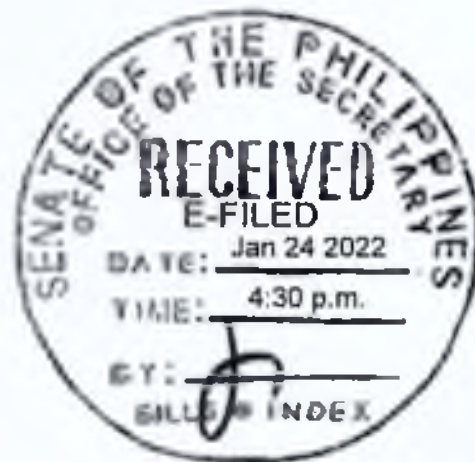


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



SENATE
S. No. 2488

(In Substitution of S.B. Nos. 60, 534, 1329, 1335, 1739, and 2287, taking into consideration H.B. No. 6768)

Prepared and submitted by the Committees on Banks, Financial Institutions and Currencies, and on Trade, Commerce and Entrepreneurship with Senators Lapid, Zubiri, Angara, Revilla, Poe, Gatchalian, and Marcos as authors thereof

AN ACT
AFFORDING MORE PROTECTION TO CONSUMERS OF FINANCIAL PRODUCTS AND SERVICES

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

1 **Section 1. Short Title.** — This Act shall be known as the “Financial
2 Products and Services Consumer Protection Act”.

3 **Sec 2. Declaration of Policy.** – It is the policy of the state to ensure that
4 appropriate mechanisms are in place to protect the interest of consumers of financial
5 products and services under the conditions of transparency, fair and sound market
6 conduct, and fair, reasonable, and effective handling of financial consumer disputes,
7 which are aligned with global best practices. These mechanisms reinforce their
8 confidence in the financial market and foster the stability of the Philippine financial
9 system. Towards this end, the State shall implement measures to protect the
10 following rights of financial consumers:

- 11 a. Right to equitable and fair treatment;
- 12 b. Right to disclosure and transparency of Financial Products and Services;
- 13 c. Right to protection of consumer assets against fraud and misuse;
- 14 d. Right to data privacy and protection; and

1 e. Right to timely handling and redress of complaints.

2 **Sec. 3. Definition of Terms.** - As used in this Act:

3 a) *Financial consumer* refers to a person or entity, or their duly-appointed
4 representative, who is a purchaser, lessee, recipient, or prospective
5 purchaser, lessee or recipient of Financial Products or Services. It shall also
6 refer to any person, natural or juridical, who had or has current or
7 prospective financial transaction with a Financial Service Provider pertaining
8 to Financial Products or Services;

9 b) *Financial consumer complaint* refers to an expression of dissatisfaction
10 submitted by a Financial Consumer against a Financial Service Provider
11 relative to a Financial Product or service in which a response or resolution is
12 expected.

13 c) *Financial product or service* refers to financial products or services which
14 are developed or marketed by a Financial Service Provider which may
15 include, but are not limited to, savings, deposits, credit, insurance, pre-need
16 and health maintenance organization (HMO) products, securities,
17 investments, payments, remittances and other similar products and
18 services. This also includes digital financial products or services which
19 pertain to the broad range of financial services accessed and delivered
20 through digital channels.

21 d) *Financial regulators* refer to the *Bangko Sentral ng Pilipinas* (BSP),
22 Securities and Exchange Commission (SEC), Insurance Commission (IC),
23 and the Cooperative Development Authority (CDA);

24 e) *Financial service provider* refers to a person, natural or juridical, which
25 provides financial products or services that are under the jurisdiction of the
26 financial regulators as defined in this Act. This term shall include
27 Investment Advisers as defined under Section 7 of this Act;

28 f) *Investment fraud* refers to any form of deceptive solicitation of investments
29 from the public. This includes Ponzi schemes and such other schemes
30 involving the promise or offer of profits or returns which are sourced from
31 the investments or contributions made by the investors themselves, boiling
32 room operations, and the offering or selling of investment schemes to the

1 public without a license or permit from the SEC, unless such offering or
2 selling involve exempt securities or are considered as exempt transactions
3 as provided for under existing laws;

4 g) *Market Conduct* refers to the manner by which a financial service provider
5 designs and delivers its financial products or services and manages its
6 relationships with its clients and the public;

7 h) *Marketing* refers to the act of communicating, offering, promoting,
8 advertising, or delivering of financial products or services by financial
9 service providers.

10 i) *Responsible pricing* refers to the pricing, terms, and conditions of financial
11 products and/or services that are set in a way that is both affordable to
12 clients and sustainable for financial service providers by taking into account,
13 among others, client needs and the pricing schemes of the competitors.

14 **Sec. 4. Scope and Coverage.** – This Act applies to all financial products or
15 services offered or marketed by any financial service provider.

16 **Sec. 5. Financial Regulators.** – The BSP, SEC, and IC shall enforce the
17 provisions of this Act on all financial service providers under their jurisdiction by
18 virtue of their respective charters, special laws and amendments thereto. The CDA
19 shall be considered an implementing government agency of this Act only with
20 respect to cooperatives offering financial products or services, such as but not
21 limited to savings and credit, except insurance cooperatives which shall be under the
22 jurisdiction of the IC, and cooperative banks and other BSP-supervised cooperative
23 financial institutions, which shall be under the jurisdiction of BSP.

24 **Sec. 6. Powers of the Financial Regulators.** – Financial regulators under
25 this Act shall have the following powers:

26 A. *Rulemaking* – Financial regulators shall have the authority to formulate their
27 own standard and rules for the application of the provisions of this Act to
28 the specific financial products or services within their jurisdiction guided by
29 internationally accepted standards and practices. Financial regulators may
30 also determine reasonableness of interest, charges or fees which a financial
31 service provider may demand, collect, or receive for any service or product
32 offered to a financial consumer. Likewise, they may issue their respective

1 rules of procedure concerning administrative actions arising from the
2 implementation of this Act.

3 B. *Market Conduct Surveillance and Examination* – Financial regulators may
4 conduct surveillance and examination, on-site or off-site, on their respective
5 supervised financial service providers, consistent with their respective risk-
6 based supervision policies, to ascertain that the provisions of this Act are
7 complied with. The examination for financial consumer protection
8 compliance may be conducted separately from examination of prudential
9 regulations compliance. The provisions on the conduct of examination and
10 surveillance provided in the respective charters of financial regulators, and
11 pertinent special laws shall be made applicable in the examination and
12 surveillance activities authorized under this Act.

13 The department heads and the examiners of the financial regulators
14 shall be authorized to administer oaths to any director, officer, or employee
15 of the supervised financial service providers subject to the examination of
16 their market conduct and compliance with this Act, and to compel the
17 presentation of all books, documents, papers, or records in any form
18 necessary in their judgment to ascertain compliance of financial service
19 providers to this Act.

20 The supervised financial service provider shall afford to its respective
21 financial regulator full opportunity to examine its records, and review its
22 systems and procedures at any time during business hours when requested
23 to do so by the financial regulator.

24 C. *Market Monitoring* – Financial regulators shall have the authority to require
25 their respective supervised financial service providers and their third party
26 agents/service providers to submit reports or documents, as needed.

27 For purposes of market monitoring, the financial regulators may obtain
28 relevant data about financial products, services and markets from other
29 government agencies, which shall be duty-bound to furnish the same.

30 D. *Enforcement* – Financial regulators shall have the authority to impose
31 enforcement actions on their respective supervised financial service
32 providers for non-compliance with this Act and other existing laws

1 pertinent to the jurisdiction and authority of the respective financial
2 regulators. Such enforcement actions may include the following:

- 3 1) Restriction on the ability of the supervised financial service provider to
4 continue to collect excessive or unreasonable interests, fees or charges,
5 including all other interests, fees and charges covered under Republic
6 Act No. 10870, otherwise known as the "Philippine Credit Card Industry
7 Regulation Law";
- 8 2) Disqualification and/or suspension of directors, trustees, officers, or
9 employees of the supervised financial service provider responsible for
10 violations of the provisions of this Act, its implementing rules and
11 regulations, or orders of the financial regulators;
- 12 3) Imposition of fines, suspension, or penalties for any non-compliance
13 with or breach of this Act, its implementing rules and regulations (IRR),
14 or the orders of the financial regulators;
- 15 4) Issuance of a cease and desist order to the financial service provider
16 without the necessity of a prior hearing if in the financial regulator's
17 judgment, the act or practice, unless restrained, amounts to fraud or a
18 violation of the provisions of this Act and its IRR, or may unjustly cause
19 grave or irreparable injury or prejudice to financial consumers. The
20 financial service provider shall be afforded an opportunity to defend its
21 act or practice in a summary hearing before the financial regulator or its
22 designated body, upon request made by the financial service provider
23 within five (5) calendar days from its receipt of the order. If no such
24 hearing is requested within said period, the order shall be final. If a
25 hearing is requested by the financial service provider, the proceedings
26 shall be conducted summarily without adhering to the technical rules of
27 evidence, and all issues shall be determined primarily on the basis of
28 records, after which the financial regulator may either reconsider or
29 finalize and execute its order;
- 30 5) Suspension of operation of any supervised financial service provider in
31 relation to a particular financial product or service when in the financial
32 regulator's judgment, based on findings, the financial service provider is

1 operating in violation of the provisions of this Act, and its implementing
2 rules and regulations.

3 6) In any proceeding in which the financial regulators may impose a
4 penalty for non-compliance with or breach of this Act and other existing
5 laws under their jurisdiction, the financial regulators, in addition to the
6 imposed fine, may enter an order requiring accounting and
7 disgorgement of profits obtained, or losses avoided, as a result of a
8 violation of this Act and other existing laws, including reasonable
9 interest. The financial regulators are authorized to adopt rules,
10 regulations, and orders concerning the creation and operation of a
11 disgorgement fund, payments to financial consumers, rate of interest,
12 period of accrual, and such other matters as deemed appropriate to
13 implement this provision.

14 E. *Consumer Redress or Complaints Handling Mechanism* – Financial regulators
15 shall provide efficient and effective consumer redress or complaints handling
16 mechanism such as mediation, conciliation or other modes of alternative
17 dispute resolution to address conflict/dissatisfaction from financial consumers
18 arising from financial products or services. The financial consumer may avail
19 of the mechanism prior to adjudication.

20 F. *Adjudication* - Financial regulators shall have the authority to adjudicate all
21 actions as provided under existing laws.

22 The BSP and SEC shall have the authority to adjudicate actions arising
23 from or in connection with financial transactions that are purely civil in
24 nature, and the claim or relief prayed for by the financial consumer is solely
25 for payment or reimbursement of sum of money not exceeding the amount
26 of ten million pesos (P10,000,000.00). The decision of the financial
27 regulators in the adjudication shall be final and executory, and may not be
28 restrained or set aside by the court except on petition for certiorari on the
29 ground of grave abuse of discretion, or lack or excess of jurisdiction of the
30 financial regulators. The petition for *certiorari* may only be filed within ten
31 (10) days from receipt by the aggrieved party of the decision: *Provided, That*
32 in the case of BSP and SEC, the aggrieved party may file the petition with

1 the Court of Appeals. The adjudicatory power shall be exercised by the Head
2 of the concerned financial regulator or a duly authorized officer or body:
3 *Provided*, that in case of BSP and SEC, the decision of the authorized officer
4 or body is not appealable to the Monetary Board or to the Commission *en*
5 *banc*, respectively.

6 The BSP and SEC may order the payment or reimbursement of money
7 which is subject of the action filed before them. In the exercise of their
8 adjudicatory powers, they shall have the power to issue *subpoena duces*
9 *tecum* and summon witnesses to appear in their proceedings and when
10 appropriate, order the examination, search and seizure of all documents, and
11 books of accounts of any entity or person under investigation as may be
12 necessary for the proper disposition of the cases before them. Further, the
13 BSP and SEC shall have the authority to punish for contempt, both directly
14 and indirectly, in accordance with the pertinent provisions of and penalties
15 prescribed by the Rules of Court.

16 G. *Other Powers* - Financial regulators may exercise such other powers as may
17 be provided by their enabling laws or charters as well as those which may be
18 implied from, or which are necessary or incidental to the carrying out of, the
19 express powers granted to the financial regulators to achieve the objectives
20 and purposes of these laws.

21 **Sec. 7. Investment Adviser.** – Investment Advisers shall be subject to the
22 provisions of Chapters VII, VIII, X and XIII of Republic Act No. 8799, and the rules
23 and regulation to be issued by the SEC.

24 The term “investment adviser” shall mean any person who, for compensation,
25 engages in the business of advising others, either directly or through publications or
26 writings, as to the value of investment products or as to the advisability of investing
27 in, purchasing, or selling investment products, or who, for compensation and as part
28 of a regular business, issues or promulgates analyses or reports concerning
29 investment products; but does not include the following:

- 30 a) Trust Department/Unit of Banks;
- 31 b) Stand-alone Trust Entities;

- 1 c) Lawyer, accountant, engineer, or teacher whose performance of such services
2 is solely incidental to the practice of his profession;
- 3 d) Insurance agent whose performance of such services is solely incidental to
4 the practice of his profession;
- 5 e) Any investment banker or broker dealer whose performance of such services
6 is solely incidental to the conduct of his business as such investment banker
7 or broker dealer and who receives no special compensation therefor;
- 8 f) The publisher of any *bona fide* newspaper, news magazine, or business or
9 financial publication of general and regular circulation;
- 10 g) Such other persons as the SEC may designate by rules and regulations, or
11 appropriate order.

12 **Sec. 8. Duties and Responsibilities of Financial Service Providers.—**

13 A. *Board and Senior Management Oversight* – The Board of Directors and the
14 members of senior management of financial service providers shall ensure
15 conformity with this Act and shall provide the means by which they shall identify,
16 measure, monitor, control, and manage consumer protection risks inherent in
17 their operations, in accordance with the rules and regulations of their financial
18 regulators.

19 B. *Appropriate product design and delivery* – Financial service providers shall
20 continuously evaluate their financial products or services to ensure that they are
21 appropriately targeted to the needs, understanding and capacity of both their
22 markets and their clients. This shall include, among others, the following:

- 23 1. *Affordability and suitability assessments* – Financial service providers
24 should have written procedures for determining whether a particular
25 financial product or service is suitable and affordable for their clients.
26 This shall include the determination of whether or not the amount and
27 terms of the offered financial product or service allow various clients to
28 meet their respective obligations with a low probability of a serious
29 hardship, and that there is a reasonable prospect that the financial
30 product or service will provide value to its client. For the purpose of
31 extending credit, this assessment will include measures to prevent over-
32 indebtedness.

1 2. *Cooling-off period* –Financial service providers are expected to adopt a
2 clear cooling-off policy, as may be prescribed by law or by rules and
3 regulations issued by the relevant financial regulator upon its
4 determination that a cooling-off period is necessary for a particular
5 financial product or service that is subject to its regulation. Such policy
6 should, among others, provide a cooling-off period that will allow a client
7 to consider the costs and risks of a financial product or service, free
8 from the pressure of the sales team of the financial service provider.
9 The length of the cooling-off period should be individually determined by
10 financial service providers based on reasonable expectation of the time
11 required for a client to fully evaluate all the terms and risks of the
12 financial product or service and contact concerned parties who may be
13 affected by its terms and conditions, unless a minimum or fixed period is
14 prescribed by the financial regulator for compliance by the financial
15 service provider or when stipulated in the terms of the financial product
16 or service. Financial regulators may opt not to provide for a cooling-off
17 period for short term transactions or contracts.

18 During the cooling-off period, the financial consumer may cancel or
19 return the contract without penalty; however, nothing herein prevents
20 the financial service providers from recovering the processing costs
21 incurred, as may be approved by the financial regulators. Financial
22 service providers are prohibited from engaging in practices that
23 unreasonably burden the financial consumer in the exercise of the right
24 of cancellation during the cooling-off period. If the financial product or
25 service is a contract of insurance, a pre-need or a health maintenance
26 organization (HMO) product, the right of return cannot be exercised
27 after the financial consumer has made a claim.

28 3. *Pre-payment of loans and other credit accommodations* – A borrower
29 may, at any time prior to the agreed maturity date, prepay a loan or
30 other credit transactions in whole or in part: *Provided*, That costs or fees
31 charged to the borrower for such pre-payment, if any, shall be disclosed

1 to ensure transparency, disclosure, and responsible pricing as required
2 under this Section.

3 *C. Transparency, disclosure, and responsible pricing* - Financial service providers
4 must ensure that they adopt disclosure principles in their communications and
5 their contracts with financial consumers, including the use of clear and concise
6 language to ensure that all information concerning the financial product or
7 service is understood by the target clients. This shall also include updated and
8 accurate disclosure of information such as pricing or any cost associated with the
9 product or service, and should be made in a consistent manner to facilitate a
10 comparison between similar financial products or services across the industry.

11 Sufficient product disclosure must be provided before the contracting of the
12 financial product or service to give the client enough basis and time for review.
13 Any change in the terms or conditions of a financial product or service shall be
14 provided to the client.

15 In their advertising materials, financial service providers shall disclose the
16 contact information of their consumer assistance unit providing consumer
17 assistance and handling financial consumer complaints. Financial service
18 providers shall also disclose that they are regulated and the advertising materials
19 must identify the relevant financial regulator.

20 Financial service providers are legally responsible for all statements made in
21 the marketing and sales materials that they produce relative to their financial
22 products or services. Disclosure of information on financial products or services
23 shall be made available to the public by the financial service provider through
24 printed materials, mass media, websites or digital platforms.

25 Financial service providers must have internal policies and procedures for
26 setting prices for their products and services that take into consideration, among
27 others, the principle of responsible pricing.

28 *D. Fair and respectful treatment of clients* – Financial service providers shall have
29 the right to select their clients: *Provided*, that they shall not discriminate against
30 clients on the basis of race, age, financial capacity, ethnicity, origin, gender,
31 disability, health condition, sexual orientation, religious affiliation, or political
32 affiliation: *Provided, further*, That financial service providers may provide

1 distinction, as necessary, when making a risk assessment on a specific financial
2 product or service.

3 Financial service providers are prohibited from employing abusive collection or
4 debt recovery practices against their financial consumers.

5 E. *Privacy and protection of client data* – Each financial service provider must
6 respect the privacy and protect the data of their clients. Consistent with the
7 provisions of Republic Act No. 10173, otherwise known as the “Data Privacy Act”,
8 the financial regulators shall issue regulations in coordination with the National
9 Privacy Commission, governing the disclosure of client data to a third party.

10 Clients have the right to review their data to ensure that inaccurate or
11 deficient data is corrected or amended.

12 F. *Financial consumer protection assistance mechanism* – Each Financial service
13 provider must establish a single consumer assistance mechanism for free
14 assistance to financial consumers on financial transactions concerns. This shall
15 include handling of complaints, inquiries and requests.

16 A financial service provider must provide clear information on the actions
17 taken or to be taken on a complaint, inquiry or request from a financial
18 consumer. In the case of alleged disputed amount or unauthorized transactions,
19 a financial service provider, pending the result of its final investigation report,
20 shall suspend the imposition of interest, fees or charges, or provide similar
21 reasonable accommodations to the financial consumer.

22 Financial consumers who are unsatisfied with the financial service provider’s
23 handling of their complaints, inquiries and requests, may elevate their concerns
24 to the financial regulator which has jurisdiction over the financial service provider
25 concerned.

26 G. *Cybersecurity mechanism* - Financial service providers offering digital financial
27 product or service must establish a cybersecurity mechanism to ensure the safety
28 and protection of the client’s information and financial transactions. The financial
29 regulators shall prescribe the minimum qualifications and standards of the
30 financial service provider’s cybersecurity mechanism, subject to the size,
31 complexity, risks, and nature of the financial service provider’s operations.

1 **Sec. 9. Bundling of Products.** – When a financial consumer is obliged by
2 the financial service provider to purchase any product, including an insurance policy,
3 as a pre-condition for availing a financial product or service, the financial consumer
4 shall have the option to choose the provider of such product subject to reasonable
5 standards set by the financial service provider, and this information shall be made
6 available to the financial consumer.

7 **Sec. 10. Training.** – Staff of financial service providers who deal directly
8 with financial consumers, including those who are involved in financial consumer
9 protection assistance mechanism or cybersecurity, must receive adequate training
10 suitable to the complexity of the financial products or services they offer. Financial
11 service providers must be qualified as appropriate for the complexity of the financial
12 product or service they offer.

13 **Sec. 11. Investment Fraud.**– It shall be unlawful for any person or persons
14 to commit investment fraud as defined in this Act. Any person who commits
15 Investment Fraud shall be subject to the penalties under Section 73 of Republic Act
16 No. 8799 and the administrative sanctions under Section 16 of this Act.

17 **Sec. 12. No Waiver of Rights.** – No provision of a contract for a financial
18 product or service shall be lawful or enforceable if such provision waives or
19 otherwise deprives a client of a legal right to sue the financial service provider,
20 receive information, have their complaints addressed and resolved, or have their
21 non-public client data protected.

22 **Sec. 13. Liability of a Financial Service Provider on the Acts or**
23 **Omissions of its Authorized Representatives.** – The financial service provider
24 shall be responsible for the acts or omissions of its directors, trustees, officers,
25 employees, or agents, in marketing and transacting with financial consumers for its
26 financial products or services.

27 **Sec. 14. Prescription.** – All actions or claims accruing under the provisions
28 of this Act, and the rules and regulations issued pursuant thereto, shall prescribe
29 after five (5) years from the time the financial consumer transaction was
30 consummated, or after five (5) years from the discovery of deceit or non-disclosure
31 of material facts: *Provided*, That such actions shall, in any event, prescribe after ten
32 (10) years from the commission of the violation: *Provided, further*, That for

1 insurance contracts, the prescriptive period for the commencement of action
2 provided under the Insurance Code shall apply.

3 **Sec. 15. Penalties.** - Any person who willfully violates this Act or the rules,
4 regulations, orders, or instructions issued by the financial regulators to implement
5 this Act, shall be punished by imprisonment of not less than one (1) year, but not
6 more than five (5) years, or by a fine of not less than Fifty thousand pesos
7 (P50,000.00) but not more than Two million pesos (P2,000,000.00), or both at the
8 discretion of the court: *Provided*, That if the violation is committed by a corporation
9 or a juridical entity, the directors, officers, employees, or other officers who are
10 directly responsible for such violation shall be held liable thereto.

11 **Sec. 16. Administrative Sanctions.** - Without prejudice to the
12 enforcement actions prescribed under Section 6(D) of this Act and the criminal
13 sanctions provided under Section 15 of this Act, the administrative sanctions of the
14 respective charters of the financial regulators shall be made applicable to a financial
15 service provider, its directors, trustees, officers, employees or agents for violation of
16 this Act or any related rules, regulations, orders or instructions of financial regulators;
17 or to any persons found administratively liable for Investment Fraud: *Provided*, that
18 for persons found responsible for Investment Fraud, the SEC may impose a fine of no
19 less than Fifty thousand pesos (P50,000.00) nor more than Ten million pesos
20 (P10,000,000.00) for each instance of Investment Fraud plus not more than Ten
21 thousand pesos (P10,000.00) for each day of continuing violation in addition to the
22 other administrative sanctions under Section 54 of Republic Act No. 8799. *Provided*,
23 *further*, that in case profit is gained or loss is avoided as a result of the violation of
24 this Act or Investment Fraud, a fine not more than three (3) times the profit gained
25 or loss avoided may also be imposed by the financial regulator: *Provided, finally*, that
26 in addition to the administrative sanctions that may be imposed, the authority of the
27 financial service provider to operate in relation to a particular financial product or
28 service may be suspended or cancelled by the financial regulator.

29 **Sec. 17. Independent Civil Action.** - A financial regulator, consistent with
30 public interest and protection of financial consumers, is authorized to institute an
31 independent civil action on behalf of aggrieved financial consumers for violations of
32 this Act and its implementing rules and regulations.

1 If in any of these proceedings, the financial regulators obtain a civil penalty
2 against any person or entity, or such person or entity agrees to settle such civil
3 penalty, the amount of such civil penalty shall, on the motion of the financial
4 regulators, be added to and become part of a disgorgement fund or other fund
5 established for the benefit of the aggrieved financial consumer.

6 **Sec. 18. Implementing Rules and Regulations.** – The financial
7 regulators shall prepare the necessary rules and regulations to implement the
8 provisions of this Act within one (1) year from its effectivity.

9 **Sec. 19. Separability Clause.** – If any provision of this Act is held
10 unconstitutional or invalid, all other provisions not thereby affected shall remain
11 valid.

12 **Sec. 20. Repealing Clause.** – Articles 131 to 147 of Title IV of Republic Act
13 No. 7394 are hereby repealed. All other laws, executive orders, rules and regulations
14 or parts thereof which are inconsistent with this Act are hereby repealed or amended
15 accordingly.

16 **Sec. 21. Effectivity Clause.** – This Act shall take effect fifteen (15) days
17 after its publication in the Official Gazette or in at least two (2) national newspapers
18 of general circulation.

19
20 ***Approved.***