Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

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HOUSE BILL NO. 3550

Introduced by **HON. RENE L. RELAMPAGOS**
First District, Bohol

EXPLANATORY NOTE

This bill seeks to provide the Social Security Commission (Commission), the governing board of the Social Security System (SSS), the authority to condone penalties on delinquent contributions and loans, to determine the monthly salary credits, the schedule and rate of contributions, benefit increases and the rate of penalty on delinquent contributions and unpaid loan amortizations san Presidential approval, thereby further amending Republic Act No. 1161, as amended, otherwise known as the Social Security Law.

The Commission is authorized under Section 4, paragraph (6) of Republic Act No. 1161 as amended (SS Law) to compromise or release, in whole or in part, any interest, penalty or any civil liability to SSS accruing from unpaid member loans. However, the exercise of this authority is subject to approval by the President.

This new provision is patterned from the recently enacted GSIS Law, the HDMF/Pag-Ibig Law and PhilHealth Law and the National Internal Revenue Code. Under the said laws, the statutory powers which the governing boards of GSIS, PhilHealth and HDMF can exercise in carrying out their mandates is not subjected to Presidential approval. This proposal is based on the theory that operational details and accounts management are the province of the Commission and the SSS, the ones entrusted with the mandate of running the affairs of the country's social security system including the exercise of discretion and flexibility in managing its own affairs.

It is reported that for a big number of billing or demand letters issued against employers-members of the SSS, the amount of contribution-delinquency is computed based on presumptive delinquency under Section 22 (d) of the SS Law, and hence not yet final being subject to reconciliation of records. The Large Account Division of SSS has a collectible of P1,033 Billion as of 26 May 2014 from delinquent employers. P408 Million is accounted for by penalties and P625.9 Million is for contributions that are due. By providing a breathing space, we are actually helping SSS to immediately collect about P625.9 Million overdue SS contributions which would otherwise be difficult to collect. It is not a secret that companies choose not to pay what SSS demands of them because of penalties slapped upon them that have accumulated through the years which, at times, are actually bigger than the principal that should have been paid. This measure provides a strong incentive for those that have been in arrears in the payment of their employees' contributions to immediately settle what is due and overdue, minus the huge burden of dealing with the delinquency penalties. Past SSS condonation experience shows the amount of P3.42 B that was condoned as penalties while enabling the SSS, at the same time, to collect P3.546B from 24,042 delinquent employers which availed of the program. This amount easily beefed up the SS Fund and contributed to its stability and viability.

More importantly, this is a welcome development for the privately employed workers comprising SSS' general membership, the self-employed individuals, financially distressed companies, small and medium businesses, other social enterprises, the contributing members of the informal sector, the farmers and the fisherfolks, the *kasambahays* and their household employers. They can now avail of the privileges of SSS members of good standing, full benefits and loans, which would otherwise not be available had their delinquent payments remain unsettled.

Further, the current SS Law contains an outdated schedule of the social security contributions which have failed to keep pace with the changing times. Amendments to the SS Law, last introduced in 1997 (now 17 years old), are no longer reflective of current socio-economic conditions.

The heavy strain on the SS Fund being exacted by the increasing benefit obligations of the SSS to be paid to its members and their beneficiaries has a dire effect on the fund's long-term viability. To lighten this load, the SSS, at the same time, carefully manage benefit payouts and operating expenses to minimize SSS' unfunded liability.

The existing contribution set-up does not ensure that SSS can continuously cover its ballooning unfunded liabilities in the future. To address such concern and be able to cope with this predicament, something must be done about the SSS contribution rates and align the same with industry standards and sound international practices taking into consideration actuarial calculations, rate of benefits, inflation and other relevant socio-economic indicators.

Under the present provisions of the SS Law, the Commission cannot increase the minimum and maximum monthly salary credits, the schedule and the rate of contributions as well as the rate of benefits without securing the approval of the President of the Republic of the Philippines. This process is usually tedious and takes a determinable time.

Corollary to these proposed amendments in the powers of the Commission is the authority to review and periodically adjust the rate of penalty on due but unremitted contributions and unpaid loan amortizations taking into consideration inflation and other pertinent socio-economic data. This is the logical consequence as this harmonizes the power to condone, compromise or release, in whole or in part, such penalties imposed upon delinquent social security contributions regardless of the amount involved under such valid terms and conditions it may prescribe when the financial position of the employer demonstrates a clear inability to pay the assessed delinquency.

Again, the proposed amendments are aligned with the GSIS Law, the PhilHealth Charter, the Pag-Ibig Law and the NIRC. It is expected that the 30 million SSS members here and around the world will stand to benefit from these amendments.

It is in this context that the early passage of this bill is earnestly sought.

RENE L. RELAMPAGOS

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SEVENTEENTH CONGRESS
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HOUSE BILL NO. 3550

Introduced by **HON. RENE L. RELAMPAGOS**
First District, Bohol

AN ACT AUTHORIZING THE SOCIAL SECURITY COMMISSION TO CONDONE PENALTIES ON DELINQUENT CONTRIBUTIONS AND TO DETERMINE THE MONTHLY SALARY CREDITS, THE SCHEDULE AND RATE OF CONTRIBUTIONS AND THE RATE OF PENALTY ON DELINQUENT CONTRIBUTIONS AND UNPAID LOAN AMORTIZATIONS, THEREBY FURTHER AMENDING REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW.

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

SECTION 1. Section 4, paragraph (a) of Republic Act No. 1161, as amended, otherwise known as the "Social Security Law", is hereby further amended to read as follows:

"**SEC. 4.** ***Powers and Duties of the Commission and SSS. – (a) The Commission.*** – For the attainment of its main objectives as set forth in Section 2 hereof, the Commission shall have the following powers and duties:

xxx *xxx* *xxx*

(6) To compromise or release, in whole or in part, any interest, penalty or any civil liability to SSS in connection with the investments authorized under Section 26, hereof, under such terms and conditions as it may prescribe;

(7) NOTWITHSTANDING THE PROVISIONS OF ANY LAW TO THE CONTRARY, TO CONDONE, COMPROMISE OR RELEASE, IN WHOLE OR IN PART, SUCH PENALTIES IMPOSED UPON DELINQUENT SOCIAL SECURITY CONTRIBUTIONS REGARDLESS OF THE AMOUNT INVOLVED UNDER SUCH VALID TERMS AND CONDITIONS IT MAY PRESCRIBE WHEN THE FINANCIAL POSITION OF THE EMPLOYER DEMONSTRATES A CLEAR INABILITY TO PAY THE ASSESSED DELINQUENCY. THE IMPLEMENTING RULES AND REGULATIONS TO CARRY OUT THIS PROVISION SHALL BE ADOPTED AND PROMULGATED BY THE COMMISSION NOT LATER THAN NINETY (90) DAYS AFTER THE APPROVAL OF THIS ACT.

THE COMMISSION SHALL SUBMIT TO BOTH THE SENATE AND HOUSE OF REPRESENTATIVES, AN ANNUAL REPORT ON THE EXERCISE OF THE POWERS UNDER THIS SECTION, STATING THEREIN THE FOLLOWING FACTS AND INFORMATION, AMONG OTHERS: NAMES AND ADDRESSES OF EMPLOYERS WHOSE PENALTY DELINQUENCIES HAVE BEEN THE SUBJECT OF COMPROMISE OR CONDONATION; AMOUNT INVOLVED; AMOUNT COMPROMISED OR CONDONED; AND THE REASON/S FOR THE EXERCISE OF POWER TO DETERMINE THAT SAID

POWERS ARE REASONABLY EXERCISED AND THAT THE SSS IS NOT UNDULY DEPRIVED OF REVENUES.

(8) TO DETERMINE AND FIX FROM TIME TO TIME THROUGH RULES AND REGULATIONS, THE MINIMUM AND MAXIMUM MONTHLY SALARY CREDITS, THE SCHEDULE AND THE RATE OF CONTRIBUTIONS, THE RATE OF PENALTY ON DUE BUT UNREMITTED CONTRIBUTIONS AND UNPAID LOAN AMORTIZATIONS TAKING INTO CONSIDERATION ACTUARIAL CALCULATIONS, RATE OF BENEFITS, INFLATION AND OTHER RELEVANT SOCIO-ECONOMIC DATA, AND;

(9) To approve, confirm, pass upon or review any and all actions of the SSS in the proper and necessary exercise of its powers and duties hereinafter enumerated."

SECTION 2. Section 4, paragraph (b), sub-paragraph (2) of the Social Security Law is hereby further amended to read as follows:

"SEC. 4. *Powers and Duties of the Commission and SSS*. – *xxx* *xxx* *xxx*

(b) ***The Social Security System*** – Subject to the provision of Section four (4), paragraph (a), SUB-PARAGRAPH NINE (9) hereof, the SSS shall have the following powers and duties:

xxx *xxx* *xxx*

(2) To require the actuary to submit a valuation report on the SSS benefit program every four (4) years, or more frequently as may be necessary, and to undertake the necessary actuarial studies and calculations concerning increases in benefits taking into account inflation and the financial stability of the SSS and to provide feasible increases in benefits every four (4) years, including the addition of new ones, under such rules and regulations as the Commission may adopt, ***Provided***, That the actuarial soundness of the reserve fund shall be guaranteed;

SECTION 3. Section 18, paragraph (a) of the Social Security Law is hereby further amended to read as follows:

"SEC. 18. *Employee's Contribution.* – (a) Beginning as of the last day of the calendar month when an employee's compulsory coverage takes effect and every month thereafter during his employment, the employer shall deduct and withhold from such employee's monthly salary, wage, compensation or earnings, the employee's contribution in an amount corresponding to his salary, wage, compensation or earnings during the month in accordance with the MONTHLY SALARY CREDITS, THE SCHEDULE AND THE RATE OF CONTRIBUTIONS AS MAYBE DETERMINED AND FIXED BY THE COMMISSION.

The foregoing MONTHLY SALARY CREDITS, schedule AND RATE of contributions shall also apply to self-employed and voluntary members.

SECTION 4. Section 22, paragraph (a) of the Social Security Law is hereby further amended to read as follows:

"SEC. 22. *Remittance of Contributions.* – (a) The contribution imposed in the preceding section shall be remitted to the SSS within the first ten (10) days of each calendar month following the month for which they are applicable or within such time as the commission may prescribe. Every employer required to deduct and to remit such contributions shall be liable for their payment and if any contribution is not paid to the SSS as herein prescribed, he shall pay besides the contribution a penalty thereon from the date the contribution falls due until paid. THE RATE OF THE PENALTY ON DELINQUENT CONTRIBUTIONS PER MONTH SHALL BE DETERMINED AND FIXED BY THE COMMISSION THROUGH RULES AND REGULATIONS TAKING INTO CONSIDERATION THE CURRENT INFLATION RATE AND OTHER RELEVANT SOCIO-ECONOMIC DATA. If deemed expedient and advisable by the Commission, the collection and remittance of contributions shall be made quarterly or semi-annually in advance, the contributions payable by the employees to be advanced by their respective employers: ***Provided***, That upon separation of an employee, any contribution so paid in advance but not due shall be credited or refunded to his employer."

SECTION 5. Separability Clause. If any provision of this Act is declared invalid, the other provisions not affected thereby shall remain valid.

SECTION 6. Repealing Clause. All laws, decrees, orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 7. Effectivity. – This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in at least (2) national newspapers of general circulation whichever comes earlier.

Approved,