

FIFTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Third Regular Session

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SENATE
Senate Bill No. 3330

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By Senator Teofisto "TG" Guingona III

EXPLANATORY NOTE

This bill seeks to extend monetary compensation to the victims of human rights violations committed during the Marcos regime. In passing this bill into law, the State seeks to recognize the faces behind the numbers and the pains that provided the reason for decades-long battles against the abuses of the past.

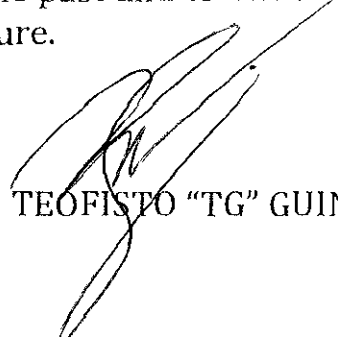
First, it establishes a defined procedure for human rights victims to be granted compensation under the law.

Second, it seeks to define human rights violations in the context of the Marcos regime.

Third, it seeks to document the various facets of human rights violations during the Marcos regime and to recognize the victims of such violations.

The bill recognizes that the State has the obligation and the duty to recognize and compensate the victims of human rights violations at an era where eyes were shut, mouths were gagged, and spirits crushed.

This bill is a way of remembering the events of the past and to ensure that such atrocities shall never again be repeated in the future.


TEOFISTO "TG" GUINGONA III

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AN ACT
PROVIDING FOR COMPENSATION TO THE VICTIMS OF HUMAN RIGHTS VIOLATIONS DURING THE REGIME OF FORMER PRESIDENT FERDINAND MARCOS, DOCUMENTATION OF SAID VIOLATIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

- 1 **SECTION 1. Short Title.** This Act shall be known as the "Human Rights
2 Victims Compensation Act of 2012".
3
4 **SECTION 2. Declaration of Policy.** - Article II, Section 11 of the Constitution
5 of the Republic of the Philippines declares that the State values the dignity of
6 every human person and guarantees full respect for human rights. Pursuant
7 to the declared policy, Article III, Section 12 of the Constitution prohibits the
8 use of torture, force, violence, threat, intimidation, or any other means which
9 vitiate the free will even as the Constitution mandates the compensation and
10 rehabilitation of victims of torture or similar practices, and their families.
11 Article XIII, Section 18(6) of the Constitution also directs the Commission on
12 Human Rights (CHR) to recommend to the Congress effective measures to
13 promote human rights and to provide for compensation to victims of human
14 rights violations, or their families. By virtue of Article II, Section 2 of the
15 Constitution adopting generally accepted principles of international law as
16 part of the law of the land, the Philippines must also adhere to international
17 human rights laws and documents, including the International Covenant on
18 Civil and Political Rights (ICCPR) which imposes on each State party the

1 obligation to take the necessary steps to adopt such laws to give effect to the
2 rights recognized therein and to ensure that any person whose rights or
3 freedoms have been violated shall have an effective remedy even if the
4 violation is committed by persons acting in an official capacity.

5
6 Consistent with the foregoing, it is hereby declared the policy of the State to
7 recognize the heroism and sacrifices of all Filipinos who were victims of
8 summary execution, torture, involuntary disappearance and other gross
9 human rights violations committed during the regime dictatorial of former
10 President Ferdinand Marcos covering the period from September 21, 1972
11 to February 25, 1986. The State hereby acknowledges its moral and legal
12 obligation to recognize and/or compensate said victims and/or their families
13 for the deaths, injuries, sufferings, deprivations, and damages they suffered
14 under the Marcos regime. In declaring this policy, the State also takes into
15 account the adherence of the Republic of the Philippines to the Universal
16 Declaration of Human Rights and the December 10, 1997 Swiss Federal
17 Supreme Court decision granting anticipatory restitution to the Philippines
18 of certain Swiss bank deposits forming part of the ill-gotten wealth of
19 Ferdinand Marcos, which decision urges that the Philippines take steps to
20 compensate the victims of human rights violations under the Marcos regime
21 and our own Supreme Court's decision of July 15, 2003, forfeiting in favor of
22 the Republic, ill-gotten wealth of the Marcoses.

23
24 **SECTION 3.** *Definition of terms.* — In this Act, the following terms shall be
25 understood as follows:

26
27 a. "Compensable Human Rights Violation" refers to any act or
28 omission committed during the period from September 21, 1972
29 to February 25, 1986 by persons acting in an official capacity
30 and/or agents of the State, but shall not be limited to:

- 31
32 1. Any search, arrest and/or detention without a valid search
33 warrant or warrant of arrest issued by a civilian court of law,
34 including any warrantless arrest or detention carried out
35 pursuant to the declaration of Martial Law by Ferdinand
36 Marcos as well as any arrest or detention or deprivation of
37 liberty carried out on or before February 25, 1986 on the basis
38 of an "Arrest Search and Seizure Order (ASSO)", a "Presidential
39 Commitment Order (PCO)" or a "Preventive Detention Action
40 (PDA)" and such other similar executive issuances as they were
41 defined by decrees and directives of Ferdinand Marcos or in

1 any manner that the arrest, detention, or deprivation of liberty
2 was effected.

- 3
4 2. Any commission by a person acting in an official capacity
5 and/or an agent of the State of physical injury, torture, killing,
6 harassment, deprivation of liberty or other similar acts on any
7 person, including violations against freedom of speech,
8 assembly or organization; and/or the right to petition the
9 government for redress of grievances even if such exercise was
10 alleged to constitute or form part of rebellion, sedition or
11 subversion as then defined by law; and even if such violation
12 took place during or in the course of what the authorities at the
13 time deemed an illegal assembly or demonstration: Provided,
14 that torture in any form or under any circumstances shall be
15 considered a human rights violation;

16
17 Violations of the freedom of speech and assembly include the
18 act of preventing assemblies and demonstrations, shooting at
19 or dispersing them with tear gas or water cannons and hitting
20 participants with truncheons and the like and inflicting injury,
21 even if such violation took place during or in the course of what
22 the authorities at the time deemed an illegal assembly or
23 demonstration;

24
25 Violations of the freedom of the press include the closure and
26 imposition of prior restraint, without legal basis, on media
27 facilities, and the detention of editors, publishers, and/or
28 writers.

- 29
30
31 3. Any enforced or involuntary disappearance caused upon a
32 person who was arrested, detained or abducted against one's
33 will or otherwise deprived of one's liberty;
- 34
35 4. Any force or intimidation causing the involuntary exile of a
36 person from the Philippines;
- 37
38 5. Any act or series of acts causing, committing and/or
39 conducting the following:
- 40
41 i. Kidnapping or otherwise exploiting children of persons
42 suspected of committing acts against the Marcos regime;

- 1 ii. Committing sexual offenses against human rights victims
2 who are detained and/or in the course of conducting
3 military and/or police operations, and
4 iii. Saturation drives and/or "zona";
5 iv. Hamleting and/or food blockades;

6
7 Hamleting refers to intentional acts that isolate a
8 community of importance to the enemy, including the
9 relocation of such communities away from crucial zones.

10
11 Food blockade shall refer to the forcible cutting off entry of
12 food supplies in a particular area.

- 13
14 v. Violation of the rights of labor by preventing and
15 dispersing peaceable strikes even if the strikes are deemed
16 illegal at that time;
17 vi. Other violations and/or abuses similar or analogous to the
18 above including those recognized and generally-accepted
19 by international law.
20

21
22 6. Causing the unjust or illegal takeover of a business, the
23 confiscation of property or the deprivation of livelihood of a
24 person by agents of the State, including those caused by
25 Ferdinand Marcos, his spouse Imelda Marcos, their immediate
26 relatives by consanguinity or affinity, as well as those persons
27 considered as among their close relatives, associates and
28 subordinates under Executive Order No. 1, issued on February
29 26, 1986 by President Corazon Aquino in the exercise of her
30 legislative powers under the Freedom Constitution;
31

- 32
33
34 b. "Human Rights Violation Victim" (HRVV) — For the purpose of
35 this Act, a victim of a human rights violation is one whose human
36 rights were violated by persons acting in an official capacity
37 and/or agents of the State as these terms are defined herein. In
38 order to qualify for compensation under this Act, the human
39 rights violation must have occurred during the period from
40 September 21, 1972 to February 25, 1986: *Provided, however,*
41 That victims of human rights violations that occurred within one
42 month after February 25, 1986 shall be entitled to compensation

1 under this Act if they can establish that the violation was
2 committed by agents of the State/persons acting in an official
3 capacity loyal to the Marcos regime and acting further to his
4 instructions and for the purpose of preserving, maintaining,
5 supporting or promoting the said regime.
6
7

8 c. "Persons Acting in an Official Capacity/Agents of the State" - The
9 following persons shall be deemed persons acting in an official
10 capacity and/or agents of the State under this Act:
11

- 12 1. Any member of the former Philippine Constabulary (PC),
13 the former integrated National Police (INP), the Armed
14 Forces of the Philippines (AFP) and the Civilian Home
15 Defense Force (CHDF) from September 21, 1972 to
16 February 26, 1986 as well as any civilian agent/s attached
17 thereto; and any member of a paramilitary group even if
18 he is not organically part of the PC, INP, AFP or CHDF so
19 long as it is shown that the group was organized, funded,
20 supplied with equipment, facilities and/or resources,
21 and/or indoctrinated, controlled/or supervised by any
22 person in government/agent of the state as herein defined;
- 23 2. Any member of the civil service, including citizens who
24 held elective or appointive public office at anytime from
25 September 21, 1972 to February 26, 1986;
- 26 3. Those persons referred to in Executive Order No. 1, including
27 Ferdinand Marcos, his spouse Imelda Marcos, their relatives
28 by consanguinity or affinity, as well as those persons,
29 relatives, associates, and subordinates pursuant to said law,
30 shall be deemed agents of the State under this Act.
- 31 4. Any person or group/s of persons acting with the
32 authorization, support or acquiescence of the State during the
33 Marcos regime.
34

35 **SECTION 4.** *Entitlement to Monetary Compensation.* - Any HRVV qualified
36 under this Act shall receive compensation from the State, free from tax, as
37 hereinafter prescribed: *Provided*, That for HRVVs who are deceased, the legal
38 heirs as provided for in the Civil Code of the Philippines, or such other
39 person named by the executor or administrator of the deceased HRVV's
40 estate in that order, shall be entitled to receive such compensation: *Provided*,
41 *further*, That any compensation received under this Act shall be without
42 prejudice to the receipt of any other sum by the HRVV from any person other

1 than the Republic in any case involving any human rights violation as
2 defined by this Act.

3
4 **SECTION 5. *Nonmonetary Compensation.***- The Department of Health (DOH),
5 the Department of Social Welfare and Development (DSWD), the Department
6 of Education (DepEd), the Commission on Higher Education (CHED), the
7 Technical Education and Skills Development Authority (TESDA), and such
8 other government agencies shall render nonmonetary compensation as may
9 be determined by the Board. This shall include, but not be limited to,
10 psychotherapy, counseling, social amelioration, and honorific recognition.
11 The amount necessary for this purpose shall be sourced from the budget of
12 the agency concerned as reflected in the annual General Appropriations Act.

13
14 Eligible claimants may immediately avail of nonmonetary compensation
15 upon final approval of the Board of their application of claims.

16
17 The Commission on Human Rights (CHR) shall monitor and facilitate the
18 proper implementation of this provision.

19
20
21 **SECTION 6. *Amount of Compensation.*** - The amount of compensation under
22 this Act shall be determined in accordance with the number of points
23 assigned to the individual under Section 20 of this Act.

24
25
26 **SECTION 7. *Source of Compensation.*** - The funds transferred to the
27 Government of the Philippines by virtue of the December 10, 1997 Order of
28 the Swiss Federal Supreme Court, adjudged by the Supreme Court of the
29 Philippines as final and executory in Republic vs. Sandiganbayan on July 15,
30 2003 (GR No. 152154) as Marcos ill-gotten wealth and forfeited in favor of
31 the Republic of the Philippines, shall be the principal source of funds to
32 compensate HRVVS as defined in this Act.

33
34 The amount of Ten billion five hundred million pesos (Php
35 10,500,000,000.00) is set aside and appropriated to compensate HRVVs
36 pursuant to this Act: Provided, that the said amount shall be deposited as a
37 special account in the General Fund in trust for the HRVVs.

38
39 Provided further, that the fund shall not be withdrawn or disbursed by the
40 National Government for any other purpose: Provided furthermore, that all
41 interest shall accrue to the General Fund: Provided, finally, That after the

1 completion of the mandate under this Act, any balance of the special account
2 for the compensation of the HRVVs shall revert to the General Fund.

3
4 **SECTION 8.** *Creation and Composition of the Human Rights Victims*
5 *Compensation Board-* An independent Human Rights Victims Compensation
6 Board, to be referred to as the Board, is hereby created. It shall be composed
7 of seven (7) members, who shall possess the following qualifications:

- 8
9 a) Must be of known probity, competence, and integrity;
10 b) Must have deep understanding of the human rights violations
11 committed during the rule of former president Ferdinand E. Marcos;
12 c) At least one (1) of them must be a member of the Philippine Bar who
13 has been engaged in the practice of law for at least five (5) years; and
14 Must have understanding of human rights protection, promotion and
15 advocacy.

16
17 **SECTION 9.** *Appointment to the Board.-* The President of the Philippines shall
18 appoint seven (7) members of the Board from among a list of fifteen (15)
19 nominees to be submitted by a Nominations Committee.

20
21 The first nominee appointed by the President or the appointee whose name
22 appears first in the list of appointees shall be the Chairperson of the Board.

23
24 The incumbent Chairperson of the CHR, or any person duly authorized by the
25 CHR en banc, shall be the ex-officio co-chairperson of the Board, and shall
26 assume the duties and responsibilities jointly with the Chairperson
27 appointed by the President.

28
29 The Board shall organize itself within thirty (30) days from appointment of
30 all seven (7) members and shall thereafter organize its Secretariat.

31
32 No human rights violation victim who is entitled to compensation as defined
33 in this Act shall be nominated to become a member of the Board.

34
35
36 **SECTION 10.** *Nominations Committee.-* A Nominations Committee is hereby
37 created which shall be chaired by the Executive Secretary with members
38 representing the following:

- 39
40 a. Commission on Human Rights (CHR)
41 b. Task Force Detainees of the Philippines (TFDP);

- c. Samahan ng mga Ex-Detainee Laban sa Detensyon at Aresto (SELDA);
- d. Families of the Involuntary Disappeared (FIND)

SECTION 11. Consultative Body- There shall also be created a consultative body which shall work, together with the Secretariat, in close coordination with the Board and shall perform the primary function of identifying and monitoring the legitimate victims who may be eligible for compensation under this Act. The consultative body shall be composed of one (1) representative from each of the following human rights organizations:

- a. Task Force Detainees of the Philippines (TFDP);
- b. Samahan ng mga Ex-Detainee Laban sa Detensyon at Aresto (SELDA);
- c. Families of the Involuntary Disappeared (FIND)
- d. Claimants 1081; and
- e. KARAPATAN.

SECTION 12. Powers and Functions of the Board. - The Board shall have the following powers and functions:

- a) To evaluate and approve with finality all eligible claims under this Act;
- b) To conduct independent administrative proceedings and resolve disputes over claims;
- c) To deputize appropriate government agencies to assist it in order to effectively implement its functions;
- d) To promulgate rules and regulations in order to carry out the objectives of this Act;
- e) To issue subpoena/s ad testificandum and subpoena duces tecum;
- f) To exercise administrative control and supervision over its Secretariat; and
- g) To perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of this Act.

SECTION 13. Meetings of the Board- The Board shall meet once a week but not to exceed eight (8) times a month. Four (4) members shall constitute a quorum. For the final approval of claims and all other resolutions which need the approval of the Board, a majority of votes from all the Members of the Board shall be required.

1 **SECTION 14. *Resolution of Claims.***- The Board shall be composed of two (2)
2 divisions which shall function simultaneously and independently of each
3 other in the resolution of conflicting claims for compensation. Each Division
4 shall be composed of one (1) Chairperson and two (2) Members to be
5 appointed by the Chairperson of the Board.

6
7 **SECTION 15. *Emoluments.***- The Chair and Members of the Board shall
8 receive per diems for every meeting actually attended at rates to be
9 approved by the Department of Budget and Management (DBM).

10
11 **SECTION 16. *Secretariat of the Board.***- The Board shall be assisted by a
12 Secretariat which shall come from the existing personnel of the CHR. The
13 following shall be the functions of the Secretariat:

- 14
15 a. Receive, evaluate, process and investigate applications for claims
16 under this Act;
17 b. Make recommendations to the Board on whether or not a claim should
18 be approved;
19 c. Assist the Board in technical functions;
20 d. Perform other duties that may be assigned by the Board.

21
22 The Chairperson of the Board shall appoint a Board Secretary who shall head
23 the Secretariat for the duration of the existence of the Board. There shall be a
24 Technical Staff Head assisted by five (5) legal officers and three (3) paralegal
25 officers; and an Administrative Staff Head assisted by three (3)
26 Administrative Support Staff.

27
28 When necessary, the Board may hire additional contractual employees or
29 contract a service provider to provide services of counselors, psychologists,
30 social workers and public education specialists, among others, to augment
31 the services of the Secretariat: Provided, that the maximum contract amount
32 per year shall not exceed more than fifteen percent (15%) of the total annual
33 operating budget of the Board.

34
35 **SECTION 17. *Operating Budget of the Board.*** - The initial amount of fifty
36 million pesos (Php 50,000,000.00) from the president's contingency fund
37 shall be used for the establishment and operation of the Board.

38
39 **SECTION 18. *Proper Disposition of funds.*** - The Board shall ensure that the
40 funds appropriated or those which may become available as compensation
41 for HRVVs are properly disbursed in accordance with the policies stated by
42 Congress and relevant government accounting procedures.

1
2 **SECTION 19.** *Conclusive finding that one is a Human Rights Victim.* - Any
3 person/s who has secured or can secure in their favor a judgment or award
4 of damages from any court of the Philippines or any other foreign court
5 arising from a human rights violation as defined in Section 3 of this Act shall
6 be entitled to a conclusive finding that one is a human rights violation victim
7 as defined in this Act.

8
9 The claimants in the class suit and the direct action plaintiffs in the Marcos
10 human rights litigation (MDL No. 840, CA No. 86-0390) in the United States
11 Federal District Court of Honolulu in Hawaii are also declared conclusively as
12 HRVVs as defined in this Act.

13
14 The CHR shall secure the list of victims, from the Court that renders the
15 decision stated above, within sixty (60) days from the effectivity of this Act
16 and for decisions to be rendered in the future, within sixty (60) days from
17 the finality of such decision.

18
19
20 **SECTION 20.** *Determination of Award.* -

21
22 A. The Board shall follow the point system in the determination of any
23 award. The range shall be one (1) to ten (10) points, as follows:

- 24
25 1. victims who died or who disappeared and are still missing shall
26 be given 10 points
27 2. victims who were tortured and/or raped shall be given four (4)
28 to nine (9) points
29 3. victims who were detained shall be given two (2) to four (4)
30 points
31 4. victims who were forcibly exiled from the Philippines,
32 kidnapped or otherwise exploited, sexually offended but not
33 raped in the course of the conduct of military and/or police
34 operations, or those whose rights were violated under Section 3,
35 paragraph (a)(5)(vi) shall be given one (1) to four (4) points.

36
37
38 The Board shall exercise its powers with due discretion, the determination of
39 points for each victim, which shall be based on the type of violation
40 committed against the HRVV, frequency and duration of the violation. In
41 instances where a victim is classified in more than one category, one shall be
42 awarded the points in the higher category.

1
2
3 Any person who does not fall under the classification above but was
4 nevertheless an HRVV victim can file a claim with the Board for
5 compensation and/or recognition.

6
7 Within fifteen (15) days after the lapse of the period of six (6) months for the
8 filing of applications under this Act, each qualified claimant shall then
9 receive from the Board the final monetary value of one's award.

10
11
12 B. The Board shall set aside eighty percent (80%) of the total
13 compensation fund appropriated under this Act and utilize such
14 amount for the compensation of eligible HRVVs in the class suit,
15 including the direct action plaintiffs in the Marcos human rights
16 litigation (MDL No. 840, CA No. 86-0390) in the US Federal District
17 Court of Honolulu, Hawaii.

18
19 **Section 21. *Other Claimants.***- Any person who does not fall under the
20 preceding section 20 but was an HRVV can file a claim with the Human
21 Rights Victims' Compensation Board for compensation and/or recognition.

22
23 The Board shall apply the point system as applied to Hawaii plaintiffs
24 indicated in Section 19 of this Act.

25
26 For other claimants, the Board shall utilize twenty percent (20%) of the total
27 compensation fund appropriated under this Act to compensate the other
28 claimants not granted compensation in the Hawaii decision indicated in
29 Section 19 of this Act.

30
31 **SECTION 22. *Documentation of Human Rights Violations during the Marcos***
32 ***Regime.*** - Without prejudice to other submissions which may be required by
33 the Board in the implementation of this Act, any HRVV or the legal heir/s or
34 representatives thereof seeking compensation shall execute a detailed sworn
35 statement, accompanied by photographs, letters, death certificates, pleadings
36 and other judicial or quasi-judicial documents, newspaper or videotaped
37 accounts, and/or materials or testimonials of witnesses corroborating and
38 narrating the circumstances of the human rights violations committed
39 against the said HRVV. Such evidentiary proofs shall be compiled by the
40 Board and the CHR, with the assistance of the National Historical
41 Commission of the Philippines (NHCP), the University of the Philippines
42 (UP), and non-governmental organizations (NGOs) whose assistance may be

1 engaged, for the purposes of documenting and establishing an archive of
2 human rights violations during the Marcos regime. The compilation shall be
3 submitted to the President, the Congress of the Philippines, and the Supreme
4 Court within two (2) years from the effectivity of this Act.

5
6 **SECTION 23. *Roll of Victims.*** –Persons who are established to be HRVVs shall
7 be given recognition by the enshrinement of their names in a Roll of Victims
8 of Human Rights Violations to be prepared by the Board. The Roll shall be
9 filed with the National Library and in such offices and agencies, both national
10 and international, which are dedicated to the prevention of human rights
11 abuses. The NHCP shall erect in a conspicuous location an appropriate
12 memorial, shrine or monument honoring these HRVVs.

13
14 **SECTION 24. *Publication.*** – The Board, after having been duly convened,
15 shall set the period for the commencement and termination of applications
16 by HRVVs and cause the publication of the same: Provided, that such period
17 shall only be operative fifteen (15) days after its last publication, which shall
18 be once a week for three (3) consecutive weeks in at least two (2) national
19 newspapers of general circulation.

20
21 **SECTION 25. *Period of Filing of Claims; Waiver.***– An HRVV shall file an
22 application for compensation with the Board within six (6) months from the
23 effectivity of the implementing rules and regulations (IRR) of this Act:
24 Provided, that failure to file an application within said period is deemed a
25 waiver of the right to file the same: Provided, further, that for HRVVs who
26 are deceased or incapacitated, their legal heirs or representatives shall be
27 entitled to file an application for compensation on their behalf.

28
29 Any opposition to applications filed pursuant to this Act shall only be
30 entertained if such is filed within fifteen (15) days from the date of the last
31 publication of the official list of eligible claimants as may be determined by
32 the Board. The Board shall cause the publication of the official list of eligible
33 claimants once a week for three (3) consecutive weeks in at least two (2)
34 national newspapers of general circulation.

35
36 **SECTION 26. *Appeal.***– Any aggrieved claimant may file an appeal within
37 fifteen (15) days from the receipt of the Resolution of the Division, to the
38 Board en banc, whose decision shall then become final and executory.

1 **SECTION 27. *Period.*** - The Board shall complete their work within two (2)
2 years from the approval of the Implementing Rules and Regulations unless
3 the same is extended by an Act of Congress.

4
5 **SECTION 28. *Implementing Rules and Regulations.*** Within thirty (30) days
6 from the date of its organization, the Board shall promulgate the
7 implementing rules and regulations of this Act. The IRR shall be effective
8 fifteen (15) days after its publication in two (2) national newspapers of
9 general circulation.

10
11
12 **SECTION 29. *Repealing Clause.*** - All laws, decrees, executive orders, rules
13 and regulations, or parts thereof inconsistent with any of the provisions of
14 this Act are hereby repealed or modified accordingly.

15
16 **SECTION 30. *Separability Clause.*** — If, for any reason, any section or
17 provision of this Act is declared unconstitutional or invalid, such other
18 sections or provisions not affected thereby shall remain in full force and
19 effect.

20
21 **SECTION 31. *Effectivity Clause.*** — This Act shall take effect fifteen (15)
22 days after its complete publication in the Official Gazette or in at least two
23 (2) national newspapers of general circulation.

24
25 Approved,