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SENATE
S.B. No. 1011

RECEIVED BY: 

Introduced by Senator SONNY ANGARA

**AN ACT AMENDING BATAS PAMBANSA BLG. 68
OR THE CORPORATION CODE OF THE PHILIPPINES**

EXPLANATORY NOTE

Enacted in 1980, the Corporation Code, while still good law for the most part, is dated and fails to keep up with the changing times. While other countries reap the benefits of a more long-term focus and the acceptance of new business models, the Philippines lags behind, remaining bound by express limitations in the Code on the life of corporations, who may incorporate, and the form and manner of incorporation. Traditional procedures and processes embedded in the Code, which were expedient and effective thirty years ago, have been reduced to stumbling blocks for businesses struggling to thrive in an increasingly fast-paced environment where communication and information exchange steadily accelerate. The constant evolution and escalating prevalence of abuses and fraudulent practices in the corporate scene, and the more technologically-advanced ways of propagating the same, have rendered once-effective safeguards in the Code grossly inadequate.

In addition, the Philippines' performance in international evaluations indicates a need for reform. While garnering the distinction of "most improved" in the Ease of Doing Business ranking for 2013 (after jumping 30 places to 108th of 189 countries), the Philippines is still in the bottom half of the list, trailing far behind several of its Southeast Asian counterparts. In the 2013-2014 ASEAN Corporate Governance Scorecard Report and Assessment of its top 94 publicly listed companies (PLCs), the Philippine PLCs scored an average of 58%. Additionally, in the 2012 Civil Society Report by Transparency and Accountability Network (presented to the Conference of the States Parties to the United Nations Convention against Corruption in 2012), the Philippines was found as having only partially complied with the standards and principles of the UN Convention Against Corruption, indicating a vulnerability to "Napoles-like" scams.

Under this light, the proposed amendments incorporate international best standards and practices, specifically tailored to address the needs and realities of the Philippine corporate setting, and introduce new concepts and mechanisms to help the Philippines keep up with the changing times. In the same manner, the amendments are geared towards enabling the Philippines to move towards full compliance with the requirements of international bodies and, in the process, make it more attractive to investors. Thus, amendments have been introduced to, among others, encourage new businesses, contribute to the ease of doing business, strengthen corporate governance, better protect the rights of stockholders, minimize/deter corporate abuses and fraud, strengthen anti-corruption measures, and fortify the regulatory authority of the Commission.

To encourage new businesses, the amendments include shifting to perpetuity, removing the minimum number of incorporators, and allowing the formation of one person corporations. Thus, corporations in general will have perpetual existence, enabling a more long-term mindset that will foster sustainability; smaller businesses may reap the advantages of the corporate vehicle with as few as two incorporators; and single proprietors may protect their personal properties by setting up one person corporations.

To improve on the ease of doing business, the name verification process will be simplified with the use of only "distinguishability" as a criterion, electronic submissions and

notices will be accepted, and the Commission will have the authority to develop new systems such as online registration. Additionally, the amendments clarify the procedures for dissolution, as well as give non-compliant corporations a grace period for compliance. In lieu of immediate revocation, action on matters brought by delinquent corporations to the Commission shall be withheld until full compliance is made.

A good number of the amendments are proposed to strengthen corporate governance, which will also better protect the rights of stockholders, and deter corporate abuses and fraud as well as graft and corrupt practices. These amendments incorporate into the Code most of the standards for good corporate governance found in the ASEAN corporate governance scorecard. The Philippines would be the first to apply these standards not only to publicly listed companies but to all corporations. Thus, provisions have been introduced for increased disclosure and transparency, increased director disqualifications, independent directors, allowing attendance at meetings by remote communication, and allowing voting in absentia, among others. The concept of an emergency board is also introduced to enable the board to act in an emergency even when there is a failure of quorum.

In addition, the amendments to improve corporate governance also protect stockholders. Other amendments have likewise been introduced for this particular purpose, including expressly extending the right of inspection to a stockholder's counsel or representative and providing a solution to the problem of perpetual holdovers. With respect to the latter, the Commission will have the authority to direct the holding of a meeting upon notice of a failure to hold the same, and will have access to corporate records necessary for this purpose. The meeting called by the Commission will have a special measure of quorum, i.e. whoever is in attendance, in order to compel attendance at the meeting and to reduce instances of deliberate non-attendance to avoid quorum.

The proposed amendments for corporate governance are also intended to curb corporate abuses and fraud, as well as strengthen anti-corruption measures. In the fight against corporate abuses and fraud, and graft and corrupt practices, whistleblower provisions have been included and a code of ethics/standards of conduct will be required in the by-laws. These are in addition to the proposal to include criminal liability for the usage of the corporate vehicle for fraud, and graft and corrupt practices whether done directly or through an intermediary (including the dissolution of the corporation and the forfeiture of its assets) and for retaliation against whistleblowers. In these instances, corporate criminal liability shall be separate and distinct from the criminal liability of responsible officers and directors.

The other amendments are intended to fortify the regulatory authority of the Commission. Thus, provisions on the following, among others, have been included: the harmonization of its powers with those in the Securities and Regulation Code, greater visitorial powers, powers to remove signages of deregistered names, issuance of *ex parte* cease and desist orders to prevent fraud or injury to the public, forfeiture of assets when the corporate vehicle is used for fraud or graft and corrupt practices, and fiscal autonomy.

With the foregoing backdrop and objectives in mind, the urgency of the amendments becomes apparent. It is hoped that these amendments will be given priority status so that the vision of a globally competitive Philippines may be achieved.


In view of the foregoing, immediate approval of this bill is earnestly sought.



SONNY ANGARA

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SENATE
S.B. No. 1011

RECEIVED BY: 

Introduced by Senator SONNY ANGARA

**AN ACT AMENDING BATAS PAMBANSA BLG. 68
OR THE CORPORATION CODE OF THE PHILIPPINES**

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

SECTION 1. Section 6 of Batas Pambansa Blg. 68 or The Corporation Code of the Philippines (hereinafter, Code), is hereby amended to read as follows:

"Sec. 6. *Classification of shares.* – The shares of stock of stock corporations may be divided into classes or series of shares, or both, any of which classes or series of shares may have such rights, privileges or restrictions as may be stated in the articles of incorporation: *Provided*, That no share may be deprived of voting rights except those classified and issued as "preferred" or "redeemable" shares, unless otherwise provided in this Code: *Provided further*, That there shall always be a class or series of shares [which have] **WITH** complete voting rights. Any or all of the shares or series of shares may have a par value or have no par value as may be provided for in the articles of incorporation: *Provided, however*, That banks, trust companies, insurance companies, **PRE-NEED COMPANIES**, public utilities, and building and loan associations shall not be permitted to issue no-par value shares of stock.

Preferred shares of stock issued by any corporation may be given preference in the distribution of the assets of the corporation in case of liquidation and in the distribution of dividends, or such other preferences as may be stated in the articles of incorporation which are not violative of the provisions of this Code: *Provided*, That preferred shares of stock may be issued only with a stated par value. The board of directors, where authorized in the articles of incorporation, may fix the terms and conditions of preferred shares of stock or any series thereof: *Provided*, That such terms and conditions shall be effective upon [filing of a certificate thereof with the Securities and Exchange Commission] **THE ISSUANCE BY THE SECURITIES AND EXCHANGE COMMISSION, HEREINAFTER REFERRED TO AS THE "COMMISSION", OF A CERTIFICATE THAT THE TERMS AND CONDITIONS OF THE PREFERRED SHARES ARE NOT INCONSISTENT WITH THE PROVISIONS**

1 OF THIS CODE, THE CONSTITUTION OF THE PHILIPPINES, AND OTHER
2 EXISTING LAWS, RULES AND REGULATIONS.

3 xxx xxx xxx"
4

5 **SEC. 2.** Section 7 of the Code is hereby amended to read as follows:

6 "Sec. 7. *Founders' shares.* - Founders' shares classified as such in the
7 articles of incorporation may be given certain rights and privileges not enjoyed by
8 the owners of other stocks, provided that where the exclusive right to vote and
9 be voted for in the election of directors is granted, it must be for a limited period
10 not to exceed five (5) years subject to the approval of the [Securities and
11 Exchange] Commission. The five-year period shall commence from the date of
12 the aforesaid approval by the [Securities and Exchange] Commission:
13 **PROVIDED, THAT THE EXCLUSIVE RIGHT TO VOTE OR BE VOTED FOR**
14 **SHALL NOT BE ALLOWED IF ITS EXERCISE WILL VIOLATE THE RULES**
15 **AND REGULATIONS OF THE COMMISSION, COMMONWEALTH ACT NO.**
16 **108, AND REPUBLIC ACT 7042; PROVIDED, FURTHER, THAT THE SAID**
17 **RIGHT SHALL BE GRANTED ONLY ONCE.**

18 AFTER THE LAPSE OF THE FIVE-YEAR PERIOD, THE SHARES
19 SHALL AUTOMATICALLY HAVE THE SAME VOTING RIGHTS AND
20 PRIVILEGES AS COMMON SHARES."
21

22 **SEC. 3.** Section 8 of the Code is hereby amended to read as follows:

23 "Sec. 8. *Redeemable shares.* - Redeemable shares may be issued by
24 the corporation when expressly so provided in the articles of incorporation. [They
25 may be purchased or taken up by the corporation upon the expiration of a fixed
26 period, regardless of the existence of unrestricted retained earnings in the books
27 of the corporation, and upon such other terms and conditions as may be stated
28 in the articles of incorporation, which terms and conditions must also be stated in
29 the certificate of stock representing said shares.] **THE CORPORATION MAY**
30 **REDEEM THE SAID SHARES ONLY IF, AFTER SUCH REDEMPTION, IT**
31 **SHALL STILL HAVE SUFFICIENT ASSETS IN ITS BOOKS TO COVER**
32 **LIABILITIES INCLUSIVE OF THE SUBSCRIBED CAPITAL STOCK, AND**
33 **SUCH REDEMPTION IS IN ACCORDANCE WITH THE TERMS AND**
34 **CONDITIONS STATED IN THE ARTICLES OF INCORPORATION AND/OR**
35 **THE CERTIFICATE OF STOCK REPRESENTING SAID SHARES.**

36 EXCEPT AS PROVIDED IN THE IMMEDIATELY PRECEDING
37 PARAGRAPH, NO CORPORATION SHALL REDEEM, REPURCHASE OR
38 REACQUIRE ITS OWN SHARES OF WHATEVER CLASS, UNLESS IT HAS
39 SUFFICIENT UNRESTRICTED RETAINED EARNINGS TO FUND THE COST
40 OF SUCH REDEMPTION, REPURCHASE OR REACQUISITION; **PROVIDED,**
41 **THAT SUCH REQUIREMENT SHALL NOT APPLY IF THE REDEMPTION,**

1 REPURCHASE OR REACQUISITION IS MADE UNDER ANY OF THE
2 FOLLOWING CIRCUMSTANCES:

3 a) PURSUANT TO A CONVERSION RIGHT PROVIDED FOR IN THE
4 ARTICLES OF INCORPORATION;

5 b) TO EFFECT A DECREASE IN THE AUTHORIZED CAPITAL STOCK
6 OF THE CORPORATION AS APPROVED BY THE COMMISSION; AND

7 c) UPON INSTRUCTION TO A CLOSE CORPORATION BY THE
8 COMMISSION TO RESOLVE A DEADLOCK.”
9

10 **SEC. 4.** Section 10 of the Code is hereby amended to read as follows:

11 “Sec. 10. *Number and qualifications of incorporators.* - Any number of
12 **PERSONS**, natural **OR JURIDICAL**, [persons not less than five (5)] but not more
13 than fifteen (15), [all of legal age] and a majority of whom are residents of the
14 Philippines], may form a private corporation for any lawful purpose or purposes.
15 Each of the incorporators of a stock corporation must own or be a subscriber to at
16 least one (1) share of the capital stock of the corporation.”
17

18 **SEC. 5.** Section 11 of the Code is hereby amended to read as follows:

19 “Sec. 11. *Corporate term.* - **UNLESS SOONER DISSOLVED**, a
20 corporation shall exist [for a period] **PERPETUALLY, OR AS OTHERWISE**
21 **STATED IN THE ARTICLES OF INCORPORATION. A TERM LESS THAN**
22 **PERPETUAL** [not exceeding fifty (50) years from the date of incorporation unless
23 sooner dissolved or unless said period is] **MAY BE** extended [. The corporate
24 term as originally stated in the articles of incorporation may be extended for
25 periods not exceeding fifty (50) years in any single instance] by an amendment of
26 the articles of incorporation, in accordance with this Code; Provided, That no
27 extension can be made earlier than [five (5)] **THREE (3)** years prior to the
28 original or subsequent expiry date(s) unless there are justifiable reasons for an
29 earlier extension as may be determined by the [Securities and Exchange]
30 Commission; **PROVIDED, FURTHER, THAT SUCH EXTENSION OF THE**
31 **CORPORATE TERM SHALL TAKE EFFECT ONLY ON THE DAY**
32 **FOLLOWING THE ORIGINAL OR SUBSEQUENT EXPIRY DATE(S).**

33 **THE CORPORATE TERM MAY BE SHORTENED BY AN AMENDMENT**
34 **OF THE ARTICLES OF INCORPORATION IN ACCORDANCE WITH THIS**
35 **CODE.**

36 **REGARDLESS OF THE TERM, ALL CORPORATIONS SHALL REMAIN**
37 **UNDER THE SUPERVISION AND REVIEW OF THE COMMISSION. A**
38 **CORPORATION WITH A PERPETUAL TERM OR A TERM EXCEEDING**
39 **TWENTY-FIVE YEARS SHALL COMPLY WITH THE RENEWAL**
40 **REQUIREMENTS THE COMMISSION MAY PRESCRIBE THEREFOR ON THE**
41 **TWENTY-FIFTH YEAR AND EVERY TWENTY-FIVE YEARS THEREAFTER,**
42 **OR AT SUCH INTERVALS AS THE COMMISSION MAY LATER DETERMINE.**

1 THE COMMISSION SHALL CHARGE SUCH PENALTIES AS IT MAY DEEM
2 APPROPRIATE AND WITHHOLD ACTION ON ANY MATTER BROUGHT BY A
3 RENEWING CORPORATION, INCLUDING BUT NOT LIMITED TO
4 APPLICATIONS FOR THE AMENDMENT OF THE ARTICLES OF
5 INCORPORATION AND/OR BY-LAWS AND THE ISSUANCE OF
6 CERTIFICATIONS OF GOOD STANDING OR THOSE REQUIRED FOR
7 TRANSACTIONS WITH OTHER GOVERNMENT AGENCIES, UNTIL FULL
8 COMPLIANCE WITH THE COMMISSION'S RENEWAL REQUIREMENTS IS
9 MADE.

10 A CORPORATION WHOSE TERM EXPIRED OR LAPSED WITHIN TEN
11 YEARS PRIOR TO THE EFFECTIVITY OF THIS CODE, AND WHICH HAS NOT
12 REINCORPORATED, MAY APPLY WITH THE COMMISSION FOR THE
13 REVIVAL OF ITS CERTIFICATE OF INCORPORATION IF IT CAN SHOW THAT
14 REINCORPORATION WOULD BE DIFFICULT OR DELETERIOUS TO IT AND
15 THAT IT CONTINUES TO BE A GOING CONCERN OR CAN READILY REVIVE
16 ITS OPERATIONS. UPON APPROVAL BY THE COMMISSION AND SUBJECT
17 TO THE CORPORATION'S COMPLIANCE WITH THE COMMISSION'S
18 REQUIREMENTS OR CONDITIONS FOR REVIVAL AND THE PAYMENT OF
19 THE PRESCRIBED FEES, THE COMMISSION SHALL REVIVE THE
20 CORPORATION'S CERTIFICATE OF INCORPORATION AND THE
21 CORPORATION SHALL THENCEFORTH EXIST IN ACCORDANCE WITH THIS
22 SECTION."

23
24 **SEC. 6.** Section 12 of the Code is hereby amended to read as follows:

25 "Sec. 12. *Minimum capital stock required of stock corporations.* –Stock
26 corporations incorporated under this Code shall [not be required to have any]
27 **HAVE A** minimum authorized capital stock **OF ONE MILLION (P1,000,000.00)**
28 **PESOS** [except as] **OR SUCH AMOUNT AS MAY BE DETERMINED BY THE**
29 **COMMISSION AFTER DUE NOTICE TO THE PUBLIC, UNLESS A**
30 **DIFFERENT AMOUNT IS REQUIRED BY ANY LAW** [otherwise specifically
31 provided for by special law], and subject to the provisions of the following
32 section[.]; **PROVIDED, HOWEVER, THAT FOR CORPORATIONS ISSUING NO**
33 **PAR VALUE SHARES, THE MINIMUM AUTHORIZED CAPITAL STOCK**
34 **SHALL BE 200,000 SHARES; AND PROVIDED, FURTHER, THAT WHERE**
35 **CAPITAL CONSISTS OF BOTH PAR AND NO-PAR VALUE SHARES, THE**
36 **MINIMUM AUTHORIZED CAPITAL STOCK SHALL BE ONE MILLION**
37 **(P1,000,000.00) PESOS."**

38
39 **SEC. 7.** Section 13 of the Code is hereby amended to read as follows:

40 "Sec. 13. *Amount of capital stock to be subscribed and paid for purposes*
41 *of incorporation.* – **EXCEPT WITH RESPECT TO ONE PERSON**
42 **CORPORATIONS AND SMALL CORPORATIONS WHOSE CAPITAL STOCK**

1 **SHALL BE PAID IN FULL UPON SUBSCRIPTION, at least twenty-five (25%)**
2 **percent of the NUMBER OF SHARES OF THE** authorized capital stock as stated
3 **in the articles of incorporation must be subscribed at the time of incorporation,**
4 **and at least twenty-five (25%) percent of the VALUE OF THE** total subscription
5 **must be paid upon subscription, the balance to be payable on a date or dates**
6 **fixed in the contract of subscription without need of call, or in the absence of a**
7 **fixed date or dates, upon call for payment by the board of directors: *Provided,***
8 ***however,* That in no case shall the paid-up capital be less than [five thousand**
9 **(P5,000.00) pesos.] SIXTY TWO THOUSAND FIVE HUNDRED (P62,500.00)**
10 **PESOS, OR SUCH AMOUNT AS MAY BE DETERMINED BY THE**
11 **COMMISSION OR REQUIRED IN OTHER LAWS; PROVIDED, HOWEVER,**
12 **THAT WITH RESPECT TO NO PAR VALUE SHARES, AT LEAST TWENTY-**
13 **FIVE PERCENT (25%) OF SAID SHARES OF THE AUTHORIZED CAPITAL**
14 **STOCK MUST BE SUBSCRIBED AND FULLY PAID UPON SUBSCRIPTION."**
15

16 **SEC. 8.** Section 14 of the Code is hereby amended to read as follows:

17 "Sec. 14. *Contents of articles of incorporation.* - All corporations
18 organized under this Code shall file with the [Securities and Exchange]
19 Commission articles of incorporation in any of the official languages, duly signed
20 and acknowledged by all of the incorporators, containing substantially the
21 following matters, except as otherwise prescribed by this Code or by special law:

22 1. The name of the corporation;

23 xxx xxx xxx

24 3. [The place where the principal office of the corporation is to be located,
25 which must be within the Philippines] **THE SPECIFIC ADDRESS, WHICH**
26 **SHALL INCLUDE, WHERE APPLICABLE, THE STREET NUMBER, STREET**
27 **NAME, BARANGAY, CITY OR MUNICIPALITY, AND PROVINCE OF THE**
28 **PRINCIPAL OFFICE OF THE CORPORATION, WHICH MUST BE WITHIN THE**
29 **PHILIPPINES;**

30 4. [The term for which the corporation is to exist] **A PROVISION**
31 **LIMITING THE DURATION OF THE CORPORATION'S EXISTENCE TO A**
32 **SPECIFIED DATE; OTHERWISE, THE CORPORATION SHALL HAVE**
33 **PERPETUAL EXISTENCE;**

34 xxx xxx xxx

35 9. If it be a non-stock corporation, [the amount of its capital,] the names,
36 nationalities and residences of the contributors and [the amount contributed by
37 each] **THE TOTAL AMOUNT OF CONTRIBUTED CAPITAL BY THE**
38 **INCORPORATORS AND MEMBERS THEREOF; [and]**

39 **10. IF IT BE A STOCK CORPORATION, A STATEMENT OF THE**
40 **TREASURER, WHO SHALL BE AN INCORPORATOR, THAT AT LEAST**
41 **TWENTY-FIVE PERCENT (25%) OF THE NUMBER OF SHARES IN THE**
42 **AUTHORIZED CAPITAL STOCK OF THE CORPORATION HAS BEEN**

1 SUBSCRIBED AND AT LEAST TWENTY-FIVE PERCENT (25%) OF THE
2 TOTAL SUBSCRIPTION HAS BEEN FULLY PAID TO HIM IN ACTUAL CASH
3 AND/OR IN PROPERTY THE FAIR VALUATION OF WHICH IS EQUAL TO AT
4 LEAST TWENTY-FIVE (25%) PERCENT OF THE SAID SUBSCRIPTION,
5 SUCH PAID-UP CAPITAL BEING NOT LESS THAN SIXTY TWO THOUSAND
6 FIVE HUNDRED PESOS (P62,500.00) ;" AND

7 xxx xxx xxx

8 [The Securities and Exchange Commission shall not accept the articles of
9 incorporation of any stock corporation unless accompanied by a sworn statement
10 of the Treasurer elected by the subscribers showing that at least twenty-five
11 (25%) percent of the authorized capital stock of the corporation has been
12 subscribed, and at least twenty-five (25%) of the total subscription has been fully
13 paid to him in actual cash and/or in property the fair valuation of which is equal to
14 at least twenty-five (25%) percent of the said subscription, such paid-up capital
15 being not less than five thousand (P5,000.00) pesos.]

16 ARTICLES OF INCORPORATION OR AMENDMENTS THERETO MAY
17 BE FILED IN THE FORM OF AN ELECTRONIC DOCUMENT, IN
18 ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
19 COMMISSION ON THE USE OF ELECTRONIC DATA MESSAGES."
20

21 **SEC. 9.** Section 15 is hereby amended to delete the form on the Treasurer's Affidavit
22 and to read as follows:

23 "Sec. 15. *Form[s] of articles of incorporation; Filing.* - Unless otherwise
24 prescribed by special law, articles of incorporation of all domestic corporations
25 shall comply substantially with the following form:

26 ARTICLES OF INCORPORATION
27 OF

28 _____
29 (Name of Corporation)
30

31 KNOW ALL [MEN] PERSONS BY THESE PRESENTS:
32

33 xxx xxx xxx
34
35

36 TENTH: That _____ has been elected by the subscribers as
37 Treasurer of the Corporation to act as such until his successor is duly elected
38 and qualified in accordance with the by-laws, [and] that as such Treasurer, he
39 has been authorized to receive for and in the name and for the benefit of the
40 corporation, all subscription (or fees) or contributions or donations paid or given
41 by the subscribers or members, **THAT HE CERTIFIES THE INFORMATION**
42 **SET FORTH IN THE SEVENTH, EIGHT AND NINTH CLAUSES ABOVE, AND**

THAT HE HAS RECEIVED THE PAID-UP PORTION OF THE SUBSCRIPTION
IN CASH OR PROPERTY FOR THE BENEFIT AND CREDIT OF THE
CORPORATION.

xxx xxx xxx

IN WITNESS WHEREOF, we have hereunto signed these Articles of Incorporation, this day of, [19] 20..... in the City/Municipality of, Province of, Republic of the Philippines.

XXX XXX XXX

[TREASURER'S AFFIDAVIT

XXX XXX XXX

NOTARY PUBLIC

My commission expires on, 19

Doc. No.;

Page No.;

Book No.;

Series of 19]

SEC. 10. Section 16 of the Code is hereby amended to delete “Securities and Exchange” from “Securities and Exchange Commission” in each instance.

SEC. 11. Section 17 of the Code is hereby amended to read as follows:

“Sec. 17. *Grounds when articles of incorporation or amendment may be rejected or disapproved.* – The [Securities and Exchange] Commission may reject the articles of incorporation or disapprove any amendment thereto if the same is not in compliance with the requirements of this Code: Provided, That the Commission shall give the incorporators, **DIRECTORS, TRUSTEES OR OFFICERS** a reasonable time within which to correct or modify the objectionable portions of the articles or amendment. The following are grounds for such rejection or disapproval:

1. That the articles of incorporation or any amendment thereto is not substantially in accordance with the form prescribed herein;

XXX XXX XXX

[No articles of incorporation or amendment to articles of incorporation of banks, banking and quasi-banking institutions, building and loan associations, trust companies and other financial intermediaries, insurance companies, public utilities, educational institutions, and other corporations governed by special laws shall be accepted or approved by the Commission unless accompanied by a favorable recommendation of the appropriate government agency to the effect that such articles or amendment is in accordance with law.]

1 THE COMMISSION MAY REQUIRE AN ENDORSEMENT OR
2 FAVORABLE RECOMMENDATION FROM ANOTHER APPROPRIATE
3 GOVERNMENT AGENCY.
4

5 **SEC. 12.** Section 18 of the Code is hereby amended to read as follows:

6 "Sec. 18. *Corporate name.* - No corporate name may be allowed by the
7 [Securities and Exchange] Commission if the proposed name is [identical or
8 deceptively or confusingly similar] **NOT DISTINGUISHABLE** [to that of] **FROM**
9 **THAT ALREADY RESERVED OR REGISTERED IN FAVOR OF** any existing
10 corporation or to any other name already protected by law, or **WHEN THE SAME**
11 is [patently deceptive, confusing or] contrary to existing laws.

12 THE COMMISSION SHALL DETERMINE WHETHER A NAME IS
13 DISTINGUISHABLE FROM ANOTHER NAME FOR PURPOSES OF THIS
14 CODE. WITHOUT EXCLUDING OTHER NAMES WHICH MAY NOT
15 CONSTITUTE DISTINGUISHABLE NAMES AS DETERMINED BY THE
16 COMMISSION, AND SUBJECT TO THE RULES OR GUIDELINES THE
17 COMMISSION MAY SET WITH RESPECT THERETO, A NAME IS NOT
18 CONSIDERED DISTINGUISHABLE FOR PURPOSES OF THIS CODE
19 SOLELY BECAUSE IT CONTAINS ONE OR MORE OF THE FOLLOWING:

20 1. THE WORD "'CORPORATION", "COMPANY",
21 "INCORPORATED", OR "LIMITED", "LIMITED LIABILITY" OR AN
22 ABBREVIATION OF ONE OF SUCH WORDS;
23

24 2. PUNCTUATIONS, ARTICLES, CONJUNCTIONS,
25 CONTRACTIONS, ABBREVIATIONS, DIFFERENT TENSES,
26 SPACING OR NUMBER OF THE SAME WORD OR PHRASE.

27 THE FACT THAT A CORPORATE NAME COMPLIES WITH THIS
28 SECTION DOES NOT CREATE SUBSTANTIVE RIGHTS TO THE USE OF
29 THAT CORPORATE NAME. THE COMMISSION SHALL HAVE THE
30 AUTHORITY TO SUMMARILY REMOVE FROM REGISTRATION OR
31 RESERVATION ANY NAME WHICH IT LATER DETERMINES TO BE NOT
32 DISTINGUISHABLE AS STATED ABOVE.

33 WHEN A CORPORATE NAME IS REMOVED FROM REGISTRATION,
34 THE CORPORATION SHALL IMMEDIATELY CEASE FROM USING THE
35 SAME AND APPLY FOR THE REGISTRATION OF A NEW CORPORATE
36 NAME. SIMILARLY, A CORPORATION DIRECTED BY FINAL JUDGMENT TO
37 CHANGE ITS CORPORATE NAME SHALL NOT USE THE SAME IN ITS
38 OPERATIONS OR IN ANY OTHER WAY, EVEN AFTER ITS DISSOLUTION
39 OR REVOCATION AS A CORPORATION.

40 When a change in the corporate name is approved, the Commission shall
41 issue an amended certificate of incorporation under the amended name.

1 IF A CORPORATION USES OR CONTINUES TO USE A CORPORATE
2 NAME ALREADY REMOVED FROM REGISTRATION OR RESERVATION, OR
3 WHICH HAS BEEN DIRECTED TO BE CHANGED BY FINAL JUDGMENT,
4 THE COMMISSION SHALL DULY NOTIFY SAID CORPORATION AND
5 REQUIRE IT TO CEASE AND DESIST FROM THE CONTINUED USE OF
6 SUCH CORPORATE NAME WITHIN A PERIOD OF FIVE (5) DAYS. IF THE
7 CORPORATION FAILS TO COMPLY WITH THE COMMISSION'S ORDER
8 WITHIN THE FIVE-DAY PERIOD, THE COMMISSION MAY HOLD THE
9 CORPORATION AND/OR ITS RESPONSIBLE DIRECTORS OR OFFICERS IN
10 CONTEMPT, AND/OR CAUSE THE REMOVAL OF ALL VISIBLE SIGNAGES,
11 MARKS, ADVERTISEMENTS, LABELS, PRINTS AND OTHER EFFECTS
12 BEARING SUCH CORPORATE NAME IN THEIR POSSESSION. LIABILITY
13 UNDER THIS SECTION SHALL BE WITHOUT PREJUDICE TO THE
14 CORPORATION'S AND/OR ITS RESPONSIBLE DIRECTORS' OR OFFICERS'
15 LIABILITY FOR OTHER ADMINISTRATIVE, CIVIL, OR CRIMINAL
16 SANCTIONS UNDER THIS CODE AND OTHER LAWS."

17
18 **SEC. 13.** Section 19 of the Code is hereby amended to read as follows:

19 "Sec. 19. **REGISTRATION, INCORPORATION AND** *commencement of*
20 *corporate existence.* – A PERSON OR GROUP OF PERSONS DESIRING TO
21 INCORPORATE SHALL SUBMIT THE INTENDED CORPORATE NAME TO
22 THE COMMISSION FOR VERIFICATION. IF THE COMMISSION FINDS THAT
23 THE NAME IS DISTINGUISHABLE, THE NAME SHALL BE RESERVED IN
24 FAVOR OF THE INCORPORATORS. THE INCORPORATORS SHALL THEN:
25 (A) SUBMIT, AS MAY BE APPLICABLE, THEIR ARTICLES OF
26 INCORPORATION, THEIR BY-LAWS, AND SUCH OTHER DOCUMENTS
27 AND/OR INFORMATION AS MAY BE REQUIRED BY THE COMMISSION;
28 AND (B) PAY THE PRESCRIBED FEES.

29 INCORPORATORS SHALL HAVE THE OPTION OF RESERVING A
30 CORPORATE NAME, SUBMITTING THE REQUIREMENTS FOR
31 INCORPORATION AND PAYING THE PRESCRIBED FEES EITHER
32 THROUGH THE MANUAL PROCESS AT THE OFFICE OF THE COMMISSION
33 OR THROUGH ANY OTHER SYSTEM OF REGISTRATION AND
34 INCORPORATION WHICH THE COMMISSION MAY ESTABLISH, SUBJECT
35 TO THE CORRESPONDING RULES AND PROCEDURES THE COMMISSION
36 SHALL PRESCRIBE THEREFOR.

37 IF THE COMMISSION FINDS THAT THE SUBMITTED DOCUMENTS,
38 INFORMATION AND PAYMENT ARE COMPLETE AND IN FULL
39 COMPLIANCE OF THE REQUIREMENTS UNDER THIS CODE AND THE
40 RULES OF THE COMMISSION, AND THERE IS NO OTHER GROUND TO
41 REJECT OR DISAPPROVE ANY OF THE SUBMISSIONS, THE COMMISSION

1 **SHALL ISSUE THE CORRESPONDING CERTIFICATE OF INCORPORATION**
2 **AND REGISTER THE CORPORATE NAME EARLIER RESERVED.**

3 A private corporation formed or organized under this Code commences to
4 have corporate existence and juridical personality and is deemed incorporated
5 from the date the [Securities and Exchange] Commission issues [a] **THE**
6 certificate of incorporation under its official seal; **PROVIDED, THAT THE**
7 **COMMISSION MAY ISSUE THE CERTIFICATE OF INCORPORATION IN THE**
8 **FORM OF AN ELECTRONIC DOCUMENT, IN ACCORDANCE WITH THE**
9 **RULES AND REGULATIONS OF THE COMMISSION ON THE USE OF**
10 **ELECTRONIC DATA MESSAGES;** and thereupon the incorporators,
11 stockholders/members and their successors shall constitute a body politic and
12 corporate under the name stated in the articles of incorporation for the period of
13 time mentioned therein, unless said period is extended or the corporation is
14 sooner dissolved in accordance with law.

15
16 **SEC. 14.** Section 22 of the Code is hereby amended to read as follows:

17 *"Sec. 22. Effects of non-use of corporate charter and continuous*
18 *inoperation of a corporation; **DELINQUENCY AND REVOCATION.** – If a*
19 corporation does not formally organize and commence [the transaction of] its
20 business or the construction of its works within [two (2)] **FIVE (5)** years from the
21 date of its incorporation, its [corporate powers cease and the corporation]
22 **CERTIFICATE OF INCORPORATION** shall be deemed [dissolved] **REVOKED**
23 **AS OF THE DAY FOLLOWING THE END OF SAID FIVE-YEAR PERIOD,**
24 **WITHOUT NEED OF FURTHER ACTION BY THE COMMISSION.**

25 However, if a corporation [has] commenced [the transaction of] its
26 business but subsequently [becomes] **BECAME** [continuously] inoperative for a
27 period of at least five (5) **CONSECUTIVE** years, [the same shall be a ground for
28 the suspension or revocation of its corporate franchise or certificate of
29 incorporation] **THE COMMISSION MAY, AFTER DUE NOTICE AND HEARING,**
30 **EITHER REVOKE THE CORPORATION'S CERTIFICATE OF**
31 **INCORPORATION OR PLACE THE CORPORATION UNDER DELINQUENCY**
32 **STATUS. THE CORPORATION'S FAILURE TO COMPLY WITH THE**
33 **REPORTORIAL REQUIREMENTS UNDER SECTION 180 SHALL RENDER IT**
34 **INOPERATIVE FOR PURPOSES OF THIS CODE.**

35 **THE COMMISSION SHALL GIVE A DELINQUENT CORPORATION A**
36 **PERIOD OF TWO YEARS WITHIN WHICH IT MUST RESUME OPERATIONS,**
37 **COMPLY WITH ALL REQUIREMENTS, AND PAY ALL FINES THE**
38 **COMMISSION SHALL PRESCRIBE. THE COMMISSION SHALL CHARGE**
39 **SUCH PENALTIES AS IT MAY DEEM APPROPRIATE AND WITHHOLD**
40 **ACTION ON ANY MATTER BROUGHT BY A DELINQUENT CORPORATION,**
41 **INCLUDING BUT NOT LIMITED TO APPLICATIONS FOR THE AMENDMENT**
42 **OF THE ARTICLES OF INCORPORATION AND/OR BY-LAWS AND THE**

1 ISSUANCE OF CERTIFICATIONS OF GOOD STANDING OR THOSE
2 REQUIRED FOR TRANSACTIONS WITH OTHER GOVERNMENT AGENCIES,
3 UNTIL FULL COMPLIANCE WITH THE COMMISSION'S REQUIREMENTS
4 AND PAYMENT OF ALL FINES AND PENALTIES ARE MADE.

5 ONCE COMPLIANCE WITH THE COMMISSION'S REQUIREMENTS
6 AND PAYMENT OF FINES AND PENALTIES ARE COMPLETED, THE
7 COMMISSION SHALL ISSUE AN ORDER LIFTING THE DELINQUENCY
8 STATUS. FAILURE TO RESUME OPERATIONS, COMPLY WITH THE
9 COMMISSION'S REQUIREMENTS, AND PAY THE PENALTIES PRESCRIBED
10 WITHIN THE PERIOD GIVEN BY THE COMMISSION OR ANY EXTENSION
11 GRANTED BY IT, HOWEVER, SHALL RENDER THE CORPORATION'S
12 CERTIFICATE OF INCORPORATION REVOKED AS OF THE LAPSE OF SAID
13 PERIOD WITHOUT NEED OF FURTHER ACTION BY THE COMMISSION.

14 THE COMMISSION SHALL REVOKE THE CERTIFICATE OF
15 INCORPORATION OF A CORPORATION WHEN DIRECTED BY FINAL
16 JUDGMENT OF A COMPETENT COURT OR WHEN, AFTER DUE NOTICE
17 AND HEARING, THE COMMISSION DETERMINES THAT THE
18 CORPORATION COMMITTED VIOLATIONS OF THIS CODE OR ITS RULES
19 WHICH WARRANT THE REVOCATION OF ITS CERTIFICATE OF
20 INCORPORATION.

21 ONCE THE REVOCATION BECOMES FINAL, I.E. AFTER THE LAPSE
22 OF FIFTEEN DAYS FROM THE DATE OF REVOCATION, THE
23 CORPORATION SHALL BE BANNED FROM ANY FURTHER USE OF THE
24 CORPORATE NAME AND SHALL BE DISSOLVED IN ACCORDANCE WITH
25 THE PROVISIONS ON DISSOLUTION UNDER TITLE XIV OF THIS CODE.

26 [The provision shall not apply if the failure to organize, commence the
27 transaction of its business or the construction of its works, or to continuously
28 operate is due to causes beyond the control of the corporation as may be
29 determined by the Securities and Exchange Commission]."

30
31 **SEC. 15.** Section 23 of the Code is hereby amended to read as follows:

32 "Sec. 23. *The board of directors or trustees.* - Unless otherwise provided
33 in this Code, the corporate powers of all corporations formed under this Code
34 shall be exercised, all business conducted and all property of such corporations
35 controlled and held by the board of directors or trustees [to be elected from
36 among the holders of stocks, or where there is no stock, from among the
37 members of the corporation,] who shall hold office for one (1) year until their
38 successors are elected and qualified.

39 ONE PERSON CORPORATIONS SHALL HAVE ONLY ONE (1)
40 DIRECTOR OR TRUSTEE. SMALL CORPORATIONS SHALL HAVE AS
41 MANY DIRECTORS AS THERE ARE INCORPORATORS, NOT EXCEEDING
42 THREE (3). A CORPORATION SHALL BE DEEMED TO BE A SMALL

1 CORPORATION WHEN IT HAS ONLY TWO (2) OR THREE (3)
2 INCORPORATORS AND ITS TOTAL ASSETS DO NOT EXCEED FIVE
3 MILLION PESOS (PHP5,000,000.00)

4 CORPORATIONS WITH TEN (10) OR MORE MEMBERS, AS WELL AS
5 THOSE WITH TEN (10) OR MORE STOCKHOLDERS AND WITH TOTAL
6 ASSETS OF AT LEAST ONE HUNDRED MILLION PESOS (P100,000,000.00),
7 OR SUCH NUMBER AND AMOUNT AS MAY BE LATER SET BY THE
8 COMMISSION, SHALL HAVE AT LEAST ONE (1) INDEPENDENT DIRECTOR
9 OR TRUSTEE, OR SUCH OTHER MINIMUM NUMBER WHICH THE
10 COMMISSION MAY DETERMINE AS NECESSARY FOR GOOD CORPORATE
11 GOVERNANCE. THE COMMISSION SHALL PRESCRIBE THE MINIMUM
12 STANDARDS OR CRITERIA IN DETERMINING THE INDEPENDENCE OF A
13 DIRECTOR.

14 EXCEPT WITH RESPECT TO INDEPENDENT DIRECTORS,
15 DIRECTORS SHALL BE ELECTED FROM AMONG THE HOLDERS OF
16 STOCKS [Every director] AND must EACH own at least one (1) share of the
17 capital stock of the corporation of which he is a director, which share shall stand
18 in his name [on] IN the books of the corporation. [Any] IF ANY SUCH director
19 [who] ceases to be the owner of at least one (1) share of the capital stock of the
20 corporation, [of which he is a director] HE shall thereby cease to be a director.

21 Trustees of non-stock corporations [must be members thereof.], OTHER
22 THAN INDEPENDENT TRUSTEES, SHALL BE ELECTED FROM AMONG
23 THE MEMBERS OF THE CORPORATION. IF ANY SUCH TRUSTEE CEASES
24 TO BE A MEMBER OF THE CORPORATION, HE SHALL THEREBY CEASE
25 TO BE A TRUSTEE.

26 A majority of the directors or trustees of all corporations organized under
27 this Code, INCLUSIVE OF INDEPENDENT DIRECTORS OR TRUSTEES, must
28 be residents of the Philippines.

29 IT SHALL BE THE DUTY OF ALL DIRECTORS OR TRUSTEES TO
30 ATTEND ALL MEETINGS OF THE BOARD AND OF THE STOCKHOLDERS
31 OR MEMBERS AND THEIR ABSENCE MAY BE EXCUSED ONLY FOR
32 JUSTIFIABLE REASONS. WHEN RELATED PARTY TRANSACTIONS OR
33 SELF-DEALINGS OF A DIRECTOR ARE TAKEN UP, THE CONCERNED
34 DIRECTOR SHALL ABSENT HIMSELF FROM THE MEETING AND HIS
35 ABSENCE SHALL NOT BE COUNTED AGAINST HIM. DIRECTORS AND
36 TRUSTEES SHALL HAVE SUCH OTHER DUTIES AND RESPONSIBILITIES
37 PROVIDED IN THE CORPORATION'S BY-LAWS AND AS MAY BE
38 PRESCRIBED BY THE COMMISSION FOR GOOD CORPORATE
39 GOVERNANCE.
40
41
42

1 **SEC. 16.** Section 24 of the Code is hereby amended to read as follows:

2 "Sec. 24. *Election of directors or trustees.* – **OTHER THAN IN**
3 **INSTANCES WHEN THE EXCLUSIVE RIGHT IS WITHHELD FOR HOLDERS**
4 **OF FOUNDERS' SHARES UNDER SECTION 7, EACH STOCKHOLDER OR**
5 **MEMBER SHALL HAVE THE RIGHT TO NOMINATE ANY DIRECTOR OR**
6 **TRUSTEE WHO POSSESSES ALL OF THE QUALIFICATIONS AND NONE**
7 **OF THE DISQUALIFICATIONS SET FORTH IN THIS CODE OR IN THE**
8 **RULES OF THE COMMISSION.**

9 **EXCEPT AS PROVIDED IN SECTION 26 OF THIS CODE,** at all
10 elections of directors or trustees, there must be present, either in person, **BY**
11 **REMOTE COMMUNICATION,** or by representative authorized to act by written
12 proxy, the owners of a majority of the outstanding capital stock, or if there be no
13 capital stock, a majority of the members entitled to vote; **PROVIDED THAT**
14 **WHEN A VOTE IS CAST *IN ABSENTIA*, THE STOCKHOLDER OR MEMBER**
15 **WHO CAST THE VOTE SHALL BE DEEMED PRESENT FOR PURPOSES OF**
16 **QUORUM.**

17 **EACH STOCKHOLDER OR MEMBER SHALL HAVE THE RIGHT TO**
18 **VOTE IN PERSON, BY REMOTE COMMUNICATION, BY PROXY, AND/OR *IN***
19 ***ABSENTIA*; PROVIDED THAT VOTING BY REMOTE COMMUNICATION OR**
20 ***IN ABSENTIA* MAY BE RESORTED TO ONLY WHEN ALLOWED EITHER BY**
21 **THE BY-LAWS OF THE CORPORATION OR BY A MAJORITY OF THE**
22 **BOARD OF DIRECTORS AND WHEN THE CORPORATION HAS INSTITUTED**
23 **REASONABLE MEASURES TO VERIFY THAT THE PERSON PERMITTED**
24 **TO PARTICIPATE OR VOTE BY REMOTE COMMUNICATION OR *IN***
25 ***ABSENTIA* IS A STOCKHOLDER OR MEMBER, OR A HOLDER OF A PROXY**
26 **FROM A STOCKHOLDER OR MEMBER, AND TO RECORD ALL VOTES AND**
27 **OTHER ACTIONS TAKEN AT THE MEETING. WHEN ATTENDANCE AT THE**
28 **MEETING IS BY REMOTE COMMUNICATION, THE CORPORATION SHALL**
29 **PROVIDE THE STOCKHOLDER OR MEMBER, OR PROXY-HOLDER, A**
30 **REASONABLE OPPORTUNITY TO PARTICIPATE IN THE MEETING, HEAR**
31 **OR SEE THE PROCEEDINGS AS WELL AS BE HEARD OR SEEN BY OTHER**
32 **STOCKHOLDERS OR MEMBERS, AND TO CAST THEIR VOTE**
33 **SUBSTANTIALLY CONCURRENTLY WITH SUCH PROCEEDINGS. WHEN**
34 **VOTING *IN ABSENTIA*, IS ALLOWED, THE CORPORATION SHALL**
35 **INSTITUTE REASONABLE MEASURES TO TIMELY PROVIDE THE**
36 **STOCKHOLDER OR MEMBER WITH INFORMATION ON THE NOMINEES**
37 **AND GIVE THEM A REASONABLE OPPORTUNITY TO ASK QUESTIONS**
38 **BEFORE CASTING THEIR VOTES. THE COMMISSION SHALL PRESCRIBE**
39 **THE MINIMUM STANDARDS OR GUIDELINES TO MAKE ATTENDANCE BY**
40 **REMOTE COMMUNICATION AND VOTING *IN ABSENTIA* EFFICIENT AND**
41 **ACCESSIBLE FORA FOR STOCKHOLDERS OR MEMBERS.**

1 The election must be by ballot if requested by any voting stockholder or
2 member.

3 In stock corporations, every stockholder entitled to vote shall have the
4 right to vote [in person or by proxy] the number of shares of stock standing, at
5 the time fixed in the by-laws, in his own name [on] **IN** the stock books of the
6 corporation, or where the by-laws are silent, at the time of the election; and said
7 stockholder may vote such number of shares for as many persons as there are
8 directors to be elected or he may cumulate said shares and give one candidate
9 as many votes as the number of directors to be elected multiplied by the number
10 of his shares shall equal, or he may distribute them on the same principle among
11 as many candidates as he shall see fit: Provided, That the total number of votes
12 cast by him shall not exceed the number of shares owned by him as shown in
13 the books of the corporation multiplied by the whole number of directors to be
14 elected: Provided, however, That no delinquent stock shall be voted. Unless
15 otherwise provided in the articles of incorporation or in the by-laws, members of
16 corporations which have no capital stock may cast as many votes as there are
17 trustees to be elected but may not cast more than one vote for one candidate.
18 Candidates receiving the highest number of votes shall be declared elected.

19 [Any meeting of the stockholders or members called for an election may
20 adjourn from day to day or from time to time but not sine die or indefinitely] If, for
21 any reason, no election is held, or if there are not present or represented by
22 proxy, at the meeting, the owners of a majority of the outstanding capital stock,
23 or if there be no capital stock, a majority of the members entitled to vote, **THE**
24 **MEETING MAY BE ADJOURNED AND THE CORPORATION SHALL**
25 **PROCEED IN ACCORDANCE WITH SECTION 26 OF THIS CODE."**
26

27 **SEC. 17.** Section 25 of the Code is hereby amended to read as follows:

28 "Sec. 25. *Corporate officers; quorum.* - Immediately after their election,
29 the directors of a corporation must formally organize by the election of a
30 president **OR CHIEF EXECUTIVE OFFICER**, who shall be a director, a treasurer
31 **OR CHIEF FINANCIAL OFFICER**, who may or may not be a director, a
32 secretary who shall be a resident and citizen of the Philippines, **A COMPLIANCE**
33 **OFFICER WHO SHALL REPORT DIRECTLY TO THE CHAIRMAN OF THE**
34 **BOARD**, and such other officers as may be provided for in the by-laws. Any two
35 (2) or more positions **OTHER THAN THAT OF THE COMPLIANCE OFFICER**
36 may be held concurrently by the same person, except that no one shall act as
37 president and secretary or as president and treasurer at the same time.

38 [The directors or trustees and officers to be elected shall perform the
39 duties enjoined on them by law and by the by-laws of the corporation.] Unless
40 the articles of incorporation or the by-laws provide for a greater majority, a
41 majority of the number of directors or trustees as fixed in the articles of
42 incorporation shall constitute a quorum for the transaction of corporate business,

1 and every decision of at least a majority of the directors or trustees present at a
2 meeting at which there is a quorum shall be valid as a corporate act, except for
3 the election of officers which shall require the vote of a majority of all the
4 members of the board.

5 [Directors or trustees cannot attend or vote by proxy at board meetings];
6 **HOWEVER, WHEN ALLOWED BY THE BY-LAWS, THEY CAN ATTEND**
7 **BOARD MEETINGS THROUGH REMOTE COMMUNICATION SUCH AS**
8 **VIDEOCONFERENCING, TELECONFERENCING OR OTHER TECHNOLOGY**
9 **THAT ALLOWS THEM A REASONABLE OPPORTUNITY TO PARTICIPATE."**

10
11 **SEC. 18.** Section 26 of the Code is hereby amended to read as follows:

12 "Sec. 26. *Report of election of directors, trustees and officers*], **NON-**
13 **HOLDING OF ELECTION AND CESSATION FROM OFFICE.** - Within thirty (30)
14 days after the election of the directors, trustees and officers of the corporation,
15 the secretary, or any other officer of the corporation, shall submit to the
16 [Securities and Exchange] Commission, the names, nationalities,
17 **SHAREHOLDINGS** and residences of the directors, trustees, and officers
18 elected.

19 **THE NON-HOLDING OF ANY ELECTION AND THE REASONS**
20 **THEREFOR, SHALL BE REPORTED TO THE COMMISSION WITHIN THREE**
21 **(3) DAYS FROM THE DATE OF THE SCHEDULED ELECTION; PROVIDED**
22 **THAT, THE NOTICE OF NON-HOLDING MAY BE SUBMITTED IN THE FORM**
23 **OF AN ELECTRONIC DOCUMENT, IN ACCORDANCE WITH THE RULES**
24 **AND REGULATIONS OF THE COMMISSION ON THE USE OF ELECTRONIC**
25 **DATA MESSAGES.**

26 **WHEN PERTAINING TO THE ORIGINAL SCHEDULE, THE REPORT**
27 **OF NON-HOLDING SHALL FURTHER SPECIFY A NEW DATE FOR THE**
28 **ELECTION, WHICH SHALL NOT BE LATER THAN THIRTY DAYS FROM THE**
29 **ORIGINAL DATE.**

30 **IF NO NEW DATE HAS BEEN DESIGNATED, OR IF THE NEWLY-**
31 **SCHEDULED ELECTION BE LIKEWISE NOT HELD, THE COMMISSION MAY,**
32 **MOTU PROPRIO OR UPON THE APPLICATION OF ANY STOCKHOLDER,**
33 **MEMBER, DIRECTOR OR TRUSTEE AND AFTER VERIFICATION OF THE**
34 **NON-HOLDING OF THE ELECTION OF DIRECTORS OR TRUSTEES,**
35 **REQUIRE THE CORPORATE SECRETARY ON RECORD TO IMMEDIATELY**
36 **ISSUE A LIST OF STOCKHOLDERS OR MEMBERS, THEIR ADDRESSES**
37 **AND CONTACT NUMBERS AND SIMILAR INFORMATION, AND SUMMARILY**
38 **ORDER THAT THE ELECTION BE HELD. IN THIS REGARD, THE**
39 **COMMISSION SHALL HAVE THE POWER TO ISSUE SUCH ORDERS AS**
40 **MAY BE APPROPRIATE, INCLUDING, WITHOUT LIMITATION, ORDERS**
41 **DESIGNATING THE TIME AND PLACE OF THE ELECTION, THE RECORD**
42 **DATE OR DATES FOR DETERMINATION OF STOCKHOLDERS OR**

1 MEMBERS ENTITLED TO NOTICE OF THE ELECTION AND TO VOTE
2 THEREAT, AND THE FORM OF NOTICE OF SUCH ELECTION.

3 THE SHARES OF STOCK OR MEMBERSHIP REPRESENTED AT
4 SUCH MEETING AND ENTITLED TO VOTE THEREAT, EITHER IN PERSON,
5 BY REMOTE COMMUNICATION, *IN ABSENTIA*, OR BY PROXY, SHALL
6 CONSTITUTE A QUORUM FOR THE PURPOSE OF SUCH MEETING,
7 NOTWITHSTANDING ANY PROVISION OF THE ARTICLES OF
8 INCORPORATION OR BY-LAWS TO THE CONTRARY. THE MEETING
9 SCHEDULED BY THE COMMISSION AND THE ELECTION HELD THEREAT
10 SHALL HAVE THE SAME EFFECT OF A VALID MEETING AND ELECTION
11 OF THE CORPORATION.

12 Should a director, trustee or officer die, resign or in any manner cease to
13 hold office, his heirs in case of his death, the secretary, or any other officer of the
14 corporation, or the director, trustee or officer himself, shall [immediately] report
15 such fact to the [Securities and Exchange] Commission **IN WRITING WITHIN**
16 **THREE (3) DAYS FROM CESSATION FROM OFFICE, PROVIDED THAT**
17 **SUCH NOTICE MAY GIVEN IN THE FORM OF AN ELECTRONIC**
18 **DOCUMENT, IN ACCORDANCE WITH THE RULES AND REGULATIONS OF**
19 **THE COMMISSION ON THE USE OF ELECTRONIC DATA MESSAGES.**

20 IN ELECTING DIRECTORS OR TRUSTEES TO FILL VACANCIES,
21 THE PROCEDURE SET FORTH IN SECTION 24 AND IN THIS SECTION
22 SHALL APPLY.”
23

24 **SEC. 19.** Section 27 of the Code is hereby amended to read as follows:

25 “Sec. 27. *Disqualification of directors, trustees or officers.* – **THE**
26 **FOLLOWING PERSONS SHALL BE DISQUALIFIED FROM BEING ELECTED**
27 **AS DIRECTOR, TRUSTEE OR OFFICER OF ANY CORPORATION:**

28 1. [No person] **THOSE WHO HAVE BEEN** convicted by final judgment
29 of an offense punishable by imprisonment for a period exceeding six (6) years, or
30 a violation of this Code **OR REPUBLIC ACT 8799** [, committed] within five (5)
31 years prior to the date of his election or appointment[, shall qualify as a director,
32 trustee or officer of any corporation];

33 2. **THOSE WHO, BY FINAL JUDGMENT, ARE CONVICTED OF, OR**
34 **FOUND ADMINISTRATIVELY LIABLE FOR, ANY OFFENSE INVOLVING**
35 **MORAL TURPITUDE, FRAUD, EMBEZZLEMENT, THEFT, ESTAFA,**
36 **COUNTERFEITING, MISAPPROPRIATION, FORGERY, BRIBERY, FALSE**
37 **OATH, PERJURY AND OTHER FRAUDULENT ACTS;**

38 3. **THOSE CONVICTED BY FINAL JUDGMENT OF A FOREIGN**
39 **COURT OR EQUIVALENT REGULATORY AUTHORITY OF ACTS,**
40 **VIOLATIONS OR MISCONDUCT THE SAME AS OR SIMILAR TO THOSE**
41 **ENUMERATED IN PARAGRAPHS 1 AND 2 ABOVE; AND**

1 4. **THOSE WHO HAVE BEEN CONVICTED BY FINAL JUDGMENT**
2 **OF ANY THREE OF THE OFFENSES AND/OR VIOLATIONS IN**
3 **PARAGRAPHS 1 TO 3 ABOVE, REGARDLESS OF WHEN THE JUDGMENTS**
4 **BECAME FINAL.**

5 **THE MAXIMUM NUMBER OF BOARD REPRESENTATIONS ANY**
6 **INDEPENDENT DIRECTOR OR TRUSTEE SHALL HAVE IN OTHER**
7 **CORPORATIONS SHALL BE FIVE (5), OR SUCH LOWER NUMBER AS MAY**
8 **BE PROVIDED IN THE BY-LAWS OF THE CORPORATION OR AS THE**
9 **COMMISSION MAY LATER PRESCRIBE.**

10 **THE FOREGOING IS WITHOUT PREJUDICE TO QUALIFICATIONS**
11 **OR OTHER DISQUALIFICATIONS WHICH THE COMMISSION MAY IMPOSE**
12 **IN ITS PROMOTION OF, AMONG OTHERS, GOOD CORPORATE**
13 **GOVERNANCE."**

14
15 **SEC. 20.** Section 28 of the Code is hereby amended to read as follows:

16 *"Sec. 28. Removal of directors or trustees. - Any director or trustee of a*
17 *corporation may be removed from office by a vote of the stockholders holding or*
18 *representing at least two-thirds (2/3) of the outstanding capital stock, or if the*
19 *corporation be a non-stock corporation, by a vote of at least two-thirds (2/3) of*
20 *the members entitled to vote: Provided, That such removal shall take place either*
21 *at a regular meeting of the corporation or at a special meeting called for the*
22 *purpose, and in either case, after previous notice to stockholders or members of*
23 *the corporation of the intention to propose such removal at the meeting. A*
24 *special meeting of the stockholders or members of a corporation for the purpose*
25 *of removal of directors or trustees, or any of them, must be called by the*
26 *secretary on order of the president or on the written demand of the stockholders*
27 *representing or holding at least a majority of the outstanding capital stock, or, if it*
28 *be a non-stock corporation, on the written demand of a majority of the members*
29 *entitled to vote. Should the secretary fail or refuse to call the special meeting*
30 *upon such demand or fail or refuse to give the notice, or if there is no secretary,*
31 *the call for the meeting may be addressed directly to the stockholders or*
32 *members by any stockholder or member of the corporation signing the demand.*
33 *Notice of the time and place of such meeting, as well as of the intention to*
34 *propose such removal, must be given by publication or by written notice*
35 *prescribed in this Code. Removal may be with or without cause: Provided, That*
36 *removal without cause may not be used to deprive minority stockholders or*
37 *members of the right of representation to which they may be entitled under*
38 *Section 24 of this Code.*

39 **THE COMMISSION SHALL, MOTU PROPRIO OR UPON VERIFIED**
40 **COMPLAINT AND AFTER DUE NOTICE AND HEARING, ORDER THE**
41 **REMOVAL OF ANY DISQUALIFIED DIRECTOR OR TRUSTEE ELECTED**
42 **DESPITE THE DISQUALIFICATION, OR WHOSE DISQUALIFICATION IS**

1 DISCOVERED OR AROSE SUBSEQUENT TO ELECTION. THE REMOVAL
2 OF ANY DISQUALIFIED DIRECTOR SHALL BE WITHOUT PREJUDICE TO
3 OTHER SANCTIONS THE COMMISSION MAY IMPOSE IN ACCORDANCE
4 WITH THIS CODE, UPON SHOWING OF A WILLFUL OR DELIBERATE
5 CONCEALMENT OF THE DISQUALIFICATION. ”
6

7 **SEC. 21.** Section 29 of the Code is hereby amended to read as follows:

8 “Sec. 29. *Vacancies in the office of director or trustee.* - Any vacancy
9 occurring in the board of directors or trustees [other than by removal by the
10 stockholders or members or by expiration of term, may be filled by the vote of at
11 least a majority of the remaining directors or trustees, if still constituting a
12 quorum; otherwise, said vacancies] must be filled by the stockholders in a
13 regular or special meeting called for that purpose.

14 **WHEN THE VACANCY IS DUE TO EXPIRATION OF TERM, THE**
15 **ELECTION SHALL BE HELD NO LATER THAN THE DAY OF SUCH**
16 **EXPIRATION OF TERM AT A MEETING CALLED FOR THAT PURPOSE.**
17 **WHEN THE VACANCY ARISES AS A RESULT OF REMOVAL BY THE**
18 **STOCKHOLDERS OR MEMBERS, THE ELECTION MUST BE HELD ON THE**
19 **SAME DAY OF THE MEETING AUTHORIZING THE REMOVAL AND THIS**
20 **FACT MUST BE SO STATED IN THE AGENDA AND NOTICE OF SAID**
21 **MEETING. IN ALL OTHER CASES, THE ELECTION MUST BE HELD NO**
22 **LATER THAN FORTY-FIVE (45) DAYS FROM WHEN THE VACANCY**
23 **ARISES.** A director or trustee so elected to fill a vacancy shall be elected only for
24 the unexpired term of his predecessor in office.

25 **HOWEVER, WHEN THE VACANCY PREVENTS THE REMAINING**
26 **DIRECTORS FROM CONSTITUTING A QUORUM AND EMERGENCY**
27 **ACTION IS REQUIRED TO PREVENT GRAVE, SUBSTANTIAL AND**
28 **IRREPARABLE LOSS OR DAMAGE TO THE CORPORATION, THE**
29 **VACANCY MAY BE TEMPORARILY FILLED BY UNANIMOUS VOTE OF THE**
30 **REMAINING DIRECTORS OR TRUSTEES FROM AMONG THE OFFICERS OF**
31 **THE CORPORATION, PROVIDED THAT ACTION BY THE APPOINTED**
32 **DIRECTOR OR TRUSTEE SHALL BE LIMITED TO THE EMERGENCY**
33 **ACTION NECESSARY TO PREVENT GRAVE, SUBSTANTIAL OR**
34 **IRREPARABLE LOSS TO THE COMPANY AND HIS TERM SHALL NOT**
35 **CONTINUE FOR LONGER THAN REASONABLY NECESSARY AFTER THE**
36 **TERMINATION OF THE EMERGENCY.**

37 Any directorship or trusteeship to be filled by reason of an increase in the
38 number of directors or trustees shall be filled only by an election at a regular or at
39 a special meeting of stockholders or members duly called for the purpose, or in
40 the same meeting authorizing the increase of directors or trustees if so stated in
41 the notice of the meeting.

1 **IN ALL ELECTIONS TO FILL VACANCIES UNDER THIS SECTION,**
2 **THE PROCEDURE SET FORTH IN SECTIONS 24 AND 26 SHALL APPLY."**
3

4 **SEC. 22.** Section 30 of the Code is hereby amended to read as follows:

5 "Sec. 30. *Compensation of directors.* – In the absence of any provision in
6 the by-laws fixing **THE PARAMETERS OF** their compensation, the directors **OR**
7 **TRUSTEES** shall not receive any compensation[,] as such directors **OR**
8 **TRUSTEES**, except for reasonable per diems: *Provided, however,* That any such
9 compensation other than per diems may be granted to directors **OR TRUSTEES**
10 by the vote of the stockholders representing at least a majority of the outstanding
11 capital stock **OR BY MAJORITY OF THE MEMBERS** at a regular or special
12 meeting.

13 **NO DIRECTOR OR TRUSTEE SHALL PARTICIPATE IN THE**
14 **DETERMINATION OF HIS OWN PER DIEMS OR COMPENSATION. PER**
15 **DIEMS OR COMPENSATION GRANTED TO DIRECTORS OR TRUSTEES**
16 **SHALL LIKEWISE BE APPROVED BY THE VOTE OF THE STOCKHOLDERS**
17 **REPRESENTING AT LEAST A MAJORITY OF THE OUTSTANDING CAPITAL**
18 **STOCK OR BY MAJORITY OF THE MEMBERS AT A REGULAR OR**
19 **SPECIAL MEETING.**

20 In no case shall the total yearly compensation of directors **OR**
21 **TRUSTEES**, as such directors **OR TRUSTEES**, exceed ten (10%) percent of the
22 net income before income tax of the corporation during the preceding year.

23 **THE CORPORATION SHALL SUBMIT AN ANNUAL REPORT ON THE**
24 **COMPENSATION OF DIRECTORS OR TRUSTEES AS PRESCRIBED UNDER**
25 **THIS CODE."**
26

27 **SEC. 23.** Section 35 of the Code is hereby amended to read as follows:

28 "Sec. 35. *Executive committee AND OTHER SPECIAL COMMITTEES.* -
29 The by-laws of a corporation may create an executive committee, composed of
30 not less than three members of the board, to be appointed by the board. Said
31 committee may act, by majority vote of all its members, on such specific matters
32 within the competence of the board, as may be delegated to it in the by-laws or
33 on a majority vote of the board, except with respect to: (1) approval of any action
34 for which shareholders' approval is also required; (2) the filling of vacancies in
35 the board; (3) the amendment or repeal of by-laws or the adoption of new by-
36 laws; (4) the amendment or repeal of any resolution of the board which by its
37 express terms is not so amendable or repealable; and (5) a distribution of cash
38 dividends to the shareholders.

39 **FOR MERITORIOUS REASONS, THE BOARD MAY, UPON DUE**
40 **AMENDMENT OF THE BY-LAWS, ORDER THE FORMATION OF OTHER**
41 **SPECIAL COMMITTEES AND DETERMINE THE MEMBERS' TERM,**
42 **COMPENSATION, POWERS AND RESPONSIBILITIES.**

1 WHEN NECESSARY TO ENSURE GOOD CORPORATE
2 GOVERNANCE AND/OR COMBAT GRAFT AND CORRUPT PRACTICES, OR
3 WHEN THE PARAMOUNT INTEREST OF THE PUBLIC OTHERWISE
4 REQUIRES, THE COMMISSION SHALL HAVE THE POWER TO REQUIRE
5 THE FORMATION OF OTHER COMMITTEES AND DESIGNATE THEIR
6 POWERS AND RESPONSIBILITIES; PROVIDED THAT THE TERM AND
7 COMPENSATION OF SUCH COMMITTEES SHALL BE DETERMINED BY
8 THE BOARD AND THE CORPORATION'S BY-LAWS SHALL BE AMENDED
9 ACCORDINGLY WITHIN THE PERIOD PRESCRIBED BY THE COMMISSION."
10

11 **SEC. 24.** Section 36 of the Code is hereby amended to read as follows:

12 "Sec. 36. *Corporate powers and capacity.* - Every corporation
13 incorporated under this Code has the power and capacity:

14 1. To sue and be sued in its corporate name;

15 2. Of **PERPETUAL** succession by its corporate name [for the], **UNLESS**
16 **A LIMITED** period of time **IS** stated in the articles of incorporation and the
17 certificate of incorporation;

18 xxx xxx xxx

19 8. [To enter into merger or consolidation with other corporations as
20 provided in this Code] **TO ENTER INTO A JOINT VENTURE OR OTHER**
21 **COMMERCIAL AGREEMENT WITH PERSONS, JURIDICAL OR OTHERWISE,**
22 **AND MERGE OR CONSOLIDATE WITH OTHER CORPORATIONS.**

23 xxx xxx xxx"

24
25 **SEC. 25.** Section 37 of the Code is hereby amended to read as follows:

26 "Sec. 37. *Power to extend or shorten corporate term.* - A private
27 corporation may extend or shorten its term as stated in the articles of
28 incorporation when approved by a majority vote of the board of directors or
29 trustees and ratified at a meeting by the stockholders representing at least two-
30 thirds (2/3) of the outstanding capital stock or by at least two-thirds (2/3) of the
31 members in case of non-stock corporations. Written notice of the proposed
32 action and of the time and place of the meeting shall be addressed to each
33 stockholder or member at his place of residence as shown on the books of the
34 corporation and deposited to the addressee in the post office with postage
35 prepaid, [or] served personally[.], **OR, WHEN ALLOWED IN THE BY-LAWS OR**
36 **DONE WITH THE CONSENT OF THE CONCERNED STOCKHOLDER,**
37 **NOTICE UNDER THIS SECTION MAY BE GIVEN IN THE FORM OF AN**
38 **ELECTRONIC DOCUMENT, IN ACCORDANCE WITH THE RULES AND**
39 **REGULATIONS OF THE COMMISSION ON THE USE OF ELECTRONIC**
40 **DATA MESSAGES:** Provided, That in case of extension of corporate term, any
41 dissenting stockholder may exercise his appraisal right under the conditions
42 provided in this code."

1 **SEC. 26.** Section 38 of the Code is hereby amended to read as follows:

2 "Sec. 38. *Power to increase or decrease capital stock; incur, create or*
3 *increase bonded indebtedness.* – xxx xxx xxx

4 [(5) The actual indebtedness of the corporation on the day of the
5 meeting;]

6 xxx xxx xxx

7 Any increase or decrease in the capital stock or the incurring, creating or
8 increasing of any bonded indebtedness shall require prior approval of the
9 [Securities and Exchange] Commission. **THE FILING OF THE APPLICATION**
10 **WITH THE COMMISSION SHALL BE MADE WITHIN THREE (3) MONTHS**
11 **FROM THE DATE OF APPROVAL BY THE BOARD OF DIRECTORS AND**
12 **STOCKHOLDERS. PRIOR TO THE COMMISSION'S APPROVAL, THE**
13 **RECOGNITION OF THE SUBSCRIPTION TO MEET THE REQUIRED PAID-UP**
14 **CAPITAL SHALL BE IN ACCORDANCE WITH REQUIREMENTS SET BY THE**
15 **COMMISSION. NON-PAYMENT OF THE ADDITIONAL PAID-UP CAPITAL**
16 **WITHIN ONE (1) YEAR FROM THE DATE OF THE BOARD OF DIRECTORS**
17 **AND STOCKHOLDERS' APPROVAL SHALL RENDER THE PROPOSAL**
18 **ABANDONED AND INEFFECTIVE.**

19 One of the duplicate certificates shall be kept on file in the office of the
20 corporation and the other shall be filed with the [Securities and Exchange]
21 Commission and attached to the original articles of incorporation. From and after
22 approval by the [Securities and Exchange] Commission and the issuance by the
23 Commission of its certificate of filing, the capital stock shall stand increased or
24 decreased and the incurring, creating or increasing of any bonded indebtedness
25 authorized, as the certificate of filing may declare: Provided, That the [Securities
26 and Exchange] Commission shall not accept for filing any certificate of increase
27 of capital stock unless accompanied by the sworn statement of the treasurer of
28 the corporation lawfully holding office at the time of the filing of the certificate,
29 showing that at least twenty-five (25%) percent of [such increased] **THE**
30 **INCREASE IN** capital stock has been subscribed and that at least twenty-five
31 (25%) percent of the amount subscribed has been paid either in actual cash to
32 the corporation or that there has been transferred to the corporation property the
33 valuation of which is equal to twenty-five (25%) percent of the subscription:
34 Provided, further, That no decrease of the capital stock shall be approved by the
35 Commission if its effect shall prejudice the rights of corporate creditors.

36 xxx xxx xxx

37 Bonds issued by a corporation shall be registered with the [Securities and
38 Exchange] Commission, which shall have the authority to determine the
39 sufficiency of the terms thereof."
40
41
42

1 **SEC. 27.** Section 40 of the Code is hereby amended to read as follows:

2 “Sec. 40. *Sale or other disposition of assets.* - Subject to the provisions of
3 existing laws on illegal combinations and monopolies **AND SUBJECT,**
4 **FURTHER, TO SEC. 81 OF THIS CODE ON DE FACTO MERGERS,** a
5 corporation may, by a majority vote of its board of directors or trustees, sell,
6 lease, exchange, mortgage, pledge or otherwise dispose of [all or substantially
7 all of] its property and assets, including its goodwill, upon such terms and
8 conditions and for such consideration, which may be money, stocks, bonds or
9 other instruments for the payment of money or other property or consideration,
10 as its board of directors or trustees may deem expedient.

11 **WHEN THE SALE IS OF ALL OR SUBSTANTIALLY ALL OF THE**
12 **CORPORATION'S PROPERTY AND ASSETS, IT MUST BE** [when] authorized
13 by the vote of the stockholders representing at least two-thirds (2/3) of the
14 outstanding capital stock, or in case of non-stock corporation, by the vote of at
15 least to two-thirds (2/3) of the members, in a stockholder's or member's meeting
16 duly called for the purpose[.]; **WHEN THE SALE IS OF LESS THAN ALL OR**
17 **SUBSTANTIALLY ALL OF THE CORPORATION'S PROPERTY AND**
18 **ASSETS, A MAJORITY VOTE SHALL BE REQUIRED.** In non-stock
19 corporations where there are no members with voting rights, the vote of at least a
20 majority of the trustees in office will be sufficient authorization for the corporation
21 to enter into any transaction authorized by this section.

22 Written notice of the proposed action and of the time and place of the
23 meeting shall be addressed to each stockholder or member at his place of
24 residence as shown on the books of the corporation and deposited to the
25 addressee in the post office with postage prepaid, or served personally:
26 Provided, That any dissenting stockholder may exercise his appraisal right under
27 the conditions provided in this Code.

28 [A sale or other disposition shall be deemed to cover substantially all the
29 corporate property and assets if thereby the corporation would be rendered
30 incapable of continuing the business or accomplishing the purpose for which it
31 was incorporated.]

32 After such authorization or approval by the stockholders or members, the
33 board of directors or trustees may, nevertheless, in its discretion, abandon such
34 sale, lease, exchange, mortgage, pledge or other disposition of property and
35 assets, subject to the rights of third parties under any contract relating thereto,
36 without further action or approval by the stockholders or members.

37 Nothing in this section is intended to restrict the power of any corporation,
38 without the authorization by the stockholders or members, to sell, lease,
39 exchange, mortgage, pledge or otherwise dispose of any of its property and
40 assets if the same is necessary in the usual and regular course of business of
41 said corporation or if the proceeds of the sale or other disposition of such
42 property and assets be appropriated for the conduct of its remaining business.

1 [In non-stock corporations where there are no members with voting
2 rights, the vote of at least a majority of the trustees in office will be sufficient
3 authorization for the corporation to enter into any transaction authorized by this
4 section.]”
5

6 **SEC. 28.** Section 43 of the Code is hereby amended to read as follows:

7 “Sec. 43. *Power to declare dividends.* - The board of directors of a stock
8 corporation may declare dividends out of the unrestricted retained earnings
9 which **SHALL BE DETERMINED IN ACCORDANCE WITH THE GUIDELINES**
10 **SET BY THE COMMISSION ON UNREALIZED EARNINGS AND LOSSES.**
11 **SUCH DIVIDENDS** shall be payable in cash, in property, or in stock to all
12 stockholders on the basis of outstanding stock held by them: Provided, That any
13 cash dividends due on delinquent stock shall first be applied to the unpaid
14 balance on the subscription plus costs and expenses, while stock dividends shall
15 be withheld from the delinquent stockholder until his unpaid subscription is fully
16 paid: Provided, further, That no stock dividend shall be issued without the
17 approval of stockholders representing not less than two-thirds (2/3) of the
18 outstanding capital stock at a regular or special meeting duly called for the
19 purpose.

20 Stock corporations are prohibited from retaining surplus profits in excess
21 of one hundred (100%) percent of their paid-in capital stock, except: (1) when
22 justified by definite corporate expansion projects or programs approved by the
23 board of directors; or (2) when the corporation is prohibited under any loan
24 agreement with any financial institution or creditor, whether local or foreign, from
25 declaring dividends without its/his consent, and such consent has not yet been
26 secured; or (3) when it can be clearly shown that such retention is necessary
27 under special circumstances obtaining in the corporation, such as when there is
28 need for special reserve for probable contingencies.”
29

30 **SEC. 29.** Section 46 of the Code is hereby amended to read as follows:

31 “Sec. 46. *Adoption of by-laws.* - Every corporation formed under this
32 Code must, within one (1) month after receipt of official notice of the issuance of
33 its certificate of incorporation by the [Securities and Exchange] Commission,
34 adopt a code of by-laws for its government not inconsistent with this Code. For
35 the adoption of by-laws by the corporation the affirmative vote of the
36 stockholders representing at least a majority of the outstanding capital stock, or
37 of at least a majority of the members in case of non-stock corporations, shall be
38 necessary. The by-laws shall be signed by the stockholders or members voting
39 for them and shall be kept in the principal office of the corporation, subject to the
40 inspection of the stockholders or members during office hours. A copy thereof,
41 duly certified to by a majority of the directors or trustees countersigned by the

1 secretary of the corporation, shall be filed with the [Securities and Exchange]
2 Commission which shall be attached to the original articles of incorporation.

3 Notwithstanding the provisions of the preceding paragraph, by-laws may
4 be adopted and filed prior to incorporation; in such case, such by-laws shall be
5 approved and signed by all the incorporators and submitted to the [Securities
6 and Exchange] Commission, together with the articles of incorporation.

7 **BY-LAWS OR AMENDMENTS THERETO MAY BE FILED IN THE**
8 **FORM OF AN ELECTRONIC DOCUMENT, IN ACCORDANCE WITH THE**
9 **RULES AND REGULATIONS OF THE COMMISSION ON THE USE OF**
10 **ELECTRONIC DATA MESSAGES.**

11 In all cases, by-laws shall be effective only upon the issuance by the
12 [Securities and Exchange] Commission of a certification that the by-laws are not
13 inconsistent with this Code.

14 The [Securities and Exchange] Commission shall not accept for filing the
15 by-laws or any amendment thereto of any bank, banking institution, building and
16 loan association, trust company, insurance company, public utility, educational
17 institution or other special corporations governed by special laws, unless
18 accompanied by a certificate of the appropriate government agency to the effect
19 that such by-laws or amendments are in accordance with law.”
20

21 **SEC. 30.** Section 47 of the Code is hereby amended to read as follows:

22 “Sec. 47. *Contents of by-laws.* - Subject to the provisions of the
23 Constitution, this Code, other special laws, and the articles of incorporation, a
24 private corporation [may] **SHALL** provide in its by-laws for:

25 1. The time, place and manner of calling and conducting regular or
26 special meetings of the directors or trustees;

27 2. The time and manner of calling and conducting regular or special
28 meetings of the stockholders or members, **PROVIDED THAT THE BY-LAWS**
29 **SHALL CONTAIN NO PROVISION SUPPRESSING OR OTHERWISE**
30 **LIMITING IN ANY MANNER THE RIGHT OF ANY MEMBER OR**
31 **STOCKHOLDER TO PROPOSE THE HOLDING OF MEETINGS AND THE**
32 **ITEMS FOR DISCUSSION IN THE AGENDA;**

33 xxx xxx xxx

34 5. The qualifications, duties **AND RESPONSIBILITIES**, and **THE**
35 **PARAMETERS OR GUIDELINES TO CONSIDER IN SETTING THE**
36 compensation, of directors or trustees **AND [.] officers [and employees], AS**
37 **WELL AS THE MAXIMUM NUMBER OF OTHER BOARD**
38 **REPRESENTATIONS AN INDEPENDENT DIRECTOR OR TRUSTEE MAY**
39 **HAVE WHICH SHALL, IN NO CASE, BE MORE THAN FIVE (5) OR SUCH**
40 **OTHER NUMBER THE COMMISSION MAY LATER PRESCRIBE;**

41 xxx xxx xxx

1 9. In the case of stock corporations, the manner of issuing stock
2 certificates; [and]

3 **10. THE TIME AND MANNER BY WHICH ACCURATE AND TIMELY**
4 **INFORMATION SHALL BE GIVEN TO STOCKHOLDERS OR MEMBERS ON**
5 **MATTERS AFFECTING THE CORPORATION, WHICH MAY INCLUDE BUT**
6 **SHALL NOT BE LIMITED TO THE PUBLICATION OF SUCH INFORMATION**
7 **ON THE CORPORATION'S WEBSITE;**

8 **11. A CODE OF ETHICS OR STANDARDS OF CONDUCT FOR THE**
9 **CORRECT, HONORABLE AND PROPER PERFORMANCE OF A**
10 **CORPORATION'S BUSINESS AND ITS DEALINGS, DIRECT OR INDIRECT,**
11 **WITH THE GOVERNMENT AND ITS AGENCIES, AS WELL AS MECHANISMS**
12 **TO ENFORCE SUCH CODE OF ETHICS OR STANDARDS OF CONDUCT,**
13 **WHICH SHALL CONTAIN THE MINIMUM REQUIREMENTS THE**
14 **COMMISSION MAY PROVIDE;**

15 **12. INTERNAL PROCEDURES TO PROVIDE AVENUES OF**
16 **COMMUNICATION BY, TO PROTECT THE IDENTITY AND SECURITY OF**
17 **TENURE/COMPENSATION OF, AND TO PROVIDE PROTECTION FROM**
18 **RETALIATION BEFORE AND AFTER EMPLOYMENT OF: (A) THOSE WHO**
19 **REPORT VIOLATIONS OF THE CORPORATION'S CODE OF ETHICS OR**
20 **STANDARDS OF CONDUCT, GRAFT AND CORRUPT PRACTICES,**
21 **IMPROPRIETIES IN MATTERS OF FINANCIAL REPORTING, OR OTHER**
22 **UNLAWFUL OR ILLEGAL CONDUCT COMMITTED BY THE CORPORATION**
23 **OR ANY OF ITS DIRECTORS, TRUSTEES, OFFICERS, EMPLOYEES OR**
24 **AGENTS; (B) THOSE WHO REPORT INSTRUCTIONS OR PRESSURE FROM**
25 **HIERARCHICAL SUPERIORS TO COMMIT ANY OF THE ACTS IN (A);**
26 **AND/OR (C) THOSE WHO RAISE CONCERNS ABOUT THREATS OF OR**
27 **POSSIBLE ACTS CONSTITUTING ANY OF THE ACTS IN (A) ABOVE;**

28 **13. A SYSTEM, INCLUDING THE APPOINTMENT OF A COMPLIANCE**
29 **OFFICER, THAT WILL MONITOR COMPLIANCE WITH THE RULES AND**
30 **REGULATIONS ON GOOD CORPORATE GOVERNANCE; AND**

31 [10] **14. Such other matters as may be necessary for the proper or**
32 **convenient transaction of its corporate business and affairs OR AS MAY BE**
33 **DEEMED NECESSARY BY THE COMMISSION FOR THE PROMOTION OF**
34 **GOOD GOVERNANCE AND/OR ITS POLICY AGAINST GRAFT AND**
35 **CORRUPTION.**

36 **THE COMMISSION SHALL FORMULATE AND MAKE AVAILABLE**
37 **SAMPLE BY-LAWS WITH THE FOREGOING REQUIREMENTS."**

38
39 **SEC. 31.** Section 48 of the Code is hereby amended to read as follows:

40 Section 48. Amendment to by-laws. – The board of directors or trustees,
41 by a majority vote thereof, and the owners of at least [a majority] **TWO-THIRDS**
42 **(2/3)** of the outstanding capital stock, or at least [a majority] **TWO-THIRDS (2/3)**

1 of the members of a non-stock corporation, at a regular or special meeting duly
2 called for the purpose, may amend or repeal any by-laws or adopt new by-laws.
3 The owners of two-thirds (2/3) of the outstanding capital stock or two-thirds (2/3)
4 of the members in a non-stock corporation may delegate to the board of directors
5 or trustees the power to amend or repeal any by-laws or adopt new by-laws:
6 Provided, That any power delegated to the board of directors or trustees to
7 amend or repeal any by-laws or adopt new by-laws shall be considered as
8 revoked whenever stockholders owning or representing a majority of the
9 outstanding capital stock or a majority of the members in non-stock corporations,
10 shall so vote at a regular or special meeting.

11 Whenever any amendment or new by-laws are adopted, such
12 amendment or new by-laws shall be attached to the original by-laws in the office
13 of the corporation, and a copy thereof, duly certified under oath by the corporate
14 secretary and a majority of the directors or trustees, **INCLUDING THE**
15 **STOCKHOLDERS' OR MEMBERS' RESOLUTION ON THE DELEGATION OF**
16 **THE POWER TO AMEND OR ADOPT NEW BY-LAWS OR ON THE**
17 **REVOCATION OF SUCH DELEGATION, IF ANY,** shall be filed with the
18 [Securities and Exchange] Commission the same to be attached to the original
19 articles of incorporation and original by-laws.

20 The amended or new by-laws shall only be effective upon the issuance
21 by the [Securities and Exchange] Commission of a certification that the same are
22 not inconsistent with this Code.”
23

24 **SEC. 32.** Section 50 of the Code is hereby amended to read as follows:

25 “Sec. 50. *Regular and special meetings of stockholders or members.* -
26 Regular meetings of stockholders or members shall be held annually on a date
27 fixed in the by-laws, or if not so fixed, on any date in April of every year as
28 determined by the board of directors or trustees.: *Provided*, That written notice of
29 regular meetings shall be sent to all stockholders or members of record at least
30 [two (2)] **THREE (3)** weeks prior to the meeting, unless a [different] **LONGER**
31 period is required by the by-laws **OR BY ANY RELEVANT LAW OR**
32 **REGULATION, AND IN SUCH A MANNER AS TO BE RECEIVED AT LEAST**
33 **FIVE DAYS BEFORE THE SCHEDULED MEETING.**

34 **AT EACH REGULAR MEETING OF STOCKHOLDERS OR MEMBERS,**
35 **THE BOARD OF DIRECTORS OR TRUSTEES SHALL, AMONG OTHERS,**
36 **PRESENT TO SUCH STOCKHOLDERS OR MEMBERS THE FOLLOWING:**

37 a. **THE MINUTES OF THE MOST RECENT REGULAR**
38 **MEETING WHICH SHALL INCLUDE, AMONG OTHERS:**

39 (i) **A DESCRIPTION OF THE VOTING AND VOTE**
40 **TABULATION PROCEDURES USED AND TO BE USED IN THE**
41 **CURRENT MEETING,**

1 (ii) THE OPPORTUNITY GIVEN TO
2 STOCKHOLDERS OR MEMBERS TO ASK QUESTIONS, AS
3 WELL AS A RECORD OF THE QUESTIONS THEY ASKED AND
4 THE ANSWERS RECEIVED,

5 (iii) THE MATTERS DISCUSSED AND
6 RESOLUTIONS REACHED,

7 (iv) A RECORD OF THE VOTING RESULTS FOR
8 EACH AGENDA ITEM, AND

9 (v) A LIST OF THE DIRECTORS OR TRUSTEES,
10 OFFICERS AND STOCKHOLDERS OR MEMBERS WHO
11 ATTENDED THE MEETING;

12 b. A MEMBERS' LIST FOR NON-STOCK CORPORATIONS
13 AND, FOR STOCK CORPORATIONS, MATERIAL INFORMATION ON
14 THE CURRENT STOCK OWNERSHIP STRUCTURE AND VOTING
15 RIGHTS, INCLUDING GROUP STRUCTURES, INTRA-GROUP
16 RELATIONS, OWNERSHIP DATA, AND BENEFICIAL OWNERSHIP
17 WITH SPECIFIC DISCLOSURES ON THE DIRECT AND INDIRECT
18 STOCKHOLDINGS OF DIRECTORS AND OFFICERS;

19 c. A DETAILED, DESCRIPTIVE, BALANCED AND
20 COMPREHENSIBLE ASSESSMENT OF THE CORPORATION'S
21 PERFORMANCE WHICH SHALL INCLUDE INFORMATION ON THE
22 CHANGES IN THE CORPORATION OR ITS BUSINESS AND ITS
23 STRATEGY;

24 d. A FINANCIAL REPORT OF THE OPERATIONS OF THE
25 CORPORATION FOR THE PRECEDING YEAR, WHICH SHALL
26 INCLUDE FINANCIAL STATEMENTS DULY SIGNED AND CERTIFIED
27 IN ACCORDANCE WITH THIS CODE AND THE RULES THE
28 COMMISSION MAY PRESCRIBE, A STATEMENT ON THE
29 ADEQUACY OF THE CORPORATION'S INTERNAL CONTROLS OR
30 RISK MANAGEMENT SYSTEMS, AND A STATEMENT OF ALL
31 EXTERNAL AUDIT AND NON-AUDIT FEES;

32 e. AN EXPLANATION OF THE DIVIDEND POLICY AND
33 THE FACT OF PAYMENT OF DIVIDENDS OR THE REASONS FOR
34 NON-PAYMENT THEREOF;

35 f. DIRECTOR OR TRUSTEE PROFILES WHICH SHALL
36 INCLUDE, AMONG OTHERS, THEIR QUALIFICATIONS AND
37 RELEVANT EXPERIENCE, LENGTH OF SERVICE IN THE
38 CORPORATION, THE TRAININGS AND CONTINUING EDUCATION
39 THEY ATTENDED, AND THE NUMBER OF THEIR BOARD
40 REPRESENTATIONS IN OTHER CORPORATIONS;

41 g. A DIRECTOR OR TRUSTEE ATTENDANCE REPORT,
42 INDICATING THE ATTENDANCE OF EACH DIRECTOR OR TRUSTEE

1 AT EACH OF THE MEETINGS OF THE BOARD AND ITS
2 COMMITTEES AND IN REGULAR OR SPECIAL STOCKHOLDER
3 MEETINGS;

4 h. A BOARD APPRAISAL OR PERFORMANCE REPORT
5 AND THE STANDARDS OR CRITERIA AND PROCEDURE USED TO
6 ASSESS THE BOARD;

7 i. A DIRECTOR OR TRUSTEE APPRAISAL OR
8 PERFORMANCE REPORT AND THE STANDARDS OR CRITERIA
9 AND PROCEDURE USED TO ASSESS EACH DIRECTOR OR
10 TRUSTEE;

11 j. A DIRECTOR OR TRUSTEE COMPENSATION REPORT
12 PREPARED IN ACCORDANCE WITH THIS CODE AND THE RULES
13 THE COMMISSION MAY PRESCRIBE;

14 k. DIRECTOR DISCLOSURES ON SELF-DEALINGS AND
15 RELATED PARTY TRANSACTIONS;

16 l. THE PROFILES OF DIRECTORS NOMINATED OR
17 SEEKING ELECTION OR RE-ELECTION;

18 m. THE COMPENSATION/BENEFITS OF EMPLOYEES
19 WHO ARE IMMEDIATE FAMILY MEMBERS OF A DIRECTOR OR
20 TRUSTEE OR ANY OFFICER OF THE CORPORATION OR WHOSE
21 EMPLOYMENT WAS MADE WITH THEIR ENDORSEMENT; AND

22 n. DETAILS OF THE ORIENTATION PROGRAM FOR NEW
23 DIRECTORS.

24 ANY DIRECTOR, TRUSTEE, STOCKHOLDER OR MEMBER MAY
25 PROPOSE ANY OTHER MATTER FOR DISCUSSION OR INCLUSION IN THE
26 AGENDA AT ANY REGULAR MEETING OF STOCKHOLDERS OR
27 MEMBERS.

28 SUBJECT TO THE RIGHT OF ANY MEMBER OR STOCKHOLDER TO
29 PROPOSE THE HOLDING OF SPECIAL MEETINGS AND THE ITEMS FOR
30 DISCUSSION IN THE AGENDA THEREOF, special meetings of stockholders or
31 members shall be held at any time deemed necessary or as provided in the by-
32 laws: Provided, however, That at least [one (1) week] written notice shall be sent
33 to all stockholders or members AT LEAST THREE (3) WEEKS PRIOR TO THE
34 MEETING, unless [otherwise] A LONGER PERIOD IS provided in the by-laws
35 OR BY ANY RELEVANT LAW OR REGULATION, AND IN SUCH A MANNER
36 AS TO BE RECEIVED AT LEAST FIVE DAYS BEFORE THE SCHEDULED
37 MEETING.

38 Notice of any meeting may be waived, expressly or impliedly, by any
39 stockholder or member[.]; PROVIDED THAT GENERAL WAIVERS OF NOTICE
40 IN THE ARTICLES OF INCORPORATION OR THE BY-LAWS SHALL NOT BE
41 ALLOWED; PROVIDED, FURTHER, THAT ATTENDANCE AT A MEETING
42 SHALL CONSTITUTE A WAIVER OF NOTICE OF SUCH MEETING, EXCEPT

1 **WHEN THE PERSON ATTENDS A MEETING FOR THE EXPRESS PURPOSE**
2 **OF OBJECTING AT THE BEGINNING OF THE MEETING, TO THE**
3 **TRANSACTION OF ANY BUSINESS BECAUSE THE MEETING IS NOT**
4 **LAWFULLY CALLED OR CONVENED.**

5 Whenever, for any cause, there is no person authorized to call a meeting,
6 the [Securities and Exchange] Commission, upon petition of a stockholder or
7 member on a showing of good cause therefor, may issue an order to the
8 petitioning stockholder or member directing him to call a meeting of the
9 corporation by giving proper notice required by this Code or by the by-laws. The
10 petitioning stockholder or member shall preside thereat until at least a majority of
11 the stockholders or members present have chosen one of their number as
12 presiding officer.

13 **UNLESS THE BY-LAWS PROVIDE FOR A LONGER PERIOD, THE**
14 **STOCK AND TRANSFER BOOK/MEMBERSHIP BOOK SHALL BE CLOSED**
15 **AT LEAST TWENTY (20) DAYS BEFORE THE SCHEDULED DATE OF THE**
16 **MEETING.**

17 **IN CASE OF POSTPONEMENT OF STOCKHOLDERS' OR MEMBERS'**
18 **MEETINGS, WRITTEN NOTICE THEREOF AND THE REASON THEREFOR**
19 **SHALL BE SENT TO ALL STOCKHOLDERS OR MEMBERS OF RECORD AT**
20 **LEAST TWO (2) WEEKS PRIOR TO THE DATE OF THE MEETING, UNLESS**
21 **A DIFFERENT PERIOD IS REQUIRED BY THE BY-LAWS OR BY ANY**
22 **RELEVANT LAW OR REGULATION, AND IN SUCH A MANNER AS TO BE**
23 **RECEIVED AT LEAST FIVE DAYS BEFORE THE DATE OF THE MEETING."**

24
25 **SEC. 33.** Section 51 of the Code is hereby amended to read as follows:

26 *"Sec. 51. Place and time of meetings of stockholders of members. -*
27 Stockholder's or member's meetings, whether regular or special, shall be held in
28 the **PRINCIPAL OFFICE OF THE CORPORATION AS SET FORTH IN THE**
29 **ARTICLES OF INCORPORATION, OR, IF NOT PRACTICABLE, IN THE** city or
30 municipality where the principal office of the corporation is located [, and if
31 practicable in the principal office of the corporation]: Provided, That Metro Manila
32 shall, for purposes of this section, be considered a city or municipality.

33 **WHEN ALLOWED BY THE BY-LAWS OR BY A MAJORITY OF THE**
34 **BOARD OF DIRECTORS OR TRUSTEES, ATTENDANCE AT REGULAR OR**
35 **SPECIAL MEETINGS MAY BE BY REMOTE COMMUNICATION AND VOTING**
36 **MAY BE MADE IN ABSENTIA. WHEN ATTENDANCE BY REMOTE**
37 **COMMUNICATION IS ALLOWED, THE CORPORATION SHALL PROVIDE**
38 **THE STOCKHOLDER OR MEMBER, OR PROXY-HOLDER, A REASONABLE**
39 **OPPORTUNITY TO PARTICIPATE IN THE MEETING, TO HEAR OR SEE THE**
40 **PROCEEDINGS AS WELL AS BE HEARD OR SEEN BY OTHER**
41 **STOCKHOLDERS OR MEMBERS, AND TO CAST THEIR VOTE**
42 **SUBSTANTIALLY CONCURRENTLY WITH SUCH PROCEEDINGS. WHEN**

VOTING *IN ABSENTIA*, IS ALLOWED, THE CORPORATION SHALL INSTITUTE REASONABLE MEASURES TO TIMELY PROVIDE THE STOCKHOLDER OR MEMBER WITH INFORMATION ON THE MATTERS TO BE TAKEN UP AT THE MEETING AND GIVE THEM A REASONABLE OPPORTUNITY TO ASK QUESTIONS BEFORE CASTING THEIR VOTES. THE COMMISSION SHALL PRESCRIBE THE MINIMUM STANDARDS OR GUIDELINES TO MAKE ATTENDANCE BY REMOTE COMMUNICATION AND VOTING *IN ABSENTIA* EFFICIENT AND ACCESSIBLE FORA FOR STOCKHOLDERS OR MEMBERS.

Notice of meetings shall be in writing, and the time and place thereof stated therein. EACH NOTICE OF MEETING SHALL FURTHER STATE OR BE ACCOMPANIED BY THE FOLLOWING:

- (A) THE AGENDA FOR THE MEETING;
- (B) A PROXY FORM;
- (C) WHEN ATTENDANCE IS ALLOWED BY REMOTE COMMUNICATION, THE FACT THEREOF AND THE REQUIREMENTS AND PROCEDURES TO BE FOLLOWED WHEN A STOCKHOLDER OR MEMBER ELECTS SUCH OPTION;
- (D) WHEN VOTING IS ALLOWED *IN ABSENTIA*, THE FACT THEREOF AND THE REQUIREMENTS AND PROCEDURES TO BE FOLLOWED WHEN A STOCKHOLDER OR MEMBER ELECTS SUCH OPTION;
- (E) WHEN THE MEETING IS FOR THE ELECTION OF DIRECTORS OR TRUSTEES, THE REQUIREMENTS AND PROCEDURE FOR NOMINATING AND THE CURRICULUM VITAE OR OTHER RELEVANT INFORMATION OF THOSE ALREADY NOMINATED INCLUDING, BUT NOT LIMITED TO, SUCH NOMINEES' OTHER EXECUTIVE FUNCTIONS OR MEMBERSHIP IN OTHER BOARDS;
- (F) OTHER EXPLANATORY MATERIALS OR A STATEMENT THAT SUCH EXPLANATORY MATERIALS ARE AVAILABLE FOR INSPECTION DURING OFFICE HOURS AT THE CORPORATION'S PRINCIPAL OFFICE AND/OR ONLINE AT THE CORPORATION'S WEBSITE, OR THAT SOFT COPIES THEREOF MAY BE SENT TO A STOCKHOLDER OR MEMBER UPON HIS REQUEST; AND
- (G) THE PROCEDURE FOR MAKING INQUIRIES OR SOLICITING ADDITIONAL INFORMATION ABOUT THE AGENDA ITEMS BEFORE THE MEETING.

WHEN ALLOWED BY THE BY-LAWS OF THE CORPORATION, NOTICES OF MEETING MAY BE SENT ELECTRONICALLY, PROVIDED

1 THAT THE SAME IS DONE IN ACCORDANCE WITH THE RULES OF THE
2 COMMISSION AND, PROVIDED FURTHER, THAT ANY STOCKHOLDER OR
3 MEMBER MAY, AT ANY TIME, OPT OUT OF RECEIVING NOTICE BY
4 ELECTRONIC COMMUNICATION AND REQUEST THAT WRITTEN NOTICE
5 BE SENT IN A TRADITIONAL MANNER, I.E. BY PERSONAL SERVICE, BY
6 POST OR BY COURIER.

7 All proceedings had and any business transacted at any meeting of the
8 stockholders or members, if within the powers or authority of the corporation,
9 shall be valid even if the meeting be improperly held or called, provided all the
10 stockholders or members of the corporation are present or duly represented at
11 the meeting **AND NONE OF THEM EXPRESSLY STATE AT THE BEGINNING**
12 **OF THE MEETING THAT THE PURPOSE OF THEIR ATTENDANCE IS TO**
13 **OBJECT TO THE TRANSACTION OF ANY BUSINESS BECAUSE THE**
14 **MEETING IS NOT LAWFULLY CALLED OR CONVENED."**

15
16 **SEC. 34.** Section 53 of the Code is hereby amended to read as follows:

17 "Sec. 53. *Regular and special meetings of directors or trustees.* - Regular
18 meetings of the board of directors or trustees of every corporation shall be held
19 monthly, unless the by-laws provide otherwise.

20 Special meetings of the board of directors or trustees may be held at any
21 time upon the call of the president or as provided in the by-laws.

22 Meetings of directors or trustees of corporations may be held anywhere in
23 or outside of the Philippines, unless the by-laws provide otherwise. Notice of
24 regular or special meetings stating the date, time and place of the meeting must
25 be sent to every director or trustee at least [one (1) day] **FIVE (5) DAYS** prior to
26 the scheduled meeting, unless [otherwise] **A LONGER TIME IS** provided by the
27 by-laws. A director or trustee may waive this requirement, either expressly or
28 impliedly.

29 **DIRECTORS OR TRUSTEES CANNOT ATTEND OR VOTE BY PROXY**
30 **AT BOARD MEETINGS; HOWEVER, WHEN ALLOWED BY THE BY-LAWS,**
31 **THEY CAN ATTEND BOARD MEETINGS THROUGH REMOTE**
32 **COMMUNICATION SUCH AS VIDEOCONFERENCING,**
33 **TELECONFERENCING OR OTHER TECHNOLOGY THAT ALLOWS THEM A**
34 **REASONABLE OPPORTUNITY TO PARTICIPATE."**

35
36 **SEC. 35.** Section 58 of the Code is hereby amended to read as follows:

37 "Sec. 58. **MANNER OF VOTING; Proxies.** - Stockholders and members
38 may vote in person, **IN ABSENTIA** or by proxy in all meetings of stockholders or
39 members. **VOTING DONE WHEN ATTENDANCE IS BY REMOTE**
40 **COMMUNICATION SHALL BE EQUIVALENT TO VOTING IN PERSON. A**
41 **STOCKHOLDER OR MEMBER MAY VOTE WITHOUT ATTENDING THE**
42 **MEETING FOR AS LONG AS THE VOTE IS CAST AND RECEIVED ON OR**

1 BEFORE THE TALLY OF VOTES IS COMPLETED AT THE MEETING, AND
2 THE VOTE IS MADE IN ACCORDANCE WITH THE CORPORATION'S
3 REQUIREMENTS AND PROCEDURES FOR VOTING *IN ABSENTIA*. THE
4 COMMISSION SHALL PRESCRIBE THE MINIMUM STANDARDS AND
5 GUIDELINES FOR VOTING WHEN ATTENDANCE IS DONE BY REMOTE
6 COMMUNICATION OR WHEN VOTING IS *IN ABSENTIA*.

7 Proxies shall be in writing, signed by the stockholder or member and filed
8 before the scheduled meeting with the corporate secretary. Unless otherwise
9 provided in the proxy, it shall be valid only for the meeting for which it is intended.
10 No proxy shall be valid and effective for a period longer than five (5) years at any
11 one time."

12
13 **SEC. 36.** Section 59 of the Code is hereby amended to read as follows:

14 "Section 59. *Voting Trusts.* – One or more stockholders of a stock
15 corporation may create a voting trust for the purpose of conferring upon a trustee
16 or trustees the right to vote and other rights pertaining to the shares for a period
17 not exceeding five (5) years at any time: Provided, That in the case of a voting
18 trust specifically required as a condition in a loan agreement, said voting trust
19 may be for a period exceeding five (5) years but shall automatically expire upon
20 full payment of the loan. A voting trust agreement must be in writing and
21 notarized, and shall specify the terms and conditions thereof. A certified copy of
22 such agreement shall be filed with the corporation and with the [Securities and
23 Exchange] Commission [; otherwise, said agreement is ineffective and
24 unenforceable] **AND SHALL BE EFFECTIVE AND ENFORCEABLE ONLY**
25 **UPON APPROVAL THEREOF BY THE COMMISSION.** The certificate or
26 certificates of stock covered by the voting trust agreement shall be cancelled and
27 new ones shall be issued in the name of the trustee or trustees stating that they
28 are issued pursuant to said agreement. In the books of the corporation, it shall be
29 noted that the transfer in the name of the trustee or trustees is made pursuant to
30 said voting trust agreement."

31
32 **SEC. 37.** Section 61 of the Code is hereby amended to delete "Securities and Exchange" from
33 "Securities and Exchange Commission".

34
35 **SEC. 38.** Section 62 of the Code is hereby amended to read as follows:

36 "Sec. 62. *Consideration for stocks.* - Stocks shall not be issued for a
37 consideration less than the par or issued price thereof. Consideration for the
38 issuance of stock may be any or a combination of any two or more of the
39 following:

- 40 1. Actual cash paid to the corporation;

1 2. Property, tangible or intangible, actually received by the
2 corporation and necessary or convenient for its use and lawful purposes at a fair
3 valuation equal to the par or issued value of the stock issued;

4 3. Labor performed for or services actually rendered to the
5 corporation;

6 4. Previously incurred indebtedness of the corporation;

7 5. Amounts transferred from unrestricted retained earnings to stated
8 capital; [and]

9 6. Outstanding shares exchanged for stocks in the event of
10 reclassification or conversion[.];

11 7. **SHARES OF STOCK OF ANOTHER CORPORATION; AND**

12 8. **SUCH OTHER FORM OF CONSIDERATION THAT THE**
13 **COMMISSION MAY DETERMINE TO BE ACCEPTABLE SUBJECT TO THE**
14 **PROVISIONS OF THE CODE.**

15 Where the consideration is other than actual cash, or consists of
16 intangible property such as patents or copyrights, the valuation thereof shall
17 initially be determined by the incorporators or the board of directors, **WHO**
18 **SHALL THEN SUBMIT SUCH DETERMINATION, WITH SUPPORTING**
19 **DOCUMENTS AS THE COMMISSION MAY PRESCRIBE, FOR THE [subject**
20 **to] approval [by] OF the [Securities and Exchange] Commission.**

21 xxx xxx xxx”
22

23 **SEC. 39.** Section 63 of the Code is hereby amended to read as follows:

24 “Sec. 63. *Certificate of stock and transfer of shares.* - The capital stock of
25 stock corporations shall be divided into shares for which certificates signed by
26 the president or vice president, countersigned by the secretary or assistant
27 secretary, and sealed with the seal of the corporation shall be issued in
28 accordance with the by-laws. Shares of stock so issued are personal property
29 and may be transferred by delivery of the certificate or certificates indorsed by
30 the owner or his attorney-in-fact or other person legally authorized to make the
31 transfer. No transfer, however, shall be valid, except as between the parties, until
32 the transfer is recorded in the books of the corporation so as to show the names
33 of the parties to the transaction, the date of the transfer, the number of the
34 certificate or certificates and the number of shares transferred; **THE**
35 **COMMISSION MAY REQUIRE CORPORATIONS WHOSE SECURITIES ARE**
36 **TRADED IN AN EXCHANGE OR OTHER AUTHORIZED TRADING MARKETS**
37 **TO ISSUE ITS SECURITIES OR SHARES OF STOCKS IN UNCERTIFICATED**
38 **OR SCRIPLESS FORM BY VIRTUE OF, AND IN ACCORDANCE WITH, THE**
39 **RULES OF THE COMMISSION.**

40 xxx xxx xxx”
41
42

1 **SEC. 40.** Section 74 of the Code is hereby amended to read as follows:

2 *"Sec. 74. Books to be kept; stock transfer agent.* – Every corporation shall
3 keep and carefully preserve at its principal office **ALL INFORMATION**
4 **RELATIVE TO THE CORPORATION INCLUDING, BUT NOT LIMITED TO:** (a)
5 **THE ARTICLES OF INCORPORATION AND BY-LAWS OF THE**
6 **CORPORATION AND ALL THEIR AMENDMENTS, (b) THE CURRENT**
7 **OWNERSHIP STRUCTURE AND VOTING RIGHTS OF THE CORPORATION,**
8 **INCLUDING LISTS OF STOCKHOLDERS OR MEMBERS, GROUP**
9 **STRUCTURES, INTRA-GROUP RELATIONS, OWNERSHIP DATA, AND**
10 **BENEFICIAL OWNERSHIP, (c) THE NAMES AND ADDRESSES OF ALL THE**
11 **MEMBERS OF THE BOARD OF DIRECTORS OR TRUSTEES AND OF THE**
12 **EXECUTIVE OFFICERS, (d) a record of all business transactions, (e) A**
13 **RECORD OF THE RESOLUTIONS OF THE BOARD OF DIRECTORS OR**
14 **TRUSTEES AND OF THE STOCKHOLDERS OR MEMBERS, (f) COPIES OF**
15 **THE LATEST REPORTORIAL REQUIREMENTS SUBMITTED TO THE**
16 **COMMISSION, and (g) THE minutes of all meetings of stockholders or**
17 members, or of the board of directors or trustees[.]. **SUCH MINUTES** [in which]
18 shall [be] set forth in detail, **AMONG OTHERS:** the time and place of holding the
19 meeting, how authorized, the notice given, **THE AGENDA THEREFOR,** whether
20 the meeting was regular or special, if special its object, those present and
21 absent, **THE VOTING AND VOTE TABULATION PROCEDURES USED AND**
22 **THE RESULTS OF ALL VOTING DONE, THE OPPORTUNITY GIVEN TO**
23 **STOCKHOLDERS OR MEMBERS TO ASK QUESTIONS, AS WELL AS A**
24 **RECORD OF THE QUESTIONS THEY ASKED AND THE ANSWERS**
25 **RECEIVED,** and every act done or ordered done at the meeting. Upon the
26 demand of any director, trustee, stockholder or member, the time when any
27 director, trustee, stockholder or member entered or left the meeting must be
28 noted in the minutes; and on a similar demand, the yeas and nays must be taken
29 on any motion or proposition, and a record thereof carefully made. The protest of
30 any director, trustee, stockholder or member on any action or proposed action
31 must be recorded in full on his demand.

32 The **FOREGOING** records **SHALL BE RETAINED FOR SUCH**
33 **PERIODS AS THE COMMISSION MAY PRESCRIBE BY RULE AND, [of all**
34 business transactions of the corporation and the minutes of any meetings]
35 **REGARDLESS OF THE FORM IN WHICH THEY ARE STORED,** shall be open
36 to inspection by any director, trustee, stockholder or member of the corporation,
37 **IN PERSON OR BY COUNSEL OR OTHER REPRESENTATIVE POSSESSING**
38 **AND EXHIBITING DUE AUTHORITY,** at reasonable hours on business days
39 and he may demand, in writing, for [a copy of] **COPIES** of **SUCH RECORDS**
40 **OR** excerpts from said records [or minutes,] at his expense. **THE INSPECTING**
41 **OR REPRODUCING PARTY UNDER THIS SECTION SHALL REMAIN BOUND**
42 **BY CONFIDENTIALITY UNDER PREVAILING LAWS.**

1 IF A REQUEST FOR INSPECTION AND/OR REPRODUCTION IS
2 DENIED, THE AGGRIEVED PARTY MAY REPORT THE DENIAL TO THE
3 COMMISSION. WITHIN FIVE (5) DAYS FROM RECEIPT OF SUCH REPORT,
4 THE COMMISSION SHALL CONDUCT A SUMMARY INVESTIGATION AND
5 ISSUE AN ORDER EITHER DIRECTING THE INSPECTION/REPRODUCTION
6 REQUESTED OR FINDING THAT THE REQUESTING PARTY, NOT BEING A
7 STOCKHOLDER OR MEMBER OF RECORD, IS NOT ENTITLED TO THE
8 RIGHT.

9 Any officer or agent of the corporation who shall refuse to allow [any
10 director, trustee, stockholder or member of the corporation to examine and/OR
11 copy excerpts from its records or minutes,] **THE INSPECTION AND/OR
12 REPRODUCTION OF RECORDS** in accordance with the provisions of this
13 Code, shall be liable to such director, trustee, stockholder or member for
14 damages, and in addition, shall be guilty of an offense which shall be punishable
15 under Section 163 of this Code: Provided, That if such refusal is made pursuant
16 to a resolution or order of the board of directors or trustees, the liability under this
17 section for such action shall be imposed upon the directors or trustees who voted
18 for such refusal: and [Provided, further, That it shall be a defense to any action
19 under this section that the person demanding to examine and copy excerpts from
20 the corporation's records and minutes has improperly used any information
21 secured through any prior examination of the records or minutes of such
22 corporation or of any other corporation, or was not acting in good faith or for a
23 legitimate purpose in making his demand.]

24 **THE DIRECTOR, TRUSTEE, STOCKHOLDER OR MEMBER WHOSE
25 RIGHT TO INSPECTION AND/OR REPRODUCTION OF RECORDS WAS
26 DENIED MAY FILE, BEFORE A COURT OF COMPETENT JURISDICTION, AN
27 ACTION TO COMPEL INSPECTION OF CORPORATE RECORDS SHOWING
28 THAT, DESPITE THE LAPSE OF FIVE (5) DAYS FROM RECEIPT OF HIS
29 WRITTEN REQUEST OR DEMAND AND DESPITE HAVING BEEN ORDERED
30 BY THE COMMISSION TO DO SO, THE CORPORATION, OR AN OFFICER
31 OR AGENT THEREOF, REFUSED TO ALLOW THE INSPECTION AND/OR
32 REPRODUCTION OR FAILED TO REPLY TO THE WRITTEN REQUEST OR
33 DEMAND OR THE ORDER OF THE COMMISSION. THE COURT MAY,
34 AFTER SUMMARY PROCEEDINGS, ORDER THE CORPORATION TO
35 PERMIT THE INSPECTION AND/OR REPRODUCTION OR ISSUE ANY SUCH
36 OTHER OR FURTHER RELIEF AS IT MAY DEEM JUST AND PROPER.**

37 Stock corporations must also keep a book to be known as the "stock and
38 transfer book", in which must be kept a record of all stocks in the names of the
39 stockholders alphabetically arranged; the installments paid and unpaid on all
40 stock for which subscription has been made, and the date of payment of any
41 installment; a statement of every alienation, sale or transfer of stock made, the
42 date thereof, and by and to whom made; and such other entries as the by-laws

1 may prescribe. The stock and transfer book shall be kept in the principal office of
2 the corporation or in the office of its stock transfer agent and shall be open for
3 inspection by any director or stockholder of the corporation at reasonable hours
4 on business days.

5 No stock transfer agent or one engaged principally in the business of
6 registering transfers of stocks in behalf of a stock corporation shall be allowed to
7 operate in the Philippines unless he secures a license from the [Securities and
8 Exchange] Commission and pays a fee as may be fixed by the Commission,
9 which shall be renewable annually: Provided, That a stock corporation is not
10 precluded from performing or making transfers of its own stocks, in which case
11 all the rules and regulations imposed on stock transfer agents, except the
12 payment of a license fee herein provided, shall be applicable[.]; **PROVIDED,**
13 **FURTHER, THAT THE COMMISSION MAY REQUIRE AN INDEPENDENT**
14 **TRANSFER AGENT IN THE CASE OF STOCK CORPORATIONS WHICH**
15 **TRANSFER AND/OR TRADE STOCKS IN SECONDARY MARKETS."**
16

17 **SEC. 41.** Section 75 of the Code is hereby amended to read as follows:

18 "Sec. 75. *Right to financial statements.* - Within ten (10) days from receipt
19 of a written request of any stockholder or member, the corporation shall furnish
20 to him its most recent financial statement, **IN THE FORM AND SUBSTANCE OF**
21 **THE FINANCIAL REPORTING REQUIRED BY THE COMMISSION,** [which
22 shall include a balance sheet as of the end of the last taxable year and a profit or
23 loss statement for said taxable year, showing in reasonable detail its assets and
24 liabilities and the result of its operations.]

25 At the regular meeting of stockholders or members, the board of directors
26 or trustees shall present to such stockholders or members a financial report of
27 the operations of the corporation for the preceding year, which shall include
28 financial statements, duly signed and certified [by an independent certified public
29 accountant] **IN ACCORDANCE WITH THIS CODE AND THE RULES THE**
30 **COMMISSION MAY PRESCRIBE.**

31 However, if the [paid-up capital] **TOTAL ASSETS OR TOTAL**
32 **LIABILITIES** of the corporation [is] **ARE** less than [P50,000.00] **P500,000.00 OR**
33 **SUCH HIGHER AMOUNT AS MAY BE LATER SET BY THE COMMISSION,**
34 the financial statements may be certified under oath by the **CORPORATION'S**
35 **INTERNAL AUDITOR** [treasurer or any responsible officer of the corporation],
36 **AND SHALL BE ACCOMPANIED BY THE FURTHER CERTIFICATION BY**
37 **THE CORPORATION'S OFFICERS AS REQUIRED UNDER SECTION 180 OF**
38 **THIS CODE.**
39

40 **SEC. 42.** Section 77 of the Code is hereby amended to read as follows:

41 "Sec. 77. *Stockholder's or member's approval.* - Upon approval by
42 majority vote of each of the board of directors or trustees of the constituent

1 corporations of the plan of merger or consolidation, the same shall be submitted
2 for approval by the stockholders or members of each of such corporations at
3 separate corporate meetings duly called for the purpose. Notice of such
4 meetings shall be given to all stockholders or members of the respective
5 corporations **IN THE SAME MANNER AS NOTICE OF REGULAR OR SPECIAL**
6 **MEETINGS UNDER SECTION 51.** [, at least two (2) weeks prior to the date of
7 the meeting, either personally or by registered mail.] Said notice shall state, **IN**
8 **ADDITION TO THE REQUIREMENTS FOR NOTICE OF REGULAR OR**
9 **SPECIAL MEETINGS UNDER SECTION 51,** the purpose of the meeting and
10 shall include a copy or a summary of the plan of merger or consolidation.

11 xxx xxx xxx"
12

13 **SEC. 43.** Section 78 of the Code is hereby amended to read as follows:

14 "Sec. 78. *Articles of merger or consolidation.* - After the approval by the
15 stockholders or members as required by the preceding section, articles of merger
16 or articles of consolidation shall be executed by each of the constituent
17 corporations, to be signed by the president or vice-president and certified by the
18 secretary or assistant secretary of each corporation setting forth:

- 19 1. The plan of the merger or the plan of consolidation;
- 20 2. As to stock corporations, the number of shares
21 outstanding, or in the case of non-stock corporations, the number of
22 members; [and]
- 23 3. As to each corporation, the number of shares or members
24 voting for and against such plan, respectively[.];
- 25 4. **THE CARRYING AMOUNTS AND FAIR VALUES OF**
26 **THE ASSETS AND LIABILITIES OF THE RESPECTIVE COMPANIES**
27 **AS OF CUT-OFF DATE AGREED BY THE PARTIES;**
- 28 5. **THE METHOD THAT WILL BE USED IN THE MERGER**
29 **OR CONSOLIDATION OF ACCOUNTS OF THE COMPANIES;**
- 30 6. **THE PROVISIONAL OR PRO-FORMA VALUES, AS**
31 **MERGED OR CONSOLIDATED, USING THE ACCOUNTING METHOD;**
32 **AND**
- 33 7. **SUCH OTHER INFORMATION AS MAY BE**
34 **PRESCRIBED BY THE COMMISSION."**

35
36 **SEC. 44.** Section 79 of the Code is hereby amended to read as follows:

37 "Sec. 79. *Effectivity of merger or consolidation.* - The articles of merger or
38 of consolidation, signed and certified as herein above required, shall be
39 submitted to the [Securities and Exchange] Commission in quadruplicate for its
40 approval: Provided, That in the case of merger or consolidation of banks or
41 banking institutions, building and loan associations, trust companies, insurance
42 companies, public utilities, educational institutions and other special corporations

1 governed by special laws, the favorable recommendation of the appropriate
2 government agency shall first be obtained[.]; **PROVIDED, FURTHER, THAT**
3 **THE SUBMISSION OF ARTICLES OF MERGER OR CONSOLIDATION, IN**
4 **THE FORM OF AN ELECTRONIC DOCUMENT, SHALL BE IN ACCORDANCE**
5 **WITH THE RULES AND REGULATIONS OF THE COMMISSION ON THE USE**
6 **OF ELECTRONIC DATA MESSAGES.** If the Commission is satisfied that the
7 merger or consolidation of the corporations concerned is not inconsistent with the
8 provisions of this Code and existing laws, it shall issue a certificate of merger or
9 of consolidation, at which time the merger or consolidation shall be effective.

10 If, upon investigation, the [Securities and Exchange] Commission has
11 reason to believe that the proposed merger or consolidation is contrary to or
12 inconsistent with the provisions of this Code or existing laws, it shall set a
13 hearing to give the corporations concerned the opportunity to be heard. Written
14 notice of the date, time and place of hearing shall be given to each constituent
15 corporation at least two (2) weeks before said hearing. The Commission shall
16 thereafter proceed as provided in this Code.”

17
18 **SEC. 45.** A new provision is inserted in the Code as Section 81 as follows:

19 **“SEC. 81. DE FACTO MERGERS. – A SALE OF THE ASSETS OF A**
20 **CORPORATION, WHETHER EFFECTUATED THROUGH A SINGLE OR A**
21 **SERIES OF TRANSACTIONS, SHALL BE DEEMED A DE FACTO MERGER**
22 **AND TREATED AS A MERGER OR CONSOLIDATION UNDER THIS CODE**
23 **WHEN THE BUYER AND SELLER CORPORATIONS ENGAGE IN THE SAME**
24 **OR SIMILAR BUSINESS, WHETHER WHOLE OR IN PART, AND THE**
25 **TRANSACTION IS COUPLED WITH OR RESULTS IN ANY, SOME, OR ALL**
26 **OF THE FOLLOWING OR OTHER SIMILAR CIRCUMSTANCES:**

27 **1. THE SALE IS OF ALL OR SUBSTANTIALLY ALL OF THE**
28 **ASSETS OF THE CORPORATION. A SALE SHALL BE DEEMED TO BE OF**
29 **ALL OR SUBSTANTIALLY ALL OF THE ASSETS OF THE CORPORATION**
30 **WHEN:**

31 **a. AT LEAST EIGHTY PERCENT (80%) OF THE SELLER**
32 **CORPORATION'S ASSETS ARE INCLUDED IN THE SALE,**

33 **b. THE SELLER CORPORATION IS LEFT WITH ONLY**
34 **BAD OR TOXIC ASSETS OR MASSIVE LIABILITIES,**

35 **c. THE REMAINING ASSETS ARE NOT SUFFICIENT FOR**
36 **THE CONTINUATION OF THE SELLER CORPORATION'S ORDINARY**
37 **OPERATIONS, OR**

38 **d. UNDER CIRCUMSTANCES CONGRUOUS TO THE**
39 **FOREGOING.**

40 **2. THE TRANSACTION RESULTS IN THE CESSATION OF THE**
41 **ORDINARY BUSINESS OF THE SELLER CORPORATION. SUCH**

1 CESSATION SHALL BE DEEMED TO EXIST DESPITE THE NON-
2 DISSOLUTION OF THE SELLER CORPORATION WHEN:

3 a. THE SELLER CORPORATION BECOMES MERELY A
4 SHELL CORPORATION,

5 b. THE SELLER CORPORATION HAS NO OPERATIONS
6 WHICH ARE BY THEMSELVES ECONOMICALLY VIABLE,

7 c. THE SELLER CORPORATION IS RENDERED
8 INCAPABLE OF DOING BUSINESS EXCEPT THROUGH THE BUYER
9 CORPORATION, OR

10 d. UNDER CIRCUMSTANCES CONGRUOUS TO THE
11 FOREGOING.

12 3. THERE IS AN INTEGRATION OF THE SELLER
13 CORPORATION'S PRODUCTIVE ASSETS AND OPERATIONS INTO THE
14 BUYER CORPORATION'S OWN BUSINESS OR A CONTINUITY OF THE
15 SELLER CORPORATION'S BUSINESS IN THE BUSINESS OF THE BUYER
16 CORPORATION. SUCH INTEGRATION OR CONTINUITY SHALL BE
17 DEEMED TO EXIST WHEN THE BUYER CORPORATION, WHETHER
18 WHOLLY OR IN PART, CONTINUES THE SELLER CORPORATION'S
19 BUSINESS IN TERMS OF MANAGEMENT, PERSONNEL, PHYSICAL
20 LOCATION, ASSETS, PROCESS, TECHNOLOGY ACTIVITIES, OR GENERAL
21 BUSINESS OPERATIONS, OR INTEGRATES AND COMBINES THESE
22 ASPECTS WITH ITS OWN BUSINESS MODEL, WHETHER OR NOT THERE
23 IS A COMPLETE IDENTITY OR UNIFORMITY IN EVERY MATERIAL
24 CHARACTERISTIC.

25 4. THERE IS AN ASSUMPTION BY THE BUYER CORPORATION
26 OF THE SELLER CORPORATION'S LIABILITIES WHICH WOULD
27 ORDINARILY BE NECESSARY TO CONTINUE THE SELLER
28 CORPORATION'S BUSINESS OPERATIONS WITHOUT INTERRUPTION.

29 5. THE BUYER CORPORATION PAYS FOR THE SELLER
30 CORPORATION'S ASSETS WITH SHARES OF ITS OWN STOCK.

31 6. UNDER THE TERMS OF THE SALE OF THE ASSETS, THE
32 SELLER CORPORATION IS PROHIBITED BY THE BUYER CORPORATION
33 FROM CONTINUING OR ENGAGING IN THE SAME OR SIMILAR BUSINESS.

34 THIS PROVISION SHALL APPLY WHETHER THE BUYER
35 CORPORATION CARRIES OUT THE WHOLE OR A PART OF THE
36 TRANSACTION OR SERIES OF TRANSACTIONS IN ITS OWN NAME OR
37 THROUGH ANY OF ITS WHOLLY OWNED AND CONTROLLED
38 SUBSIDIARIES OR OTHER RELATED PARTIES."

39
40 **SEC. 46.** Section 81 of the Code is hereby Section 82 and amended to read as follows:

41 "Sec. [81]82. *Instances of appraisal right; REMEDY AGAINST*
42 *OPPRESSIVE ACTS.* - Any stockholder of a corporation shall have the right to

1 dissent and demand payment of the fair value of his shares in the following
2 instances:

3 1. In case any amendment to the articles of incorporation has
4 the effect of changing or restricting the rights of any stockholder or class
5 of shares, or of authorizing preferences in any respect superior to those
6 of outstanding shares of any class, or of extending or shortening the term
7 of corporate existence;

8 2. In case of sale, lease, exchange, transfer, mortgage,
9 pledge or other disposition of all or substantially all of the corporate
10 property and assets as provided in the Code; [and]

11 3. In case of merger or consolidation **WHETHER DE JURE**
12 **OR DE FACTO[.];**

13 4. **WHEN THE CORPORATION SUBMITS FALSE OR**
14 **INACCURATE FINANCIAL STATEMENTS AND/OR REPORTORIAL**
15 **REQUIREMENTS OR WHEN THEY CONTAIN MISSTATEMENTS OR**
16 **MISREPRESENTATIONS;**

17 5. **WHEN THE CORPORATION REFUSES TO HOLD THE**
18 **REGULAR MEETINGS OF STOCKHOLDERS OR UNDULY**
19 **PREVENTS ANY STOCKHOLDER FROM PARTICIPATING IN**
20 **MEETINGS HELD;**

21 6. **WHEN STOCKHOLDERS REPRESENTING A**
22 **MAJORITY APPOINT THEIR NOMINEES AS DIRECTORS, WITHOUT**
23 **HOLDING ELECTIONS;**

24 7. **WHEN DIRECTORS AUTHORIZE PAYMENTS TO**
25 **ENTITIES RELATED TO THEM OR OTHERWISE ENGAGE IN**
26 **RELATED PARTY TRANSACTIONS; AND**

27 8. **IN INSTANCES WHEN THE CORPORATION IS**
28 **VIOLATING THE PROVISIONS OF THIS CODE, ITS RULES, OR**
29 **OTHER LAWS."**

30
31 **SEC. 47.** Sections 82 and 83 of the Code are hereby renumbered as Sections 83 and 84,
32 respectively.

33
34 **SEC. 48.** Section 84 of the Code is hereby renumbered as Section 85 and amended to delete
35 "Securities and Exchange" from "Securities and Exchange Commission" in each instance.

36
37 **SEC. 49.** Sections 85 to 88 of the Code are hereby renumbered as Sections 86 to 89
38 accordingly.

1 **SEC. 50.** Section 89 of the Code is hereby renumbered as Section 90 and amended to read as
2 follows:

3 "Sec. [89]90. *Right to vote.* – **EXCEPT AS OTHERWISE PROVIDED IN**
4 **THIS CODE**, the right of the members of any class or classes to vote may be
5 limited, broadened or denied to the extent specified in the articles of
6 incorporation or the by-laws. Unless so limited, broadened or denied, each
7 member, regardless of class, shall be entitled to one vote.

8 [Unless otherwise provided in the articles of incorporation or the by-laws,]
9 A member may vote **IN PERSON, IN ABSENTIA, OR** by proxy in accordance
10 with the provisions of this Code.

11 [Voting by mail or other similar means by members of non-stock
12 corporations may be authorized by the by-laws of non-stock corporations with the
13 approval of, and under such conditions which may be prescribed by, the
14 Securities and Exchange Commission.]

15
16 **SEC. 51.** Sections 90 and 91 of the Code are hereby renumbered as Sections 91 and 92,
17 respectively.

18
19 **SEC. 52.** Section 92 of the Code is hereby renumbered as Section 93 and amended to read as
20 follows:

21 "Sec. [92]93. *Election and term of trustees.* – [Unless otherwise provided
22 in the articles of incorporation or the by-laws,] The board of trustees of non-stock
23 corporations **SHALL BE IN SUCH NUMBER AS MAY BE FIXED IN THE**
24 **ARTICLES OF INCORPORATION OR BY-LAWS** [, which may be more than]
25 **NOT EXCEEDING** fifteen (15) [in number as may be fixed in their articles of
26 incorporation or by-laws, shall]. **THEY SHALL HOLD OFFICE FOR ONE YEAR**
27 **UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED.** [as soon as
28 organized, so classify themselves that the term of office of one-third (1/3) of their
29 number shall expire every year; and subsequent elections of trustees comprising
30 one-third (1/3) of the board of trustees shall be held annually and trustees so
31 elected shall have a term of three (3) years.] Trustees [thereafter] elected to fill
32 vacancies occurring before the expiration of a particular term shall hold office
33 only for the unexpired period.

34 **EXCEPT WITH RESPECT TO INDEPENDENT TRUSTEES UNDER**
35 **SECTION 23**, no person shall be elected as trustee unless he is a member of the
36 corporation.

37 Unless otherwise provided in the articles of incorporation or the by-laws,
38 officers of a non-stock corporation may be directly elected by the members."
39
40
41

SEC. 53. Section 93 of the Code is hereby renumbered as Section 94 and amended to read as follows:

“Sec. [93]**94.** [*Place of meetings*] **LIST OF MEMBERS AND PROXIES.** –
THE CORPORATION SHALL, AT ALL TIMES, KEEP A LIST OF ITS
MEMBERS AND THEIR PROXIES ON SITE AT ITS PRINCIPAL OFFICE, IN
THE FORM THE COMMISSION MAY REQUIRE, WHICH LIST SHALL BE
UPDATED IN A MANNER AS TO REFLECT THE MEMBERS AND PROXIES
OF RECORD AS OF TWENTY DAYS PRIOR TO ANY SCHEDULED
ELECTION. [The by-laws may provide that the members of a non-stock
corporation may hold their regular or special meetings at any place even outside
the place where the principal office of the corporation is located: Provided, That
proper notice is sent to all members indicating the date, time and place of the
meeting: and Provided, further, That the place of meeting shall be within the
Philippines.]

SEC. 54. Section 94 of the Code is hereby renumbered as Section 95 and amended to read as follows:

“Sec. [94]**95.** *Rules of distribution.* - In case of dissolution of a non-stock
corporation in accordance with the provisions of this Code **FOR REASONS
OTHER THAN THOSE SET FORTH IN SECTION 136 (4) (B) to (I)**, its assets
shall be applied and distributed as follows:

xxx xxx xxx”

SEC. 55. Sections 95 to 103 of the Code are hereby renumbered as Sections 96 to 104 accordingly.

SEC. 56. Sections 104, 105, and 107 of the Code are hereby amended by deleting “Securities and Exchange” from “Securities Exchange Commission” in each instance and, in Section 107, changing “Ministry of Education and Culture” to “Department of Education Culture and Sports”. Further Sections 104 to 107 are renumbered as Sections 105 to 108 accordingly.

SEC. 57. Section 108 of the Code is hereby deleted.

SEC. 58. Sections 111, 112, 113, 114, 115, and 116 of the Code are hereby amended by deleting “Securities and Exchange” from “Securities Exchange Commission” in each instance.

SEC. 59. A new chapter is hereby added to Title XIII on Special Corporations and the succeeding provisions are renumbered accordingly.

CHAPTER III

ONE PERSON CORPORATIONS

**SEC. 117. APPLICABILITY OF PROVISIONS TO ONE PERSON
CORPORATIONS. – THE PROVISIONS OF THIS CODE ARE APPLICABLE**

1 TO ONE PERSON CORPORATIONS EXCEPT AS OTHERWISE PROVIDED IN
2 THIS TITLE AND IN THE OTHER SPECIFIC PROVISIONS OF THIS CODE.

3 SEC. 118. *ONE PERSON CORPORATION.* – A ONE PERSON
4 CORPORATION IS A CORPORATION WITH ONLY A SINGLE
5 STOCKHOLDER WHO IS A NATURAL PERSON OR A JURIDICAL PERSON.

6 SEC. 119. *SINGLE STOCKHOLDER.* – FOR PURPOSES OF THIS
7 CODE, THE FOLLOWING SHALL BE DEEMED A SINGLE STOCKHOLDER:

- 8 a. A NATURAL PERSON WHO WHOLLY OWNS THE SHARES IN
9 THE ONE PERSON CORPORATION;
10 b. A JURIDICAL PERSON WHO WHOLLY OWNS THE SHARES IN
11 THE ONE PERSON CORPORATION AND WHO ACTS AS SINGLE
12 STOCKHOLDER THROUGH A DULY AUTHORIZED
13 REPRESENTATIVE; AND
14 c. A TRUST, ESTATE OR ACCOUNT WHO WHOLLY OWNS THE
15 SHARES IN THE ONE PERSON CORPORATION AND WHO
16 SHALL ACT AS STOCKHOLDER THROUGH ITS TRUSTEE,
17 ADMINISTRATOR, EXECUTOR, GUARDIAN, CONSERVATOR,
18 CUSTODIAN OR OTHER PERSON EXERCISING FIDUCIARY
19 CAPACITIES AND DULY AUTHORIZED AS SUCH.

20 SEC. 120. *MINIMUM AMOUNT OF CAPITAL STOCK TO BE PAID*
21 *FOR PURPOSES OF INCORPORATION.* – THE MINIMUM AMOUNT OF
22 AUTHORIZED CAPITAL STOCK FOR A ONE PERSON CORPORATION IS
23 ONE MILLION PESOS (PHP1,000,000.00), THE PAYMENT OF WHICH SHALL
24 BE MADE BY THE SINGLE STOCKHOLDER IN ONE LUMP SUM AT THE
25 TIME OF INCORPORATION AND PHYSICALLY SEPARATED FROM THE
26 PERSONAL FUNDS OF THE SINGLE STOCKHOLDER.

27 SEC. 121. *ARTICLES OF INCORPORATION; BY-LAWS NOT*
28 *REQUIRED.* – INsofar AS APPLICABLE, A ONE PERSON CORPORATION
29 SHALL FILE ARTICLES OF INCORPORATION IN ACCORDANCE WITH THE
30 REQUIREMENTS UNDER SECTION 14 OF THIS CODE, SUBJECT TO THE
31 FOLLOWING:

32 (1) THERE SHALL BE A STATEMENT AS TO
33 WHETHER THE CAPITAL STOCK IS THE SOLE INVESTMENT
34 OF A NATURAL OR OF A JURIDICAL PERSON, OR OF A
35 TRUST, ESTATE OR ACCOUNT;

36 (2) IF THE SINGLE STOCKHOLDER IS A
37 JURIDICAL PERSON, IT SHALL CLEARLY INDICATE THE
38 NAME, NATIONALITY AND RESIDENCE OF THE NATURAL
39 PERSON AUTHORIZED TO ACT ON ITS BEHALF AND
40 ATTACH PROOF OF SUCH AUTHORITY;

41 (3) IF THE SINGLE STOCKHOLDER IS A TRUST,
42 ESTATE OR ACCOUNT, IT SHALL CLEARLY INDICATE THE

1 NAME, NATIONALITY AND RESIDENCE OF THE TRUSTEE,
2 ADMINISTRATOR, EXECUTOR, GUARDIAN, CONSERVATOR,
3 CUSTODIAN OR OTHER PERSON EXERCISING FIDUCIARY
4 CAPACITIES AND ATTACH PROOF OF SUCH AUTHORITY TO
5 ACT ON BEHALF OF THE TRUST, ESTATE OR ACCOUNT;

6 (4) IN ACCORDANCE WITH SECTION 127, IT
7 SHALL DESIGNATE A NOMINEE AND ALTERNATE NOMINEE
8 AND ATTACH THERETO THEIR PRIOR WRITTEN CONSENT,
9 AS WELL AS STATE THE COMPENSATION THEY SHALL
10 RECEIVE AND THE EXTENT OF OR LIMITATIONS ON THEIR
11 AUTHORITY;

12 (5) THE ARTICLES OF INCORPORATION SHALL
13 BE ACCOMPANIED BY A SWORN STATEMENT BY THE
14 STOCKHOLDER AS TO THE AMOUNT OF THE CAPITAL
15 STOCK AND THAT THE SAME HAS BEEN PAID IN FULL AND
16 MAINTAINED IN AN ACCOUNT SEPARATE FROM THAT OF
17 THE STOCKHOLDER;

18 (6) THERE SHALL BE ATTACHED TO THE
19 ARTICLES OF INCORPORATION A CODE OF ETHICS OR
20 STANDARDS OF CONDUCT AS SET FORTH IN SECTION 47,
21 SUBPARAGRAPH 11 OF THIS CODE; AND

22 (7) THERE SHALL BE ATTACHED TO THE
23 ARTICLES OF INCORPORATION INTERNAL PROCEDURES
24 FOR WHISTLEBLOWERS AS SET FORTH IN SECTION 47,
25 SUBPARAGRAPH 12 OF THIS CODE.

26 THE ONE PERSON CORPORATION SHALL BE EXEMPT FROM THE
27 FILING OF BY-LAWS.

28 **SEC. 122. PROHIBITION AGAINST MULTIPLE ONE PERSON**
29 **CORPORATIONS.** – ANY PERSON, TRUST, ESTATE OR ACCOUNT MAY
30 ONLY INCORPORATE AND MAINTAIN ONE ONE PERSON CORPORATION
31 AT ANY GIVEN INSTANCE. A ONE PERSON CORPORATION MAY NOT
32 INCORPORATE A NEW ONE PERSON CORPORATION.

33 **SEC. 123. DISPLAY OF CORPORATE NAME.** – A ONE PERSON
34 CORPORATION SHALL INDICATE EITHER BELOW OR AT THE END OF ITS
35 CORPORATE NAME, THE WORDS “ONE PERSON CORPORATION” OR
36 THE LETTERS “OPC”, WHEREVER ITS NAME IS PRINTED, AFFIXED,
37 ENGRAVED OR OTHERWISE PRESENTED.

38 **SEC. 124. SINGLE STOCKHOLDER AS DIRECTOR, PRESIDENT AND**
39 **TREASURER.** – THE SINGLE STOCKHOLDER SHALL BE THE SOLE
40 DIRECTOR, PRESIDENT (OR CHIEF EXECUTIVE OFFICER) AND
41 TREASURER (OR CHIEF FINANCE OFFICER) OF THE ONE PERSON
42 CORPORATION.

1 **SEC. 125. CORPORATE SECRETARY AND OTHER OFFICERS. –**
2 **WITHIN FIFTEEN DAYS FROM THE ISSUANCE OF ITS CERTIFICATE OF**
3 **INCORPORATION, THE ONE PERSON CORPORATION SHALL APPOINT A**
4 **CORPORATE SECRETARY, WHO SHALL BE OTHER THAN THE SINGLE**
5 **STOCKHOLDER, AND NOTIFY THE COMMISSION THEREOF WITHIN FIVE**
6 **DAYS FROM APPOINTMENT.**

7 **THE ONE PERSON CORPORATION MAY APPOINT SUCH OTHER**
8 **OFFICERS AS IT MAY DEEM NECESSARY.**

9 **SEC. 126. SPECIAL FUNCTIONS OF THE CORPORATE SECRETARY.**
10 **– IN ADDITION TO THE FUNCTIONS DESIGNATED BY THE ONE PERSON**
11 **CORPORATION AND REQUIRED ELSEWHERE IN THIS CODE, THE**
12 **CORPORATE SECRETARY SHALL:**

- 13 (b) **BE RESPONSIBLE FOR MAINTAINING THE MINUTES-BOOK**
14 **OF THE CORPORATION;**
- 15 (b) **NOTIFY THE NOMINEE, OR ALTERNATE NOMINEE AS THE**
16 **CASE MAY BE, OF THE DEATH OR INCAPACITY OF THE**
17 **SINGLE STOCKHOLDER, WHICH NOTICE SHALL BE GIVEN**
18 **NOT LATER THAN FIVE (5) DAYS FROM THE SINGLE**
19 **STOCKHOLDER'S DEATH OR INCAPACITY;**
- 20 (c) **NOTIFY THE COMMISSION OF THE DEATH OF THE SINGLE**
21 **STOCKHOLDER WITHIN A PERIOD OF FIVE (5) DAYS FROM**
22 **SUCH DEATH AND STATING IN SUCH NOTICE THE NAMES,**
23 **RESIDENCES AND CONTACT DETAILS OF ALL KNOWN**
24 **LEGAL HEIRS; AND**
- 25 (d) **CALL THE NOMINEE OR ALTERNATIVE NOMINEE TO A**
26 **MEETING WITH THE KNOWN LEGAL HEIRS AND GIVE**
27 **GUIDANCE ON THE OPTIONS OF THE LEGAL HEIRS WITH**
28 **REGARD TO THE ONE PERSON CORPORATION, INCLUDING**
29 **THE ELECTION OF A NEW DIRECTOR, AMENDING THE**
30 **ARTICLES OF INCORPORATION AND OTHER ANCILLARY**
31 **AND/OR CONSEQUENTIAL MATTERS.**

32 **SEC. 127. NOMINEE AND ALTERNATE NOMINEE. – THE SINGLE**
33 **STOCKHOLDER SHALL DESIGNATE A NOMINEE AND AN ALTERNATE**
34 **NOMINEE WHO SHALL, IN THE EVENT OF THE SINGLE STOCKHOLDER'S**
35 **DEATH OR INCAPACITY AND AFTER RECEIVING DUE NOTICE THEREOF**
36 **FROM THE CORPORATE SECRETARY, TAKE THE PLACE OF THE SINGLE**
37 **STOCKHOLDER AS DIRECTOR AND MANAGE THE AFFAIRS OF THE**
38 **CORPORATION AS PROVIDED IN THE ARTICLES OF INCORPORATION.**

39 **THE ARTICLES OF INCORPORATION SHALL STATE THE NAMES,**
40 **RESIDENCES AND CONTACT DETAILS OF THE NOMINEE AND**
41 **ALTERNATE NOMINEE, THE COMPENSATION THEY SHALL BE ENTITLED**
42 **TO RECEIVE, AS WELL AS THE EXTENT OF AND LIMITATIONS ON THEIR**

1 AUTHORITY IN MANAGING THE AFFAIRS OF THE ONE PERSON
2 CORPORATION.

3 THE WRITTEN CONSENT OF THE NOMINEE AND ALTERNATE
4 NOMINEE SHALL BE SUBMITTED TO THE COMMISSION TOGETHER WITH
5 THE FILING OF THE ONE PERSON CORPORATION'S ARTICLES OF
6 INCORPORATION. SUCH CONSENT MAY BE WITHDRAWN IN WRITING BY
7 FURNISHING COPIES THEREOF TO THE SINGLE STOCKHOLDER AND
8 THE COMMISSION ANYTIME BEFORE THE DEATH OR INCAPACITY OF
9 THE SINGLE STOCKHOLDER.

10 THE NOMINEE SHALL, IN THE EVENT OF THE SINGLE
11 STOCKHOLDER'S DEATH OR INCAPACITY AND AFTER RECEIVING DUE
12 NOTICE THEREOF FROM THE CORPORATE SECRETARY, TAKE THE
13 PLACE OF THE SINGLE STOCKHOLDER AS DIRECTOR AND MANAGE
14 THE AFFAIRS OF THE ONE PERSON CORPORATION.

15 SEC. 128. *TERM OF NOMINEE AND ALTERNATE NOMINEE.* –
16 WHEN THE INCAPACITY OF THE SINGLE STOCKHOLDER IS TEMPORARY,
17 THE NOMINEE SHALL SIT AS DIRECTOR AND MANAGE THE AFFAIRS OF
18 THE ONE PERSON CORPORATION ONLY UNTIL THE SINGLE
19 STOCKHOLDER, BY HIS OWN DETERMINATION, REGAINS HIS CAPACITY.
20 IN CASE OF DEATH OR PERMANENT INCAPACITY OF THE SINGLE
21 STOCKHOLDER, THE NOMINEE SHALL SIT AS DIRECTOR AND MANAGE
22 THE AFFAIRS OF THE ONE PERSON CORPORATION ONLY UNTIL THE
23 LEGAL HEIRS OF THE SINGLE STOCKHOLDER HAVE BEEN LAWFULLY
24 DETERMINED, THE SHARES ARE TRANSFERRED IN THEIR NAME,
25 AND/OR THEY HAVE DESIGNATED ONE OF THEM TO ACT ON THEIR
26 BEHALF AS THE SINGLE STOCKHOLDER OF THE ONE PERSON
27 CORPORATION.

28 THE ALTERNATE NOMINEE SHALL SIT AS DIRECTOR AND
29 MANAGE THE ONE PERSON CORPORATION IN CASE OF THE NOMINEE'S
30 INABILITY, INCAPACITY OR DEATH AND ONLY FOR THE SAME TERM
31 AND UNDER THE SAME CONDITIONS APPLICABLE TO THE NOMINEE.

32 SEC. 129. *CHANGE OF NOMINEE OR ALTERNATE NOMINEE.* – THE
33 SINGLE STOCKHOLDER MAY, AT ANY TIME, CHANGE THE NAME OF THE
34 NOMINEE OR ALTERNATE NOMINEE BY SUBMITTING NEW NAMES AND
35 NEW WRITTEN CONSENTS TO THE COMMISSION, WHICH SHALL BE
36 APPENDED TO THE ONE PERSON CORPORATION'S ARTICLES OF
37 INCORPORATION. THE ARTICLES OF INCORPORATION NEED NOT BE
38 AMENDED FOR SUCH CHANGE IN NOMINEE OR ALTERNATE NOMINEE.

39 SEC. 130. *RECORDS IN LIEU OF MEETINGS.* – NO
40 STOCKHOLDERS MEETING NEED BE HELD IN A ONE PERSON
41 CORPORATION. WHEN ACTION IS NEEDED ON ANY MATTER, IT SHALL
42 BE SUFFICIENT, FOR PURPOSES OF VALIDITY, IF THE RESOLUTION

1 THEREON IS MADE IN WRITING, SIGNED AND DATED BY THE SINGLE
2 STOCKHOLDER/DIRECTOR, AND RECORDED IN THE MINUTES-BOOK OF
3 THE ONE PERSON CORPORATION. THE DATE RECORDED IN THE
4 MINUTES-BOOK SHALL BE DEEMED TO BE THE DATE OF THE MEETING
5 FOR ALL PURPOSES UNDER THIS CODE.

6 SEC. 131. *MINUTES-BOOK.* – EACH ONE PERSON CORPORATION
7 SHALL MAINTAIN A MINUTES-BOOK IN WHICH SHALL BE ENTERED IN
8 WRITING ALL ACTIONS, DECISIONS, RESOLUTIONS TAKEN BY THE ONE
9 PERSON CORPORATION, SIGNED AND DATED BY THE SINGLE
10 STOCKHOLDER/DIRECTOR, AT THE TIME THE ACTION, DECISION OR
11 RESOLUTION IS MADE.

12 SEC. 132. *CO-MINGLING OF PROPERTY.* – WHERE THE
13 SINGLE STOCKHOLDER CANNOT PROVE THAT THE PROPERTY OF THE
14 ONE PERSON CORPORATION IS INDEPENDENT OF HIS OWN PROPERTY,
15 HE SHALL ASSUME THE JOINT AND SEVERAL LIABILITY FOR THE DEBTS
16 AND OTHER LIABILITIES OF THE ONE PERSON CORPORATION.

17 SEC. 133. *REPORTORIAL SUBMISSIONS.* – THE ONE PERSON
18 CORPORATION SHALL SUBMIT THE FOLLOWING TO THE COMMISSION
19 ANNUALLY AND WITHIN SUCH PERIODS AS THE COMMISSION MAY
20 PRESCRIBE:

- 21 1. FINANCIAL STATEMENTS CERTIFIED BY THE CHIEF
22 EXECUTIVE OFFICER AND CORPORATE SECRETARY AND
23 DULY AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC
24 ACCOUNTANT ACCREDITED BY THE BOARD OF
25 ACCOUNTANCY;
- 26 2. A REPORT CONTAINING EXPLANATIONS OR COMMENTS BY
27 THE CHIEF EXECUTIVE DIRECTOR ON EVERY QUALIFICATION,
28 RESERVATION OR ADVERSE REMARK OR DISCLAIMER MADE
29 BY THE AUDITOR IN HIS REPORT; AND
- 30 3. A DISCLOSURE OF ALL SELF-DEALINGS AND RELATED PARTY
31 TRANSACTIONS ENTERED INTO BETWEEN THE ONE PERSON
32 CORPORATION AND THE SINGLE STOCKHOLDER.

33 FOR PURPOSES OF THIS PROVISION, THE FISCAL YEAR OF A ONE
34 PERSON CORPORATION SHALL BE THAT SET FORTH IN ITS ARTICLES
35 OF INCORPORATION OR, IN THE ABSENCE THEREOF, THE CALENDAR
36 YEAR.

37 SEC. 134. *CHANGE OF STATUS FROM A REGULAR STOCK*
38 *CORPORATION TO A ONE PERSON CORPORATION.* – WHEN A SINGLE
39 STOCKHOLDER, AS DEFINED UNDER THIS TITLE, ACQUIRES ALL THE
40 STOCKS OF A REGULAR STOCK CORPORATION, THE LATTER MAY
41 APPLY FOR CONVERSION INTO A ONE PERSON CORPORATION,
42 SUBJECT TO THE SUBMISSION OF SUCH DOCUMENTS THE SEC MAY

1 REQUIRE. IF THE APPLICATION FOR CONVERSION IS APPROVED, THE
2 SEC SHALL FORTHWITH ISSUE AN AMENDED CERTIFICATE OF
3 INCORPORATION REFLECTING THE CONVERSION. THE ONE PERSON
4 CORPORATION CONVERTED FROM A REGULAR STOCK CORPORATION
5 SHALL SUCCEED TO AND BE LEGALLY RESPONSIBLE FOR ALL THE
6 LATTER'S OUTSTANDING LIABILITIES AS OF THE DATE OF
7 CONVERSION.

8 SEC. 135. *CHANGE IN STATUS OF A ONE PERSON*
9 *CORPORATION.* – A ONE PERSON CORPORATION MAY BE CONVERTED
10 INTO A REGULAR STOCK CORPORATION AFTER DUE NOTICE TO THE
11 SEC OF SUCH FACT, OF THE CIRCUMSTANCES LEADING TO THE
12 CONVERSION, AND OF COMPLIANCE WITH ALL OTHER REQUIREMENTS
13 FOR STOCK CORPORATIONS UNDER THIS CODE AND APPLICABLE
14 RULES. SUCH NOTICE SHALL BE FILED WITH THE SEC WITHIN SIXTY
15 (60) DAYS FROM THE OCCURRENCE OF THE CIRCUMSTANCES LEADING
16 TO THE CONVERSION INTO A REGULAR STOCK CORPORATION. IF ALL
17 REQUIREMENTS HAVE BEEN DULY COMPLIED WITH, THE SEC SHALL
18 FORTHWITH ISSUE AN AMENDED CERTIFICATE OF INCORPORATION
19 REFLECTING THE CONVERSION.

20 IN CASE OF DEATH OF THE SINGLE STOCKHOLDER, THE
21 NOMINEE OR ALTERNATE NOMINEE, AS THE CASE MAY BE, SHALL
22 TRANSFER THE SHARES IN THE NAME OF THE SINGLE STOCKHOLDERS'
23 LEGAL HEIRS WITHIN SEVEN (7) DAYS FROM RECEIPT OF EITHER AN
24 AFFIDAVIT OF HEIRSHIP OR OF SELF-ADJUDICATION BY A SOLE HEIR,
25 OR ANY OTHER LEGAL DOCUMENT DECLARING THE LEGAL HEIRS OF
26 THE SINGLE STOCKHOLDER AND, WITHIN THE SAME PERIOD, NOTIFY
27 THE SEC OF THE TRANSFER. WITHIN SIXTY (60) DAYS FROM THE
28 TRANSFER OF THE SHARES IN THEIR NAME, THE LEGAL HEIRS SHALL
29 NOTIFY THE SEC IF THEY DECIDE TO WIND UP AND DISSOLVE THE ONE
30 PERSON CORPORATION OR CONVERT IT INTO A REGULAR STOCK
31 CORPORATION.

32 THE REGULAR STOCK CORPORATION CONVERTED FROM A ONE
33 PERSON CORPORATION SHALL SUCCEED TO AND BE LEGALLY
34 RESPONSIBLE FOR ALL THE LATTER'S OUTSTANDING LIABILITIES AS
35 OF THE DATE OF CONVERSION.

36
37 **SEC. 60.** Section 117 of the Code is hereby renumbered as Section 136 and amended to read
38 as follows:

39 "TITLE XIV – DISSOLUTION"

40 "Sec. [117]136. *Methods of dissolution; EFFECTIVE DATE OF*
41 *DISSOLUTION.* - A corporation formed or organized under the provisions of this

1 Code may be dissolved **IN ANY OF THE FOLLOWING WAYS:** [voluntarily or
2 involuntarily.]

3 1. **AUTOMATICALLY BY EXPIRATION OF THE CORPORATE**
4 **TERM STATED IN THE ARTICLES OF INCORPORATION, AS ORIGINALLY**
5 **STATED, OR AS LENGTHENED OR SHORTENED IN ACCORDANCE WITH**
6 **THE PROVISIONS OF THIS CODE.**

7 2. **BY ACTION OF A MAJORITY OF THE INCORPORATORS OR**
8 **A MAJORITY OF THE DIRECTORS OR TRUSTEES WHEN THE**
9 **CORPORATION:**

10 a. **HAS NOT COMMENCED BUSINESS,**

11 b. **BEING A STOCK CORPORATION, HAS NOT ISSUED**
12 **SHARES,**

13 c. **HAS NO DEBTS OR OTHER LIABILITIES, AND**

14 d. **HAS RECEIVED NO PAYMENTS ON SUBSCRIPTIONS**
15 **FOR SHARES IN THE CASE OF STOCK CORPORATIONS, OR**
16 **CONTRIBUTIONS IN THE CASE OF NON-STOCK CORPORATIONS,**
17 **OR, HAVING RECEIVED THEM, HAS RETURNED THEM TO THOSE**
18 **ENTITLED THERETO, LESS AMOUNTS DISBURSED FOR LAWFUL**
19 **EXPENSES.**

20 3. **BY ACTION OF THE BOARD OF DIRECTORS AND**
21 **STOCKHOLDERS, OR THE BOARD OF TRUSTEES AND MEMBERS AS THE**
22 **CASE MAY BE, WHEN:**

23 a. **NOT QUALIFYING UNDER SECTION 136 (2) ABOVE,**
24 **THE CORPORATION FAILS TO COMMENCE OR CONTINUE ITS**
25 **BUSINESS OR THE CONSTRUCTION OF ITS WORKS AND ITS**
26 **CERTIFICATE OF INCORPORATION HAS NOT YET BEEN REVOKED**
27 **IN ACCORDANCE WITH SECTION 22 OF THIS CODE, OR**

28 b. **FOR ANY OTHER REASON PROPOSED AND VOTED**
29 **UPON BY THEM AT A MEETING CALLED SPECIFICALLY FOR THAT**
30 **PURPOSE.**

31 4. **BY ORDER OF THE COMMISSION WHEN THE**
32 **CORPORATION:**

33 a. **FAILED TO COMMENCE OR CONTINUE ITS BUSINESS**
34 **OR THE CONSTRUCTION OF ITS WORKS AND THE REVOCATION**
35 **OF ITS CERTIFICATE OF INCORPORATION HAS ATTAINED**
36 **FINALITY IN ACCORDANCE WITH SECTION 22 OF THIS CODE;**

37 b. **HAS BEEN FOUND TO HAVE PROCURED ITS**
38 **ORGANIZATION THROUGH FRAUD;**

39 c. **HAS BEEN FOUND TO HAVE BEEN CREATED FOR**
40 **THE PURPOSE OF COMMITTING OR CONCEALING, OR AIDING IN**
41 **THE COMMISSION OR CONCEALMENT OF, SECURITIES**

1 VIOLATIONS, SMUGGLING, TAX EVASION, MONEY LAUNDERING,
2 OR GRAFT AND CORRUPT PRACTICES;

3 d. HAS BEEN FOUND TO HAVE COMMITTED OR AIDED
4 IN THE COMMISSION OF SECURITIES VIOLATIONS, SMUGGLING,
5 TAX EVASION, MONEY LAUNDERING, OR GRAFT AND CORRUPT
6 PRACTICES, AND ITS STOCKHOLDERS KNEW OR WERE IN A
7 POSITION TO KNOW ABOUT SUCH ILLEGAL ACTS;

8 e. FOR THE PURPOSE OF SHIELDING ITSELF FROM
9 LIABILITY FOR GRAFT AND CORRUPT PRACTICES, HAS BEEN
10 FOUND TO HAVE ENGAGED THE SERVICES OF AN INTERMEDIARY
11 WHO COMMITS GRAFT AND CORRUPT PRACTICES FOR THE
12 CORPORATION'S BENEFIT OR IN ITS INTEREST, AND ITS
13 STOCKHOLDERS KNEW OR WERE IN A POSITION TO KNOW
14 ABOUT THE ENGAGEMENT;

15 f. HAS BEEN FOUND TO HAVE REPEATEDLY AND
16 KNOWINGLY TOLERATED THE COMMISSION OF GRAFT AND
17 CORRUPT PRACTICES OR OTHER FRAUDULENT OR ILLEGAL
18 ACTS BY ITS DIRECTORS, TRUSTEES, OFFICERS, OR EMPLOYEES,
19 FAILING TO SANCTION THEM, REPORT THEIR ACTIONS TO THE
20 PROPER AGENCIES, AND/OR FILE THE APPROPRIATE ACTION
21 AGAINST THEM;

22 g. HAS BEEN FOUND TO HAVE REPEATEDLY AND
23 WILLFULLY EXCEEDED THE AUTHORITY CONFERRED UPON IT BY
24 LAW;

25 h. HAS BEEN FOUND TO HAVE REPEATEDLY AND
26 WILLFULLY FALSIFIED, MISSTATED OR OTHERWISE
27 MISREPRESENTED INFORMATION CONTAINED IN ITS
28 REPORTORIAL REQUIREMENTS;

29 i. HAS BEEN FOUND TO HAVE REPEATEDLY AND
30 WILLFULLY CONDUCTED ITS BUSINESS IN A FRAUDULENT OR
31 OTHERWISE UNLAWFUL MANNER; OR

32 j. HAS BEEN FOUND TO HAVE OTHERWISE VIOLATED
33 THE PROVISIONS OF THIS CODE.

34 5. BY ORDER OF THE COMMISSION WHEN, BY FINAL
35 JUDGMENT, A COURT ORDERS THE DISSOLUTION OF THE
36 CORPORATION.

37 IN THE CASE OF EXPIRATION OF CORPORATE TERM UNDER SECTION
38 136 (1) ABOVE, DISSOLUTION SHALL AUTOMATICALLY TAKE EFFECT ON
39 THE DAY FOLLOWING THE LAST DAY OF THE CORPORATE TERM
40 STATED IN THE ARTICLES OF INCORPORATION, WITHOUT NEED FOR
41 THE ISSUANCE BY THE COMMISSION OF A CERTIFICATE OF
42 DISSOLUTION. IN ALL OTHER CASES, THE DISSOLUTION SHALL TAKE

1 EFFECT ONLY UPON AND AS OF THE ISSUANCE BY THE COMMISSION
2 OF A CERTIFICATE OF DISSOLUTION, AND SHALL BE WITHOUT
3 PREJUDICE TO SECTION 141 OF THIS CODE.”
4

5 **SEC. 61.** Section 118 of the Code is hereby renumbered as Section 137 and amended to read
6 as follows:

7 “Sec. [118]137. [*Voluntary dissolution*] **DISSOLUTION** where no creditors
8 are affected; **PROCEDURE.** – DISSOLUTION PURSUANT TO SECTION 136
9 (2) OF THIS CODE MAY BE MADE BY FILING A VERIFIED REQUEST FOR
10 DISSOLUTION WITH THE COMMISSION:

11 a. STATING THE NAME OF THE CORPORATION AND
12 THE NAMES AND ADDRESSES OF THE INCORPORATORS AND
13 DIRECTORS OR TRUSTEES;

14 b. STATING THE REASON FOR THE DISSOLUTION OF
15 THE CORPORATION;

16 c. ATTESTING TO THE EXISTENCE AND CONCURRENCE
17 OF ALL THE CONDITIONS SET FORTH IN SECTION 136 (2) (A) TO
18 (D) OF THIS CODE;

19 d. STATING THE NAMES OF THE INCORPORATORS, OR
20 OF THE DIRECTORS OR TRUSTEES, CONSTITUTING A MAJORITY,
21 WHO APPROVED THE DISSOLUTION AND THE DATE, PLACE, AND
22 TIME OF THE MEETING IN WHICH THE VOTE WAS MADE, WHICH
23 REQUIREMENT MAY BE DISPENSED WITH IF THE REQUEST ITSELF
24 IS DULY VERIFIED BY SUCH MAJORITY; AND

25 e. WHEN APPLICABLE, ATTACHING: (i) A LIST OF THE
26 NAMES AND ADDRESSES OF THE PERSONS ENTITLED TO A
27 RETURN OF PAID SUBSCRIPTIONS OR CONTRIBUTIONS AS SET
28 FORTH IN SECTION 136 (2) (D), (ii) A SUMMARY OF THE AMOUNTS
29 OF THEIR PAID SUBSCRIPTIONS OR CONTRIBUTIONS, (iii) A
30 SUMMARY OF THE AMOUNTS DISBURSED FOR LAWFUL
31 EXPENSES WITH COPIES OF THE OFFICIAL RECEIPTS THEREFOR,
32 AND (iv) A SUMMARY OF THE AMOUNTS RETURNED WITH PROOF
33 THAT THEY WERE DULY RECEIVED BY THOSE ENTITLED
34 THERETO.

35 If dissolution of a corporation **PURSUANT TO SECTION 136 (3) OF THIS**
36 **CODE** does not prejudice the rights of any creditor having a claim against it, the
37 dissolution may be effected by majority vote of the board of directors or trustees,
38 and by a resolution duly adopted by the affirmative vote of the stockholders
39 owning at least two-thirds (2/3) of the outstanding capital stock or of at least two-
40 thirds (2/3) of the members of a meeting to be held upon call of the directors or
41 trustees.

1 AT LEAST THIRTY (30) DAYS PRIOR TO THE MEETING, NOTICE SHALL BE
2 GIVEN TO EACH SHAREHOLDER OR MEMBER OF RECORD, WHETHER
3 OR NOT ENTITLED TO VOTE AT THE MEETING, IN THE MANNER
4 PROVIDED IN SECTION 50 OF THIS CODE AND SHALL STATE THAT THE
5 PURPOSE OF THE MEETING IS TO VOTE ON THE DISSOLUTION OF THE
6 CORPORATION. [after publication of the notice] NOTICE of THE time, place
7 and object of the meeting SHALL LIKEWISE BE MADE BY PUBLICATION for
8 three (3) consecutive weeks PRIOR TO THE DATE OF THE MEETING in a
9 newspaper published in the place where the principal office of said corporation is
10 located; and if no newspaper is published in such place, then in a newspaper of
11 general circulation in the Philippines.

12 [, after sending such notice to each stockholder or member [either] by registered
13 mail or by personal delivery at least thirty (30) days prior to said meeting.]

14 ONCE THE REQUIRED VOTES OF THE BOARD AND SHAREHOLDERS OR
15 MEMBERS ARE ACHIEVED, A VERIFIED REQUEST FOR DISSOLUTION
16 SHALL BE FILED WITH THE COMMISSION

17 a. STATING THE NAME OF THE CORPORATION AND
18 THE NAMES AND ADDRESSES OF THE DIRECTORS OR TRUSTEES;

19 b. STATING THE REASON FOR THE DISSOLUTION OF
20 THE CORPORATION;

21 c. CERTIFYING THAT NO CREDITOR SHALL BE
22 PREJUDICED BY THE DISSOLUTION AND SUBSTANTIATING THE
23 SAME WITH FINANCIAL STATEMENTS AND OTHER RECORDS;

24 d. STATING THE NAMES OF THE DIRECTORS OR
25 TRUSTEES, CONSTITUTING A MAJORITY, WHO APPROVED THE
26 DISSOLUTION AND THE DATE, PLACE, AND TIME OF THE MEETING
27 IN WHICH THE VOTE WAS MADE;

28 e. STATING WHEN THE NOTICES TO SHAREHOLDERS
29 OR MEMBERS WERE GIVEN, THE MANNER AND FORM IN WHICH
30 THEY WERE GIVEN, THE DETAILS OF PUBLICATION AND
31 ATTACHING PROOF THEREOF, AND THE DATE, PLACE, AND TIME
32 OF THE MEETING IN WHICH THE VOTE WAS MADE; AND

33 f. ATTACHING THERETO a copy of the resolution
34 authorizing the dissolution WHICH shall HAVE BEEN certified by a
35 majority of the board of directors or trustees and countersigned by the
36 secretary of the corporation.

37
38 WITHIN FIFTEEN (15) DAYS FROM RECEIPT OF THE VERIFIED REQUEST
39 FOR DISSOLUTION, AND IN THE ABSENCE OF ANY WITHDRAWAL WITHIN
40 SAID PERIOD, [The Securities and Exchange] THE Commission shall
41 APPROVE THE REQUEST AND thereupon issue the certificate of dissolution."
42

1 **SEC. 62.** Section 119 of the Code is hereby renumbered as Section 138 and amended to read
2 as follows:

3 "Sec. [119]**138.** [*Voluntary dissolution*] **DISSOLUTION** where creditors
4 are affected; **PROCEDURE AND CONTENTS OF PETITION.** - Where the
5 dissolution of a corporation may prejudice the rights of any creditor, [the petition]
6 **A VERIFIED PETITION** for dissolution shall be filed with the [Securities and
7 Exchange] Commission. The petition shall be signed by a majority of [its] **THE**
8 **CORPORATION'S** board of directors or trustees or other officers having the
9 management of its affairs, verified by its president or secretary or one of its
10 directors or trustees, and shall set forth all claims and demands against it, and
11 that its dissolution was resolved upon by the affirmative vote of the stockholders
12 representing at least two-thirds (2/3) of the outstanding capital stock or by at
13 least two-thirds (2/3) of the members at a meeting of its stockholders or members
14 called for that purpose. **THE PETITION SHALL LIKEWISE STATE: (a) THE**
15 **REASON FOR THE DISSOLUTION; (b) THE FORM, MANNER AND TIME**
16 **WHEN THE NOTICES WERE GIVEN; AND (c) THE DATE, PLACE, AND TIME**
17 **OF THE MEETING IN WHICH THE VOTE WAS MADE. THE PETITION SHALL**
18 **HAVE AS ANNEXES (a) A COPY OF THE RESOLUTION AUTHORIZING THE**
19 **DISSOLUTION, WHICH SHALL HAVE BEEN CERTIFIED BY A MAJORITY OF**
20 **THE BOARD OF DIRECTORS OR TRUSTEES AND COUNTERSIGNED BY**
21 **THE SECRETARY OF THE CORPORATION; AND (b) A LIST OF ALL ITS**
22 **CREDITORS.**

23 If the petition is sufficient in form and substance, the Commission shall,
24 by an order reciting the purpose of the petition, fix a date on or before which
25 objections thereto may be filed by any person, which date shall not be less than
26 thirty (30) days nor more than sixty (60) days after the entry of the order. Before
27 such date, a copy of the order shall be published at least once a week for three
28 (3) consecutive weeks in a newspaper of general circulation published in the
29 municipality or city where the principal office of the corporation is situated, or if
30 there be no such newspaper, then in a newspaper of general circulation in the
31 Philippines, and a similar copy shall be posted for three (3) consecutive weeks in
32 three (3) public places in such municipality or city.

33 Upon five (5) day's notice, given after the date on which the right to file
34 objections as fixed in the order has expired, the Commission shall proceed to
35 hear the petition and try any issue made by the objections filed; and if no such
36 objection is sufficient, and the material allegations of the petition are true, it shall
37 render judgment dissolving the corporation and directing such disposition of its
38 assets as justice requires, and may appoint a receiver to collect such assets and
39 pay the debts of the corporation."
40
41

1 **SEC. 63.** Section 120 of the Code is hereby renumbered as Section 139 and amended to read
2 as follows:

3 "Sec. [120]139. **WITHDRAWAL OF REQUEST FOR** Dissolution [by
4 shortening corporate term] **AND WITHDRAWAL OF PETITION FOR**
5 **DISSOLUTION.** – [A voluntary dissolution may be effected by amending the
6 articles of incorporation to shorten the corporate term pursuant to the provisions
7 of this Code. A copy of the amended articles of incorporation shall be submitted
8 to the Securities and Exchange Commission in accordance with this Code. Upon
9 approval of the amended articles of incorporation of the expiration of the
10 shortened term, as the case may be, the corporation shall be deemed dissolved
11 without any further proceedings, subject to the provisions of this Code on
12 liquidation.]

13 **A WITHDRAWAL OF THE REQUEST FOR DISSOLUTION SHALL:**

- 14 a. **BE MADE IN WRITING;**
15 b. **BE DULY VERIFIED BY ANY INCORPORATOR,**
16 **DIRECTOR, SHAREHOLDER OR MEMBER;**
17 c. **HAVE THE SIGNATURES OF THE SAME NUMBER OF**
18 **INCORPORATORS, DIRECTORS, SHAREHOLDERS OR MEMBERS**
19 **NECESSARY TO REQUEST FOR A DISSOLUTION AS SET FORTH IN**
20 **THE FOREGOING SECTIONS; AND**
21 d. **BE SUBMITTED WITHIN FIFTEEN (15) DAYS FROM**
22 **THE RECEIPT BY THE COMMISSION OF THE REQUEST FOR**
23 **DISSOLUTION.**

24 **UPON RECEIPT OF A DULY SUBMITTED WITHDRAWAL OF**
25 **REQUEST FOR DISSOLUTION, THE COMMISSION SHALL WITHHOLD**
26 **ACTION ON THE REQUEST FOR DISSOLUTION AND SHALL, AFTER**
27 **INVESTIGATION, ISSUE AN ORDER:**

- 28 a. **WITHHOLDING THE ISSUANCE OF THE CERTIFICATE**
29 **OF DISSOLUTION AND DEEMING THE REQUEST FOR**
30 **DISSOLUTION WITHDRAWN; OR**
31 b. **DIRECTING THAT A JOINT MEETING OF THE BOARD**
32 **AND OF THE STOCKHOLDERS BE HELD FOR THE PURPOSE OF**
33 **ASCERTAINING WHETHER OR NOT TO PROCEED WITH**
34 **DISSOLUTION.**

35 **THE COMMISSION SHALL HAVE THE POWER TO ISSUE SUCH**
36 **ORDERS AS MAY BE APPROPRIATE, INCLUDING, WITHOUT LIMITATION,**
37 **ORDERS DESIGNATING THE TIME AND PLACE OF THE JOINT MEETING,**
38 **DIRECTING THE SENDING OF NOTICES, AND SPECIFYING THE FORM OF**
39 **SUCH NOTICE. THE CONDUCT OF THE JOINT MEETING SHALL BE**
40 **SUPERVISED BY THE COMMISSION THROUGH A DULY AUTHORIZED**
41 **REPRESENTATIVE WHO SHALL, IMMEDIATELY AFTER THE JOINT**
42 **MEETING, CERTIFY ITS OUTCOME WITH A RECOMMENDATION AS TO**

1 WHETHER THE CERTIFICATE OF DISSOLUTION SHOULD BE ISSUED OR
2 THE REQUEST FOR DISSOLUTION BE DEEMED ABANDONED.
3 THEREAFTER, THE COMMISSION SHALL ISSUE AN ORDER EITHER
4 APPROVING THE WITHDRAWAL OF THE REQUEST OR A CERTIFICATE OF
5 DISSOLUTION OR PROCEEDING TO ACT ON SUCH REQUEST.

6 A MOTION FOR THE WITHDRAWAL OF THE PETITION FOR
7 DISSOLUTION SHALL BE SIMILAR IN SUBSTANCE AS A WITHDRAWAL OF
8 REQUEST FOR DISSOLUTION BUT SHALL BE VERIFIED AND FILED PRIOR
9 TO PUBLICATION OF THE ORDER SETTING THE DATE FOR OBJECTIONS
10 TO THE PETITION. THE COMMISSION SHALL RESOLVE THE MOTION
11 WITHIN THE SAME PROCEEDINGS AS THE PETITION AND ISSUE AN
12 ORDER DEEMING THE PETITION WITHDRAWN OR DENYING THE
13 WITHDRAWAL AND PROCEEDING TO HEAR OBJECTIONS ON THE
14 PETITION.”

15
16 **SEC. 64.** Section 121 of the Code is hereby renumbered as Section 140 and amended to read
17 as follows:

18 “Sec. [121]**140.** [Involuntary dissolution] **DISSOLUTION BY THE COMMISSION.**
19 – [A corporation may be dissolved by the Securities and Exchange]
20 **DISSOLUTION PROCEEDINGS PURSUANT TO THE GROUNDS SET FORTH**
21 **IN SECTION 136 (4) AND (5), SECTION 173, OR WHEN PROVIDED IN**
22 **OTHER LAWS, RULES AND REGULATIONS, MAY BE COMMENCED BY**
23 **THE Commission *MOTU PROPRIO* OR** upon filing of a verified complaint **BY**
24 **ANY INTERESTED PARTY. [and after]**

25 **AFTER** proper notice and hearing, **THE COMMISSION MAY DISSOLVE**
26 **THE CORPORATION OR ISSUE SUCH OTHER ORDER AS IT MAY DEEM**
27 **APPROPRIATE IN ACCORDANCE WITH THE PROVISIONS OF THIS CODE**
28 **OR THE RULES AND REGULATIONS OF THE COMMISSION.**

29 **IF THE CORPORATION IS DISSOLVED BY THE COMMISSION**
30 **PURSUANT TO ANY OF THE GROUNDS SET FORTH IN SECTION 136 (4)**
31 **(B) TO (I), ITS ASSETS, AFTER PAYMENT OF ITS OUTSTANDING**
32 **LIABILITIES, SHALL BE FORFEITED IN FAVOR OF THE COMMISSION.**
33 **SUCH FORFEITURE SHALL BE WITHOUT PREJUDICE TO ANY OTHER**
34 **PENALTY OR SANCTION FOR THOSE LIABLE UNDER THIS CODE OR**
35 **OTHER LAWS. [on the grounds provided by existing laws, rules and**
36 **regulations].”**

37
38 **SEC. 65.** Section 122 of the Code is hereby renumbered as Section 141 and amended to read
39 as follows:

40 “Sec. [122]**141.** *Corporate liquidation.* - Every corporation whose charter
41 expires by its own limitation or is annulled by forfeiture or otherwise, or whose
42 corporate existence for other purposes is terminated in any other manner, shall

1 nevertheless be continued as a body corporate for three (3) years after the [time
2 when it would have been so dissolved] **EFFECTIVE DATE OF DISSOLUTION**
3 **AS PROVIDED IN SECTION 136 OF THIS CODE**, for the purpose of
4 prosecuting and defending suits by or against it and enabling it to settle and
5 close its affairs, to dispose of and convey its property and to distribute its assets,
6 but not for the purpose of continuing the business for which it was established.

7 xxx xxx xxx

8 **EXCEPT AS OTHERWISE PROVIDED FOR IN SECTIONS 95 AND 96**
9 **OF THIS CODE**, upon the winding up of corporate affairs, any asset distributable
10 to any creditor or stockholder or member who is unknown or cannot be found
11 shall be escheated [to the city or municipality where such assets are located] **IN**
12 **FAVOR OF THE NATIONAL GOVERNMENT.**

13 xxx xxx xxx"

14
15 **SEC. 66.** Section 125 is amended to delete "Securities and Exchange" from "Securities and
16 Exchange Commission" in each instance. Further, Sections 123, 124 and 125 of the Code are
17 hereby renumbered as Sections 142, 143 and 144, respectively.

18
19 **SEC. 67.** Section 126 of the Code is hereby renumbered as Section 145 and amended to read
20 as follows:

21 "Sec. [126]**145. Issuance of a license.** - If the [Securities and Exchange]
22 Commission is satisfied that the applicant has complied with all the requirements
23 of this Code and other special laws, rules and regulations, the Commission shall
24 issue a license to the applicant to transact business in the Philippines for the
25 purpose or purposes specified in such license. Upon issuance of the license, such
26 foreign corporation may commence to transact business in the Philippines and
27 continue to do so for as long as it retains its authority to act as a corporation
28 under the laws of the country or state of its incorporation, unless such license is
29 sooner surrendered, revoked, suspended or annulled in accordance with this
30 Code or other special laws.

31 Within sixty (60) days after the issuance of the license to transact business
32 in the Philippines, the licensee, except foreign banking or insurance corporations,
33 shall deposit with the [Securities and Exchange] Commission for the benefit of
34 present and future creditors of the licensee in the Philippines, securities
35 satisfactory to the [Securities and Exchange] Commission, consisting of bonds or
36 other evidence of indebtedness of the Government of the Philippines, its political
37 subdivisions and instrumentalities, or of government-owned or controlled
38 corporations and entities, shares of stock **OR DEBT SECURITIES THAT ARE**
39 **REGISTERED UNDER THE SECURITIES REGULATION CODE** [in "registered
40 enterprises" as this term is defined in Republic Act No. 5186], shares of stock in
41 domestic corporations [registered] **LISTED** in the stock exchange, [or] shares of
42 stock in domestic insurance companies and banks, **OR ANY FINANCIAL**

1 **INSTRUMENT DETERMINED SUITABLE BY THE COMMISSION**, or any
2 combination **THEREOF** [of these kinds of securities,] in the actual market value of
3 at least [one] **FIVE** hundred thousand [(P100,000.)] **(P500,000)** pesos **OR SUCH**
4 **OTHER AMOUNT THAT MAY BE SET BY THE COMMISSION**; Provided,
5 however, That within six (6) months after each fiscal year of the licensee, the
6 [Securities and Exchange] Commission shall require the licensee to deposit
7 additional securities **OR FINANCIAL INSTRUMENTS** equivalent in actual market
8 value to two (2%) percent of the amount by which the licensee's gross income for
9 that fiscal year exceeds [five] **TEN** million [(P5,000,000.00)] **(P10,000,000.00)**
10 pesos. The [Securities and Exchange] Commission shall also require **THE**
11 deposit of additional securities **OR FINANCIAL INSTRUMENTS** if the actual
12 market value of the securities **OR FINANCIAL INSTRUMENTS** on deposit has
13 decreased by at least ten (10%) percent of their actual market value at the time
14 they were deposited. The [Securities and Exchange] Commission may at its
15 discretion release part of the additional [securities] deposit[ed with it] if the gross
16 income of the licensee has decreased, or if the actual market value of the total
17 [securities on] deposit has increased, by more than ten (10%) percent of their
18 actual market value [of the securities] at the time they were deposited. The
19 [Securities and Exchange] Commission may, from time to time, allow the licensee
20 to **MAKE** substitute **DEPOSITS** [other securities] for those already on deposit as
21 long as the licensee is solvent. Such licensee shall be entitled to collect the
22 interest or dividends on [the] **SUCH** [securities] depositS[ed]. In the event the
23 licensee ceases to do business in the Philippines, **ITS** [the securities] depositS[ed]
24 as aforesaid] shall be returned, upon the licensee's application therefor and upon
25 proof to the satisfaction of the [Securities and Exchange] Commission that the
26 licensee has no liability to Philippine residents, including the Government of the
27 Republic of the Philippines. **FOR PURPOSES OF COMPUTING THE**
28 **SECURITIES DEPOSIT, THE COMPOSITION OF GROSS INCOME AND**
29 **ALLOWABLE DEDUCTIONS THEREFROM SHALL BE IN ACCORDANCE**
30 **WITH THE RULES OF THE COMMISSION.**"

31
32 **SEC. 68.** Sections 128, 130, 131, 132, 134, 135, and 136 of the Code are hereby amended to
33 delete "Securities and Exchange" from "Securities and Exchange Commission" in each
34 instance. Further, Sections 127 to 136 are hereby renumbered as Sections 146 to 155
35 accordingly.

36
37 **SEC. 69.** A new title is inserted in the Code containing Sections 156 to 175, thus:

38 **TITLE XVI – INVESTIGATIONS, OFFENSES**
39 **AND PENALTIES**

40 **"Sec. 156. INVESTIGATION AND PROSECUTION OF OFFENSES. –**
41 **THE COMMISSION MAY, UPON COMPLAINT OR MOTU PROPRIO, MAKE**
42 **SUCH INVESTIGATIONS AS IT DEEMS NECESSARY TO DETERMINE**

1 WHETHER ANY PERSON HAS VIOLATED OR IS ABOUT TO VIOLATE ANY
2 PROVISION OF THIS CODE, ANY RULE, REGULATION OR ORDER
3 THEREUNDER, AND MAY REQUIRE OR PERMIT ANY PERSON TO FILE
4 WITH IT A STATEMENT IN WRITING, UNDER OATH OR OTHERWISE, AS
5 THE COMMISSION SHALL DETERMINE, AS TO ALL FACTS AND
6 CIRCUMSTANCES CONCERNING THE MATTER TO BE INVESTIGATED.

7 THE COMMISSION MAY PUBLISH INFORMATION CONCERNING ANY
8 SUCH VIOLATIONS, AND TO INVESTIGATE ANY FACT, CONDITION,
9 PRACTICE OR MATTER WHICH IT MAY DEEM NECESSARY OR PROPER TO
10 AID IN THE ENFORCEMENT OF THE PROVISIONS OF THIS CODE, IN THE
11 PRESCRIBING OF RULES AND REGULATIONS THEREUNDER, OR IN
12 SECURING INFORMATION TO SERVE AS A BASIS FOR RECOMMENDING
13 FURTHER LEGISLATION CONCERNING THE MATTERS TO WHICH THIS
14 CODE RELATES: *PROVIDED, HOWEVER*, THAT ANY PERSON REQUESTED
15 OR SUBPOENAED TO PRODUCE DOCUMENTS OR TESTIFY IN ANY
16 INVESTIGATION SHALL SIMULTANEOUSLY BE NOTIFIED IN WRITING OF
17 THE PURPOSE OF SUCH INVESTIGATION: *PROVIDED, FURTHER*, THAT
18 ALL CRIMINAL COMPLAINTS FOR VIOLATION OF THIS CODE, AND THE
19 IMPLEMENTING RULES AND REGULATIONS ENFORCED OR
20 ADMINISTERED BY THE COMMISSION SHALL BE REFERRED TO THE
21 DEPARTMENT OF JUSTICE FOR PRELIMINARY INVESTIGATION AND
22 PROSECUTION BEFORE THE PROPER COURT: *PROVIDED*,
23 *FURTHERMORE*, THAT IN INSTANCES WHERE THE LAW ALLOWS
24 INDEPENDENT CIVIL OR CRIMINAL PROCEEDINGS OF VIOLATIONS
25 ARISING FROM THE SAME ACT, THE COMMISSION SHALL TAKE
26 APPROPRIATE ACTION TO IMPLEMENT THE SAME.

27 SEC. 157. *ADMINISTRATION OF OATHS, AND SUBPOENA OF*
28 *WITNESSES AND DOCUMENTS.* – FOR THE PURPOSE OF THE
29 INVESTIGATIONS IN THE PRECEDING SECTION, OR ANY OTHER
30 PROCEEDING UNDER THIS CODE, THE COMMISSION OR ANY OFFICER
31 DESIGNATED BY IT IS EMPOWERED TO ADMINISTER OATHS AND
32 AFFIRMATIONS, SUBPOENA WITNESSES, COMPEL ATTENDANCE, TAKE
33 EVIDENCE, REQUIRE THE PRODUCTION OF ANY BOOK, PAPER,
34 CORRESPONDENCE, MEMORANDUM, OR OTHER RECORD WHICH THE
35 COMMISSION DEEMS RELEVANT OR MATERIAL TO THE INQUIRY, AND TO
36 PERFORM SUCH OTHER ACTS NECESSARY IN THE CONDUCT OF SUCH
37 INVESTIGATION OR PROCEEDINGS.

38 SECTION 158. *CEASE AND DESIST ORDERS.* – WHENEVER IT
39 SHALL APPEAR TO THE COMMISSION THAT ANY PERSON HAS ENGAGED
40 OR IS ABOUT TO ENGAGE IN ANY ACT OR PRACTICE CONSTITUTING A
41 VIOLATION OF ANY PROVISION OF THIS CODE, ANY RULE, REGULATION
42 OR ORDER THEREUNDER, IT MAY ISSUE AN ORDER FOR SUCH PERSON

1 TO DESIST FROM COMMITTING SUCH ACT OR PRACTICE. AFTER
2 FINDING THAT SUCH PERSON HAS ENGAGED IN ANY SUCH ACT OR
3 PRACTICE AND THAT THERE IS A REASONABLE LIKELIHOOD OF SUCH
4 PERSON CONTINUING FURTHER OR FUTURE VIOLATIONS, THE
5 COMMISSION MAY ISSUE, *EX PARTE* A CEASE AND DESIST ORDER
6 ENJOINING SUCH PERSON FROM FURTHER OR FUTURE VIOLATIONS FOR
7 A MAXIMUM PERIOD OF TWENTY (20) DAYS.

8 THEREAFTER, THE COMMISSION MAY PROCEED
9 ADMINISTRATIVELY AGAINST SUCH PERSON IN ACCORDANCE WITH
10 SECTION 160, AND/OR TRANSMIT SUCH EVIDENCE AS MAY BE
11 AVAILABLE CONCERNING ANY VIOLATION OF ANY PROVISION OF THIS
12 CODE, OR ANY RULE, REGULATION OR ORDER THEREUNDER, TO THE
13 DEPARTMENT OF JUSTICE, WHICH MAY INSTITUTE THE APPROPRIATE
14 CRIMINAL PROCEEDINGS UNDER THIS CODE, AND/OR TO THE PROPER
15 COURT, TRIBUNAL, OR QUASI-JUDICIAL AGENCY IN INSTANCES WHERE
16 THE LAW ALLOWS INDEPENDENT CIVIL OR CRIMINAL PROCEEDINGS OF
17 VIOLATIONS ARISING FROM THE SAME ACT.

18 SEC. 159. *CONTEMPT*. – ANY PERSON WHO, WITHIN HIS POWER
19 BUT WITHOUT JUSTIFIABLE OR LAWFUL CAUSE, FAILS OR REFUSES TO
20 COMPLY WITH ANY LAWFUL ORDER, DECISION OR SUBPOENA ISSUED
21 BY THE COMMISSION SHALL, AFTER DUE NOTICE AND HEARING, BE
22 GUILTY OF CONTEMPT OF THE COMMISSION. SUCH PERSON SHALL BE
23 FINED IN SUCH AMOUNT AS THE COMMISSION MAY DETERMINE. WHEN
24 THE FAILURE OR REFUSAL IS A CLEAR AND OPEN DEFIANCE OF THE
25 COMMISSION'S ORDER, DECISION OR SUBPOENA, THE PERSON SHALL
26 BE FINED ON A DAILY BASIS IN AN AMOUNT THE COMMISSION MAY
27 DETERMINE AND DETAINED UNDER AN ARREST ORDER ISSUED BY THE
28 COMMISSION UNTIL SUCH ORDER, DECISION OR SUBPOENA IS
29 COMPLIED WITH.

30 SEC. 160. *ADMINISTRATIVE SANCTIONS*. – IF, AFTER DUE NOTICE
31 AND HEARING INITIATED EITHER BY COMPLAINT OR *MOTU PROPRIO*,
32 THE COMMISSION FINDS THAT ANY PROVISION OF THIS CODE, OR ANY
33 OF THE COMMISSION'S RULES OR ORDERS HAS BEEN VIOLATED, THE
34 COMMISSION MAY IMPOSE ANY OR ALL OF THE FOLLOWING SANCTIONS
35 ON THOSE FOUND RESPONSIBLE FOR THE VIOLATION:

36 (A) A FINE RANGING FROM FIVE THOUSAND PESOS
37 (PHP5,000.00) TO TWO MILLION PESOS (PHP2,000,000.00) PLUS
38 NOT MORE THAN ONE THOUSAND PESOS (PHP1,000.00) FOR
39 EACH DAY OF CONTINUING VIOLATION, IN NO CASE TO EXCEED
40 TWO MILLION PESOS (PHP2,000,000.00);

41 (B) ARREST AND DETENTION IN CONNECTION WITH ITS
42 CONTEMPT POWER UNDER SECTION 159;

1 (C) SUSPENSION OR REVOCATION OF THE CERTIFICATE
2 OF INCORPORATION;

3 (D) DISSOLUTION OF THE CORPORATION AND
4 FORFEITURE OF ITS ASSETS UNDER THE CONDITIONS IN TITLE
5 XV OF THIS CODE; AND

6 (E) OTHER PENALTIES WITHIN THE POWER OF THE
7 COMMISSION TO IMPOSE OR AS PRESCRIBED IN ITS RULES AND
8 REGULATIONS.

9 THE IMPOSITION OF THE FOREGOING ADMINISTRATIVE
10 SANCTIONS SHALL BE WITHOUT PREJUDICE TO THE FILING OF CIVIL
11 COMPLAINTS AND/OR CRIMINAL CHARGES UNDER THIS CODE AND
12 OTHER LAWS AGAINST THE CORPORATION AND/OR THOSE
13 RESPONSIBLE FOR THE VIOLATION, IN INSTANCES WHERE THE LAW
14 ALLOWS INDEPENDENT CIVIL OR CRIMINAL PROCEEDINGS OF
15 VIOLATIONS ARISING FROM THE SAME ACT.

16 SEC. 161. *CONTINUED AND UNJUSTIFIED USE OF FORMER*
17 *CORPORATE NAME; PENALTIES.* – A CORPORATION THAT CONTINUES
18 TO USE A CORPORATE NAME ALREADY PREVIOUSLY REMOVED FROM
19 REGISTRATION OR RESERVATION SHALL BE PUNISHED WITH A FINE
20 RANGING FROM FIFTY THOUSAND PESOS (PHP50,000.00) TO TWO
21 HUNDRED THOUSAND PESOS (PHP200,000.00) AND/OR IMPRISONMENT
22 OF SIX (6) MONTHS TO TWO (2) YEARS AT THE DISCRETION OF THE
23 COURT; PROVIDED THAT THE CORPORATION MAY CLAIM THE DEFENSE
24 THAT IT, OR ANY OF ITS STOCKHOLDERS OR OTHER
25 DIRECTORS/OFFICERS EXERTED REASONABLE EFFORTS AGAINST THE
26 CONTINUED AND UNJUSTIFIED USE OF THE FORMER CORPORATE NAME,
27 IN WHICH CASE ONLY THE RESPONSIBLE DIRECTORS/OFFICERS SHALL
28 BE HELD CRIMINALLY LIABLE UNDER THIS PROVISION.

29 Sec. 162. *CONCEALMENT OF DISQUALIFICATION; PENALTIES.* –
30 EACH WILLFUL OR DELIBERATE CONCEALMENT BY A DIRECTOR OR
31 TRUSTEE OF ANY DISQUALIFICATION UNDER SECTION 27 ALREADY
32 EXISTING AT THE TIME HE ACCEPTED THE POST, SHALL BE PUNISHED
33 BY A FINE RANGING FROM FIFTY THOUSAND PESOS (PHP50,000.00) TO
34 TWO HUNDRED THOUSAND PESOS (PHP200,000.00) AND/OR
35 IMPRISONMENT OF SIX (6) MONTHS TO TWO (2) YEARS AT THE
36 DISCRETION OF THE COURT, AND BY A PERMANENT DISQUALIFICATION
37 FROM FURTHER ACTING AS DIRECTOR OF ANY CORPORATION. FOR
38 PURPOSES OF THIS SECTION, CONCEALMENT SHALL BE WILLFUL OR
39 DELIBERATE WHEN, DESPITE HAVING KNOWLEDGE OF THE EXISTENCE
40 OF THE DISQUALIFICATION, THE DIRECTOR OR TRUSTEE ACCEPTS THE
41 POST.

1 **Sec. 163. VIOLATION OF DUTY TO KEEP OR MAINTAIN RECORDS**
2 **AND/OR ALLOW THEIR INSPECTION OR REPRODUCTION; PENALTIES. –**
3 **THE UNJUSTIFIED FAILURE OR REFUSAL BY THE CORPORATION, OR BY**
4 **THOSE RESPONSIBLE FOR KEEPING AND MAINTAINING THE**
5 **CORPORATION'S RECORDS, TO COMPLY WITH SECTIONS 46, 74, 93, 180**
6 **AND OTHER PROVISIONS OF THIS CODE AND THE RULES OF THE**
7 **COMMISSION WITH RESPECT TO THE RETENTION, MAINTENANCE AND**
8 **KEEPING OF RECORDS AND ALLOWING THEIR INSPECTION OR**
9 **REPRODUCTION, AS THE CASE MAY BE, SHALL BE PUNISHED WITH A**
10 **FINE RANGING FROM FIFTY THOUSAND PESOS (PHP50,000.00) TO FIVE**
11 **HUNDRED THOUSAND PESOS (PHP500,000.00) AND IMPRISONMENT OF**
12 **THIRTY (30) DAYS TO TWO (2) YEARS AT THE DISCRETION OF THE**
13 **COURT.**

14 **THE PENALTIES IMPOSED UNDER THIS SECTION SHALL BE IN**
15 **ADDITION TO THE SANCTIONS IMPOSED BY THE COMMISSION IN THE**
16 **EXERCISE OF ITS CONTEMPT POWERS UNDER SECTION 159 TO COMPEL**
17 **COMPLIANCE WITH THE DUTIES UNDER THE MENTIONED PROVISIONS.**

18 **SEC. 164. KNOWING OR WILLFUL CERTIFICATION OF**
19 **INCOMPLETE, INACCURATE, FALSE OR MISLEADING STATEMENTS OR**
20 **REPORTS; PENALTIES. – ANY PERSON WHO CERTIFIES ANY REPORT OR**
21 **MATTER AS SET FORTH IN THIS CODE KNOWING, OR BEING IN A**
22 **POSITION TO KNOW, THAT THE SAME IS INCOMPLETE, INACCURATE, OR**
23 **CONTAINS FALSE OR MISLEADING INFORMATION OR STATEMENTS**
24 **SHALL BE PUNISHED WITH A FINE RANGING FROM TWO HUNDRED**
25 **THOUSAND PESOS (PHP200,000.00) TO TWO MILLION PESOS**
26 **(PHP2,000,000.00) AND/OR IMPRISONMENT OF TWO (2) TO TEN (10)**
27 **YEARS. WHEN THE VIOLATION IS WILLFUL, THE PENALTY SHALL BE A**
28 **FINE RANGING FROM FOUR HUNDRED THOUSAND PESOS**
29 **(PHP400,000.00) TO FOUR MILLION PESOS (PHP4,000,000.00) AND/OR**
30 **IMPRISONMENT OF FOUR (4) TO TWENTY (20) YEARS.**

31 **SEC. 165. INDEPENDENT AUDITOR COLLUSION; PENALTIES. –**
32 **WHEN AN INDEPENDENT AUDITOR COLLUDES WITH A CORPORATION OR**
33 **ITS REPRESENTATIVES AND CERTIFIES THE CORPORATION'S FINANCIAL**
34 **STATEMENTS WHICH ARE EITHER INCOMPLETE OR WHICH CONTAIN**
35 **INACCURATE, FALSE OR MISLEADING STATEMENTS OR REPORTS, OR**
36 **WHICH DO NOT GIVE A FAIR AND ACCURATE PRESENTATION OF THE**
37 **CORPORATION'S CONDITION, SUCH AUDITOR SHALL BE PUNISHED WITH**
38 **A FINE RANGING FROM FOUR HUNDRED THOUSAND PESOS**
39 **(PHP400,000.00) TO FOUR MILLION PESOS (PHP4,000,000.00) AND/OR**
40 **IMPRISONMENT OF FOUR (4) TO TWENTY (20) YEARS.**

41 **SEC. 166. PROCURING THE ORGANIZATION OF A CORPORATION**
42 **THROUGH FRAUD; PENALTIES. – THOSE RESPONSIBLE FOR**

1 PROCURING THE ORGANIZATION OF A CORPORATION THROUGH FRAUD,
2 OR ASSISTING DIRECTLY OR INDIRECTLY THEREIN, SHALL BE PUNISHED
3 WITH A FINE RANGING FROM FIVE HUNDRED THOUSAND PESOS
4 (PHP500,000.00) TO TWO MILLION PESOS (PHP2,000,000.00) AND/OR
5 IMPRISONMENT OF TWO (2) TO TEN (10) YEARS AT THE DISCRETION OF
6 THE COURT.

7 **Sec. 167. FRAUDULENT OR UNLAWFUL CONDUCT OF BUSINESS;**
8 **PENALTIES. – A CORPORATION THAT WILLFULLY CONDUCTS ITS**
9 **BUSINESS IN A FRAUDULENT OR OTHERWISE UNLAWFUL MANNER**
10 **SHALL BE PUNISHED WITH A FINE RANGING FROM FIVE HUNDRED**
11 **THOUSAND PESOS (PHP500,000.00) TO TWO MILLION PESOS**
12 **(PHP2,000,000.00) AND/OR IMPRISONMENT OF FIVE (5) TO TEN (10) YEARS**
13 **AT THE DISCRETION OF THE COURT.**

14 **Sec. 168. THEFT OF IDENTITY; PENALTIES. – ANY CORPORATION**
15 **WHO WILLFULLY OBTAINS ANY IDENTIFYING INFORMATION OF A**
16 **PERSON, WHETHER NATURAL OR JURIDICAL, AND USES THAT**
17 **INFORMATION FOR ANY UNLAWFUL PURPOSE, INCLUDING BUT NOT**
18 **LIMITED TO OBTAINING, OR ATTEMPTING TO OBTAIN, CREDIT, GOODS,**
19 **SERVICES, OR REAL PROPERTY WITHOUT THE CONSENT OF THAT**
20 **PERSON, SHALL BE PUNISHED WITH A FINE RANGING FROM ONE**
21 **MILLION PESOS (PHP1,000,000.00) TO FIVE MILLION PESOS**
22 **(PHP5,000,000.00) AND IMPRISONMENT OF TEN (10) YEARS. THE SAME**
23 **PENALTY SHALL BE IMPOSED WHEN THE OFFENDER IS A NATURAL**
24 **PERSON, OR A GROUP THEREOF, AND THE IDENTITY STOLEN IS THAT OF**
25 **A CORPORATION.**

26 **Sec. 169. ACTING AS INTERMEDIARIES FOR GRAFT AND CORRUPT**
27 **PRACTICES; PENALTIES. – A CORPORATION CREATED FOR THE**
28 **PURPOSE OF COMMITTING, OR AIDING IN THE COMMISSION OF, GRAFT**
29 **AND CORRUPT PRACTICES OR IN THE CONCEALMENT THEREOF SHALL**
30 **BE PUNISHED BY A FINE RANGING FROM ONE MILLION (PHP1,000,000.00)**
31 **TO FIVE MILLION (PHP5,000,000.00) PESOS AND IMPRISONMENT OF TEN**
32 **(10) YEARS.**

33 **THE CORPORATION'S FAILURE TO SHOW THAT IT HAS INSTALLED**
34 **SAFEGUARDS TO ENSURE THAT IT IS CARRYING OUT ITS SERVICES IN A**
35 **TRANSPARENT AND LAWFUL MANNER, AND THAT IT HAS INSTALLED**
36 **POLICIES, CODES OF ETHICS AND PROCEDURES AGAINST GRAFT AND**
37 **CORRUPTION, WHEN COUPLED WITH A FINDING OF GRAFT AND**
38 **CORRUPT PRACTICES AGAINST ANY OF THEIR DIRECTORS, OFFICER,**
39 **EMPLOYEES, AGENTS, OR REPRESENTATIVES, SHALL BE PRIMA FACIE**
40 **EVIDENCE OF LIABILITY UNDER THIS SECTION.**

41 **Sec. 170. ENGAGING INTERMEDIARIES FOR GRAFT AND CORRUPT**
42 **PRACTICES; PENALTIES. – A CORPORATION THAT, FOR THE PURPOSE**

1 OF SHIELDING ITSELF FROM LIABILITY FOR GRAFT AND CORRUPT
2 PRACTICES, ENGAGES THE SERVICES OF AN INTERMEDIARY WHO
3 COMMITS GRAFT AND CORRUPT PRACTICES FOR THE CORPORATION'S
4 BENEFIT OR IN ITS INTEREST, SHALL BE PUNISHED BY A FINE OF ONE
5 MILLION PESOS (PHP1,000,000.00) AND IMPRISONMENT OF TEN (10)
6 YEARS.

7 THE CORPORATION'S FAILURE TO SHOW THAT IT HAS USED THE
8 HIGHEST DEGREE OF DILIGENCE AND CARE WHEN ACQUIRING THE
9 SERVICES OF AN INTERMEDIARY, THAT IT HAS SUFFICIENT KNOWLEDGE
10 AND HAS INSTALLED SAFEGUARDS TO ENSURE THAT THE
11 INTERMEDIARY IS CARRYING OUT THE CONTRACTED SERVICES IN A
12 TRANSPARENT AND LAWFUL MANNER, AND THAT IT HAS INSTALLED
13 POLICIES, CODES OF ETHICS AND PROCEDURES DESIGNED TO
14 PREVENT GRAFT AND CORRUPTION, WHEN COUPLED WITH A FINDING
15 OF GRAFT AND CORRUPT PRACTICES AGAINST THE INTERMEDIARY,
16 SHALL BE PRIMA FACIE EVIDENCE OF LIABILITY UNDER THIS SECTION.

17 **Sec. 171. TOLERATING GRAFT AND CORRUPT PRACTICES;**
18 **PENALTIES.** – A DIRECTOR, TRUSTEE, OR OFFICER OF THE
19 CORPORATION WHO KNOWINGLY ALLOWS OR TOLERATES THE
20 COMMISSION OF GRAFT AND CORRUPT PRACTICES OR OTHER
21 FRAUDULENT ACTS BY ITS DIRECTORS, TRUSTEES, OFFICERS, OR
22 EMPLOYEES, FAILING TO SANCTION THEM, REPORT THEIR ACTIONS TO
23 THE PROPER AGENCIES, AND/OR FILE THE APPROPRIATE ACTION
24 AGAINST THEM, SHALL BE PUNISHED BY A FINE OF ONE MILLION PESOS
25 (PHP1,000,000.00) AND IMPRISONMENT TEN (10) YEARS.

26 **SEC. 172. RETALIATION AGAINST WHISTLEBLOWERS.** –ANY
27 PERSON WHO, KNOWINGLY AND WITH THE INTENT TO RETALIATE,
28 TAKES ANY ACTION HARMFUL TO ANOTHER PERSON, INCLUDING BUT
29 NOT LIMITED TO INTERFERENCE WITH THE LAWFUL EMPLOYMENT OR
30 LIVELIHOOD OF ANY PERSON, FOR PROVIDING ANY TRUTHFUL
31 INFORMATION RELATING TO THE COMMISSION OR POSSIBLE
32 COMMISSION OF ANY OFFENSE OR VIOLATION UNDER THIS CODE,
33 SHALL BE PUNISHED WITH A FINE RANGING FROM FIVE HUNDRED
34 THOUSAND PESOS (PHP500,000.00) TO ONE MILLION PESOS
35 (PHP1,000,000.00) AND/OR IMPRISONMENT OF FIVE (5) TO TEN (10)
36 YEARS, AT THE DISCRETION OF THE COURT.

37 **"Sec. [141]173. OTHER Violations of the Code; SEPARATE LIABILITY.**
38 **–** Violations of any of the other provisions of this Code or its amendments not
39 otherwise specifically penalized herein shall be punished by a fine of not less than
40 [one] FIFTY thousand [P1,000.00] (P50,000.00) pesos but not more than ONE
41 MILLION (P1,000,000.00) [ten thousand (P10,000.00)] pesos AND/or by
42 imprisonment [for] OF not less than thirty (30) days but not more than five (5)

1 years, or both, [in] **AT** the discretion of the court. If the violation is committed by a
2 corporation, the same may, after notice and hearing, be dissolved in appropriate
3 proceedings before the [Securities and Exchange] Commission: Provided, That
4 such dissolution shall not preclude the institution of appropriate action against the
5 director, trustee or officer of the corporation responsible for said violation:
6 Provided, further, That nothing in this section shall be construed to repeal the
7 other causes for dissolution of a corporation provided in this Code.

8 **LIABILITY FOR ANY OF THE FOREGOING OFFENSES SHALL BE**
9 **SEPARATE FROM AND WITHOUT PREJUDICE TO ANY OTHER**
10 **ADMINISTRATIVE CIVIL, CRIMINAL LIABILITY UNDER THIS CODE AND**
11 **OTHER LAWS.**

12 **SEC. 174. LIABILITY OF DIRECTORS, TRUSTEES, OFFICERS OR**
13 **OTHER EMPLOYEES. – IF THE OFFENDER IS A CORPORATION THE**
14 **PENALTY MAY, AT THE DISCRETION OF THE COURT, BE IMPOSED UPON**
15 **SUCH CORPORATION AND/OR UPON ITS DIRECTORS, TRUSTEES,**
16 **STOCKHOLDERS, MEMBERS, OFFICERS OR EMPLOYEES RESPONSIBLE**
17 **FOR THE VIOLATION OR INDISPENSABLE TO ITS COMMISSION.**

18 **SEC. 175. LIABILITY OF AIDERS AND ABETTORS AND OTHER**
19 **SECONDARY LIABILITY. – ANYONE WHO SHALL AID, ABET, COUNSEL,**
20 **COMMAND, INDUCE OR PROCURE ANY VIOLATION OF THIS CODE, OR**
21 **ANY RULE, REGULATION OR ORDER OF THE COMMISSION OR WHO**
22 **SHALL ASSIST THE ACT OR OMISSION OF ANY PERSON PRIMARILY**
23 **LIABLE FOR THE VIOLATION, WITH KNOWLEDGE OR IN RECKLESS**
24 **DISREGARD THAT SUCH ACT OR OMISSION IS WRONGFUL SHALL BE**
25 **PUNISHED WITH A FINE AND/OR IMPRISONMENT NOT EXCEEDING THAT**
26 **IMPOSED ON THE PRINCIPAL OFFENDERS, AT THE DISCRETION OF THE**
27 **COURT AFTER TAKING INTO ACCOUNT THEIR PARTICIPATION IN THE**
28 **OFFENSE.**

29
30 **SEC. 70.** Title XVI on Miscellaneous Provisions is hereby renumbered as Title XVII.

31
32 **SEC. 71.** Sections 137 and 138 of the Code are renumbered as Sections 176 and 177,
33 respectively.

34
35 **SEC. 72.** Section 139 of the Code is hereby renumbered as Section 178 and amended to read
36 as follows:

37 **"Sec. [139]178. COLLECTION AND USE OF REGISTRATION, Incorporation and**
38 **other fees. – [The Securities and Exchange] FOR A MORE EFFECTIVE AND**
39 **EXPEDITIOUS IMPLEMENTATION OF THIS CODE, THE Commission is hereby**
40 **authorized to collect, [and] receive AND RETAIN, WITHOUT NEED OF**
41 **SEPARATE APPROVAL FROM ANY GOVERNMENT AGENCY, AND**
42 **SUBJECT ONLY TO EXISTING ACCOUNTING AND AUDITING RULES AND**

1 REGULATIONS, ALL fees, FINES AND OTHER CHARGES, COLLECTED BY
2 THE COMMISSION PURSUANT TO THIS CODE AND ITS RULES AND
3 REGULATIONS. THIS AMOUNT, WHICH SHALL BE IN ADDITION TO THE
4 COMMISSION'S ANNUAL BUDGET, SHALL BE DEPOSITED AND
5 MAINTAINED IN A SEPARATE ACCOUNT OR FUND, WHICH MAY BE USED
6 AND DISBURSED DIRECTLY BY THE COMMISSION. [as authorized by law or
7 by rules and regulations promulgated by the Commission.]

8 THE COMMISSION SHALL USE SUCH RETENTION MONEY IN ITS
9 OPERATIONS IN THE MANNER IT SHALL DEEM FIT INCLUDING, BUT NOT
10 LIMITED TO:

11 (A) UPGRADING ITS FACILITIES AND EQUIPMENT
12 OUTLAY;

13 (B) INCREASING THE COMPENSATION AND
14 PRIVILEGES OF ITS EMPLOYEES TO MATCH INCREASES IN THE
15 COMPENSATION AND PRIVILEGES GRANTED TO THEIR
16 COUNTERPARTS IN THE *BANGKO SENTRAL NG PILIPINAS*;

17 (C) PROVIDING SPECIAL ALLOWANCES TO ITS
18 EMPLOYEES, PROVIDED THAT SAID SPECIAL ALLOWANCES
19 SHALL NOT EXCEED ONE HUNDRED PERCENT (100%) OF THEIR
20 BASIC SALARY PROVIDED IN REPUBLIC ACT NO. 6758,
21 OTHERWISE KNOWN AS THE SALARY STANDARDIZATION LAW;

22 (D) PROVIDING OTHER EMPLOYEE BENEFITS AND
23 PRIVILEGES SUCH AS

24 a. HEALTH CARE SERVICES THROUGH A
25 HEALTH MAINTENANCE ORGANIZATION (HMO),

26 b. MANDATORY ANNUAL EXECUTIVE CHECK-UP
27 OF THE CHAIRPERSON, COMMISSIONERS, DIRECTORS AND
28 ASSISTANT DIRECTORS,

29 c. ACCIDENT INSURANCE FOR EMPLOYEES FOR
30 TRAVELS DONE IN THE PERFORMANCE OF THEIR OFFICIAL
31 DUTIES AND FUNCTIONS, AND

32 d. A PROVIDENT FUND CONSISTING OF JOINT
33 CONTRIBUTIONS BY THE COMMISSION AND ITS
34 EMPLOYEES;

35 (E) MAKING PROVISIONS FOR THE DEVELOPMENT
36 OF ITS EMPLOYEES' KNOWLEDGE AND SKILLS AND/OR THE
37 ENHANCEMENT OF THEIR ACADEMIC GROWTH THROUGH

38 a. THE GRANT OF SCHOLARSHIPS TO
39 DESERVING EMPLOYEES, PROVIDED THAT SCHOLARS
40 UNDER THIS PROVISION SHALL BE SELECTED ON THE
41 BASIS OF COMPETITIVE EXAMINATION OR EVALUATION,
42 AND THEIR ATTENDANCE SHALL NOT IMPEDE IN THE

1 EFFICIENCY OF SERVICES RENDERED BY THE
2 COMMISSION

3 b. THE COVERAGE OF REGISTRATION AND
4 INCIDENTAL COSTS FOR ATTENDANCE AT SEMINARS,
5 CONFERENCES AND WORKSHOPS WHETHER IN THE
6 PHILIPPINES OR ABROAD, PROVIDED THAT SUCH
7 ATTENDANCE SHALL NOT IMPEDE IN THE EFFICIENCY OF
8 SERVICES RENDERED BY THE COMMISSION; AND

9 (F) ALL OTHER REQUIREMENTS TO IMPROVE THE
10 DELIVERY OF ITS SERVICES UNDER THIS CODE TO THE PUBLIC.

11 EVERY FIVE (5) YEARS, THE COMMISSION SHALL DETERMINE WHETHER
12 THE FEES, FINES AND CHARGES COLLECTED ARE SUFFICIENT TO MEET
13 ITS BUDGETARY REQUIREMENTS FOR THE NEXT FIVE YEARS. IF SO,
14 THE COMMISSION SHALL RECEIVE NO FUNDS FROM THE ANNUAL
15 BUDGET OF THE NATIONAL GOVERNMENT FOR THAT PERIOD; IF NOT,
16 THE COMMISSION SHALL CONTINUE TO RECEIVE ITS ANNUAL BUDGET
17 UNTIL SUCH TIME AS THE FEES, FINES AND OTHER CHARGES FROM ITS
18 COLLECTIONS ARE SUFFICIENT TO FULLY FUND ITS OPERATIONS.”

19
20 SEC. 73. Section 140 of the Code is hereby renumbered as Section 179 and amended to read
21 as follows:

22 “Sec. [140]179. NATIONALITY AND Stock ownership OF [in certain]
23 corporations. – THE NATIONALITY OF A CORPORATION SHALL BE
24 DETERMINED BY COMPUTING THE REQUIRED PERCENTAGE OF FILIPINO
25 OWNERSHIP BASED ON BOTH (A) THE ENTIRE OUTSTANDING CAPITAL
26 STOCK, AND (b) THE VOTING STOCKS, TAKING INTO CONSIDERATION
27 THE FULL BENEFICIAL OWNERSHIP OF THE STOCKS.
28 EXCEPT WHEN THE CORPORATION IS REQUIRED BY THE CONSTITUTION
29 OR BY STATUTE TO BE WHOLLY NATIONALIZED, OR WHEN THE
30 CORPORATION HAS A CORPORATE STOCKHOLDER OWNING LESS
31 THAN 60% OF BOTH ITS OUTSTANDING CAPITAL STOCK AND VOTING
32 STOCKS, THE CONTROL TEST SHALL BE APPLIED WHEN DETERMINING
33 ITS NATIONALITY.

34
35 EXCEPT WHEN A MORE STRINGENT MEASURE IS REQUIRED IN THE
36 CONSTITUTION OR OTHER LAWS, A CORPORATION SHALL BE DEEMED
37 A PHILIPPINE NATIONAL WHEN:

38
39 (A) IT IS ORGANIZED UNDER THE LAWS OF THE PHILIPPINES
40 AND AT LEAST SIXTY PERCENT (60%) OF THE CAPITAL
41 STOCK OUTSTANDING AND ENTITLED TO VOTE IS OWNED
42 AND HELD BY CITIZENS OF THE PHILIPPINES, PROVIDED,

1 THAT WHERE A CORPORATION AND ITS NON-FILIPINO
2 STOCKHOLDERS OWN STOCKS IN ANOTHER
3 CORPORATION, AT LEAST SIXTY PERCENT (60%) OF THE
4 CAPITAL STOCKS OUTSTANDING AND ENTITLED TO VOTE
5 OF BOTH CORPORATIONS MUST BE OWNED AND HELD BY
6 CITIZENS OF THE PHILIPPINES AND AT LEAST SIXTY
7 PERCENT (60%) OF THE MEMBERS OF THE BOARD OF
8 DIRECTORS OF BOTH CORPORATIONS MUST BE CITIZENS
9 OF THE PHILIPPINES; OR

10 (B) ALTHOUGH ORGANIZED ABROAD, IT IS REGISTERED AS
11 DOING BUSINESS IN THE PHILIPPINES UNDER THIS CODE
12 AND ONE HUNDRED PERCENT (100%) OF THE CAPITAL
13 STOCK OUTSTANDING AND ENTITLED TO VOTE IS WHOLLY
14 OWNED BY FILIPINOS.

15
16 [Pursuant to the duties specified by Article XIV of the Constitution, the] **THE**
17 National Economic and Development Authority shall, from time to time, **UPON**
18 **FINDING OR RECOMMENDATION FROM THE COMMISSION OR FROM**
19 **OTHER APPROPRIATE GOVERNMENT AGENCIES**, make a determination of
20 whether the corporate vehicle has been used by any corporation or by business
21 or industry to frustrate the provisions thereof or of applicable laws, and shall
22 submit to the [Batasang Pambansa] **CONGRESS**, whenever deemed necessary,
23 a report of its findings, including recommendations for their prevention or
24 correction.

25
26 Maximum limits may be set by the [Batasang Pambansa] **CONGRESS** for
27 stockholdings in corporations declared by it to be vested with a public interest
28 pursuant to the provisions of this section, belonging to individuals or groups of
29 individuals related to each other by consanguinity or affinity or by close business
30 interests, or whenever it is necessary to achieve national objectives, prevent
31 illegal monopolies or combinations in restraint or trade, or to implement national
32 economic policies declared in laws, rules and regulations designed to promote
33 the general welfare and foster economic development.

34
35 In recommending to the [Batasang Pambansa] **CONGRESS** corporations,
36 businesses or industries to be declared vested with a public interest and in
37 formulating proposals for limitations on stock ownership, the National Economic
38 and Development Authority shall consider the type and nature of the industry, the
39 size of the enterprise, the economies of scale, the geographic location, the extent
40 of Filipino ownership, the labor intensity of the activity, the export potential, as
41 well as other factors which are germane to the realization and promotion of
42 business and industry."

1 **SEC. 74.** Section 141 of the Code is hereby renumbered as Section 180 and amended to read
2 as follows:

3 "Sec. [141]180. [*Annual report*] **REPORTORIAL REQUIREMENTS** of
4 *corporations*. – **EXCEPT AS OTHERWISE PROVIDED IN THIS CODE**, every
5 corporation, domestic or foreign, [lawfully] doing business in the Philippines shall
6 submit to the [Securities and Exchange] Commission, **IN THE FORM AND**
7 **SUBSTANCE PRESCRIBED BY IT:**

8 [an annual report of its operations, together with a financial statement of
9 its assets and liabilities, certified by any independent certified public accountant
10 in appropriate cases, covering the preceding fiscal year and such other
11 requirements as the Securities and Exchange Commission may require.]

12 1. **ANNUAL FINANCIAL STATEMENTS DULY AUDITED BY THE**
13 **CORPORATION'S INTERNAL AUDITOR AND BY AN INDEPENDENT**
14 **CERTIFIED PUBLIC ACCOUNTANT WHO IS ACCREDITED BY THE BOARD**
15 **OF ACCOUNTANCY AND WHO POSSESSES SUCH OTHER**
16 **ACCREDITATION AS THE COMMISSION MAY REQUIRE;**

17 2. **A GENERAL INFORMATION SHEET;**

18 3. **A DIRECTOR OR TRUSTEE COMPENSATION REPORT**
19 **WHICH SHALL CONTAIN, AMONG OTHERS, THE FOLLOWING:**

20 a. **THE CORPORATION'S POLICY ON DIRECTOR OR**
21 **TRUSTEE REMUNERATION, INCLUDING THE FRAMEWORK FOR**
22 **DETERMINING THE REMUNERATION LEVELS FOR INDIVIDUAL**
23 **DIRECTORS OR TRUSTEES;**

24 b. **A CLEAR, CONCISE AND EASILY UNDERSTANDABLE**
25 **STATEMENT OF ALL FIXED AND VARIABLE COMPENSATION PAID**
26 **AND ALL INCENTIVES, AWARDS, AND/OR OPTIONS GIVEN,**
27 **DIRECTLY OR INDIRECTLY, TO DIRECTORS OR TRUSTEES**
28 **DURING THE PRECEDING FISCAL YEAR; AND**

29 c. **A STATEMENT OF OTHER FORMS OF**
30 **REMUNERATION AND/OR COMPENSATION ARRANGEMENTS NOT**
31 **COVERED UNDER THE PRECEDING SUB-PARAGRAPHS;**

32 4. **A DIRECTOR OR TRUSTEE APPRAISAL OR PERFORMANCE**
33 **REPORT AND THE STANDARDS OR CRITERIA USED TO ASSESS EACH**
34 **DIRECTOR OR TRUSTEE;**

35 5. **A DIRECTOR OR TRUSTEE ATTENDANCE REPORT,**
36 **INDICATING THE ATTENDANCE OF EACH DIRECTOR OR TRUSTEE AT**
37 **EACH OF THE MEETINGS OF THE BOARD AND ITS COMMITTEES;**

38 6. **A STATEMENT OF ALL EXTERNAL AUDIT AND NON-AUDIT**
39 **FEES;**

40 7. **SUCH OTHER REPORTS THAT THE COMMISSION MAY**
41 **REQUIRE BY RULE.**

1 THE FOREGOING REPORTORIAL REQUIREMENTS SHALL BE
2 ACCOMPANIED BY A CERTIFICATION FROM THE CHAIRMAN OF THE
3 BOARD, THE PRESIDENT, THE TREASURER AND THE CORPORATE
4 SECRETARY (OR THEIR EQUIVALENT) TO WIT:

5 1. AS TO THE ANNUAL FINANCIAL STATEMENTS, THAT
6 THE INFORMATION CONTAINED THEREIN IS COMPLETE,
7 FAIRLY AND ACCURATELY PRESENTS, IN ALL MATERIAL
8 RESPECTS, THE FINANCIAL CONDITION OF THE
9 CORPORATION AND DOES NOT CONTAIN ANY FALSE OR
10 MISLEADING STATEMENT OR MISREPRESENTATION;

11 2. AS TO THE GENERAL INFORMATION SHEET, THAT
12 THE INFORMATION CONTAINED THEREIN IS COMPLETE,
13 ACCURATE AND DOES NOT CONTAIN ANY FALSE OR
14 MISLEADING STATEMENT OR MISREPRESENTATION; AND

15 3. AS TO THE DIRECTOR OR TRUSTEE COMPENSATION
16 REPORT, THAT THE INFORMATION CONTAINED THEREIN IS
17 COMPLETE, FAIRLY AND ACCURATELY PRESENTS, IN ALL
18 MATERIAL RESPECTS, THE CORPORATION'S POLICY ON
19 DIRECTOR OR TRUSTEE REMUNERATION, THE ACTUAL
20 REMUNERATIONS OF SUCH DIRECTORS OR TRUSTEES, AND
21 DOES NOT CONTAIN ANY FALSE OR MISLEADING STATEMENT
22 OR MISREPRESENTATION.

23 Such [report] REPORTORIAL REQUIREMENTS shall be submitted
24 ANNUALLY AND within such period as may be prescribed by the [Securities
25 and Exchange] Commission.

26 IF A CORPORATION FAILS TO SUBMIT ANY OF THE FOREGOING
27 REPORTORIAL REQUIREMENTS THREE TIMES, WHETHER
28 INTERMITTENTLY OR CONSECUTIVELY, WITHIN A PERIOD OF FIVE
29 YEARS, THE COMMISSION MAY, AFTER DUE NOTICE AND HEARING, PUT
30 THE CORPORATION ON DELINQUENCY STATUS OR REVOKE ITS
31 CERTIFICATE OF INCORPORATION IN ACCORDANCE WITH SECTION 22."
32

33 **SEC. 75.** Section 142 of the Code is hereby renumbered as Section 181 and amended to read
34 as follows:

35 "Sec. [142]181. **VISITORIAL POWER AND** *Confidential nature of*
36 *examination results.* – THE COMMISSION SHALL EXERCISE VISITORIAL
37 POWERS OVER ALL CORPORATIONS REGISTERED WITH IT. THESE
38 VISITORIAL POWERS SHALL INCLUDE, BUT NOT BE LIMITED TO
39 EXAMINATION, INVESTIGATION, INSPECTION OF RECORDS
40 REGARDLESS OF THE FORM IN WHICH THE INFORMATION IS
41 CONTAINED, REGULATION AND SUPERVISION OF ACTIVITIES,

1 ENFORCING COMPLIANCE AND IMPOSING SANCTIONS IN ACCORDANCE
2 WITH THIS CODE.

3 ANY UNJUSTIFIED REFUSAL OR OBSTRUCTION BY A
4 CORPORATION, OR ANYONE UNDER ITS EMPLOY, IN THE COMMISSION'S
5 EXERCISE OF THE FOREGOING AUTHORITY SHALL, IN ADDITION TO THE
6 IMPOSITION OF PENALTIES AND SANCTIONS UNDER THIS CODE,
7 CONSTITUTE A JUSTIFIABLE GROUND FOR THE REVOCATION OF ITS
8 CERTIFICATE OF INCORPORATION."

9 All interrogatories propounded by the [Securities and Exchange]
10 Commission and the answers thereto, as well as the results of any examination
11 made by the Commission or by any other official authorized by law to make an
12 examination of the operations, books and records of any corporation, shall be
13 kept strictly confidential, except insofar as the law may require the same to be
14 made public, **WHEN NECESSARY FOR THE COMMISSION TO TAKE ACTION**
15 **OR ISSUE ORDERS IN THE EXERCISE OF ITS POWERS UNDER THIS**
16 **CODE**, or where such interrogatories, answers or results are necessary to be
17 presented as evidence before any court.

18
19 **SEC. 76.** Section 143 of Code is hereby renumbered as Section 182 and amended to read as
20 follows:

21 "Sec. [143]182. *[Rule-making power]* **POWERS AND FUNCTIONS** of the
22 *[Securities and Exchange] Commission* **AND JURISDICTION OVER ACTIONS.**
23 – **CONSISTENT WITH AND IN ADDITION TO THE POWERS AND**
24 **FUNCTIONS PROVIDED IN PRESIDENTIAL DECREE NO. 902-A, THE**
25 **SECURITIES REGULATION CODE, THE INVESTMENT HOUSES LAW, THE**
26 **FINANCING COMPANY ACT AND OTHER LAWS, [The Securities and**
27 **Exchange] Commission shall have [the power and authority], AMONG OTHERS,**
28 **THE FOLLOWING POWERS AND FUNCTIONS:**

29 1. **HAVE JURISDICTION AND SUPERVISION OVER ALL**
30 **CORPORATIONS, REGISTERED WITH IT, EXCEPT AS OTHERWISE**
31 **PROVIDED UNDER THIS CODE;**

32 2. **FORMULATE POLICIES AND RECOMMENDATIONS ON**
33 **ISSUES PERTAINING TO THE REGULATION AND SUPERVISION OF**
34 **CORPORATIONS, AND PROPOSE LEGISLATION AND**
35 **AMENDMENTS THERETO;**

36 3. **APPROVE OR REJECT APPLICATIONS, ISSUE OR**
37 **REVOKE OTHER CERTIFICATIONS, REQUIRE ADDITIONAL**
38 **SUBMISSIONS OR AMENDMENTS THERETO;**

39 4. **REGULATE, INVESTIGATE, SUPERVISE THE**
40 **ACTIVITIES OF PERSONS TO ENSURE COMPLIANCE WITH THIS**
41 **CODE;**

1 5. IMPOSE SANCTIONS FOR THE VIOLATIONS OF THIS
2 CODE AND ITS RULES, REGULATIONS AND ORDERS OF THE
3 COMMISSION ISSUED PURSUANT THERETO;

4 6. PROMOTE CORPORATE GOVERNANCE AND, IN
5 FURTHERANCE THEREOF, EXPAND OR ADD TO THE
6 REQUIREMENTS WITH RESPECT TO, AMONG OTHERS, THE
7 CONTENTS OF THE BY-LAWS, THE QUALIFICATIONS AND
8 DISQUALIFICATIONS OF DIRECTORS, AND THE RECORDS THAT
9 MUST BE ON HAND AT THE CORPORATION'S ADDRESS OF
10 RECORD AND THE ANNUAL REPORTS THAT MUST BE SUBMITTED
11 TO THE COMMISSION;

12 7. PREPARE, APPROVE, AMEND OR REPEAL RULES,
13 REGULATIONS AND ORDERS, AND ISSUE OPINIONS AND PROVIDE
14 GUIDANCE ON AND SUPERVISE COMPLIANCE WITH SUCH RULES,
15 REGULATIONS AND ORDERS

16 8. [to implement the provisions of this Code, and to
17 promulgate rules and regulations reasonably necessary to enable it to
18 perform its duties hereunder, particularly in the prevention of fraud and
19 abuses on the part of the controlling stockholders, members, directors,
20 trustees or officers.] ISSUE CEASE AND DESIST ORDERS WITHOUT
21 THE NECESSITY OF A HEARING, TO PREVENT FRAUD OR INJURY
22 TO THE PUBLIC[.];

23 9. PUNISH FOR CONTEMPT OF THE COMMISSION,
24 BOTH DIRECT AND INDIRECT;

25 10. COMPEL THE OFFICERS OF ANY REGISTERED
26 CORPORATION TO CALL MEETINGS OF STOCKHOLDERS OR
27 MEMBERS UNDER ITS SUPERVISION AND TO ISSUE SUCH
28 ORDERS AS MAY BE APPROPRIATE, INCLUDING, WITHOUT
29 LIMITATION, ORDERS DESIGNATING THE TIME AND PLACE OF
30 THE ELECTION, THE RECORD DATE OR DATES FOR
31 DETERMINATION OF STOCKHOLDERS ENTITLED TO NOTICE OF
32 THE ELECTION AND TO VOTE THEREAT, AND THE FORM OF
33 NOTICE OF SUCH ELECTION;

34 11. ISSUE SUBPOENA DUCES TECUM AND SUMMON
35 WITNESSES TO APPEAR IN PROCEEDINGS BEFORE THE
36 COMMISSION AND IN APPROPRIATE CASES ORDER THE
37 EXAMINATION, SEARCH AND SEIZURE OF ALL DOCUMENTS,
38 PAPERS, FILES AND RECORDS, TAX RETURNS, AND BOOKS OF
39 ACCOUNTS OF ANY ENTITY OR PERSON UNDER INVESTIGATION
40 AS MAY BE NECESSARY FOR THE PROPER DISPOSITION OF THE
41 CASES BEFORE IT, SUBJECT TO THE PROVISIONS OF EXISTING
42 LAWS;

1 12. SUSPEND OR REVOKE, AFTER PROPER NOTICE AND
2 HEARING, THE CERTIFICATE OF INCORPORATION OF
3 CORPORATIONS UPON ANY OF THE GROUNDS PROVIDED UNDER
4 THIS CODE OR WHEN DIRECTED BY FINAL JUDGMENT OF A
5 COURT OF COMPETENT JURISDICTION;

6 13. DISSOLVE OR OTHERWISE SANCTION
7 CORPORATIONS CREATED FOR, COMMITTING, AIDING IN THE
8 COMMISSION OF, OR IN ANY MANNER FURTHERING SECURITIES
9 VIOLATIONS, SMUGGLING, TAX EVASION, MONEY LAUNDERING,
10 GRAFT AND CORRUPT PRACTICES OR OTHER FRAUDULENT OR
11 ILLEGAL ACTS;

12 14. ISSUE WRITS OF EXECUTION AND OF ATTACHMENT
13 TO ENFORCE PAYMENT OF THE FEES, ADMINISTRATIVE FINES
14 AND OTHER DUES COLLECTIBLE UNDER THIS CODE;

15 15. EXERCISE SUCH OTHER POWERS AS MAY BE
16 PROVIDED BY LAW AS WELL AS THOSE WHICH MAY BE IMPLIED
17 FROM, OR WHICH ARE NECESSARY OR INCIDENTAL TO
18 CARRYING OUT THE EXPRESS POWERS GRANTED TO THE
19 COMMISSION TO ACHIEVE THE OBJECTIVES AND PURPOSES OF
20 THIS CODE AND SUCH OTHER LAWS.

21 NO COURT BELOW THE COURT OF APPEALS SHALL HAVE
22 JURISDICTION TO ISSUE ANY RESTRAINING ORDER, PRELIMINARY
23 INJUNCTION OR PRELIMINARY MANDATORY INJUNCTION IN ANY CASE,
24 DISPUTE OR CONTROVERSY THAT, DIRECTLY OR INDIRECTLY,
25 INTERFERES WITH THE PERFORMANCE BY THE COMMISSION OF ITS
26 DUTIES AND RESPONSIBILITIES UNDER THIS CODE."

27
28 **SEC. 77.** Section 144 of the Code is hereby deleted, amended and transferred to Section 173.

29
30 **SEC. 78.** A new provision is inserted in the Code as Section 184:

31 **SECTION 184. DEVELOPMENT OF OTHER SYSTEMS. – THE**
32 **COMMISSION SHALL, CONSIDERING ADVANCES IN TECHNOLOGY,**
33 **DEVELOP SUCH SYSTEMS AS IT MAY DEEM NECESSARY TO FACILITATE**
34 **AND EXPEDITE, AMONG OTHERS, CORPORATE NAME RESERVATION AND**
35 **REGISTRATION, INCORPORATION, AND THE SUBMISSION OF REPORTS,**
36 **NOTICES, DOCUMENTS AND OTHER PAPERS REQUIRED UNDER THIS**
37 **CODE, AND PRESCRIBE THE CORRESPONDING RULES AND**
38 **REGULATIONS THEREFOR. THE COMMISSION SHALL HAVE FULL**
39 **DISCRETION TO DETERMINE WHICH SYSTEM OR SYSTEMS ALLOW THE**
40 **MOST EFFECTIVE IMPLEMENTATION AND ENFORCEMENT OF THE**
41 **PROVISIONS OF THIS CODE**
42

1 **SEC. 79.** A new provision is inserted in the Code as Section 185:

2 **"SEC. 185. ARBITRATION. – WHEN THE ARTICLES OF**
3 **INCORPORATION OR BY-LAWS OF A DOMESTIC UNLISTED CORPORATION**
4 **SO PROVIDE, ANY OR ALL DISPUTES BETWEEN OR AMONG THE**
5 **CORPORATION, ITS STOCKHOLDERS OR MEMBERS, AND DIRECTORS**
6 **ARISING OUT OF THE IMPLEMENTATION OF THEIR ARTICLES OF**
7 **INCORPORATION OR BY-LAWS, AS WELL AS OTHER CONTROVERSIES**
8 **ARISING OUT OF THEIR INTRACORPORATE RELATIONS, INCLUDING BUT**
9 **NOT LIMITED TO CONTROVERSIES IN THE ELECTION OR APPOINTMENT**
10 **OF THE CORPORATION'S DIRECTORS, TRUSTEES, OFFICERS OR**
11 **MANAGERS, SHALL BE REFERRED TO ARBITRATION. HOWEVER, A**
12 **DISPUTE SHALL NOT BE SUBMITTED TO ARBITRATION WHEN SUCH WILL**
13 **LIMIT OR PRECLUDE ANY RIGHT, ACTION OR DETERMINATION BY THE**
14 **COMMISSION THAT IT WOULD OTHERWISE BE AUTHORIZED TO ADOPT,**
15 **ADMINISTER OR ENFORCE UNDER THIS CODE AND EXISTING LAWS. SUCH**
16 **DISPUTE SHALL BE DEEMED EXCLUDED FROM THE AGREEMENT TO**
17 **ARBITRATE, WHICH SHALL OTHERWISE REMAIN VALID AND BINDING.**

18 **THE ARBITRATION AGREEMENT SHALL BE BINDING AGAINST THE**
19 **CORPORATION'S DIRECTORS, TRUSTEES, OFFICERS OR MANAGERS,**
20 **UPON ACCEPTANCE OF THEIR POST.**

21 **TO BE VALID, THE AGREEMENT TO ARBITRATE IN THE ARTICLES OF**
22 **INCORPORATION OR THE BY-LAWS SHOULD INDICATE THE NUMBER AND**
23 **PROCEDURE FOR THE APPOINTMENT OF ARBITRATORS AND GRANT TO**
24 **A DESIGNATED THIRD, INDEPENDENT, AND EXTERNAL PARTY OR BODY**
25 **THE POWER TO APPOINT THE ARBITRATORS. IF THE THIRD PARTY OR**
26 **BODY FAILS TO APPOINT THE ARBITRATORS IN THE MANNER AND**
27 **WITHIN THE PERIOD SPECIFIED IN THE AGREEMENT TO ARBITRATE,**
28 **EACH PARTY TO THE ARBITRATION MAY REQUEST THAT THE**
29 **APPOINTMENT OF THE ARBITRATORS BE MADE BY THE COMMISSION.**
30 **ARBITRATORS SHALL BE THOSE WHO ARE EITHER DULY ACCREDITED**
31 **BY THE COMMISSION OR MEMBERS OF ORGANIZATIONS DULY-**
32 **ACCREDITED BY THE COMMISSION.**

33 **THE ARBITRAL TRIBUNAL SHALL HAVE FULL AUTHORITY TO**
34 **RESOLVE ALL ISSUES RELATING TO ITS JURISDICTION AND/OR THE**
35 **VALIDITY OR EFFECTIVITY OF THE ARBITRATION AGREEMENT. A**
36 **REGIONAL TRIAL COURT BEFORE WHICH AN INTRACORPORATE DISPUTE**
37 **IS FILED SHALL, BEFORE THE TERMINATION OF THE PRETRIAL**
38 **CONFERENCE, DISMISS THE CASE UPON DETERMINING THE EXISTENCE**
39 **OF AN AGREEMENT TO ARBITRATE IN THE ARTICLES OF**
40 **INCORPORATION OR BY-LAWS OF THE CORPORATION, ANY AMENDMENT**
41 **THEREOF, OR IN A SEPARATE AGREEMENT.**

42 **THE ARBITRAL TRIBUNAL SHALL HAVE THE POWER TO GRANT**

1 INTERIM MEASURES NECESSARY TO ENSURE ENFORCEMENT OF THE
2 AWARD, TO PREVENT A MISCARRIAGE OF JUSTICE, OR TO OTHERWISE
3 PROTECT THE RIGHTS OF THE PARTIES.

4 A FINAL ARBITRAL AWARD UNDER THIS SECTION SHALL BE
5 EXECUTORY UPON THE LAPSE OF FIFTEEN (15) DAYS FROM RECEIPT
6 THEREOF BY THE PARTIES AND SHALL BE STAYED ONLY BY THE FILING
7 OF A BOND OR THE ISSUANCE BY THE APPELLATE COURT OF AN
8 INJUNCTIVE WRIT.

9 THE COMMISSION SHALL FORMULATE THE RULES AND
10 REGULATIONS WHICH SHALL GOVERN ARBITRATION UNDER THIS
11 SECTION.”

12
13 **SEC. 80.** A new provision is inserted in the Code as Section 186 and the succeeding provisions
14 are re-numbered accordingly and amended as follows:

15 “SEC. 186. JURISDICTION OVER CORPORATIONS OF SPECIAL
16 CHARACTER. – THE POWERS, AUTHORITIES AND RESPONSIBILITIES THAT
17 ARE VESTED IN THE COMMISSION UNDER THIS CODE AND PRESIDENTIAL
18 DECREE 902-A INVOLVING CORPORATIONS OF A SPECIAL CHARACTER
19 ARE TRANSFERRED TO THE COMMISSION ON ELECTIONS (COMELEC)
20 WITH RESPECT TO PARTY-LIST ORGANIZATIONS, TO THE HOUSING AND
21 LAND USE REGULATORY BOARD (HLURB) WITH RESPECT TO
22 NEIGHBORHOOD ASSOCIATIONS AND HOMEOWNERS’ ASSOCIATIONS,
23 AND TO THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS
24 (DOTC) WITH RESPECT TO THE ASSOCIATIONS OF OPERATORS AND
25 DRIVERS OF PUBLIC TRANSPORT.

26 THE MONITORING, SUPERVISION AND REGULATION OF
27 CORPORATIONS OF SUCH CHARACTER ABOVE-DESCRIBED PREVIOUSLY
28 REGISTERED WITH THE COMMISSION SHALL LIKEWISE BE TRANSFERRED
29 TO THE SAID PERTINENT GOVERNMENT AGENCIES, RESPECTIVELY.

30 FOR THIS PURPOSE, THE COMELEC, HLURB, AND DOTC, IN
31 COORDINATION WITH THE COMMISSION, SHALL PROMULGATE THE
32 CORRESPONDING IMPLEMENTING RULES AND/OR ENTER INTO INTER-
33 AGENCY AGREEMENTS.”

34
35 **SEC. 81. *Implementing Rules and Regulations.*** The Commission shall promulgate and/or
36 amend the necessary rules and regulations for the effective implementation of this Act.

37
38 **SEC. 82. *Separability Clause.*** If any provision of this Act is declared invalid or unconstitutional,
39 other provisions hereof which are not affected thereby shall continue to be in full force and
40 effect.

1 **SEC. 83. *Repealing Clause.*** Any law, presidential decree or issuance, executive order, letter of
2 instruction, administrative order, rule or regulation contrary to or inconsistent with any provision
3 of this Act is hereby repealed or modified accordingly.

4
5 **SEC. 84. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its publication in
6 the *Official Gazette* or in at least two (2) newspapers of general circulation, whichever date
7 comes earlier.

8
9 Approved,