


13TH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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SENATE

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S. BILL NO. 1343

Introduced by SENATOR RALPH G. RECTO

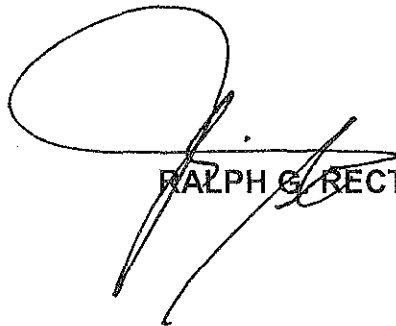
Explanatory Note

In Japan, the savings rate is high. Sociologists point to Confucianism as the main influence on the acquisitive instincts of not only the Japanese, but also that of the Chinese. They follow an ethic to work hard and long, and to sacrifice present happiness for prosperity in the future. An East Asian economist noted that in the Asian region, the three most rapidly growing countries after Japan are Taiwan, South Korea and Singapore. In all cases, these countries share a similar cultural and religious background.

This bill borrows the Confucian philosophy of thriftiness and encourages workers and non-workers alike to practice the virtue of saving. It provides for the creation of the Personal Equity and Retirement Account (PERA) for employed or self-employed individuals for their exclusive use and benefit, in which the contributor also retains the beneficial ownership of the funds he/she deposits therein as well as the earnings from investments of said funds.

The PERA/SEP-PERA is conceived as a savings plan specifically for those who do not have a retirement plan with the GSIS, SSS or PAG-IBIG. Millions of Filipinos would be given the chance to achieve a comfortable and financially secure retirement years through a sound investment scheme envisioned in the bill.

It is in this light that immediate passage of this bill is earnestly sought.


RALPH G. RECTO

1 b) “Contributor” is a person who establishes and makes contributions
2 to a PERA or SEP-PERA and who designates an Administrator to administer and
3 manage the said account. The contributor retains beneficial title to contributions
4 and earnings in a PERA or SEP-PERA. The contributor must be the beneficiary
5 of his or her own PERA or SEP-PERA;

6 c) “PERA” refers to the retirement account created or organized by an
7 individual who is employed known as the contributor, for his or her exclusive use
8 and benefit, in which contributor retains the beneficial ownership of funds he or
9 she deposits therein, as well as the earnings thereon from investment of said
10 funds:

11 d) “SEP-PERA” (Self-employed persons – Personal Equity and
12 Retirement Account) – refers to the retirement account created or organized by
13 an individual who is self-employed, known as the contributor, for his or her
14 exclusive use and benefit, in which said contributor retains the beneficial
15 ownership of funds he or she deposits therein, as well as the earnings from
16 investments of said funds;

17 e) “Compensation” is all actual remuneration received for employment
18 of services of any type, including, but not limited to fees, salaries, wages,
19 commissions, income derived from the conduct of a trade or business or the
20 exercise of a profession or consulting services, distributive shares from the net
21 income of a general partnership;

22 f) “Ordinary Retirement Age” is the age of retirement set by the SSS;
23 and

24 g) “SSS” is the Social Security System in the Philippines.

25 SEC. 4. *Reserves* – The Administrator is not required to establish
26 reserves for PERA or SEP-PERA assets. PERAs and SEP-PERAs shall be

1 exempt from any reserve requirements of the Bangko Sentral ng Pilipinas for
2 common trust funds or any reserve requirements of other government regulatory
3 agencies. This is not part of the assets of the Administrator for purposes of
4 bankruptcy.

5 SEC. 5. *Establishment of a PERA* – Any individual who is employed, of
6 legal age and who is earning an income may establish a PERA with an
7 Administrator.

8 SEC. 6. *Establishment of SEP-PERA* – Any individual who is employed, of
9 legal age and who is earning an income may establish a SEP-PERA with an
10 administrator.

11 SEC. 7. *Qualifying Investment Rule* – Contributions made to PERA or
12 SEP-PERA, and on the earnings thereon may be invested only in:

13 a) any equity listed on the Philippine Stock Exchange and any
14 corporate or government bond, or commercial paper that is rated by a recognized
15 rating agency in the Philippines;

16 b) investments denominated in foreign currencies authorized by the
17 Bangko Sentral ng Pilipinas, including the currencies themselves, traded on any
18 recognized exchange but not to exceed 7.5% or whatever is the current SSS limit
19 on foreign denominated investments for the aggregate PERA and SEP-PERA
20 assets held by the Administrator;

21 c) asset-backed securities, common trust funds, and investment
22 companies (mutual funds); and

23 d) cash and bank deposits in local and foreign currencies authorized
24 by the Bangko Sentral ng Pilipinas.

25 SEC. 8. *General Investment Rules.* (a) The contributor retains the
26 authority for the final decision on all investments.

1 (b) A contributor may give an Administrator full written authority to make
2 all investment choices without first consulting the contributor.

3 SEC. 9. *Maximum Annual PERA Contributions.* (a) A single individual, or a
4 married individual who files a separate tax return from his or her spouse, who
5 participates in an employer-sponsored retirement plan may make a maximum
6 contribution of P18,000 for the tax year 2001. For each and every year thereafter,
7 for which he or she is employed and earning an income, the person may make a
8 maximum contribution of 15% of total joint annual compensation; Provided, that
9 the maximum annual contribution shall not exceed 15% of the SSS annualized
10 average monthly salary credit.

11 (b) A married individual, who files a joint return with his or her spouse and
12 who participates in an employer-sponsored retirement plan, may make a
13 maximum contribution of P36,000 for the tax year 2001. For each and every tax
14 year thereafter, for which he or she is employed and earning an income, the
15 person may make a maximum contribution of 15% of the total joint annual
16 compensation, provided, that the maximum annual contribution shall not exceed
17 15% of the SSS annualized average monthly salary credit.

18 No contributions may be made to a PERA in excess of deductible
19 amounts.

20 SEC. 10. *Maximum Annual SEP-PERA Contributions.* (a) A self-employed
21 individual who files a separate tax return from his or her spouse may make a
22 maximum contribution of P28,000 for the tax year 2001. For each and every tax
23 year thereafter, for which he or she is self-employed and earning an income, the
24 person may make a maximum contribution shall not exceed 23% of the SSS
25 annualized average monthly salary credit.

1 (b) A self-employed individual who file a joint tax return with his or her
2 spouse may make a maximum contribution of P56,000 for the tax year 2001. For
3 each and every tax year thereafter, for which he or she is self-employed and
4 earning an income, the person may make a maximum contribution of 23% of total
5 joint annual compensation, provided that the maximum annual contribution shall
6 not exceed 23% of the SSS annualized average monthly salary credit.

7 (c) No contributions may be made to a SEP-PERA in excess of the
8 deductible amounts.

9 (d) A self-employed person may not make a contribution to his or her
10 SEP-PERA on behalf of his or her own company.

11 SEC. 11. *Income Tax Deductibility.* - All contributions made within the
12 maximum limits allowed by this Act, shall be 100% deductible from the taxable
13 income of the contributor, to the extent that such contributions are actually made.
14 All earnings of the PERA and SEP-PERA account are tax-exempt until
15 withdrawn.

16 SEC. 12. *Taxability.* - All distributions, withdrawals or early withdrawals
17 are taxed as income to the contributor in the tax year in which the funds are
18 received.

19 SEC. 13. *Penalty on Early Withdrawal.* - No early withdrawals may be
20 made until contributions have been made for at least five years. Early withdrawal
21 penalties shall be determined by regulation; Provided, however, that no penalty
22 shall be imposed on any withdrawal of any funds for the following purposes:

23 a) used to pay for hospitalization in excess of 30 days;

24 b) for a contributor who has been determined to be disabled under PD 442
25 as amended the Labor Code of the Philippines, RA 1161 as amended by RA

1 8282 the Social Security Law of 1997, or the RA 8291 the Government Service
2 Insurance System Act of 1997; and

3 c) for the purchase of the first family home of the contributor.

4 SEC. 14. *Records and Reporting.* - The Administrator shall keep records
5 for all contributions, earnings and total account balances and shall be required to
6 report to the contributor these amounts on a quarterly basis for each calendar
7 year.

8 SEC. 15. *Distributions Upon Retirement.* - Distributions shall be made
9 upon retirement of the contributor at Ordinary Retirement Age. Persons who
10 participate in an employer-sponsored retirement plan, may withdraw their assets
11 from a PERA either in a lump sum or in installments as determined by the
12 contributor. For self-employed persons, at least 50% of the assets in a SEP-
13 PERA must be withdrawn in the form of an annuity with a minimum term of five
14 years.

15 SEC. 16. *Termination.* - (a) The contributor may terminate a trust at any
16 time, provided, however, that the assets of the PERA or SEP-PERA are
17 deposited with a new Administrator or remain with the existing Administrator.

18 (b) A contributor may hold more than one PERA or SEP-PERA with more
19 than one Administrator, provided, however, that the maximum contribution limits
20 are aggregate limits applicable to all PERAs or SEP-PERAs held by the same
21 contributor.

22 (c) A contributor may not transfer assets from PERA to a SEP-PERA or
23 from a SEP-PERA to a PERA.

24 SEC. 17. *Assignability.* - No portion of the assets of a PERA or SEP-
25 PERA may be assigned, alienated, pledged, attached, garnished, levied upon,

1 seized or otherwise encumbered. PERA and SEP-PERA assets shall not be
2 considered assets of the contributor for purposes of bankruptcy and estate taxes.

3 SEC. 18. *Creation of a PERA Regulatory Authority.* - There is hereby
4 created a Personal Equity and Retirement Account (PERA) Regulatory Authority
5 which will have jurisdiction over the PERAs and SEP-PERAs and will have the
6 full authority to issue and enforce regulations. The PERA Regulatory Authority
7 will be composed of one representative from each of the following:

8 a) Securities and Exchange Commission;

9 b) Office of the Insurance Commission;

10 c) Bangko Sentral ng Pilipinas;

11 d) Bureau of Internal Revenue; and

12 e) a Private Sector member to be appointed by the President of the
13 Philippines upon the recommendation of the Secretary of Finance.

14 The PERA Regulatory Authority has to create a staff of qualified
15 personnel.

16 All decisions of the PERA Regulatory Authority shall be arrived at by
17 majority vote.

18 SEC. 19. *Implementing Rules and Regulations.* - Within 30 days from the
19 effectivity of this law, the PERA Regulatory Authority shall issue the
20 Implementing Rules and Regulations for the PERA.

21 SEC. 20. *Separability Clause.* All laws, decrees, orders, rules and
22 regulations or parts thereof, inconsistent with this Act are hereby amended or
23 modified accordingly.

24 SEC. 21. *Effectivity.* This Act shall take effect 15 days following its
25 publications in a newspaper of general circulation.

26 Approved,