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SENATE

Senate Bill No. 2619

Prepared jointly by the Committees on Government Corporations and Public Enterprises; Education, Arts and Culture and Finance with Senators Gordon, Osmeña III, Flavio and Drilon as authors thereof

AN ACT

TO ENSURE THE ACCOUNTABILITY OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, GOVERNMENT FINANCIAL INSTITUTIONS, STATE-OWNED UNIVERSITIES, AND OTHER SIMILAR AGENCIES IN THE PUBLIC SECTOR BY REQUIRING THESE ENTITIES TO BE EVALUATED AND SUBJECTED TO THE TEST OF ECONOMIC AND FINANCIAL VIABILITY, CREATING A CONGRESSIONAL OVERSIGHT COMMITTEE, AND FOR OTHER PURPOSES

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

1 **SECTION 1. Short Title.** - This Act shall be known as the Government-
2 Owned or Controlled Corporations (GOCCs) Accountability Act of 2007".

3 **SECTION 2. Policy.** - It is the policy of the State to create or establish
4 Government-Owned or Controlled Corporations only in the interest of the
5 common good and subject to the test of economic and financial viability.

6 Every Government-Owned or Controlled Corporation must be free from
7 fraud, abuse, and wastage, and must be made accountable through effective
8 *monitoring and oversight by Congress for the benefit of the people.*

9 It is hereby declared a national policy to require all government
10 corporations to clearly define the parameters and/or limits of their financial and
11 operational capabilities consistent with their established mandates and charters.

12 **SECTION 3. Government-Owned or Controlled Corporation Defined.**
13 – For purpose of this Act, "Government-owned or Controlled Corporation" or
14 "GOCC" refers to a stock or non-stock corporation, performing governmental or
15 proprietary functions directly chartered by special law or, if otherwise formed, is
16 owned or controlled by the Government directly or indirectly through a parent or
17 subsidiary corporation. It includes Government Financial Institutions, State-
18 Owned Universities, and other similar agencies in the public sector.

19 **SECTION 4. Asset and Liability Management Guidelines.** – The
20 definition of the limits of the financial and operational capabilities of each GOCC

1 shall be embodied in their respective asset and liability management guidelines
2 which are universally accepted management tools whereby financial and
3 operational activities are automatically confined within clearly defined limits.

4 Foremost among the financial guidelines are the limits on borrowing,
5 lending and guaranteeing any form of financial transaction, risk and/or
6 commitment.

7 Foremost among the operational guidelines are the recognition and
8 acceptance of the limits of in-house talents and capabilities thereby inhibiting
9 said corporation from engaging in activities outside its defined capabilities or in
10 cases where it is necessary to engage in such transactions or activities, the
11 mandatory requirement to tap outside talents preferably from other government
12 agencies or institutions.

13 **SECTION 5. *Use of Asset and Liability Management Guidelines.*** – The
14 Asset and Liability Management Guidelines shall be used primarily as a tool to
15 anticipate, obviate prevent and/or minimize certain eventualities that may
16 adversely affect the financial condition of individual corporations. As a standard
17 requirement, however, it is seen as a vital instrument to stabilize and solidify the
18 country's overall financial condition.

19 In cases where a GOCC is under the control or supervision of a
20 department of the National Government, adherence to these asset and liability
21 guidelines shall be the responsibility of the department under which these
22 corporations belong. The department covered shall prescribe their respective
23 policies and procedures including penalties for their violations, in order to ensure
24 that such guidelines are strictly complied with.

25 **SECTION 6. *Central Monitoring and Control by the Department of***
26 ***Finance.*** – The central monitoring and control of the overall financial condition of
27 GOCCs shall be made by the Department of Finance (DOF) which shall
28 consolidate all related figures into an annual report. Within thirty (30) days from
29 the end of each calendar year, the DOF shall submit this annual report to the
30 Office of the President, copy furnished the Senate and the House of
31 Representatives.

32 **SECTION 7. *Submission of GOCC Reports.*** – Every GOCC is required
33 to submit quarterly and consolidated annual reports to Congress.

34 Each quarterly report, to be submitted within thirty (30) days from the end
35 of each calendar quarter, shall be in the form of an executive summary
36 concerning the finances and operations of the GOCC and shall indicate any
37 achievement and major projects. It shall include all financial reports and minutes
38 of directors' and shareholders' meetings for the subject quarter.

1 Each annual report, to be submitted within sixty (60) days from the end of
2 each calendar or fiscal year as may be applicable, shall include the following:

- 3 (1) A consolidated executive summary;
- 4 (2) A list of directors and officers;
- 5 (3) A summary of the remuneration paid to directors and officers over the
6 last year;
- 7 (4) The Commission on Audit report for the last year; and
- 8 (5) The audited financial statement for the last year.

9 **SECTION 8. *Mandatory Publication.*** – Every GOCC is required to
10 disclose and publish in at least one (1) newspaper of general circulation within
11 thirty (30) days from the end of each calendar or fiscal year as may be applicable
12 the following information:

- 13 (1) Travel and hospitality expenses for directors and officers; and
- 14 (2) Contracts for goods and services over one million pesos
15 (PhP1,000,000).

16 **SECTION 9. *Creation of a Congressional Oversight Committee for***
17 ***GOCCs.*** – There is hereby created a Congressional Oversight Committee for
18 GOCCs to be composed of six (6) members, with three (3) Representatives each
19 from the Senate and the House of Representatives, and co-chaired by the
20 Chairpersons of the Senate Committee on Government Corporations and Public
21 Enterprises and the House Committee on Government Enterprises and
22 Privatization.

23 The Congressional Oversight Committee for GOCCs shall receive and
24 evaluate the reports submitted by the GOCCs to Congress. It shall be the
25 principal legislative monitoring arm and policy recommending body for all
26 GOCCs.

27 **SECTION 10. *Powers and Functions of the Congressional Oversight***
28 ***Committee for GOCCs.*** - The Congressional Oversight Committee for GOCCs
29 shall have the following powers and functions:

- 30 (1) Prescribe and adopt guidelines that will govern its work;
- 31 (2) Hold hearings, receive testimonies and reports pertinent to its specified
32 concerns;
- 33 (3) Secure from any department, bureau, office, agency or instrumentality
34 of the Government such assistance as may be needed, including
35 technical information preparation and production of reports and
36 submission of recommendations or plans as it may require;
- 37 (4) Summon by *subpoena ad testificandum* any public or private citizen to
38 testify before it, or require by *subpoena duces tecum* to produce before

1 it such records, reports or other documents as may be necessary in
2 the performance of its functions;

3 (5) Use resource persons from the public and private sectors as may be
4 needed;

5 (6) Approve the budget for the Congressional Oversight Committee for
6 GOCCs and all disbursements therefrom, including compensation of all
7 personnel;

8 (7) Organize its staff and hire and appoint employees and personnel,
9 whether temporary or contractual, subject to applicable laws; and

10 (8) Exercise all other powers necessary to attain its purposes.

11 **SECTION 11. Conduct of Review.** - The Congressional Oversight
12 Committee for GOCCs shall review the quarterly and annual reports submitted by
13 the GOCCs to Congress.

14 The Congressional Oversight Committee for GOCCs may require the
15 submission of additional pertinent corporate and commercial documents and/or
16 the revelation of *all relevant data as may be deemed necessary for the conduct*
17 *of such review.* Failure to submit any of the required documents or to reveal any
18 required data shall subject the directors and officers of the concerned GOCC to
19 appropriate administrative, civil, and criminal liability.

20 The Congressional Oversight Committee for GOCCs shall review the
21 reports, documents, and data submitted by each GOCC and shall be authorized
22 to conduct investigations in furtherance of such review. The scope of review
23 shall include the following:

24 (1) Accomplishment of the set goals as may be set forth in their respective
25 charters or otherwise;

26 (2) Allocation of resources of each GOCC;

27 (3) Instances of duplication of functions;

28 (4) Financial and social investment rate of returns and productivity; and

29 (5) Interest of the common good.

30 **SECTION 12. Submission of Recommendations** - The Congressional
31 Oversight Committee on GOCCs shall submit its recommendations to the Senate
32 and the House of Representatives, copy furnished to the Office of the President,
33 for appropriate action. The recommendations may include the following:

34 (1) Continued existence of and corresponding budgetary allocation for
35 each GOCC;

36 (2) Termination of the existence of or budget allocation for the GOCC by
37 either *privatization* or *dissolution*;

38 (3) Merger or consolidation of GOCCs performing similar or overlapping

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- functions;
- (4) Restructure of the GOCCs in the Executive branch;
- (5) Adjustment of compensation packages for directors, officers, and employees;
- (6) Filing of appropriate civil, criminal, or administrative charges;
- (7) Contract review or renegotiation as may be appropriate; and
- (8) Other recommendations as may be deemed appropriate

SECTION 13. *Repealing Clause.* – All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 14. *Separability Clause.* - If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

SECTION 15. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days following the completion of its publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,