

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Third Regular Session

HOUSE BILL NO. 9873



Introduced by **HON. LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.**

AN ACT
REGULATING PUBLIC SOLICITATIONS AND PROVIDING PENALTIES FOR VIOLATION THEREOF, REPEALING FOR THE PURPOSE ACT NO. 4075, AS AMENDED BY PRESIDENTIAL DECREE NO. 1564, OTHERWISE KNOWN AS THE SOLICITATION PERMIT LAW

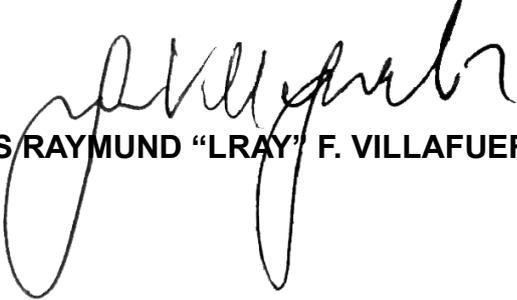
The Department of Social Welfare and Development (DSWD) has rallied for the prioritization of the Public Solicitation Bill since the 15th Congress to modernize the outdated Presidential Decree No. 1564 or the "Solicitation Permit Law".

The DSWD approximates that there were around 500 organizations that have conducted private solicitations in social media during calamities in 2020. These are unauthorized groups calling for donations via digital wallets such as GCash, PayMaya, and other forms of online fund transfer.

This proposed measure seeks to establish standards and guidelines for granting permits to solicit funds or donation from the public to ensure that they are utilized for the purpose that they should be serving. It ensures the accountability of solicitors to protect the rights of beneficiaries.

In particular, the bill provides for the guidelines on the issuance of solicitation permit during calamities or disasters, implementing more stringent monitoring and validation of permits, reportorial requirements for exempt organizations, among other things.

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


LUIS RAYMUND "LRAY" F. VILLAFUERTE, JR.

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

Section 1. *Short Title.* – This Act shall be known as the "Public Solicitation Act".

Sec. 2. *Declaration of Policy.* – It is hereby declared a policy of the State to regulate public solicitations undertaken by organizations, agencies, groups and individuals, in order to protect the general public from unscrupulous solicitations and to ensure that funds raised through public solicitations are properly utilized for the intended purpose and beneficiaries. Towards this end, standards and guidelines are hereby established to strengthen the system of granting permits or authorization to solicit funds or donations from the public.

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

(a) *Administrative cost* – refers to the cost incurred in the management and operation of the conduct of the solicitation activity which includes the application fee for a solicitation permit, cost of mailing, printing of letters of appeal, certificates and other paraphernalia;

(b) *Beneficiaries* – refer to individuals situated in the Philippines who will benefit from the proceeds of public solicitation conducted who are poor, vulnerable, marginalized and disadvantaged sectors or entities. These include, but are not limited to:

1. Children who are abandoned, neglected, orphaned, voluntarily committed, abused and exploited, street children, children with disabilities, children in conflict with the law, children in need of special protection, children in indigenous/cultural communities, and children-victims of natural disasters;
2. Out-of-school youth and other youth with special needs;
3. Women in especially difficult circumstances;

4. Persons with disabilities;
5. Senior citizens;
6. Individuals, families, and communities who are in crisis situations, including those who are internally displaced due to armed conflict and developmental projects, and victims of natural and human-induced calamities or disasters;
7. Rebel returnees and families who are victims of armed conflict situations;
8. Individuals suffering from serious, terminal or chronic diseases and illnesses such as cancer and kidney failure; and
9. Families in need of assistance and intervention.

(c) *Blacklist* – refers to the list or registry of persons, organizations, and/or agencies which are prohibited from conducting any public solicitation activity due to violations committed as provided in this Act;

(d) *Charitable purpose* – refers to philanthropic, humanitarian and non-profit objectives, including benefits for the needy, poor, sick, prisoners, orphans, etc.;

(e) *Donor* – refers to an individual, organization, or agency that donates, gives, or contributes personal or real property for charitable or public welfare purposes;

(f) *Individual* – refers to a person who is a parent, guardian or immediate relative within the third (3rd) degree of consanguinity or affinity of a patient suffering from a chronic disease that requires long-term or expensive medication desiring to solicit or receive charitable contributions from the public;

(g) *Organization or agency* – refers to all national government agencies (NGAs), government-owned and -controlled corporations (GOCCs), state universities and colleges (SUCs), public schools, local government units (LGUs) and other government agencies; non-stock, non-profit corporations; civil society organizations (CSOs) including faith-based organizations, people's organizations; non-government organizations (NGOs), academe, associations and similar organizations; chapters and affiliates of similar international organizations operating in the Philippines desiring to solicit or receive contributions from the public for charitable or public welfare purposes;

(h) *Program cost* – refers to all direct or indirect expenses incurred in the provision of services or goods to the beneficiaries of the public solicitation including expenses of the donee person, organization or agency in its operation and the implementation of relevant programs and services;

(i) *Public* – refers to the populace, society, masses or people in general within the Philippine territory where the public solicitation is to be undertaken;

(j) *Public solicitation* – refers to any activity or project intended to generate, solicit, collect, and request funds, goods, or other assistance from the public for charitable or public welfare purposes;

(k) *Public welfare purpose* – refers to any activity or project related to the promotion of health, education, peace, social welfare and protection, environmental safety, rights, community security and safety and similar circumstances or conditions including disaster relief operations and climate change management, preservation and promotion of culture and arts;

(l) *Revocation* – refers to the cancellation of the issued solicitation permit due to the commission of any violation as provided in this Act; and

(m) *Solicitation permit* – refers to a certificate of authority issued by the Department of Social Welfare and Development Office (DSWD), the Provincial Social Welfare and Development Office (PSWDO), the City Social Welfare and

Development Office (CSWDO), or the Municipal Social Welfare and Development Office (MSWDO) to an authorized individual, organization, or agency applying for such authorization to solicit donations or voluntary contributions for charitable or public welfare purposes.

Sec. 4. *Coverage.* – This Act shall apply to all NGAs, GOCCs, SUCs, public schools, LGUs and other government agencies, individuals, CSOs including faith-based organizations, people’s organizations, NGOs, academe, associations and similar organizations, chapters and affiliates of similar international organizations operating in the Philippines which are partly or fully financed with funds solicited from or contributed by the public or private sector for charitable or public welfare purposes.

Notwithstanding the foregoing, this Act shall not be used as a defense against a violation committed by a government official or employee against Section 7(d) of Republic Act No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees”, on soliciting gifts or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated or any transaction which may be affected by the functions of their office.

Sec. 5. *Exemption from Coverage.* – The following shall be exempt from 9 application of solicitation permit:

- (a) Organizations and agencies created by laws that specifically confer authority on these organizations and agencies to solicit or conduct fund campaign for charitable or public welfare purposes which shall continue to be covered by their charters and shall not be required to acquire a solicitation permit; *Provided*, that the DSWD and concerned Local Social Welfare and Development Office (LSWDO) shall be informed in writing before the conduct of the solicitation campaign and shall have the authority to monitor their activities and to require these organizations and agencies to submit reports pertaining to the conduct of the public solicitation and the utilization of funds solicited; *Provided, further*, that the DSWD shall maintain and periodically update the list of organizations and agencies that are exempted from application of solicitation permit;
- (b) Traditional carolling activities and performances during the holiday season, involving modest donations and solicitations, regardless of purpose;
- (c) Solicitations for religious purposes that are made within religious sanctuaries, such as churches, mosques, and such other buildings or structures regularly used for religious services or worship; and
- (d) Solicitations for personal purposes that are strictly confined to relatives within fourth degree of affinity or consanguinity, and friends and associates personally known to the persons conducting the solicitation.

Sec. 6. *Solicitation Permit; Requirements.* – No solicitation permit shall be issued to an individual, organization, or agency without first complying with the following documentary requirements:

- (a) Duly accomplished application form signed by the individual, organization, or agency head or an authorized representative;

- (b) Project proposal of the individual applicant or in the case of an organization, a proposal approved by the head of the applicant organization or agency on the intended public solicitation activity including the work and financial plan on the activity to be undertaken, information and details relative to, or a general description of, the intended beneficiaries, and proposed mode of identifying and selecting beneficiaries in cases where the exact beneficiaries are to be determined after the solicitation activity;
- (c) Personal profile of individual applicant showing information attesting to the applicant's identity and capability and integrity to launch a solicitation drive or in the case of an organization, certified true copy of Certificate of Registration and Articles of Incorporation and By-Laws with the Securities and Exchange Commission (SEC) or other regulatory government agency which has jurisdiction to regulate the organization or agency;
- (d) Updated certification of good standing from the SEC or other regulatory government agency which has jurisdiction to regulate the organization or agency;
- (e) Notarized written agreement or any similar document signifying the concurrence of the intended beneficiaries as recipient of the solicitation activity, in cases where the beneficiaries are identified prior to the solicitation activity; and
- (f) Notarized board resolution or other written authorization for the organization's or agency's planned solicitation activity which shall ensure strict compliance with the standard ratio on fund utilization.

The DSWD shall make samples and forms of the documentary requirements available online and in their offices for public use and reference.

For purposes if this Act, institutions or organizations seeking funding support during disaster response activities shall have additional three (3) months to submit additional documentary requirements or shall be able to comply with the requirements within the period set forth by the concerned DSWD office, PSWDO, or MSWDO.

Sec. 7. Authority to Issue Permit. – The following officials are authorized to grant a solicitation permit to an eligible individual, organization, or agency that will conduct solicitation activities for charitable or public welfare purposes:

- (a) Secretary of the DSWD or a duly authorized Undersecretary of the DSWD for all public solicitations;
- (b) DSWD Regional Director or any duly authorized representative for regional public solicitations;
- (c) Provincial Governor through the PSWDO Chief or any duly authorized representative for provincial public solicitations; and
- (d) City or Municipal Mayor through the CSWDO Chief or the MSWDO Chief or any duly authorized representative for local public solicitations and online public solicitations.

Sec. 8. Validity of Permit. – All solicitation permits issued by the DSWD, the PSWDO, the CSWDO, or the MSWDO shall be valid only on the approved date of coverage which in no case shall exceed one (1) year within the specified city,

municipality, region, or areas in the Philippines. Its validity shall not extend outside of the Philippines even if the target beneficiaries and donors are Filipinos.

An organization or agency with a good track record in conducting public solicitation, as determined by the DSWD, the PSWDO, the CSWDO, or the MSWDO, may be granted a solicitation permit with a longer validity period that shall not exceed two (2) years.

Sec. 9. Types of Public Solicitation. – Public solicitations shall be categorized as follows:

- (a) Local public solicitation, or a solicitation activity conducted within a city or municipality;
- (b) Provincial public solicitation, or a solicitation activity conducted within two (2) or more cities or municipalities in the same province;
- (c) Regional public solicitation, or a solicitation activity conducted within two (2) or more provinces in a region;
- (d) National public solicitation, or a solicitation activity conducted in two (2) or more regions; and
- (e) Online Public Solicitation, or a solicitation activity conducted through computer or a computer network, the electronic medium in which online communication takes place.

Sec. 10. Solicitation During Calamities or Disasters. – In times of calamities or disasters and the intended beneficiaries of the public solicitation are disaster-stricken areas or communities where a state of calamity has been declared by the President of the Philippines or the local sanggunian, a temporary solicitation permit may be issued to the applicant individual, organization, or agency upon submission of a duly accomplished application form, as provided for in Section 6(a) of this Act, signed by the applicant individual, or head of the organization or agency or an authorized representative and a preliminary determination by the appropriate office that the applicant is sufficiently qualified to conduct public solicitation.

The validity of the temporary solicitation permit shall be determined by the concerned DSWD office, PSWDO, CSWDO, or MSWDO in coordination with the Disaster Risk Reduction and Management Council office or equivalent office depending on their assessment of the impact of the calamity or disaster to the affected areas. The applicant individual, organization, or agency shall have additional three (3) months to submit and comply with the requirements provided under Section 6 of this Act or within the period set forth by the concerned DSWD office, PSWDO, or MSWDO.

Sec. 11. Fees and Charges. – For national and regional public solicitations, the DSWD may charge reasonable fees corresponding to the cost only of preparing the solicitation permit. The fees shall be remitted to the National Treasury, recorded as a Special Account in the General Fund and shall be available to the DSWD through a Special Budget pursuant to Section 35 of Executive Order No. 292, otherwise known as the “Administrative Code of 1987”. For provincial and local public solicitations, the governor, city, or municipal mayor may impose reasonable fees corresponding to the cost only of preparing the solicitation permit, subject to the provisions of Republic Act

No. 7160, otherwise known as the “Local Government Code of 1991”, and other existing laws.

Sec. 12. *Methods of Public Solicitation.* – Public solicitation may be done through any of the following, whether online or offline:

- (a) Written request such as letters of appeal, envelopes, cards, and other similar forms;
- (b) Mass media campaign through television, cinema, radio, magazines, newspapers, billboards, and other similar forms;
- (c) Distribution, circulation, publication, or posting of written advertisement or other similar forms;
- (d) Rummage sales and sale of goods including souvenir items;
- (e) Benefit shows including concerts, fashion shows, and other forms of entertainment;
- (f) Fun runs, marathon, cycling, and other forms of sports activities;
- (g) Popularity contests, beauty pageants, and other events which requires the contestants to conduct public solicitations;
- (h) Donation boxes, coin banks, and other similar forms; and
- (i) Other methodologies that may be allowed by the DSWD, the PSWDO, the CSWDO, or the MSWDO.

Provided, that requests for financial assistance from the Philippine Charity Sweepstakes Office (PCSO) and similar agencies shall not be covered under this Act. *Provided, further*, that the ceiling amount for the cost of public solicitation paraphernalia shall be set in the implementing rules and regulations to be issued pursuant to this Act.

Sec. 13. *Allocation of Proceeds.* – Not more than thirty percent (30%) of the total proceeds from the fund-raising activity of any individual, organization, or agency shall be expended for administrative cost. The remaining fund shall be utilized entirely for projects or programs for the targeted beneficiaries: *Provided*, that in cases where solicitation campaigns are conducted to fund programs or projects to help disaster or calamity-stricken areas or resolve national or local crises, a more flexible term in the allocation of the proceeds is allowed. Unless compliance with this section is satisfactorily established on the basis of the report required in Section 16 of this Act, no individual, organization, or agency shall be issued any subsequent solicitation permit.

It shall be mandatory for funds collected from public solicitations to be deposited in a banking institution regulated by the Bangko Sentral ng Pilipinas (BSP) in the name of the applicant individual, organization, or agency to which the solicitation permit was issued. The individual, organization, or agency shall maintain a book of accounts for the monitoring and validation of the report.

The date, duration, and place where the consolidation and accounting of proceeds shall be undertaken and the date of the awarding or turnover of the proceeds to the beneficiaries shall be witnessed by the authorized representatives from the DSWD, the PSWDO, the CSWDO, or the MSWDO for national and regional, provincial, city, or municipal public solicitation, respectively.

Sec. 14. *Monitoring and Validation of Public Solicitation.* – The individual, organization, or agency to which the solicitation permit was issued shall submit to the concerned DSWD office and LSWDO the following documents:

- (a) Not later than sixty (60) days after issuance of the permit, duly notarized report signed and sworn to by the individual or by at least two (2) authorized officers of the organization or agency, indicating whether the solicitation permit was used or not.
 1. If the issued solicitation permit is not used, the individual, organization, or agency shall submit to the appropriate DSWD office, PSWDO, CSWDO, or MSWDO the justification for not conducting or continuing the solicitation activity within the validity period, and surrender the issued permit;
 2. If the solicitation permit was used, an initial report on the status of utilization of the issued permit shall be submitted;

- (b) Not later than sixty (60) days after the expiration of the issued solicitation permit, the following documents shall be submitted:
 1. Notarized fund utilization report of its income and expenditures sworn to by the individual, or in the case of an organization or agency, the president and treasurer of the organization or agency;
 2. List of donors with their corresponding addresses and contact numbers, and the amount of donations;
 3. List of beneficiaries, with corresponding signatures, addresses and contact numbers, and the amount or types of assistance extended;
 4. List of projects undertaken and completed with an indication of their location and cost; and
 5. Expired original solicitation permit.

Provided, that the DSWD shall keep and maintain a record of the organizations with solicitation permits including information on their validity. This information shall be readily made available to the public, whether the solicitation activity is online or offline.

To assist in the monitoring of public solicitation activities, the public may inquire from the DSWD or concerned LSWDO whether a public solicitation activity is legitimate or not.

Sec. 15. *Anonymous Donations.* – Donations from anonymous individuals may only be received for the amount less than the covered transaction as defined under AMLA.

If the total amount of anonymous donations falls under covered transactions, the individual or entity conducting public solicitation shall issue a Certification under Oath that the amount was not sourced from illegal means and that the same shall be used for legitimate purpose.

Sec. 16. *Reportorial Requirements for Exempt Organizations.* – Those organizations or agencies that are exempt from securing a solicitation permit as

specified in Section 5(a) of this Act should inform the DSWD and concerned LSWDO in writing prior to conducting solicitation activity and submit reportorial requirements at the end of the fiscal year when the public solicitation has been conducted. Reports shall consist of the following documents:

- (a) Notarized fund utilization report of its collections, income and expenditures sworn to by the president and treasurer of the organization or agency;
- (b) List of donors with their corresponding addresses and contact numbers;
- (c) List of beneficiaries, with corresponding signatures, addresses and contact numbers, and the amount or types of assistance extended; and
- (d) List of projects completed, location and cost with complete documentation on the project including pictures, videos, and testimonies of beneficiaries.

Sec. 17. Regulatory Powers. – The DSWD, the PSWDO, the CSWDO, or the MSWDO shall, in the exercise of their regulatory powers, verify the authenticity of the report submitted by conducting spot monitoring or reviewing of the book of accounts of the concerned individual, organization, or agency. Likewise, the DSWD is granted visitorial powers to ensure that the soliciting individuals and organizations are legitimate and that funds solicited are properly utilized.

DSWD may provide a template for books of accounts for applicants.

Sec. 18. Filing of Complaints. – The DSWD, the PSWDO, the CSWDO, or the MSWDO shall, on its own initiative or upon a verified complaint of any person, refer to the appropriate law enforcement agency or the prosecutor's office for investigation and the filing of complaint in the appropriate court any violation of the provisions of this Act.

Any individual or law enforcement agency may file a complaint before the appropriate court against any individual, organization, or agency, which shall commit, or is engaged in, any of the acts punishable under Section 20 of this Act.

Sec. 19. Role of Law Enforcement Agencies. – The DSWD, the PSWDO, the CSWDO, or the MSWDO may enlist the assistance of law enforcement agencies in the efficient and effective enforcement of this act.

Sec. 20. Prohibited Acts. – The following acts are punishable under this Act:

- (a) Soliciting without securing a solicitation permit from the DSWD, the PSWDO, the CSWDO, or the MSWDO;
- (b) Soliciting beyond the allowed area of coverage as indicated in the approved solicitation permit except online public solicitation;
- (c) Violating the mode of solicitation as indicated in the approved solicitation permit;
- (d) Using a falsified or tampered solicitation permit;
- (e) Soliciting with an expired solicitation permit;
- (f) Using the solicited funds for purposes other than those indicated in the application form;

- (g) Including the beneficiaries as part of the strategy or mechanism in conducting the solicitation activity which tends to exploit the beneficiaries;
- (h) Use of lottery, raffle, *bingo*, and other games of chance, except as may be authorized by law;
- (i) Using solicitation paraphernalia which portray a dehumanizing picture, information or situation of the intended beneficiaries;
- (j) Disbursement of solicited funds are not in accordance with the standard fund utilization ratio;
- (k) Failure to account for the solicited funds; and
- (l) Other analogous circumstances.

Sec. 21. *Penal Provisions.* – Any individual, organization or agency who commits the prohibited acts under Section 19 (a), (d), (e), (f), (g), (h), (i) and (j) of this Act shall be punished with imprisonment of three (3) to six (6) months or a fine of not less than ten thousand pesos (₱10,000) but not more than one hundred thousand pesos (₱100,000) or both, at the discretion of the court.

Any individual, organization or agency who commits the prohibited acts under Section 19 (b) and (c) of this Act shall be punished with imprisonment of one (1) to three (3) months or a fine of not less than ten thousand pesos (₱10,000) but not more than one hundred thousand pesos (₱100,000) or both, at the discretion of the court.

Any individual, organization, or agency who commits the prohibited act under 19 Section 19(k) shall be liable for *Estafa* under Art. 315 of the Revised Penal Code.

If the offender is an organization or agency, the incumbent officers of the organization or agency at the time of the commission of the offense who have knowingly participated or who shall have knowingly permitted or failed to prevent its commission shall be held liable.

If the offender is a foreigner, the offender shall, after serving sentence, be immediately deported and barred permanently from entering the country.

If the offender is a public officer, he/she shall, in addition to such fine and/or imprisonment, suffer the penalty of temporary disqualification.

Sec. 22. *Administrative Penalties.* – The prohibited acts provided under Sec. 20 shall also be grounds for administrative penalties.

For the first offense, the solicitation permit of the individual, organization or agency shall be revoked and no permit shall be issued to them for a period of one (1) year from the date of violation. For the second offense, the individual, organization or agency shall be blacklisted for two (2) years from conducting any solicitation activity. For the succeeding offenses, the individual, organization or agency shall be permanently blacklisted from conducting any solicitation activity.

Pending investigation, the DSWD may preventively suspend solicitation permit for a period not exceeding six (6) months.

A final and executory judgment finding an organization or agency liable for

committing any of the prohibited acts under Section 19 of this Act by a court of competent jurisdiction for a second time shall be a ground for the cancellation and revocation of the organization's or agency's registration or license to operate and shall be endorsed to the concerned government regulatory agency for its appropriate action.

Sec. 23. Failure to Report. – Failure to comply with the reportorial requirements, within one (1) month from the notice from the DSWD, as provided under Sections 14 and 15 of this Act, shall be penalized with suspension of the solicitation permit until the reports are submitted, and an administrative fine of Five Thousand Pesos (₱5,000).

If the individual, organization, or agency, has failed to comply with the reportorial requirement for a period exceeding six (6) months from notice, the DSWD may revoke the solicitation permit and require the said individual, organization, or agency to account for the solicited amounts.

Sec. 24. Forfeiture of Proceeds. – The following shall be forfeited in favor of the government:

- (a) All solicited funds from an unauthorized public solicitation; and
- (b) All funds undisbursed and properties kept which were bought from the solicited funds at the time of the termination or revocation of the solicitation permit; *Provided*, that the soliciting individual, organization, agency may opt to donate said funds and properties to other individual, organization, or agency authorized by law to receive donations for charitable or public welfare purposes.

Sec. 25. Information Dissemination. – The DSWD, the PSWDO, the CSWDO, or the MSWDO shall periodically publish a list of all individuals, organizations or agencies with public solicitation permits, whether online or offline. The list shall include the permit number, duration period, methodology to be used and the areas covered. They shall also publish a list of individuals, organizations or agencies whose solicitation permits have been cancelled or revoked.

Sec. 26. Implementing Rules and Regulations. – Within ninety (90) days from the approval of this Act, the Secretary of the DSWD, in consultation with the Secretary of the Department of the Interior and Local Government (DILG), the Secretary of the Department of Transportation (DOTr), the Secretary of the Department of Information and Communications Technology (DICT), the Director General of the Philippine National Police, the Commissioner of the Securities and Exchange Commission (SEC), the Association of PSWDO, the Association of CSWDO, the Association of MSWDO, and the three (3) representatives selected by the DSWD from among the academe, NGOs and media organizations, shall promulgate the necessary rules and regulations for the effective implementation of this Act.

Sec. 27. Appropriations. – The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the concerned DSWD and Local Government Units General Appropriations Act for the year following its enactment into law and thereafter.

Sec. 28. *Repealing Clause.* – Act No. 4075, as amended by Presidential Decree No. 1564, otherwise known as the Solicitation Permit Law, is hereby repealed. Section 444(b)(3)(v) and Section 455(b)(3)(v) of the Local Government Code of 1991 and all other laws, decrees, executive, orders and proclamations, rules and regulations or parts thereof inconsistent with this Act are hereby amended or modified accordingly.

Sec. 29. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

Sec. 30. *Effectivity.* – This Act shall take effect (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines.

Approved,