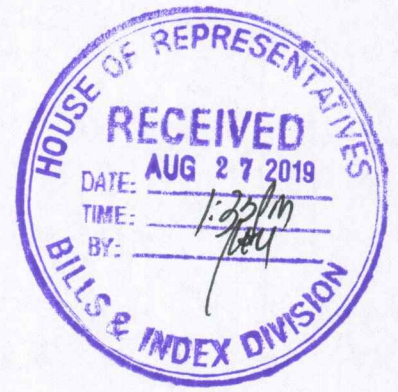




Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



EIGHTEENTH CONGRESS
First Regular Session

4177

H. B. No. _____

Introduced by Representative TEODORICO "NONONG" T. HARESCO, JR.

AN ACT
AMENDING SECTION 5 OF REPUBLIC ACT NUMBER 8799, OTHERWISE KNOWN
AS THE SECURITIES REGULATION CODE, HARMONIZING THE SAME WITH
SECTION 29 OF REPUBLIC ACT NUMBER 8791, OTHERWISE KNOWN AS THE
GENERAL BANKING LAW OF 2000, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The Securities Regulation Code states that one of the powers and functions of the Securities and Exchange Commission (SEC) is to "formulate policies and recommendations on issues concerning the securities market (Chapter II, Sec. 5(b))." On the other hand, Sections 23 and Sec. 29 of Republic Act Number 8791 or the General Banking Laws of 2000 states that universal and commercial banks have the inherent banking power to deal in marketable bonds and other debt securities. The same law along with Republic Act No. 7653 or the New Central Bank Act, as amended, placed banks under the regulatory supervision of the Bangko Sentral ng Pilipinas (BSP).

In 2005, the SEC granted Self -Regulatory Organization (SRO) status to the Philippine Dealing and Exchange Corporation (PDEX) over all transactions involving government securities as part of capital market reforms instituted after the 1997 Financial Crisis. It was envisioned that PDEX would transform into a Fixed Income Exchange (FIE).

Since it is but natural for Banks to trade in securities, government securities included, this created problems as to which jurisdiction the regulation of Banks fall. This amounted to overlap in regulatory functions between the BSP and the SEC through the PDEX. This bill seeks to correct this ambiguity and reaffirm the BSP's regulatory powers over banks removing them from the SEC.

Wherefore, the immediate passage of this bill is earnestly sought.

HON. TEODORICO "NONONG" T. HARESCO, JR.
Representative
2nd District, Province of Aklan

Introduced by Representative TEODORICO "NONONG" T. HARESCO, JR.

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AMENDING SECTION 5 OF REPUBLIC ACT NUMBER 8799, OTHERWISE
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SAME WITH SECTION 29 OF REPUBLIC ACT NUMBER 8791, OTHERWISE
KNOWN AS THE GENERAL BANKING LAW OF 2000, AND FOR OTHER
PURPOSES

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

SECTION 1. Section 5, Chapter II of Republic Act Number 8799 is hereby
amended to read, as follows:

"CHAPTER II
SECURITIES AND EXCHANGE COMMISSION

"Section 4. *Administrative Agency.* - 4.1. xxx.

"4.2.

"xxx.

"Section. 5. *Powers and Functions of the Commission.* - 5.1. The Commission shall
act with transparency and shall have the powers and functions provided by this
Code, residential Decree No. 902-A, the Corporation Code, the Investment Houses
Law, the Financing Company Act and other existing laws. Pursuant thereto the
Commission shall have, among others, the following powers and functions:

- (a) Have jurisdiction and supervision over all corporations, partnerships or
associations who are the grantees of primary franchises and/or a license or
a permit issued by the Government;
- (b) Formulate policies and recommendations on issues concerning the
securities market, advise Congress and other government agencies on all
aspects of the securities market and propose legislation and amendments
thereto;

- 1 (c) Approve, reject, suspend, revoke or require amendments to registration
2 statements, and registration and licensing applications;
3
4 (d) Regulate, investigate or supervise the activities of persons to ensure
5 compliance;
6
7 (e) Supervise, monitor, suspend or take over the activities of exchanges,
8 clearing agencies and other SROs;
9
10 (f) Impose sanctions for the violation of laws and the rules, regulations and
11 orders, and issued pursuant thereto;
12
13 (g) Prepare, approve, amend or repeal rules, regulations and orders, and issue
14 opinions and provide guidance on and supervise compliance with such
15 rules, regulations and orders;
16
17 (h) Enlist the aid and support of and/or deputize any and all enforcement
18 agencies of the Government, civil or military as well as any private
19 institution, corporation, firm, association or person in the implementation
20 of its powers and functions under this Code;
21
22 (i) Issue cease and desist orders to prevent fraud or injury to the investing
23 public;
24
25 (j) Punish for the contempt of the Commission, both direct and indirect, in
26 accordance with the pertinent provisions of and penalties prescribed by the
27 Rules of Court;
28
29 (k) Compel the officers of any registered corporation or association to call
30 meetings of stockholders or members thereof under its supervision;
31
32 (l) Issue *subpoena duces tecum* and summon witnesses to appear in any
33 proceedings of the Commission and in appropriate cases, order the
34 examination, search and seizure of all documents, papers, files and records,
35 tax returns, and books of accounts of any entity or person under
36 investigation as may be necessary for the proper disposition of the cases
37 before it, subject to the provisions of existing laws;
38
39 (m) Suspend, or revoke, after proper notice and hearing the franchise or
40 certificate of registration of corporations, partnerships or associations, upon
41 any of the grounds provided by law; and
42
43 (n) Exercise such other powers as may be provided by law as well as those
44 which may be implied from, or which are necessary or incidental to the
45 carrying out of, the express powers granted the Commission to achieve the
46 objectives and purposes of these laws.
47

48 **5.2 THE POWERS AND FUNCTIONS GRANTED TO THE COMMISSION**
49 **UNDER THIS LAW DO NOT ENCOMPASS REGULATION OVER THE**
50 **ACQUISITION OF MARKETABLE BONDS AND OTHER DEBT SECURITIES**
51 **GRANTED TO UNIVERSAL AND COMMERCIAL BANKS UNDER**
52 **SECTION 29 OF REPUBLIC ACT 8791, OTHERWISE KNOWN AS THE**
53 **GENERAL BANKING LAW OF 2000.**

1
2 5.3. The Commission's jurisdiction over all cases enumerated under Section 5 of
3 Presidential Decree No. 902-A is hereby transferred to the Courts of general
4 jurisdiction or the appropriate Regional Trial Court: *Provided*, That, the Supreme
5 Court in the exercise of its authority may designate the Regional Trial Court
6 branches that shall exercise jurisdiction over these cases. The Commission shall
7 retain jurisdiction over pending cases involving intra-corporate disputes
8 submitted for final resolution which should be resolved within one (1) year from
9 the enactment of this Code. The commission shall retain jurisdiction over pending
10 suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally
11 disposed.

12
13 **SEC. 2. *Separability Clause.*** - If any provisions of this Act or the application of such
14 provision to any person or circumstances be declared unconstitutional, the remainder of
15 this Act or the application of such provision to other person or circumstances shall not be
16 affected by such declaration.

17
18 **SEC. 3. *Repealing Clause.*** - All laws, decrees, proclamations, executive orders, rules and
19 regulations or other issuances or parts thereof contrary to inconsistent with the
20 provisions of this Act are hereby repealed, amended or modified accordingly.

21
22 **SEC. 4. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in the
23 Official or in at least two (2) national newspapers of general circulation.

24
25 *Approved,*