formality of marriage, and there are still laws that apply to them, especially when it comes to property ownership.

Article 147 of the Family Code provides that "when a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership. However, this provision of law applies only to cohabitation between 'a man and a woman'.

The property rights and obligations of two persons of the same sex who opted to cohabitate with each other must also be protected by law. The acquisition, ownership and use of property is a guaranteed right of all citizens.

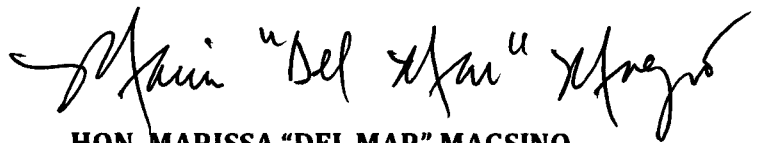
Essentially, this bill provides that same-sex partners shall execute a written agreement between them that will contain the terms of their relationship on the acquisition, ownership, enjoyment, sharing, distribution, alienation or any other form of disposition of property acquired by them or any of the parties during the period of cohabitation. The written agreement shall be notarized in the city or municipality where the partners reside. In the absence of any written agreement, the same-sex partners shall be deemed as co-owners of all the properties that they bring into their actual living together, except those inherited, bequeathed or donated to any of the parties during the cohabitation.

Moreover, the measure also provides that the co-ownership of properties of the same-sex relationship shall be deemed dissolved upon the death or permanent disability of any of the partners, or upon the termination of the relationship for any cause, in which case, upon the dissolution of the relationship, the properties co-owned by the partners shall be divided equally between the partners after the payment of debts and obligations jointly incurred prior to the dissolution. Any loan or financial obligation incurred by a partner without the knowledge or consent of the other shall be the personal liability of the partner who incurred the debt or liability.

The LGBTQ+ community in the Philippines has a distinctive culture but has limited rights. It is high-time that the rights of same-sex partners to acquire and own property jointly, and to use, sell or dispose of them for their benefit be governed and protected by law.

This bill is a counterpart measure to Senate Bill No. 1532 filed by Senator Imee Marcos in the current 19th Congress.

For the foregoing reasons, the immediate consideration and approval of this bill is earnestly urged.

A handwritten signature in black ink, appearing to read "Marissa 'Del Mar' Magsino", written in a cursive style.

HON. MARISSA "DEL MAR" MAGSINO



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

Nineteenth Congress

Second Regular Session
House Bill No. **16206**

Introduced by :

HON. MARISSA "DEL MAR" MAGSINO
OFW PARTY LIST

AN ACT
INSTITUTING A PROPERTY REGIME FOR COHABITING SAME SEX PARTNERS AND
FOR OTHER PURPOSES

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

Section 1. Short Title – This Act shall be known as the 'Same Sex Partners Property Relations Act'.

Section 2. Coverage – This Act shall cover the property relations of same sex partners who are cohabiting or living together which include, among others, the acquisition and ownership of property, real or personal, inclusive of such other rights that are appurtenant thereto, and the enjoyment, distribution, alienation, sale and any other mode of disposition thereof.

Section 3. Applicability – The provisions of this Act shall be applicable to persons in a same sex partnership who are cohabiting or actually living together at the time of effectivity of this Act and thereafter.

Section 4. Ownership of Properties Acquired During the Period of Cohabitation or Partnership – The provisions of a written agreement between the partners on the acquisition, ownership, enjoyment, sharing, distribution, alienation, sale or any other mode of disposition of property acquired by both any of the parties during the period of cohabitation or partnership shall govern their property relations. The written agreement shall be notarized in the city or municipality where the partners reside.

In the absence of any written agreement, the partners shall be deemed as co-owners of all the properties that are acquired during their cohabitation and all of the

income that may be realized therefrom including, among others, the proceeds of any lease, rental, sale or any other mode of disposition or use thereof: *Provided*, That properties in any form, inherited or bequeathed to, or donated to any one of the partners during the cohabitation shall not form part of the co-owned properties and: *Provided* finally, That the period of cohabitation shall be established by any one of the parties and/or by credible witnesses or by pertinent, relevant, and useful testimonial and/or documentary evidence.

Section 5. *Administration and Other Rights Over Properties* – Both partners shall have joint rights to the administration and enjoyment of the properties co-owned by them. In case of incapacity, permanent or temporary, or inability, for any lawful reason, to properly administer the properties, the other partner shall assume administration and management of all co-owned properties until the other partner is fit and able. No lease, use, sale, alienation or any other mode of disposition of any property co-owned by the parties shall be done without the consent of both partners. Any contract or agreement for the use, lease, sale, alienation or any other mode of disposition of any property co-owned by the partners shall be signed by both of the parties.

Section 6. *Donations and Gifts* – Donations and gifts received by any of the parties during the cohabitation, except those from members of the immediate family of the done, shall form part of the co-owned properties of the partners: *Provided*, That donations or gifts by a partner to the other, shall be the exclusive personal property of the recipient partner. No donations or gifts may be made in favor any person without the consent of both parties.

Section 7. *Personal Debts, Loans and Other Liabilities* – Any loan or financial obligation incurred by a partner without the knowledge or consent of the other shall be the personal liability of the partner who incurred the debt or liability. Final and executory court judgements arising from acts that happened before the cohabitation of the partners shall not be paid out of co-ownership funds or property: *Provided*, That court judgements promulgated during the period of cohabitation may be paid out of the co-ownership funds if the alleged acts were undertaken with the knowledge and/or full consent of the parties.

Section 8. *Dissolution of C-Ownership* – The co-ownership of properties of persons in a same sex relationship shall be deemed dissolved upon the death or permanent disability of any of the partners or upon the termination of the relationship for any cause, unless in cases of termination of the relationship and/or amicable separation, the partners agree to continue their co-ownership of particular properties, which agreement shall be reduced in writing and duly notarized as a formal contract or agreement between the parties. Otherwise, upon the dissolution of the partnership, the properties co-owned by the partners shall be divided equally between the partners after the payment of debts and obligations jointly incurred prior to the dissolution.

Section 9. *Implementing Rules and Regulations* – Within sixty (60) days from the effectivity of this Act, the Department of Justice shall promulgate the rules and regulations necessary for the effective implementation of this Act.

Section 10. *Separability Clause*. – If any provision of this Act is held unconstitutional or invalid, the other provisions not affected shall remain in full force and effect.

Section 11. *Repealing Clause*. – All laws, decrees, executive orders, issuances, rules and regulations which may be inconsistent with any of the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

Section 12. *Effectivity*. – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.