

REPUBLIC OF THE PHILIPPINES )  
FIFTEENTH CONGRESS )  
First Regular Session )

SENATE  
OFFICE OF THE SECRETARY

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SENATE

Senate Bill No. 1050

RECEIVED BY: 

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Introduced by Senator Manny Villar

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### EXPLANATORY NOTE

Article III of the 1987 Constitution provides the Bill of Rights of every Filipino citizen. Our right to life, liberty, property and security among other fundamental rights enumerated therein, are the foundations of a truly democratic society and it is the policy of the State to protect these rights. It is also the duty of the State to commit to the promotion, protection and fulfillment of existing human rights laws and those that are embodied under the International Humanitarian Law (IHL). In the pursuance of this State policy and to effect our commitment on human rights laws and foremost, to protect the rights of persons who were internally displaced due to natural or human-made disasters, this bill is thus, being proposed.

The Citizens Disaster Response Center or CDRC in a study it conducted in 2007 reveals that five (5) of the country's most frequently occurred natural and man-made disasters were fire, armed conflict, flood, tropical cyclone and storm surges. It reported that in 2007 alone, more than one (1) million families or around 4.5 million persons were affected by these disasters. More than 200,000 of these individuals most particularly those in the rural areas have been evacuated or displaced from their habitual homes due to armed conflict

Although armed aggression is second only in rank in terms of frequent occurrence, it is very alarming though that the number of persons it affected increased by eighty-six percent (86%) or by more than 95,000 in 2007 compared to the previous year. The National Disaster Coordinating Council or NDCC has reported that as of 02 September 2008, the complex emergency in Mindanao brought about by armed confrontation between the Philippine armed forces and the MILF and other rebel groups, particularly in Regions X, XII and the ARMM has affected or displaced 89,243 families or 423,772 persons. This proposed bill is conceived to address this decades old problem.

The bill aims to promote and protect the rights of internally displaced persons (IDPs) brought about by armed conflict, violations of human rights and other natural or man-made disasters. It shall likewise, define and criminalize acts of arbitrary internal displacement committed by any person or group of persons against any civilian. Internally displaced families and communities shall be provided with immediate relief and humanitarian assistance by the military and law enforcement agencies who are conducting the operations, the DSWD, DOH and the local government units concerned. Assistance will include compensation to families or persons who are victims of internal displacement.

The Commission on Human Rights (CHR), in addition to its constitutional mandate shall be designated as the institutional focal point for the internally displaced. It will be tasked to monitor as well as investigate human rights violations committed against internally displaced persons and shall likewise be the government's advisor on sound policies and legislation necessary to effectively implement this proposed act. It will also be responsible for the drafting and promulgation of this act's implementing rules and regulations (IRR).

A Joint Congressional Oversight Committee shall be created and will be represented by Members of the Senate and the House of Representatives particularly the Chairperson of their respective Committee on Human Rights. It shall have the power to review, revise, amend and approve the IRR promulgated by the CHR. It shall likewise, have the power to inquire into, summon and investigate the legality and factual justifications of the Orders of Battle created by the military, police or any law enforcement agency.

Based on the foregoing, the immediate enactment of this proposed measure is earnestly sought.



**MANNY VILLAR**

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**AN ACT**  
**IMPROVING PHILIPPINE COMMITMENT TO HUMAN RIGHTS PROMOTION**  
**AND PROTECTION BY PROVIDING THE NECESSARY MECHANISMS**  
**FOR THE PREVENTION OF THE OCCURRENCE AND PROTECTION**  
**FROM THE ADVERSE EFFECTS OF INTERNAL DISPLACEMENT AND FOR**  
**OTHER PURPOSES**

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

SECTION 1. *Short Title.* - This Act shall be known as the "Internal Displacement Act of 2010".

SEC. 2. *Declaration of Principles and State Policies.* - Consistent with the principles enshrined in the 1987 Constitution, the standards set by international humanitarian law and human rights laws, international treaties and conventions adhered to by the Philippines, it is also hereby declared a State policy to promote and protect the rights of internally displaced persons in situations of armed conflict, generalized violence, violations of human rights, land conversion and any other land conflict, environmental destruction, aggressive implementation of development projects and other natural or human-made disasters.

When an armed conflict of a non-international character is inevitable, the State shall ensure the promotion and protection of the rights of the citizens who are non-combatants, who shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. These citizens shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

SEC. 3. *Definition of Terms.* - The following terms, as defined accordingly, shall be used in the Act:

(a) "Internal Displacement" refers to the involuntary movement or forced evacuation or expulsion of any person or group of persons to flee or leave their homes or places of habitual residence, without crossing an internationally recognized State border, as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or other natural or human made disasters;

(b) "Arbitrary Internal Displacement" refers to acts of displacement or any other coercive act committed by any person or group of persons and directed against the civilian population which are contrary to law, good morals, public

order and public policy, and committed with abuse of authority, oppressive or wanton disregard of the right to life, liberty or property and abode of the residents of an area in which they are lawfully present, and characterized by those situations as defined Section 5 under this Act;

(c) "Internally Displaced Person" hereinafter described as an IDP, refers to any individual who has suffered harm as a direct result of an arbitrary internal displacement as defined above.

(d) "Order of Battle" refers to a document made by the military, police or any law enforcement agency of the Government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate military targets as combatants that it could deal with, through the use of military means allowed by domestic and international law.

(e) "Apartheid" refers to inhumane acts, including murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and other forms of sexual violence of comparable gravity, persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, enforced disappearance of persons and other similar acts intentionally causing great suffering, or serious injury to body, or to mental or physical health, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.

(f) "Ethnic Cleansing" refers to the use of force or intimidation to remove people of a certain ethnic or religious group from an area to make it ethnically homogenous, and carried out by means of murder, torture, arbitrary arrest and detention, extrajudicial executions, rape and sexual assault, confinement of the civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, wanton destruction of property, mass murder, mistreatment of civilian prisoners and prisoners of war, use of civilians as human shields, destruction of cultural property, robbery of personal property, and attacks on hospitals, medical personnel, and locations with the red cross/red crescent emblem, and other similar criminal offenses.

SEC. 4. *Prevention of Internal Displacement.* - All authorities, groups and persons, irrespective of their legal status and applied without any adverse distinction, shall respect and ensure compliance with their obligations under international law, including human rights law and humanitarian law, so as to prevent and avoid conditions that might lead to internal displacement of persons.

SEC. 5. *Prohibition Against Arbitrary Internal Displacement.* - The prohibited acts of arbitrary internal displacement shall include those committed:

- (1) based on policies of apartheid, "ethnic cleansing" or similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the affected population;
- (2) in situations of armed conflict, unless the security of the civilians is involved;

- (3) in cases of large-scale development projects, which are not justified by compelling and overriding public interest;
- (4) in cases of disasters, unless the safety and health of those affected requires their evacuation;
- (5) when used as a collective punishment; and
- (6) violations of the rights of IDPs during displacement under Section 8 of this Act.

An Order of Battle, official or otherwise, issued by the military, police or any law enforcement agency of the Government, shall not justify an arbitrary or internal displacement and shall subject the perpetrators to the penalties provided under Section 10 of this Act.

SEC. 6. Protection from Arbitrary Internal Displacement. - All authorities, including the local government units concerned, groups and persons, irrespective of their legal status and applied without any adverse distinction, shall protect its citizens against being arbitrarily displaced from his/her home or place of habitual residence.

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected. Any displacements not included in the preceding Section shall not last longer than what is required by the circumstances.

In addition, the following safeguards against arbitrary internal displacement shall be observed by all concerned authorities, groups and persons:

- a) All feasible alternatives shall be explored in order to avoid displacement. Where no alternatives exist, all measures shall be undertaken to minimize displacement and its adverse effects on the population that will be affected;
- b) If displacement is inevitable, the authorities shall ensure, to the greatest practicable extent, that proper accommodation is effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated;
- c) Indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands shall be protected from displacement;
- d) In situations other than during the emergency stages of armed conflict and disaster, the following guarantees shall be complied with:
  - (i) a specific decision shall be taken by the authority empowered by law to order such measures;
  - (ii) full information on the reasons and procedure for the displacement and, where applicable, also on compensation and relocation;
  - (iii) the free and informed consent of those persons to be displaced shall be sought;

- (iv) the authorities concerned shall endeavor to involve those affected, particularly women, in the planning and management of their relocation, resettlement and reintegration;
- (v) law enforcement measures, where required, shall be carried out by competent legal authorities; and
- (vi) the right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

SEC. 7. *Permanent Prohibition Against Arbitrary Displacement.* – The prohibition of arbitrary internal displacement and the fundamental safeguards for its prevention shall not be suspended under any circumstances, including political instability, threat of war, state of war or other public emergencies.

SEC. 8. *Rights During Displacement.* - The following rights shall be afforded internally displaced persons during the period of their displacement, without discrimination of any kind, such as those based on race, colour, sex, language, religion or belief, political or other opinion, national ethnic or social origin, legal or social status, age, disability, property, birth or on any other similar criteria:

- a) At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
  - (i) essential and adequate food and nutrition and potable water;
  - (ii) basic shelter and housing;
  - (iii) appropriate clothing; and
  - (iv) essential medical and dental services and sanitation, including psychological and social services, and essential drugs and medicines.
- b) Internally displaced persons shall be protected against genocide, murder, summary of arbitrary executions and enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death. They shall be protected from arbitrary and discriminatory arrest and detention as a result of their displacement and in no case shall they be taken hostage. Threats and incitement to commit the foregoing acts shall be prohibited;
- c) Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities shall be prohibited in all circumstances. In particular, internally displaced persons shall be protected against:
  - (i) direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
  - (ii) starvation as a method of combat;
  - (iii) their being used to shield objectives of the military, police or any armed group, from attack, or to shield, favor or impede operations of the military, police or any armed group;

- (iv) attacks against their camps, settlements or evacuation centers; and
  - (v) the use of anti-personnel landmines.
- d) Internally displaced persons, whether or not their liberty has been restricted, shall be protected against:
- (i) rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
  - (ii) slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labor of children; and
  - (iii) acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

- e) Internally displaced persons shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is necessary, it shall not last longer than what is required by the circumstances, as may be determined by the Commission on Human Rights.
- f) Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular, any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment shall be prohibited in all circumstances;
- g) Every internally displaced person has the right to liberty of movement and freedom to choose his/her residence. In particular, he/she has the right to move freely in and out of camps or other settlements, subject to existing camp rules and regulations;
- h) Internally displaced persons, whether or not they are living in camps, shall not be discriminated against in the enjoyment of the following rights:
- (i) freedom of thought, conscience, religion or belief, opinion and expression;
  - (ii) to seek freely opportunities for employment and to participate in economic activities;
  - (iii) to associate freely and participate equally in community affairs;

- (iv) to vote and participate in governmental and public affairs, including the right to have access to the means necessary to exercise these rights; and
  - (v) to communicate in a language they understand.
- i) Internally displaced persons have the right to:
- (i) to leave the country;
  - (ii) the right to seek safety in another part of the country;
  - (iii) seek asylum in another country; and
  - (iv) be protected against forcible return to resettlement in any place where their life, safety, liberty and/or health would be at risk.
- j) The authorities concerned shall issue to the internally displaced persons all documents necessary for the enjoyment and exercise of their legal rights. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, and without discrimination against women and men, who shall have equal rights to obtain and to be issued the same in their own names;
- k) The authorities concerned shall endeavor to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result;
- l) The authorities concerned shall endeavor to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully;
- m) Grave sites of internally displaced persons shall be protected and respected in all circumstances and IDPs shall have the right of access to the grave sites of their deceased relatives;
- n) Members of internally displaced families who wish to remain together shall be allowed to do so. Families that are separated by displacement and whose personal liberty has been restricted by internment or confinement in camps, should be reunited as quickly as possible and all appropriate measures shall be taken to expedite the reunion of such families, particularly when children are involved.
- o) The State shall encourage the cooperation of international and local humanitarian organizations engaged in the task of family reunification;
- p) Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, including the wounded and the sick, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs, such as but not



limited to their health needs, reproductive health care as well as appropriate counseling prevention of contagious and infectious diseases, including aids, and access to psychological and social services. The right to privacy of married couples shall likewise be protected;

- q) The property and possessions of internally displaced persons shall in all circumstances be protected against the following acts:
- (i) pillage;
  - (ii) direct or indiscriminate attacks or other acts of violence;
  - (iii) being used to shield military operations or objectives;
  - (iv) being made the object of reprisal;
  - (v) being destroyed or appropriated as a form of collective punishment; and
  - (vi) against destruction and arbitrary and illegal appropriation, occupation or use.
- r) The authorities concerned shall ensure that internally displaced persons, in particular, displaced children, receive education that shall be free and compulsory at the primary level, special efforts should be made to ensure the full and equal participation of women and girls in educational program, should respect their cultural identify, language and religion, educational and training facilities shall be made available to IDPs, as son as circumstances permit.

The rights herein shall not be interpreted as restricting, modifying, or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted under persons under domestic law.

*SEC. 9. Assistance during displacement, return, resettlement or local integration of the displaced persons.* - The military and law enforcement agencies conducting operations, the Department of Social Welfare and Development (DSWD), the Department of Health (DOH), the corresponding government hospital and the local government unit/s concerned shall provide immediate relief and humanitarian assistance to internally displaced, families and communities.

Humanitarian assistance shall not be diverted for any political or military reasons. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance to the internally displaced and ensure rapid, safe and unimpeded access of persons engaged in giving such assistance, their transport and supplies, to the displaced communities.

All concerned authorities shall assist the IDPs in the recovery of their property and possessions, and shall provide or assist these persons in obtaining appropriate compensation or other forms of just reparation.

When providing assistance, international and local humanitarian organizations and other appropriate actors shall respect relevant international standards and codes of conduct and give due regard to the protection of the needs and human rights of the internally displaced and this shall be considered in good faith, and not as an unfriendly act or interference in the Government's internal affairs. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or willing to provide the required humanitarian assistance.

SEC. 10. *Penalties.* a) The penalty of *reclusion temporal* shall be imposed upon the following persons:

- (1) Those who directly commit the act of arbitrary internal displacement;
- (2) Those who directly force, instigate, encourage, induce or incite others to commit the act of arbitrary internal displacement;
- (3) Those who cooperate in the act of arbitrary internal displacement by committing another act, without the act of arbitrary internal displacement would not have been carried out;
- (4) Those commanding officers, as well as all elements of the military, police and/or other law enforcement agencies, who actually and/or directly participate in the act of arbitrary internal displacement;
- (5) Those who cooperated in the execution of arbitrary internal displacement by previous or simultaneous acts;
- (6) Those commanding officers of the military, police or other law enforcement agencies, or other authorities, for acts of arbitrary internal displacement committed by forces under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to exercise control properly over such forces, where said commanding officers or authorities knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes, and failed to take all necessary and reasonable means within his/her power to prevent or repress their commission, or to submit the matter to the competent authorities for investigation and prosecution.

b) The penalty of *prision mayor* shall be imposed upon those who attempt to commit the offense of arbitrary internal displacement.

c) The penalty of *prision mayor* shall be imposed upon the persons who, having knowledge of the act arbitrary or internal displacement, and without having participated therein, either as principals or accomplices, took part subsequent to its commission in any of the following manner:

- (1) By themselves profiting from or assisting the offender to profit from the effects of the act or arbitrary internal displacement;
- (2) By concealing the act of arbitrary internal displacement, and/or destroying the effects or instruments thereof, in order to prevent its discovery;
- (3) By harboring, concealing, or assisting in the escape of the principal(s) in the act of arbitrary internal displacement, provided the accessory acts are done with the abuse of the official's public functions.

d) The penalty of *prision correccional* shall be imposed upon those who threaten to commit the act of arbitrary internal displacement.

e) A public official or employee found criminally liable of having committed the prohibited acts provided for in Sections 5, 6, 7, 8 and 9 of this Act shall also be held administratively liable.

f) The accessory penalties pertaining to the penalties of *reclusion temporal* and *prision mayor* shall be imposed.

g) The penalty of *prision correccional* shall be imposed upon those who violate any of the rights as provided in Sec. 8 of this Act.

SEC. 11. *Liability of Concerned Law Enforcement Agency.* - Where the operation conducted by the military, police and/or other law enforcement agencies causes damage to internally displaced persons, the concerned military, police and/or other law enforcement agency shall provide jointly and severally the necessary financial assistance for the return, resettlement or local integration of internally displaced persons.

SEC. 12 *Jurisdiction of Courts.* - The proper and competent civilian courts shall have jurisdiction over the offense of arbitrary displacement as defined and penalized in this Act.

SEC. 13. *Compensation.* - The law enforcement agency/ies conducting the operation that caused arbitrary internal displacement, the Department of Social Welfare and Development (DSWD) and the local government unit/s concerned shall award the following:

- 1) Where death of an individual victim occurs in the course of an operation conducted by the military, police and/or other law enforcement agencies, the amount of Fifty Thousand Pesos (P50,000.00) shall be granted to the legal heirs of the victim by way of a death benefit;
- 2) Where physical, emotional and/or psychological injury is caused to an individual victim in the course of an operation conducted by the military, police and/or other law enforcement agencies, actual and compensatory damages, including moral, nominal, exemplary, and temperate damages resulting from such injury, shall be reimbursed; and,
- 3) Where loss of or damage to property of an individual victim is caused in the course of an operation conducted by the military, police and/or other law enforcement agencies, the amount corresponding to the fair market value of the property lost or destroyed or the amount mutually agreed upon, whichever is higher, shall be paid to the victim.
- 4) Non-state actors who caused arbitrary internal displacement shall be similarly held liable to pay the amounts as stated in Sec. 13 herein.

SEC. 14. *Role of the Commission on Human Rights.* - The Commission on Human Rights (CHR) shall be designated as the institutional focal point for internally displaced persons. As such, the CHR shall have the following additional functions:

- a) To monitor IDP conditions to ensure that their rights are respected and protected in all phases of displacement;

- b) To conduct inquiries, document violations of human rights, assist IDPs in seeking redress of grievances and work to ensure an effective response by the concerned authorities;
- c) To investigate, on its own or on complaint by any party, all forms of human rights violations against IDPs involving civil and political rights in accordance with Section 18(1) of Article XI1 of the 1987 Constitution;
- d) To follow up on early warning and ensure effective measures to protect the civilian population against internal displacement;
- e) To advise the government on the rights of IDPs towards the shaping of a sound national policy and legislation to effectively address situations of internal displacement;
- f) To undertake educational activities and training programs for state authorities, including the armed forces;
- g) To hold public information drives on the protection and rights of IDPs; and
- h) To carry out such other acts that may be necessary to fully implement the purposes.

SEC. 15. *Appropriations.* - The amount of Fifty Million Pesos (P50,000,000.00) shall be appropriated to the Commission on Human Rights for the initial implementation of the provisions of this Act. The subsequent annual funding for the implementation of this Act shall be included in the General Appropriations Act.

SEC. 16. *Joint Congressional Oversight Committee.* - A Joint Congressional Oversight Committee is hereby created, composed of the Chairman of the Senate Committee on Justice and Human Rights, and seven (7) other Senators designated by the Senate President, and the Chairman of the House Committee on Human Rights, and seven (7) other Members of the House of Representatives, designated by the Speaker of the House of Representatives: Provided, That, of the seven (7) members to be designated by each House of Congress four (4) should represent the Majority and three (3) from the Minority.

The Joint Congressional Oversight Committee shall have the power to review, revise, amend and approve the Implementing Rules and Regulations promulgated by the Commission on Human Rights.

The Joint Congressional Oversight Committee shall also have the power to inquire into, summon and investigate the Orders of Battle that are created pursuant to this Act, as well as the legal and factual justifications for the inclusion of specific persons and groups in the said Orders of Battle. In this regard, the Joint Congressional Oversight Committee may issue mandatory process directing the transmission of all such documents relevant and necessary for the Committee to determine the validity of the inclusion of specific persons or groups in the Orders of Battle. For this purpose, the highest ranking officers or heads of offices shall be charged with testifying before the Joint Congressional Oversight Committee in relation to any inquiries on the Orders of Battle.

The defense of National Security may not prevent the Joint Congressional Oversight Committee from inquiring into the factual and/or legal bases for the

creation of a specific Order of Battle or the inclusion of specific persons/groups in the said Orders of Battle. Should there be a need to inquire into the factual basis for the invocation of "national security," the Committee shall adjourn the public hearing, convene in executive session and hear the factual basis for such invocation. Should the Committee be satisfied of the factual basis, the Committee will reflect this finding on the record. Should the basis not be satisfactory to the Committee, the public hearing will continue and the invocation may not be used as justification to prevent an inquiry into the factual or legal basis for the creation of the Order of Battle or the inclusion of specific names of persons or groups.

SEC. 17. *Implementing Rules and Regulations.* - The Commission on Human Rights shall coordinate with the Department of Social Welfare and Development, Department of National Defense, Department of Interior and Local Government, Department of Environment and Natural Resources, Department of Health, and shall likewise consult with the local government units and human rights non-governmental organizations and people's organizations.

SEC. 18. *Repealing Clause.* - All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances or any part thereof, which are inconsistent with the provisions of this Act, are hereby deemed repealed or modified accordingly.

SEC. 19. *Separability Clause.* - If any part or provision of this Act shall be declared unconstitutional or invalid, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 20. *Effectivity.* - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of national circulation.

APPROVED.