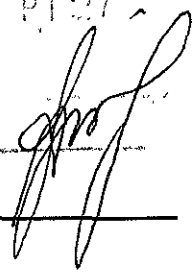


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUN 30 P1 27

SENATE
S.B. No. 77

RECEIVED BY: 

Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill establishes a Magna Carta for househelpers to promote their rights and protect their welfare.

The Labor Code of the Philippines define domestic helpers as those who perform such services in the employer's home which are usually necessary or desirable for the maintenance and enjoyment thereof, or minister to the personal comfort, convenience, or safety of the employer as well as the members of his employer's household. Domestic helpers enable their employers to fully pursue their own economic and social activities. Domestic helpers' work is no longer confined in doing household chores but more importantly, they have become "companions at home" or "kasambahay."

As of October 2006, there were 624,000 domestic helpers aged at least 10 years old in the country. 35% or 218,000 of these workers were found in the National Capital Region. Nine out of ten are female and about 60% belonged to age group 16-24 years old. About 123,000 or 19.6% of total domestic helpers were working children aged 10-17 years old.

While private sector employees worked 43.8 hours during a typical workweek, domestic helpers rendered 65.6 hours or a normal work day of 10.2 hours. Their minimum wages are excluded from the coverage of wage orders and are governed by Republic Act No. 7655 which mandates that house helpers must be paid P800 a month in Metro Manila and in highly urbanized cities, P650 in other chartered cities and first class municipalities and P500 for other municipalities. In year 2006, domestic helpers received an average daily basic pay of P88.57 across all regions.

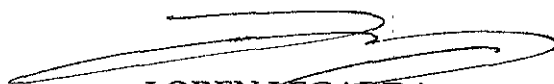
Clearly, given the work they perform in our homes and the services they render, our "kasambahays" are not only overworked but poorly compensated. It is therefore imperative that we recognize their invaluable contribution to our society by acknowledging their distinct needs and providing for minimum working conditions that will ensure the protection of this traditionally informal labor sector.

This bill makes it mandatory for all household working arrangements to be in writing in a language or dialect understood by both employer and household helpers. Moreover, a medical certificate shall be a pre-requisite for employment, the cost of which shall be for the account of the employer. Likewise, the minimum wage for househelpers shall be increased to one thousand pesos.

Furthermore, house helpers shall be entitled to 13th month pay, membership in the Social Security System and Philippine Health Insurance Corporation, vacation leaves, maternity benefits, and deployment expenses. Finally, this proposed measure provides for the rights and privileges of household helpers in general, household helpers in minority age, and self-employed household helpers, which include a standard of treatment, prohibition on labor sub-contracting, prohibition on recruitment and finder's fees, provision for basic necessities, among others.

It is high time that we extend to our kasambahay recognition for the value of their service and their loyalty to the household.

In view the foregoing, the immediate passage of this bill is earnestly requested.



LOREN LEGARDA
Senator

FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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7 JUN 30 P1:27

SENATE
S.B. No. 77

RECEIVED BY: 

Introduced by Senator Loren Legarda

AN ACT
INSTITUTING REGULATORY POLICIES FOR THE HOUSEHOLD EMPLOYMENT
INDUSTRY, ESTABLISHING STANDARDS OF PROTECTION AND
PROMOTION OF THEIR WELFARE AND OF THEIR FAMILIES, AMENDING FOR
THE PURPOSE PERTINENT PROVISIONS OF PRESIDENTIAL DECREE NO. 442,
OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES AND FOR
OTHER PURPOSES

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

ARTICLE I
TITLE, POLICY, PRINCIPLES AND DEFINITION OF TERMS

SECTION 1. *Short Title.* — This Act shall be known as the “Magna Carta of
Household Helpers” or “*Batas Kasambahay*”

SEC. 2. *Declaration of Policies.* — It is the declared policy of the State to value the
dignity of every person and guarantee full respect for human rights.

- a.) It is hereby declared a policy of the State to value the dignity of its citizens
and to guarantee full respect for human rights. The State recognizes the
dignity of honest labor, including the nobility and self-respect inherent in the
household helper industry;
- b.) The need to nurture and protect the interests of this hitherto unheralded
heroes of the Philippine economy is recognized by the State, and they shall be
provided with adequate and timely social, economic and legal services, as
well as mechanisms that shall protect their rights and promote benefits that
ensure their dignified existence and economic upliftment;
- c.) The State recognized the need to protect the rights of the household helpers
against abuse, economic exploitation and performance of work that is
hazardous to their physical, mental and spiritual health. The State further
recognizes that household helpers of minority age have special inalienable
rights and privileges that should be espoused and protected, particularly in
the areas of education, self-determination and self-improvement;

- d.) It is the policy of the State to protect working women by ensuring safe and healthful working conditions and to take particular account of their maternal functions and needs. The State recognizes that the household helper industry is predominantly composed of women and, as such, the State shall promote gender-sensitive measures in the formulation, implementation, and proper dissemination of policies and programs affecting the household helper industry; and
- e.) Duly-recognized non-government organizations are partners of the State in the protection of household helpers and in promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect.

SEC. 3. *Definition of Terms.* — As used in this Act, the term:

(a) "Household helper", "househelper" or "*kasambahay*" refers to any person who renders domestic or household services exclusively to an employer as family driver, babysitter, gardener, cook, nursemaid or *yaya*, or laundry woman. The term "*kasambahay*" or "*kasama sa bahay*" shall be used in lieu of "*katulong*" to properly signify the worth of the labor of househelpers.

(b) "Self-employed", "part-time" or "day-to-day" household helper refers to any person who renders domestic or household services to more than one (1) employer on a contractual, part time or day-to-day basis. He or she may work in a single household, but not for more than three (3) days; otherwise he or she shall be considered as a household helper or *kasambahay*;

(c) "Household helper of minority age" or "*batang kasambahay*" refers to a child fifteen (15) years of age and above up to seventeen (17) years of age who is engaged as a household helper under a valid contract of employment;

(d) "Homeowner" or "employer" refers to any person who engages the services of a house helper. For purposes of this Act, the employer shall be the one identified to be the head of the family or any member of the household designated by the head of the family to manage the general housekeeping functions for the family;

(e) "Household" refers to the immediate members of the family and/or the occupants of the house that are directly provided services by the house helper;

(f) "Hours of work" refer to the period of time during which a household helper is required to be on duty or to be at a prescribed workplace and/or the period of time during which the househelper is permitted to work;

(g) "Deployment expenses" refer to expenses that are directly used for the relocation or transfer of the house helper from the place of origin to the place of work including, but not limited to, the cost of transportation and finder's fees or agency fees if the househelper comes from an employment agency. Advances or loans made by the household helper are not included in the definition of deployment expenses;

(h) "Hazardous work" refers to any activity or circumstance where the househelper is exposed to risk which constitutes an imminent danger to his or her safety and health such as, but not limited to:

- i. any work, employment or activity which exposes the household helper to physical, emotional or sexual abuse;
- ii. any work which involves manual handling or transport of heavy loads;
- iii. any work in an unhealthy environment which exposes household helpers to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- iv. any work which requires the household helper to render services for long periods of time or during late nights;
- v. any or all forms of slavery or practices similar to slavery, such as the sale and trafficking of household helpers, forced or compulsory labor, debt bondage and serfdom;
- vi. any use, procuring or offering of the household helper for prostitution or pornography;
- vii. any use, procuring or offering of the household helper for the commission of any offense or crime, particularly for the production and trafficking of prohibited drugs and substances as defined in Republic Act No. 9136;
- viii. any other type of work or activity which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of the house helper; and
- ix. any other type of work, activity, condition or undertaking that may hereinafter be defined as hazardous by the Department of Labor and Employment.

ARTICLE 2 TERMS AND CONDITIONS OF EMPLOYMENT

SEC. 4. *Employment Contract* – An employment contract shall be executed by and between the employer and household helper before the commencement of the service, in a dialect or language understandable to both parties. It must be duly signed and notarized. Each party must have a copy of the said contract.

A contract of employment shall include the following provisions:

- a.) period of employment which shall not exceed two (2) years for the initial contract; thereafter it may be renewed annually
- b.) monthly compensation and mode of payment; allowable leave, rest days and holidays; working hours, rest periods and day-off
- c.) living quarters, and food and medical provisions; duties and responsibilities;

- d.) Social Security System (SSS) and Philippine Health Insurance Corporation (Philhealth) contributions; and
- e.) annual salary increases.

Provided, That in the case of employment of a house helper of minority age, said contract of employment shall be signed on his or her behalf by either parent or legal guardian, with the express consent of the minor.

SEC. 5. *Medical Certificate as Pre-requisite for Employment.* – A medical certificate attesting to the physical and mental fitness of the household helper must be secured from a licensed physician as a pre-requisite for employment, the cost of which shall be for the account of the employer.

SEC. 6. *Minimum Wage.* – The minimum compensation of househelpers shall not be less than the following rates:

- a. One thousand five hundred pesos (P1,500.00) a month for those employed in the National Capital Region
- b. One thousand two hundred pesos (P1,200.00) a month for those employed in other chartered cities and first class municipalities; and
- c. One thousand pesos (P1,000.00) a month for those employed in other municipalities.

The Regional Tripartite Wages and Productivity Boards (RTWPBs) may determine and adjust, from time to time, the appropriate minimum wage rates of household helpers.

SEC. 7. *Payment of Wages.* – Wages shall be paid in cash directly to the household helper, at least once every two (2) weeks or twice a month. No deductions from said wages shall be made by the employer except those allowed by law. The express written consent of the household helper shall first be secured before any deduction from his or her wages is made.

SEC. 8. *Payment of 13th Month Pay.* All household helpers shall be entitled to 13th month pay equivalent to one (1) month basic salary, which shall be payable not later than December 24 of every year.

SEC. 9. *Membership in the Social Security System. (SSS).* All household helpers shall be covered by the Social Security System (SSS) and be entitled to all the benefits in accordance with the pertinent provisions of Republic Act No. 11 61, as amended.

The SSS shall implement an outreach program that will facilitate the remittance of SSS contributions of the househelper and employer through the most feasible means. This outreach program shall be conceptualized and initiated within one (1) year from the date of effectivity of this Act.

SEC. 10. *Membership in the Philippine Health Insurance Corporation (Philhealth).* – All house helpers shall be covered by the Philippine Health Insurance Corporation (Philhealth) in accordance with its guidelines and be entitled to all the benefits provided by law.

SEC. 11. *Normal Hours of Work.* The normal hours of work of a house helper or *kasambahay* shall not exceed ten (10) hours a day, exclusive of breaks of one (1) hour each for breakfast, lunch, and dinner. Any work done by the house helper beyond the

normal hours of work shall be duly compensated by the employer. In addition, the household helper shall be allowed at least eight (8) hours of continuous rest per day.

SEC. 12. *Regular Working Days.* — All household helpers shall render work for not more than six (6) consecutive days per week. While the specific day of the week set aside as rest day for the house helper may be stipulated in the employment contract, the same may be changed for another day of the week upon the mutual agreement of the employer and the household helper as the exigencies of the household may dictate: Provided, That the employer shall respect the preference of the house helper for his or her weekly rest day when said preference is based on religious grounds.

SEC. 13. *Vacation Leave.* — All house helpers, who have rendered one (1) year of service, shall be entitled to an annual fourteen (14) days vacation leave with pay: Provided, That any unused portion of said vacation leave shall not be cumulative or shall not be carried over to the next succeeding years.

SEC. 14. *Maternity and Paternity Leave Benefits.* — All female house helpers who have rendered an aggregate length of service of two (2) years or more shall, in addition to the leave granted them, be entitled to maternity leave in accordance with Sec. 14-A of Republic Act No. 8282, otherwise known as the "Social Security Act of 1997".

A paternity leave of seven (7) days with pay shall be granted to all married male household helpers when their legitimate spouses deliver a child or suffer a miscarriage.

SEC. 15. *Deployment Expenses.* — Deployment expenses of household helpers, which may include transportation and agency fees, shall be shouldered by the employer.

SEC. 16. *Automatic Salary Increases.* — The contract of employment executed by and between the employer and the household helper shall include a provision for an annual salary increase indicating the amount determined by mutual agreement of the parties.

SEC. 17. *Termination of Service.* — If the period for household service is fixed, neither the employer nor the house helper may terminate the contract before the expiration of the term, except for just cause. If the house helper is unjustly dismissed, he or she shall be paid the compensation already earned plus the equivalent of fifteen (15) days work by way of indemnity. If the house helper leaves without justifiable reason, he or she shall forfeit any unpaid salary due him or her not exceeding the equivalent fifteen (15) days of work.

ARTICLE 3 RIGHTS AND PRIVILEGES OF HOUSEHOLD HELPERS

SEC. 18. *Standard of Treatment.* — The employer and the other members of the household shall, at all times, treat the house helper in a just and humane manner. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against a house helper.

SEC. 19. *Extent of Duty.* — The employer may request the house helper to perform a task outside his or her household for the benefit of another with the consent of the house helper and payment of just compensation.

SEC. 20. *Prohibition on Labor Sub-contracting.* --- The employer shall be prohibited from sub-contracting the service of the household helper to any third party or household.

SEC 21. *Prohibition on Recruitment and Finder's Fees.* — Regardless of whether the household helper was sourced either through an employment agency or a third party, said house helper shall neither be charged nor levied a share in the recruitment fees or finder's fees by the said employment agency or third party.

SEC. 22. *Basic Necessities .* — In a manner befitting the means of a responsible head of the family, the homeowner shall provide for the basic necessities of the household helper. These shall include:

- a.) Food — at least three (3) adequate meals per day;
- b.) Shelter — provision of humane sleeping arrangements that ensure privacy and safety of the household helper; and
- c.) Medical — the advance of the necessary funds to cover work-related illnesses or injuries sustained by the household helper, to be reimbursed by the latter from the proceeds of the benefits accruing from his or her membership with the SSS.

In no instance shall the employer be allowed to withdraw or hold in abeyance the Provision of these basic necessities as punishment or disciplinary action meted out to the house helper.

SEC. 23. *Guarantee of Household Helper Privacy.* The employer shall respect the privacy of the household helper during the course of the latter's rest periods. The house helper's right to privacy shall extend to any and all forms of personal communications, including letters, correspondence, telephone calls, and text messages.

SEC. 24. *Access to Outside Communication.* The employer shall grant the house helper access to outside communication, either through letters or telephone, especially in cases of personal or family emergency. Further, the employer shall guarantee the house helper access to the household's private telephone for the purpose of communicating with the latter's family at least once a week: Provided, That the cost incurred for long distance and overseas telephone bills shall be shouldered by the household helper.

SEC. 25. *Prohibition on Bonded labor.* — It shall be prohibited for the employer to use future services of the house helper as collateral for a loan or advance made by the latter. Likewise, it shall be prohibited for the employer to bind the household helper for his or her continuous employment as a form of payment for any loan or advance made by the latter. Should a household helper with an outstanding loan or advance decide to unilaterally terminate the contract of employment, he or she shall pay said loan or advance under terms and conditions specified in a duly-executed promissory note between the parties.

SEC. 26. *Access to Lawful Third-Party Mediation.* — Upon employment, the employer shall furnish the house helper with the names, addresses and telephone numbers of the following:

- a.) The Department of Labor and Employment (DOLE) and the Regional Offices of the DOLE having jurisdiction over the area of employment of the household helper
- b.) Barangay office which has jurisdiction over the household; and
- c.) Duly-registered non-government organizations accredited to mediate in employee-employer disputes involving house helpers and their employers.

The employer shall further guarantee the house helper access to all means of communication to be able to contact any of the above institutions

ARTICLE 4

SPECIAL RIGHTS AND PRIVILEGES OF HOUSEHOLD HELPERS OF MINORITY AGE

SEC. 27. *Allowable Employment of Household Helpers of Minority Age.* Children fifteen (15) years of age up to seventeen (17) years of age may be employed as household helpers. In no instance shall children below fifteen (15) years of age be employed as household helpers.

SEC. 28. *Children of Household helpers.* --- Unless expressly employed as household helpers under a duly executed contract of employment, children of household helpers who live with their parents at the employer's residence or those whose sustenance or education is being provided for by the homeowner, shall not be considered as household helpers themselves.

SEC. 29. *Normal Hours of Work.* -- Household helpers of minority age shall not be allowed to render work for more than ten (10) hours a day and more than five (5) days per week. He or she shall be allowed breaks of not less than one (1) hour each for breakfast, lunch and dinner.

SEC. 30. *Prohibition on Night Work.* -- Household helpers of minority age shall not be allowed to render work between ten o'clock in the evening and six o'clock in the morning of the following day.

SEC. 31. *Prohibition on Work to be Undertaken.* -- Household helpers of minority age shall not be allowed to render work beyond their mental and physical capabilities.

SEC. 32. *Prohibition on Hazardous Work, Activities, Conditions and/or Undertakings.* -- Household helpers of minority age shall not be employed in any hazardous work, activity or undertaking, and neither shall he or she be exposed to hazardous working conditions.

SEC. 33. *Minimum Wage.* -- Household helpers of minority age shall be paid the same minimum wage rates prescribed in this Act.

SEC. 34. *Right of the Child to Wages Earned.* -- Any and all wages, remuneration or compensation earned by a household helper of minority age during the period of his or her employment shall be paid by the employer directly to the former.

No parent, guardian or relative shall be allowed to borrow against the compensation of the household helper of minority age without the express written

- a.) The Department of Labor and Employment (DOLE) and the Regional Offices of the DOLE having jurisdiction over the area of employment of the household helper
- b.) Barangay office which has jurisdiction over the household; and
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No parent, guardian or relative shall be allowed to borrow against the compensation of the household helper of minority age without the express written

consent of the latter. Neither shall the minor be made to render work in payment of a loan or liability incurred by a parent, guardian or relative.

SEC. 35. *Rescue of Abused Household Helpers of Minority Age.* — Upon report or discovery of abuse and exploitation of a house helper of minority age, the Department of Social Welfare and Development (DSWD), in collaboration with the Department of Labor and Employment (DOLE), shall immediately rescue the said minor. The rescued minor shall be supervised and escorted by a social worker back to his or her parent, legal guardian or relatives. The cost of such operation shall be borne by the agency which recruited or deployed the house helper or, in its absence, the DSWD. The Secretary of Labor and Employment and the Secretary of Social Welfare and Development shall formulate the rules and regulations governing such rescue operation.

SEC. 36. *Protective Custody and Placement of Rescued Household Helpers of Minority Age.* Should a rescued household helper of minority age refuse to be brought back to his or her parent, legal guardian or relatives, against the recommendation of the DOLE and the DSWD, said household helper may be placed under the protective custody and care of the DSWD or that of a duly-recognized and accredited non-government organization, or placed in a suitable household for employment.

ARTICLE 5 RIGHTS AND PRIVILEGES OF SELF-EMPLOYED, PART-TIME OR DAY-TO-DAY HOUSEHOLD HELPERS

SEC. 37. *Exclusivity Clause.* — For the purpose of this Act, the rights and privileges of self-employed workers working as part-time or day-to-day household helpers shall be limited to the provisions of this Article.

SEC. 38. *Treatment of the Household Helper.* — The homeowner as well as the members of the household, shall treat the household helper in a just and humane manner. In no instance shall abusive language, physical violence or any act which debases, degrades or demeans the intrinsic worth and dignity of the household helper as a human being be used against the latter.

SEC. 39. *Scope of Work to be Undertaken.* — Prior to the commencement of any work to be undertaken by the household helper, both the employer and the household helper shall mutually agree on the scope of work, the period of time within which the work must be completed, the amount of compensation to be paid and the manner by which the compensation shall be made.

SEC. 40. *Payment for Work.* — Unless the parties had agreed otherwise prior to the commencement of the work, compensation for work completed, to the satisfaction of the employer, shall be in the form of cash paid directly by the employer to the household helper immediately upon completion of the work.

Where the method of payment of wages agreed upon by the employer and the household helper is on a piece or output basis, the rates shall be such that will assure the household helper of the minimum monthly or the equivalent daily rate as provided in this Act.

SEC. 41. *Normal Hours of Work.* — The period of time within which the work must be completed by the household helper shall be mutually agreed upon by the

parties prior to the commencement of the work; Provided, That the household helper shall not be required to render work for a period longer than ten (10) hours per day, exclusive of breaks of one (1) hour each for meals.

SEC. 42. *Provision for Free Meals.* — The employer shall provide the household helper with meals free of charge during the hours of work.

SEC 43. *Medical Expenses.* — All medical expenses incurred for work-related illnesses contracted or injuries sustained by the household helper shall be shouldered by the employer.

ARTICLE 6 SPECIAL PROVISIONS FOR KASAMBAHAY EDUCATION

SEC. 44. *Opportunity for Self-Improvement.* — The employer shall allow the household helper who is eighteen (18) years of age or above to pursue his or her education. The cost of such education shall be shouldered by the household helper.

Should the household helper decide to pursue his or her education, the employer shall adjust the work schedule in accordance with the former's class schedule. In no case shall the household helper's compensation be adjusted on account of his or her pursuit of education.

SEC. 45. *Access to Education and Training.* — No household helper of minority age shall be deprived of formal or non-formal education. In cases where household helpers of minority age are allowed to be employed, the employer shall allow said household helper access to public primary, secondary or vocational education. Said employer may advance all or part of the expenses incidental to the pursuit of said education. The employer shall be reimbursed out of deductions from the household helper's monthly compensation. Said deductions shall, at all times, be no greater than twenty percent (20%) of the minor's monthly compensation.

Should the household helper of minority age decide to pursue his or her education, the employer shall adjust his or her work schedule in accordance with the former's class schedule: Provided, That the adjusted schedule shall in no way hamper the completion of the former's assigned tasks to the satisfaction of the employer. In no case shall the household helper suffer any diminution in compensation on account of his or her pursuit of education.

SEC. 46. *Employer Initiatives for Skills Development.* — Should the employer decide to improve the inherent skills of the household helper through training, the employer shall bear the cost and expenses of said training. The time spent by the household helper in attending the said training, including the time spent going to and from the training venue, shall be considered as part of the household helper's hours of work.

ARTICLE 7 MISCELLANEOUS PROVISIONS

SEC. 47. *Household Helper Day.* — The date of signing into law of this Act by the President of the Republic shall be designated as the "*Araw ng mga Kasambahay*," a special non-working holiday with pay for household helpers, and shall be commemorated as such annually.

SEC. 48. *Emergency Services.* – The Department of Social Welfare and Development (DSWD) shall, within a period of one (1) year from the effectivity of this Act, institute a program designed specifically to provide emergency services to all household helpers in need of custody, shelter, healing, or medical, psychological, legal and rehabilitative services.

SEC. 49. *Penal Provisions.* – Any violation of the provisions of this Act shall be punished with a fine of not less than Five thousand pesos (P5,000.00), nor more than Twenty thousand pesos (P20,000.00), or imprisonment of not less than three (3) months nor more than three (3) years, or both such fine and imprisonment, at the discretion of the court.

SEC. 50. *Transitory Provisions.* – All existing arrangements between employers and their household helpers shall conform to the minimum standards set by this *Batas Kasambahay* within a period of sixty (60) days after its effectivity: Provided, however, That no household helper already enjoying benefits and privileges above those stipulated in this Act shall suffer any diminution or substitution thereof.

SEC. 51. *Implementing Rules and Regulations.* – The Secretary of Labor and Employment and the Secretary of Social Welfare and Development and other concerned agencies, shall, within one (1) year from the effectivity of this Act, promulgate the necessary rules and regulations to effectively implement the same.

SEC. 51. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 52. *Repealing Clause.* – All laws, decrees, executive orders, issuances, rules and regulations, or parts thereof, not consistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 53. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) newspapers of national circulation.

Approved,