

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

12 FEB 14 21 51

SENATE

S.B. No. 3123

Introduced by Sens. Sergio R. Osmeña III and Teofisto "TG" Guingona III

EXPLANATORY NOTE

The Philippines is a member of the Asia/Pacific Group on Money Laundering (APG), which is a regionally focused international organisation consisting of forty one (41) members and a number of international and regional observers including the United Nations, International Monetary Fund, Financial Action Task Force (FATF), Asian Development Bank and World Bank. The APG is an associate member of the FATF and all APG members commit to effectively implement the FATF's international standards for anti-money laundering and combating the financing of terrorism, referred to as the 40+9 Recommendations.

The FATF was established in 1989 by G-7 nations. The FATF is an international governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing. The Task Force is therefore a "policy-making body" which works to generate the necessary political will to bring about national legislative and regulatory reforms in these areas.¹

The *Anti-Money Laundering Act of 2001 (R.A. 9160, as amended by R.A. 9194)* was enacted following the FATF's blacklisting of the Philippines in June 2000. To be blacklisted means that the Philippines is perceived to be "non-cooperative" in the global fight against money laundering and terrorist financing. In 2003, an amendment was made to the AMLA through the passage of R.A. 9194.² In 2004, the FATF raised its international standards by revising its recommendations (at present, there are 40

¹ http://www.fatf-gafi.org/document/57/0,3343,en_32250379_32235720_34432121_1_1_1_1,00.html.

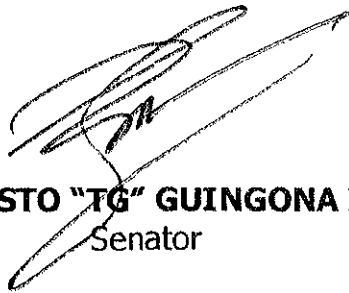
² An Act Amending R.A. 9160, otherwise known as the Anti-Money Laundering Act of 2001.

recommendations on money laundering and 9 special recommendations on terrorist financing ("FATF 40 plus 9").

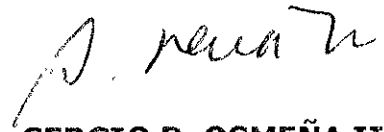
This bill serves to reinforce our country's Anti-Money Laundering legislative measures. It ultimately addresses the noted deficiencies in the Philippines' legal framework with regard to anti-money laundering, by making our state fully compliant with the international standards set forth not only by the FATF, but also directives laid down under the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention), the 2001 United Nations Convention Against Transnational Organized Crime (the Palermo Convention), the 2003 United Nations Convention Against Corruption (the Merida Convention), and other international standards in combating money laundering.

There is indeed an urgency to put more teeth to the country's anti-money laundering law, not only to make the Philippines compliant with international standards, but to protect the country's financial integrity and economic development.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



TEOFISTO "TG" GUINGONA III
Senator



SERGIO R. OSMEÑA III
Senator

SENATE

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Senate Bill NO. 3123

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Introduced by Sens. Sergio R. Osmeña III and Teofisto "TG" Guingona III

"AN ACT FURTHER STRENGTHENING THE ANTI-MONEY LAUNDERING LAW, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE "ANTI-MONEY LAUNDERING ACT OF 2001", AS AMENDED."

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

1 Section 1. Section 3(a) of Republic Act No. 9160, as amended, is hereby
2 amended as follows:

3 "(a) Covered institution **OR INDIVIDUAL** refers to:

4 (1) Banks, quasi-banks, trust entities, **FOREIGN EXCHANGE**
5 **CORPORATIONS, MONEY CHANGERS, MONEY PAYMENT,**
6 **REMITTANCE AND TRANSFER COMPANIES AND OTHER**
7 **SIMILAR ENTITIES** and all other institutions and their subsidiaries
8 and affiliates supervised or regulated by the Bangko Sentral ng
9 Pilipinas (BSP);

10 (2) Insurance companies, **PRE-NEED COMPANIES** and all other
11 institutions supervised or regulated by the Insurance Commission (IC);

12 (3) (i) securities dealers, brokers, salesmen, investment houses and other
13 similar entities managing securities or rendering services as
14 investment agent, advisor, or consultant, (ii) mutual funds, close-end

1 investment companies, common trust funds, and other similar entities,
2 and (iii) other entities administering or otherwise dealing in currency,
3 commodities or financial derivatives based thereon, valuable objects,
4 cash substitutes and other similar monetary instruments or property
5 supervised or regulated by the Securities and Exchange Commission
6 (SEC);

7 **(4) CASINOS, INCLUDING INTERNET CASINOS;**

8 **(5) REAL ESTATE AGENTS;**

9 **(6) DEALERS IN PRECIOUS METALS;**

10 **(7) DEALERS IN PRECIOUS STONES;**

11 **(8) TRUST AND COMPANY SERVICE PROVIDERS WHICH, AS A**
12 **BUSINESS, PROVIDE ANY OF THE FOLLOWING SERVICES**
13 **TO THIRD PARTIES: (I) ACTING AS A FORMATION AGENT**
14 **OF JURIDICAL PERSONS; (II) ACTING AS (OR ARRANGING**
15 **FOR ANOTHER PERSON TO ACT AS) A DIRECTOR OR**
16 **CORPORATE SECRETARY OF A COMPANY, A PARTNER OF A**
17 **PARTNERSHIP, OR A SIMILAR POSITION IN RELATION TO**
18 **OTHER JURIDICAL PERSONS; III) PROVIDING A**
19 **REGISTERED OFFICE; BUSINESS ADDRESS OR**
20 **ACCOMMODATION, CORRESPONDENCE OR**
21 **ADMINISTRATIVE ADDRESS FOR A COMPANY, A**
22 **PARTNERSHIP OR ANY OTHER LEGAL PERSON OR**
23 **ARRANGEMENT; IV) ACTING AS (OR ARRANGING FOR**
24 **ANOTHER PERSON TO ACT AS) A TRUSTEE OF AN EXPRESS**

1 TRUST; AND V) ACTING AS (OR ARRANGING FOR
2 ANOTHER PERSON TO ACT AS) A NOMINEE SHAREHOLDER
3 FOR ANOTHER PERSON.

4 (9) PERSONS WHO PROVIDE ANY OF THE FOLLOWING
5 SERVICES:

- 6 a. BUYING AND SELLING OF REAL ESTATE;
- 7 b. MANAGING OF CLIENT MONEY, SECURITIES OR
8 OTHER ASSETS;
- 9 c. MANAGEMENT OF BANK, SAVINGS OR
10 SECURITIES ACCOUNTS;
- 11 d. ORGANIZATION OF CONTRIBUTIONS FOR THE
12 CREATION, OPERATION OR MANAGEMENT OF
13 COMPANIES; AND
- 14 e. CREATION, OPERATION OR MANAGEMENT OF
15 JURIDICAL PERSONS OR ARRANGEMENTS, AND
16 BUYING AND SELLING BUSINESS ENTITIES.

17 Section 2. Section 3 (i) of the same Act is hereby amended to read as follows:

18 "(i) 'Unlawful activity' refers to any act or omission or series or combination
19 thereof involving or having direct relation to the following:

- 20 (1) Kidnapping for ransom under Article 267 of Act No. 3815 , otherwise
21 known as the Revised Penal Code, as amended;
- 22 (2) Sections 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of Republic Act
23 No. 9165, otherwise known as the Comprehensive Dangerous Drugs
24 Act of 2002;

- 1 (3) Section 3 paragraphs B, C, E, G, H and I of Republic Act No. 3019,
2 as amended, otherwise known as the Anti-Graft and Corrupt
3 Practices Act;
- 4 (4) Plunder under Republic Act No. 7080, as amended;
- 5 (5) Robbery and extortion under Articles 294, 295, 296, 299, 300, 301
6 and 302 of the Revised Penal Code, as amended;
- 7 (6) Jueteng and Masiao punished as illegal gambling under Presidential
8 Decree No. 1602;
- 9 (7) Piracy on the high seas under the Revised Penal Code, as amended,
10 and Presidential Decree No. 532;
- 11 (8) Qualified theft under Article 310 of the Revised Penal Code, as
12 amended;
- 13 (9) Swindling under Article 315 of the Revised Penal Code, as amended;
- 14 (10) Smuggling under Republic Act Nos. 455 and 1937;
- 15 (11) Violations under Republic Act No. 8792, otherwise known as the
16 Electronic Commerce Act of 2000;
- 17 (12) Hijacking and other violations under Republic Act No. 6235;
18 destructive arson and murder, as defined under the Revised Penal
19 Code, as amended;
- 20 **(13) TERRORISM AND CONSPIRACY TO COMMIT TERRORISM AS**
21 **DEFINED AND PENALIZED UNDER REPUBLIC ACT NO. 9372;**

1 **(14) BRIBERY UNDER ARTICLES 210, 211, 211-A OF THE**
2 **REVISED PENAL CODE, AS AMENDED AND CORRUPTION OF**
3 **PUBLIC OFFICERS UNDER ARTICLE 212 OF THE REVISED PENAL**
4 **CODE, AS AMENDED;**

5 **(15) FRAUDS AND ILLEGAL EXACTIONS AND TRANSACTIONS**
6 **UNDER ARTICLES 213, 214, 215, AND 216 OF THE REVISED**
7 **PENAL CODE, AS AMENDED;**

8 **(16) MALVERSATION OF PUBLIC FUNDS AND PROPERTY UNDER**
9 **ARTICLES 217 AND 222 OF THE REVISED PENAL CODE, AS**
10 **AMENDED;**

11 **(17) FORGERIES AND COUNTERFEITING UNDER ARTICLES 163,**
12 **166, 167, 168, 169, AND 176 OF THE REVISED PENAL CODE, AS**
13 **AMENDED;**

14 **(18) VIOLATIONS OF SECTIONS 4 TO 6 OF REPUBLIC ACT NO.**
15 **9208, OTHERWISE KNOWN AS THE ANTI-TRAFFICKING IN**
16 **PERSONS ACT OF 2003;**

17 **(19) VIOLATIONS OF SECTIONS 68 TO 79 OF CHAPTER IV, OF**
18 **THE PRESIDENTIAL DECREE NO. 705, OTHERWISE KNOWN AS**
19 **THE REVISED FORESTRY CODE OF THE PHILIPPINES, AS**
20 **AMENDED;**

1 (20) VIOLATIONS OF SECTIONS 86 TO 106 OF CHAPTER VI, OF
2 REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS THE
3 PHILIPPINE FISHERIES CODE OF 1998;

4 (21) VIOLATIONS OF SECTIONS 101 TO 107, AND 110 OF
5 REPUBLIC ACT NO. 7942, OTHERWISE KNOWN AS THE
6 PHILIPPINE MINING ACT OF 1995;

7 (22) VIOLATIONS OF SECTION 27 (C), (E), (F), (G) AND (I), OF
8 REPUBLIC ACT NO. 9147, OTHERWISE KNOWN AS THE WILDLIFE
9 RESOURCES CONSERVATION AND PROTECTION ACT;

10 (23) VIOLATION OF SECTION 7(B) OF REPUBLIC ACT NO. 9072,
11 OTHERWISE KNOWN AS THE NATIONAL CAVES AND CAVE
12 RESOURCES MANAGEMENT PROTECTION ACT;

13 (24) VIOLATION OF REPUBLIC ACT NO. 6539, OTHERWISE
14 KNOWN AS THE ANTI-CARNAPPING ACT OF 2002, AS AMENDED;

15 (25) VIOLATIONS OF SECTIONS 1, 3 AND 5 OF PRESIDENTIAL
16 DECREE NO. 1866, AS AMENDED, OTHERWISE KNOWN AS THE
17 DECREE CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL
18 POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR
19 DISPOSITION, OF FIREARMS, AMMUNITION OR EXPLOSIVES;

20 (26) VIOLATION OF PRESIDENTIAL DECREE NO. 1612,
21 OTHERWISE KNOWN AS THE ANTI-FENCING LAW;

1 **(27) VIOLATIONS OF SECTIONS 254 AND 255 OF THE NATIONAL**
2 **INTERNAL REVENUE CODE OF 1997, AS AMENDED;**

3 **(28)** Fraudulent practices and other violations under Republic Act No.
4 8799, otherwise known as the Securities Regulation Code of 2000; **AND**

5 **(29)** Felonies or offenses of a similar nature that are punishable under
6 the penal laws of other countries.”

7 SEC. 3. Section 4 of the same Act is hereby amended to read as follows:

8 “SEC. 4. *Money Laundering Offense.* - Money laundering is a crime whereby the
9 proceeds of an unlawful activity as herein defined are transacted, **CONVERTED,**
10 **TRANSFERRED, DISPOSED OF, MOVED, ACQUIRED, POSSESSED, USED,**
11 **CONCEALED OR DISGUISED.**

12 IT IS COMMITTED BY ANY PERSON WHO, KNOWING OR HAS REASON
13 TO BELIEVE THAT ANY MONETARY INSTRUMENT OR PROPERTY
14 REPRESENTS, INVOLVES, OR RELATES TO THE PROCEEDS OF ANY
15 UNLAWFUL ACTIVITY:

16 **(a) TRANSACTS OR ATTEMPTS TO TRANSACT SAID MONETARY**
17 **INSTRUMENT OR PROPERTY;**

18 **(b) CONVERTS, TRANSFERS, DISPOSES OF, MOVES, ACQUIRES,**
19 **POSSESSES OR USES, OR ATTEMPTS TO CONVERT, TRANSFER,**
20 **DISPOSE OF, MOVE, ACQUIRE, POSSESS OR USE SAID**
21 **MONETARY INSTRUMENT OR PROPERTY;**

1 **(c) CONCEALS OR DISGUISES OR ATTEMPTS TO CONCEAL OR**
2 **DISGUISE THE TRUE NATURE, SOURCE, LOCATION,**
3 **DISPOSITION, MOVEMENT OR OWNERSHIP OF OR RIGHTS WITH**
4 **RESPECT TO SAID MONETARY INSTRUMENT OR PROPERTY; AND**

5 **(d) PERFORMS OF FAILS TO PERFORM ANY ACT AS A RESULT OF**
6 **WHICH HE FACILITATES THE OFFENSE OF MONEY LAUNDERING**
7 **REFERRED TO IN PARAGRAPHS (A), (B) OR (C) ABOVE.**

8 **MONEY LAUNDERING IS ALSO COMMITTED BY ANY-PERSON**
9 **WHO, KNOWING THAT ANY MONETARY INSTRUMENT OR**
10 **PROPERTY IS REQUIRED UNDER THIS ACT TO BE DISCLOSED**
11 **AND FILED WITH THE ANTI-MONEY LAUNDERING COUNCIL**
12 **(AMLC), FAILS TO DO SO.**

13 SEC. 4. Section 6(a) of the same Act is hereby amended to read as follows:

14 "Section 6. Prosecution of Money Laundering.-

15 **(a)** Any person may be charged with and convicted of both the offense
16 of money laundering, and the unlawful activity as herein defined,
17 **AND FOR TAX EVASION ON INCOME DERIVED FROM ANY**
18 **UNLAWFUL ACTIVITY HEREIN DEFINED.**

19 **(b)** Any proceeding relating to the unlawful activity, **OR THE TAX**
20 **EVASION ON INCOME DERIVED FROM THE UNLAWFUL**
21 **ACTIVITY WHICH SHALL BE PROSECUTED BY THE BIR,** shall
22 be given precedence over the prosecution of any offense or

1 violation under this Act without prejudice to the freezing and other
2 remedies provided.

3 Section 5. Section 7 of the same Act is hereby amended to read as follows:

4 *'SEC. 7. Creation of Anti-Money Laundering Council (AMLC) – The Anti-Money*
5 *Laundering Council is hereby created and shall be composed of the Governor of*
6 *the Bangko Sentral ng Pilipinas as Chairman, the Commissioner of the Insurance*
7 *Commission and the Chairman of the Securities and Exchange Commission, as*
8 *members. The AMLC shall act unanimously in the discharge of its functions as*
9 *defined hereunder:*

10 xxx

11 (6) to apply before the Court of Appeals, *ex parte*, for the freezing of any
12 monetary instrument or properly alleged to be **RELATED IN ANY WAY**
13 **TO** any unlawful activity as defined in Section 3(i) hereof;

14 xxx

15 SEC. 6 Section 9 (c) paragraphs 1 and 4 of the same Act are hereby amended to
16 read as follows:

17 *"SEC. 9. Prevention of Money Laundering; Customer Identification Requirements*
18 *and Record Keeping --"*

19 (a) xxx

20 (b) xxx

21 (c) Reporting of Covered and Suspicious Transactions- Covered institutions
22 shall report to the AMLC all covered transactions and suspicious

1 transactions within five (5) working days from occurrence thereof, unless
2 the **AMLC** prescribes a **DIFFERENT** period not exceeding **FIFTEEN** (15)
3 working days.

4 xxx

5 xxx

6 When reporting covered or suspicious transactions to the AMLC, covered
7 institutions and their officers and employees xxx are prohibited from
8 communicating, directly or indirectly, in any manner or by any means, to any
9 person or entity, the media, the fact that a covered or suspicious transaction
10 **HAS BEEN REPORTED OR IS ABOUT TO BE REPORTED**, the contents **OF**
11 **THE REPORT**, or any other information in relation thereto. X xx"

12 **SEC 7.** Section 12 of the same Act is hereby amended to read as follows:

13 "(a) *Civil Forfeiture*- **UPON DETERMINATION THAT PROBABLE CAUSE**
14 **EXISTS THAT ANY MONETARY INSTRUMENT OR PROPERTY IS FOUND**
15 **TO BE RELATED IN ANY WAY TO AN UNLAWFUL ACTIVITY AS DEFINED**
16 **UNDER SECTION 3 HEREOF OR A MONEY LAUNDERING OFFENSE**
17 **UNDER SECTION 4 HEREOF, THE AMLC SHALL FILE WITH THE**
18 **APPROPRIATE COURT THROUGH THE OFFICE OF THE SOLICITOR**
19 **GENERAL, A PETITION FOR FORFEITURE AND THE RULES OF COURT**
20 **ON CIVIL FORFEITURE SHALL APPLY.**

21 (b) *Claim on Forfeited Assets.* – Where the court has issued an order of
22 forfeiture of the monetary instrument or property in a criminal prosecution for
23 any money laundering offense defined under Section 4 of this Act, the offender

1 or any other person claiming an interest therein may apply, by verified petition,
2 for a declaration that the same legitimately belongs to him and for segregation
3 or exclusion of the monetary instrument or property corresponding thereto. The
4 verified petition shall be filed with the court which rendered the judgment of
5 conviction and order of forfeiture, within fifteen (15) days from the date of the
6 order of forfeiture, in default of which the said order shall become final and
7 executory. This provision shall apply in both civil and criminal forfeiture.

8 (c) *Payment in Lieu of Forfeiture*- Where the court has issued an order of
9 forfeiture of the monetary instrument or property subject of a money laundering
10 offense defined under Section 4, and said order cannot be enforced because any
11 particular monetary instrument or property cannot, with due diligence, be
12 located, or it has been substantially altered, destroyed, diminished in value or
13 otherwise rendered worthless by any act or omission, directly or indirectly,
14 attributable to the offender, or it has been concealed, removed, converted, or
15 otherwise transferred to prevent the same from being found or to avoid
16 forfeiture thereof, or it is located outside the Philippines or has been placed or
17 brought outside the jurisdiction of the court, or it has been commingled with
18 other monetary instruments or property belonging to either the offender himself
19 or a third person or entity, thereby rendering the same difficult to identify or be
20 segregated for purposes of forfeiture, the court may, instead of enforcing the
21 order of forfeiture of the monetary instrument or property or part thereof or
22 interest therein, accordingly order the convicted offender to pay an amount
23 equal to the value of said monetary instrument or property. This provision shall
24 apply in both civil and criminal forfeiture.

1 (d) **DISPOSITION OF FORFEITED ASSETS AND RETENTION. AFTER**
2 **DEDUCTING COST OF LITIGATION AND THE PAYMENT OF PROPER**
3 **TAXES DUE TO THE STATE, SEVENTY-FIVE PERCENT (75%) OF THE NET**
4 **PROCEEDS OF THE FORFEITED ASSETS OR PROCEEDS THEREFROM**
5 **SHALL BE TURNED OVER TO THE NATIONAL TREASURY AND THE**
6 **REMAINING TWENTY-FIVE PERCENT (25%) SHALL BE RETAINED BY**
7 **THE AMLC TO AUGMENT THE APPROPRIATION FOR ITS OPERATIONS**
8 **AND MAINTENANCE IN THE GENERAL APPROPRIATIONS ACT. FOR**
9 **THIS PURPOSE, THE AMLC MAY PROMULGATE RULES ON THE SALE OF**
10 **FORFEITED ASSETS."**

11 SEC. 8. Section 14 of the same Act, as amended, is hereby further amended to
12 read as follows:

13 "SEC. 14. *Penal Provisions.* – (a) Penalties for the Crime of Money
14 Laundering. The penalty of imprisonment ranging from seven (7) to fourteen
15 (14) years and a fine of not less than Three million Philippine pesos
16 (Php3,000,000.00) but not more than twice the value of the monetary
17 instrument or property involved in the offense, shall be imposed upon a person
18 convicted under Section 4(a), **(B), AND (C)** of this Act.

19 "The penalty of imprisonment from four (4) to seven (7) years and a fine
20 of not less than One million five hundred thousand Philippine pesos
21 (Php1,500,000.00) but not more than Three million Philippine pesos
22 (Php3,000,000.00), shall be imposed upon a person convicted under Section
23 **4(D)** of this Act.

1 “The penalty of imprisonment from six (6) months to four (4) years or a
2 *fine of not less than One hundred thousand Philippine pesos (Php100,000.00)*
3 *but not more than Five hundred thousand Philippine pesos (Php500,000.00),*
4 or both, shall be imposed on a person convicted under **THE LAST**
5 **PARAGRAPH OF** Section 4 of this Act.

6 “(b) x x x

7 “(c) x x x

8 “(d) x x x

9 **“(e) IMPOSITION OF ADMINISTRATIVE SANCTIONS. AFTER DUE**
10 **NOTICE AND HEARING, THE AMLC SHALL, AT ITS DISCRETION,**
11 **IMPOSE SANCTIONS, INCLUDING MONETARY PENALTIES, WARNING**
12 **OR REPRIMAND, UPON ANY COVERED INSTITUTION, ITS DIRECTORS,**
13 **OFFICERS, EMPLOYEES OR ANY OTHER PERSON FOR VIOLATIONS OF**
14 **THIS ACT, ITS IMPLEMENTING RULES AND REGULATIONS, OR FOR**
15 **FAILURE OR REFUSAL TO COMPLY WITH AMLC ORDERS,**
16 **RESOLUTIONS AND OTHER ISSUANCES. SUCH MONETARY PENALTIES**
17 **SHALL BE IN AMOUNTS AS MAY BE DETERMINED BY THE COUNCIL TO**
18 **BE APPROPRIATE, WHICH SHALL NOT BE MORE THAN FIVE HUNDRED**
19 **THOUSAND PESOS (PHP 500,000.00) PER VIOLATION. THE AMLC MAY**
20 **PROMULGATE RULES ON FINES AND PENALTIES TAKING INTO**
21 **CONSIDERATION THE ATTENDANT CIRCUMSTANCES, SUCH AS THE**
22 **NATURE AND GRAVITY OF THE VIOLATION OF IRREGULARITY, THE**
23 **SIZE, FUNCTIONS AND RESOURCES OF THE COVERED INSTITUTION.**
24 **THE IMPOSITION OF THE ADMINISTRATIVE SANCTIONS SHALL BE**

1 **WITHOUT PREJUDICE TO THE FILING OF CRIMINAL CHARGES**
2 **AGAINST THE PERSONS RESPONSIBLE FOR THE VIOLATION.”**

3 Section 9. Separability Clause.- If any provision of this Act is declared
4 unconstitutional, the same shall not affect the validity and effectivity of the other
5 provisions thereof.

6 Section 10. Repealing Clause- All laws, decrees, orders, and issuances or portion
7 thereof, which are inconsistent with provision of this Act, are hereby repealed,
8 amended or modified accordingly.

9 Section 11. Effectivity- This Act shall take effect fifteen (15) days following its
10 publication in at least two (2) national newspapers of general circulation.

11 Approved,