

Republic of the Philippines  
Congress of the Philippines  
Metro Manila

Seventeenth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand eighteen.



[REPUBLIC ACT NO. 11232]

AN ACT PROVIDING FOR THE REVISED CORPORATION CODE OF THE PHILIPPINES

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

TITLE I

GENERAL PROVISIONS  
DEFINITIONS AND CLASSIFICATIONS

SECTION 1. *Title of the Code.* – This Code shall be known as the “Revised Corporation Code of the Philippines”.

SEC. 2. *Corporation Defined.* – A corporation is an artificial being created by operation of law, having the right of succession and the powers, attributes, and properties expressly authorized by law or incidental to its existence.

SEC. 3. *Classes of Corporations.* — Corporations formed or organized under this Code may be stock or nonstock corporations. Stock corporations are those which have capital stock divided into shares and are authorized to distribute to the holders of such shares, dividends, or allotments of the surplus profits on the basis of the shares held. All other corporations are nonstock corporations.

SEC. 4. *Corporations Created by Special Laws or Charters.* — Corporations created by special laws or charters shall be governed primarily by the provisions of the special law or charter creating them or applicable to them, supplemented by the provisions of this Code, insofar as they are applicable.

SEC. 5. *Corporators and Incorporators, Stockholders and Members.* — Corporators are those who compose a corporation, whether as stockholders or shareholders in a stock corporation or as members in a nonstock corporation. Incorporators are those stockholders or members mentioned in the articles of incorporation as originally forming and composing the corporation and who are signatories thereof.

SEC. 6. *Classification of Shares.* — The classification of shares, their corresponding rights, privileges, or restrictions, and their stated par value, if any, must be indicated in the articles of incorporation. Each share shall be equal in all respects to every other share, except as otherwise provided in the articles of incorporation and in the certificate of stock.

The shares in stock corporations may be divided into classes or series of shares, or both. No share may be deprived of voting rights except those classified and issued as "preferred" or "redeemable" shares, unless otherwise provided in this Code: *Provided*, That there shall always be a class or series of shares with complete voting rights.

Holders of nonvoting shares shall nevertheless be entitled to vote on the following matters:

- (a) Amendment of the articles of incorporation;
- (b) Adoption and amendment of bylaws;

- (c) Sale, lease, exchange, mortgage, pledge, or other disposition of all or substantially all of the corporate property;
- (d) Incurring, creating, or increasing bonded indebtedness;
- (e) Increase or decrease of authorized capital stock;
- (f) Merger or consolidation of the corporation with another corporation or other corporations;
- (g) Investment of corporate funds in another corporation or business in accordance with this Code; and
- (h) Dissolution of the corporation.

Except as provided in the immediately preceding paragraph, the vote required under this Code to approve a particular corporate act shall be deemed to refer only to stocks with voting rights.

The shares or series of shares may or may not have a par value: *Provided*, That banks, trust, insurance, and preneed companies, public utilities, building and loan associations, and other corporations authorized to obtain or access funds from the public, whether publicly listed or not, shall not be permitted to issue no-par value shares of stock.

Preferred shares of stock issued by a corporation may be given preference in the distribution of dividends and in the distribution of corporate assets in case of liquidation, or such other preferences: *Provided*, That preferred shares of stock may be issued only with a stated par value. The board of directors, where authorized in the articles of incorporation, may fix the terms and conditions of preferred shares of stock or any series thereof: *Provided, further*, That such terms and conditions shall be effective upon filing of a certificate thereof with the Securities and Exchange Commission, hereinafter referred to as the "Commission".

Shares of capital stock issued without par value shall be deemed fully paid and nonassessable and the holder of such shares shall not be liable to the corporation or to its creditors in respect thereto: *Provided*, That no-par value shares must be issued for a consideration of at least Five pesos (P5.00) per

share: *Provided, further,* That the entire consideration received by the corporation for its no-par value shares shall be treated as capital and shall not be available for distribution as dividends.

A corporation may further classify its shares for the purpose of ensuring compliance with constitutional or legal requirements.

SEC. 7. *Founders' Shares.* – Founders' shares may be given certain rights and privileges not enjoyed by the owners of other stocks. Where the exclusive right to vote and be voted for in the election of directors is granted, it must be for a limited period not to exceed five (5) years from the date of incorporation: *Provided,* That such exclusive right shall not be allowed if its exercise will violate Commonwealth Act No. 108, otherwise known as the "Anti-Dummy Law"; Republic Act No. 7042, otherwise known as the "Foreign Investments Act of 1991"; and other pertinent laws.

SEC. 8. *Redeemable Shares.* – Redeemable shares may be issued by the corporation when expressly provided in the articles of incorporation. They are shares which may be purchased by the corporation from the holders of such shares upon the expiration of a fixed period, regardless of the existence of unrestricted retained earnings in the books of the corporation, and upon such other terms and conditions stated in the articles of incorporation and the certificate of stock representing the shares, subject to rules and regulations issued by the Commission.

SEC. 9. *Treasury Shares.* – Treasury shares are shares of stock which have been issued and fully paid for, but subsequently reacquired by the issuing corporation through purchase, redemption, donation, or some other lawful means. Such shares may again be disposed of for a reasonable price fixed by the board of directors.

## TITLE II

### INCORPORATION AND ORGANIZATION OF PRIVATE CORPORATIONS

SEC. 10. *Number and Qualifications of Incorporators.* – Any person, partnership, association or corporation, singly or

jointly with others but not more than fifteen (15) in number, may organize a corporation for any lawful purpose or purposes: *Provided*, That natural persons who are licensed to practice a profession, and partnerships or associations organized for the purpose of practicing a profession, shall not be allowed to organize as a corporation unless otherwise provided under special laws. Incorporators who are natural persons must be of legal age.

Each incorporator of a stock corporation must own or be a subscriber to at least one (1) share of the capital stock.

A corporation with a single stockholder is considered a One Person Corporation as described in Title XIII, Chapter III of this Code.

SEC. 11. *Corporate Term.* – A corporation shall have perpetual existence unless its articles of incorporation provides otherwise.

Corporations with certificates of incorporation issued prior to the effectivity of this Code, and which continue to exist, shall have perpetual existence, unless the corporation, upon a vote of its stockholders representing a majority of its outstanding capital stock, notifies the Commission that it elects to retain its specific corporate term pursuant to its articles of incorporation: *Provided*, That any change in the corporate term under this section is without prejudice to the appraisal right of dissenting stockholders in accordance with the provisions of this Code.

A corporate term for a specific period may be extended or shortened by amending the articles of incorporation: *Provided*, That no extension may be made earlier than three (3) years prior to the original or subsequent expiry date(s) unless there are justifiable reasons for an earlier extension as may be determined by the Commission: *Provided, further*, That such extension of the corporate term shall take effect only on the day following the original or subsequent expiry date(s).

A corporation whose term has expired may apply for a revival of its corporate existence, together with all the rights

and privileges under its certificate of incorporation and subject to all of its duties, debts and liabilities existing prior to its revival. Upon approval by the Commission, the corporation shall be deemed revived and a certificate of revival of corporate existence shall be issued, giving it perpetual existence, unless its application for revival provides otherwise.

No application for revival of certificate of incorporation of banks, banking and quasi-banking institutions, preneed, insurance and trust companies, non-stock savings and loan associations (NSSLAs), pawnshops, corporations engaged in money service business, and other financial intermediaries shall be approved by the Commission unless accompanied by a favorable recommendation of the appropriate government agency.

*SEC. 12. Minimum Capital Stock Not Required of Stock Corporations.* — Stock corporations shall not be required to have a minimum capital stock, except as otherwise specifically provided by special law.

*SEC. 13. Contents of the Articles of Incorporation.* — All corporations shall file with the Commission articles of incorporation in any of the official languages, duly signed and acknowledged or authenticated, in such form and manner as may be allowed by the Commission, containing substantially the following matters, except as otherwise prescribed by this Code or by special law:

- (a) The name of the corporation;
- (b) The specific purpose or purposes for which the corporation is being formed. Where a corporation has more than one stated purpose, the articles of incorporation shall indicate the primary purpose and the secondary purpose or purposes: *Provided*, That a nonstock corporation may not include a purpose which would change or contradict its nature as such;
- (c) The place where the principal office of the corporation is to be located, which must be within the Philippines;
- (d) The term for which the corporation is to exist, if the corporation has not elected perpetual existence;

- (e) The names, nationalities, and residence addresses of the incorporators;
- (f) The number of directors, which shall not be more than fifteen (15) or the number of trustees which may be more than fifteen (15);
- (g) The names, nationalities, and residence addresses of persons who shall act as directors or trustees until the first regular directors or trustees are duly elected and qualified in accordance with this Code;
- (h) If it be a stock corporation, the amount of its authorized capital stock, number of shares into which it is divided, the par value of each, names, nationalities, and residence addresses of the original subscribers, amount subscribed and paid by each on the subscription, and a statement that some or all of the shares are without par value, if applicable;
- (i) If it be a nonstock corporation, the amount of its capital, the names, nationalities, and residence addresses of the contributors, and amount contributed by each; and
- (j) Such other matters consistent with law and which the incorporators may deem necessary and convenient.

An arbitration agreement may be provided in the articles of incorporation pursuant to Section 181 of this Code.

The articles of incorporation and applications for amendments thereto may be filed with the Commission in the form of an electronic document, in accordance with the Commission's rules and regulations on electronic filing.

*SEC. 14. Form of Articles of Incorporation.* — Unless otherwise prescribed by special law, the articles of incorporation of all domestic corporations shall comply substantially with the following form:

Articles of Incorporation  
of

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(Name of Corporation)

The undersigned incorporators, all of legal age, have voluntarily agreed to form a (stock) (nonstock) corporation under the laws of the Republic of the Philippines and certify the following:

First: That the name of said corporation shall be \_\_\_\_\_, Inc., Corporation or OPC";

Second: That the purpose or purposes for which such corporation is incorporated are: (If there is more than one purpose, indicate primary and secondary purposes);

Third: That the principal office of the corporation is located in the City/Municipality of \_\_\_\_\_, Province of \_\_\_\_\_, Philippines;

Fourth: That the corporation shall have perpetual existence or a term of \_\_\_\_\_ years from the date of issuance of the certificate of incorporation;

Fifth: That the names, nationalities, and residence addresses of the incorporators of the corporation are as follows:

Name	Nationality	Residence
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Sixth: That the number of directors or trustees of the corporation shall be \_\_\_\_\_; and the names, nationalities, and residence addresses of the first directors or trustees of the corporation are as follows:

Name	Nationality	Residence
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Seventh: That the authorized capital stock of the corporation is \_\_\_\_\_ PESOS (P\_\_\_\_\_), divided into

\_\_\_\_\_ shares with the par value of \_\_\_\_\_ PESOS (P\_\_\_\_\_) per share. (In case all the shares are without par value): That the capital stock of the corporation is \_\_\_\_\_ shares without par value.

(In case some shares have par value and some are without par value): That the capital stock of said corporation consists of \_\_\_\_\_ shares, of which \_\_\_\_\_ shares have a par value of \_\_\_\_\_ PESOS (P\_\_\_\_\_) each, and of which \_\_\_\_\_ shares are without par value.

Eighth: That the number of shares of the authorized capital stock above-stated has been subscribed as follows:

Name of Subscriber	Nationality	No. of Shares Subscribed	Amount Subscribed	Amount Paid

(Modify No. 8 if shares are with no-par value. In case the corporation is nonstock, Nos. 7 and 8 of the above articles may be modified accordingly, and it is sufficient if the articles state the amount of capital or money contributed or donated by specified persons, stating the names, nationalities, and residence addresses of the contributors or donors and the respective amount given by each.)

Ninth: That \_\_\_\_\_ has been elected by the subscribers as Treasurer of the Corporation to act as such until after the successor is duly elected and qualified in accordance with the bylaws, that as Treasurer, authority has been given to receive in the name and for the benefit of the corporation, all subscriptions, contributions or donations paid or given by the subscribers or members, who certifies the information set forth in the seventh and eighth clauses above, and that the paid-up portion of the subscription in cash and/or property for the benefit and credit of the corporation has been duly received.

Tenth: That the incorporators undertake to change the name of the corporation immediately upon receipt of notice from the Commission that another corporation, partnership or person has acquired a prior right to the use of such name, that the name has been declared not distinguishable from a name already registered or reserved for the use of another corporation, or that it is contrary to law, public morals, good customs or public policy.

Eleventh: (Corporations which will engage in any business or activity reserved for Filipino citizens shall provide the following):

"No transfer of stock or interest which shall reduce the ownership of Filipino citizens to less than the required percentage of capital stock as provided by existing laws shall be allowed or permitted to be recorded in the proper books of the corporation, and this restriction shall be indicated in all stock certificates issued by the corporation."

IN WITNESS WHEREOF, we have hereunto signed these Articles of Incorporation, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, in the City/Municipality of \_\_\_\_\_, Province of \_\_\_\_\_, Republic of the Philippines.

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(Names and signatures of the incorporators)

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(Name and signature of Treasurer)

*SEC. 15. Amendment of Articles of Incorporation.* – Unless otherwise prescribed by this Code or by special law, and for legitimate purposes, any provision or matter stated in the articles of incorporation may be amended by a majority vote of the board of directors or trustees and the vote or written assent of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, without prejudice to the appraisal right of dissenting stockholders in

accordance with the provisions of this Code. The articles of incorporation of a nonstock corporation may be amended by the vote or written assent of majority of the trustees and at least two-thirds (2/3) of the members.

The original and amended articles together shall contain all provisions required by law to be set out in the articles of incorporation. Amendments to the articles shall be indicated by underscoring the change or changes made, and a copy thereof duly certified under oath by the corporate secretary and a majority of the directors or trustees, with a statement that the amendments have been duly approved by the required vote of the stockholders or members, shall be submitted to the Commission.

The amendments shall take effect upon their approval by the Commission or from the date of filing with the said Commission if not acted upon within six (6) months from the date of filing for a cause not attributable to the corporation.

*SEC. 16. Grounds When Articles of Incorporation or Amendment May be Disapproved.* — The Commission may disapprove the articles of incorporation or any amendment thereto if the same is not compliant with the requirements of this Code: *Provided*, That the Commission shall give the incorporators, directors, trustees, or officers a reasonable time from receipt of the disapproval within which to modify the objectionable portions of the articles or amendment. The following are grounds for such disapproval:

- (a) The articles of incorporation or any amendment thereto is not substantially in accordance with the form prescribed herein;
- (b) The purpose or purposes of the corporation are patently unconstitutional, illegal, immoral or contrary to government rules and regulations;
- (c) The certification concerning the amount of capital stock subscribed and/or paid is false; and
- (d) The required percentage of Filipino ownership of the capital stock under existing laws or the Constitution has not been complied with.

No articles of incorporation or amendment to articles of incorporation of banks, banking and quasi-banking institutions, preneed, insurance and trust companies, NSSLAs, pawnshops, and other financial intermediaries shall be approved by the Commission unless accompanied by a favorable recommendation of the appropriate government agency to the effect that such articles or amendment is in accordance with law.

SEC. 17. *Corporate Name.* – No corporate name shall be allowed by the Commission if it is not distinguishable from that already reserved or registered for the use of another corporation, or if such name is already protected by law, or when its use is contrary to existing law, rules and regulations.

A name is not distinguishable even if it contains one or more of the following:

- (a) The word “corporation”, “company”, “incorporated”, “limited”, “limited liability”, or an abbreviation of one of such words; and
- (b) Punctuations, articles, conjunctions, contractions, prepositions, abbreviations, different tenses, spacing, or number of the same word or phrase.

The Commission, upon determination that the corporate name is: (1) not distinguishable from a name already reserved or registered for the use of another corporation; (2) already protected by law; or (3) contrary to law, rules and regulations, may summarily order the corporation to immediately cease and desist from using such name and require the corporation to register a new one. The Commission shall also cause the removal of all visible signages, marks, advertisements, labels, prints and other effects bearing such corporate name. Upon the approval of the new corporate name, the Commission shall issue a certificate of incorporation under the amended name.

If the corporation fails to comply with the Commission's order, the Commission may hold the corporation and its responsible directors or officers in contempt and/or hold them administratively, civilly and/or criminally liable under this Code and other applicable laws and/or revoke the registration of the corporation.

*SEC. 18. Registration, Incorporation and Commencement of Corporate Existence.* – A person or group of persons desiring to incorporate shall submit the intended corporate name to the Commission for verification. If the Commission finds that the name is distinguishable from a name already reserved or registered for the use of another corporation, not protected by law and is not contrary to law, rules and regulations, the name shall be reserved in favor of the incorporators. The incorporators shall then submit their articles of incorporation and bylaws to the Commission.

If the Commission finds that the submitted documents and information are fully compliant with the requirements of this Code, other relevant laws, rules and regulations, the Commission shall issue the certificate of incorporation.

A private corporation organized under this Code commences its corporate existence and juridical personality from the date the Commission issues the certificate of incorporation under its official seal and thereupon the incorporators, stockholders/members and their successors shall constitute a body corporate under the name stated in the articles of incorporation for the period of time mentioned therein, unless said period is extended or the corporation is sooner dissolved in accordance with law.

*SEC. 19. De facto Corporations.* – The due incorporation of any corporation claiming in good faith to be a corporation under this Code, and its right to exercise corporate powers, shall not be inquired into collaterally in any private suit to which such corporation may be a party. Such inquiry may be made by the Solicitor General in a *quo warranto* proceeding.

*SEC. 20. Corporation by Estoppel.* – All persons who assume to act as a corporation knowing it to be without authority to do so shall be liable as general partners for all debts, liabilities and damages incurred or arising as a result thereof: *Provided, however,* That when any such ostensible corporation is sued on any transaction entered by it as a corporation or on any tort committed by it as such, it shall not be allowed to use its lack of corporate personality as a defense. Anyone who assumes an obligation to an ostensible

corporation as such cannot resist performance thereof on the ground that there was in fact no corporation.

*SEC. 21. Effects of Non-Use of Corporate Charter and Continuous Inoperation.* – If a corporation does not formally organize and commence its business within five (5) years from the date of its incorporation, its certificate of incorporation shall be deemed revoked as of the day following the end of the five (5)-year period.

However, if a corporation has commenced its business but subsequently becomes inoperative for a period of at least five (5) consecutive years, the Commission may, after due notice and hearing, place the corporation under delinquent status.

A delinquent corporation shall have a period of two (2) years to resume operations and comply with all requirements that the Commission shall prescribe. Upon compliance by the corporation, the Commission shall issue an order lifting the delinquent status. Failure to comply with the requirements and resume operations within the period given by the Commission shall cause the revocation of the corporation's certificate of incorporation.

The Commission shall give reasonable notice to, and coordinate with the appropriate regulatory agency prior to the suspension or revocation of the certificate of incorporation of companies under their special regulatory jurisdiction.

### TITLE III

#### BOARD OF DIRECTORS/TRUSTEES AND OFFICERS

*SEC. 22. The Board of Directors or Trustees of a Corporation; Qualification and Term.* – Unless otherwise provided in this Code, the board of directors or trustees shall exercise the corporate powers, conduct all business, and control all properties of the corporation.

Directors shall be elected for a term of one (1) year from among the holders of stocks registered in the corporation's books, while trustees shall be elected for a term not exceeding three (3) years from among the members of the corporation. Each director and trustee shall hold office until the successor

is elected and qualified. A director who ceases to own at least one (1) share of stock or a trustee who ceases to be a member of the corporation shall cease to be such.

The board of the following corporations vested with public interest shall have independent directors constituting at least twenty percent (20%) of such board:

(a) Corporations covered by Section 17.2 of Republic Act No. 8799, otherwise known as "The Securities Regulation Code", namely those whose securities are registered with the Commission, corporations listed with an exchange or with assets of at least Fifty million pesos (P50,000,000.00) and having two hundred (200) or more holders of shares, each holding at least one hundred (100) shares of a class of its equity shares;

(b) Banks and quasi-banks, NSSLAs, pawnshops, corporations engaged in money service business, preneed, trust and insurance companies, and other financial intermediaries; and

(c) Other corporations engaged in businesses vested with public interest similar to the above, as may be determined by the Commission, after taking into account relevant factors which are germane to the objective and purpose of requiring the election of an independent director, such as the extent of minority ownership, type of financial products or securities issued or offered to investors, public interest involved in the nature of business operations, and other analogous factors.

An independent director is a person who, apart from shareholdings and fees received from the corporation, is independent of management and free from any business or other relationship which could, or could reasonably be perceived to materially interfere with the exercise of independent judgment in carrying out the responsibilities as a director.

Independent directors must be elected by the shareholders present or entitled to vote *in absentia* during the election of directors. Independent directors shall be subject to rules and regulations governing their qualifications, disqualifications, voting requirements, duration of term and term limit, maximum number of board memberships and other

requirements that the Commission will prescribe to strengthen their independence and align with international best practices.

SEC. 23. *Election of Directors or Trustees.* – Except when the exclusive right is reserved for holders of founders' shares under Section 7 of this Code, each stockholder or member shall have the right to nominate any director or trustee who possesses all of the qualifications and none of the disqualifications set forth in this Code.

At all elections of directors or trustees, there must be present, either in person or through a representative authorized to act by written proxy, the owners of majority of the outstanding capital stock, or if there be no capital stock, a majority of the members entitled to vote. When so authorized in the bylaws or by a majority of the board of directors, the stockholders or members may also vote through remote communication or *in absentia*: *Provided*, That the right to vote through such modes may be exercised in corporations vested with public interest, notwithstanding the absence of a provision in the bylaws of such corporations.

A stockholder or member who participates through remote communication or *in absentia*, shall be deemed present for purposes of quorum.

The election must be by ballot if requested by any voting stockholder or member.

In stock corporations, stockholders entitled to vote shall have the right to vote the number of shares of stock standing in their own names in the stock books of the corporation at the time fixed in the bylaws or where the bylaws are silent, at the time of the election. The said stockholder may: (a) vote such number of shares for as many persons as there are directors to be elected; (b) cumulate said shares and give one (1) candidate as many votes as the number of directors to be elected multiplied by the number of the shares owned; or (c) distribute them on the same principle among as many candidates as may be seen fit: *Provided*, That the total number of votes cast shall not exceed the number of shares owned by the stockholders as shown in the books of the corporation multiplied by the whole number of directors to be

elected: *Provided, however,* That no delinquent stock shall be voted. Unless otherwise provided in the articles of incorporation or in the bylaws, members of nonstock corporations may cast as many votes as there are trustees to be elected but may not cast more than one (1) vote for one (1) candidate. Nominees for directors or trustees receiving the highest number of votes shall be declared elected.

If no election is held, or the owners of majority of the outstanding capital stock or majority of the members entitled to vote are not present in person, by proxy, or through remote communication or not voting *in absentia* at the meeting, such meeting may be adjourned and the corporation shall proceed in accordance with Section 25 of this Code.

The directors or trustees elected shall perform their duties as prescribed by law, rules of good corporate governance, and bylaws of the corporation.

**SEC. 24. Corporate Officers.** – Immediately after their election, the directors of a corporation must formally organize and elect: (a) a president, who must be a director; (b) a treasurer, who must be a resident; (c) a secretary, who must be a citizen and resident of the Philippines; and (d) such other officers as may be provided in the bylaws. If the corporation is vested with public interest, the board shall also elect a compliance officer. The same person may hold two (2) or more positions concurrently, except that no one shall act as president and secretary or as president and treasurer at the same time, unless otherwise allowed in this Code.

The officers shall manage the corporation and perform such duties as may be provided in the bylaws and/or as resolved by the board of directors.

**SEC. 25. Report of Election of Directors, Trustees and Officers, Non-holding of Election and Cessation from Office.** – Within thirty (30) days after the election of the directors, trustees and officers of the corporation, the secretary, or any other officer of the corporation, shall submit to the Commission, the names, nationalities, shareholdings, and residence addresses of the directors, trustees and officers elected.

The non-holding of elections and the reasons therefor shall be reported to the Commission within thirty (30) days from the date of the scheduled election. The report shall specify a new date for the election, which shall not be later than sixty (60) days from the scheduled date.

If no new date has been designated, or if the rescheduled election is likewise not held, the Commission may, upon the application of a stockholder, member, director or trustee, and after verification of the unjustified non-holding of the election, summarily order that an election be held. The Commission shall have the power to issue such orders as may be appropriate, including orders directing the issuance of a notice stating the time and place of the election, designated presiding officer, and the record date or dates for the determination of stockholders or members entitled to vote.

Notwithstanding any provision of the articles of incorporation or bylaws to the contrary, the shares of stock or membership represented at such meeting and entitled to vote shall constitute a quorum for purposes of conducting an election under this section.

Should a director, trustee or officer die, resign or in any manner cease to hold office, the secretary, or the director, trustee or officer of the corporation, shall, within seven (7) days from knowledge thereof, report in writing such fact to the Commission.

*SEC. 26. Disqualification of Directors, Trustees or Officers.* – A person shall be disqualified from being a director, trustee or officer of any corporation if, within five (5) years prior to the election or appointment as such, the person was:

(a) Convicted by final judgment:

(1) Of an offense punishable by imprisonment for a period exceeding six (6) years;

(2) For violating this Code; and

(3) For violating Republic Act No. 8799, otherwise known as "The Securities Regulation Code";

- (b) Found administratively liable for any offense involving fraudulent acts; and
- (c) By a foreign court or equivalent foreign regulatory authority for acts, violations or misconduct similar to those enumerated in paragraphs (a) and (b) above.

The foregoing is without prejudice to qualifications or other disqualifications, which the Commission, the primary regulatory agency, or the Philippine Competition Commission may impose in its promotion of good corporate governance or as a sanction in its administrative proceedings.

**SEC. 27. Removal of Directors or Trustees.** – Any director or trustee of a corporation may be removed from office by a vote of the stockholders holding or representing at least two-thirds (2/3) of the outstanding capital stock, or in a nonstock corporation, by a vote of at least two-thirds (2/3) of the members entitled to vote: *Provided*, That such removal shall take place either at a regular meeting of the corporation or at a special meeting called for the purpose, and in either case, after previous notice to stockholders or members of the corporation of the intention to propose such removal at the meeting. A special meeting of the stockholders or members for the purpose of removing any director or trustee must be called by the secretary on order of the president, or upon written demand of the stockholders representing or holding at least a majority of the outstanding capital stock, or a majority of the members entitled to vote. If there is no secretary, or if the secretary, despite demand, fails or refuses to call the special meeting or to give notice thereof, the stockholder or member of the corporation signing the demand may call for the meeting by directly addressing the stockholders or members. Notice of the time and place of such meeting, as well as of the intention to propose such removal, must be given by publication or by written notice prescribed in this Code. Removal may be with or without cause: *Provided*, That removal without cause may not be used to deprive minority stockholders or members of the right of representation to which they may be entitled under Section 23 of this Code.

The Commission shall, *motu proprio* or upon verified complaint, and after due notice and hearing, order the removal

of a director or trustee elected despite the disqualification, or whose disqualification arose or is discovered subsequent to an election. The removal of a disqualified director shall be without prejudice to other sanctions that the Commission may impose on the board of directors or trustees who, with knowledge of the disqualification, failed to remove such director or trustee.

*SEC. 28. Vacancies in the Office of Director or Trustee; Emergency Board.* – Any vacancy occurring in the board of directors or trustees other than by removal or by expiration of term may be filled by the vote of at least a majority of the remaining directors or trustees, if still constituting a quorum; otherwise, said vacancies must be filled by the stockholders or members in a regular or special meeting called for that purpose.

When the vacancy is due to term expiration, the election shall be held no later than the day of such expiration at a meeting called for that purpose. When the vacancy arises as a result of removal by the stockholders or members, the election may be held on the same day of the meeting authorizing the removal and this fact must be so stated in the agenda and notice of said meeting. In all other cases, the election must be held no later than forty-five (45) days from the time the vacancy arose. A director or trustee elected to fill a vacancy shall be referred to as replacement director or trustee and shall serve only for the unexpired term of the predecessor in office.

However, when the vacancy prevents the remaining directors from constituting a quorum and emergency action is required to prevent grave, substantial, and irreparable loss or damage to the corporation, the vacancy may be temporarily filled from among the officers of the corporation by unanimous vote of the remaining directors or trustees. The action by the designated director or trustee shall be limited to the emergency action necessary, and the term shall cease within a reasonable time from the termination of the emergency or upon election of the replacement director or trustee, whichever comes earlier. The corporation must notify the Commission within three (3) days from the creation of the emergency board, stating therein the reason for its creation.

Any directorship or trusteeship to be filled by reason of an increase in the number of directors or trustees shall be filled only by an election at a regular or at a special meeting of stockholders or members duly called for the purpose, or in the same meeting authorizing the increase of directors or trustees if so stated in the notice of the meeting.

In all elections to fill vacancies under this section, the procedure set forth in Sections 23 and 25 of this Code shall apply.

*SEC. 29. Compensation of Directors or Trustees.* — In the absence of any provision in the bylaws fixing their compensation, the directors or trustees shall not receive any compensation in their capacity as such, except for reasonable per diems: *Provided, however,* That the stockholders representing at least a majority of the outstanding capital stock or majority of the members may grant directors or trustees with compensation and approve the amount thereof at a regular or special meeting.

In no case shall the total yearly compensation of directors exceed ten percent (10%) of the net income before income tax of the corporation during the preceding year.

Directors or trustees shall not participate in the determination of their own per diems or compensation.

Corporations vested with public interest shall submit to their shareholders and the Commission, an annual report of the total compensation of each of their directors or trustees.

*SEC. 30. Liability of Directors, Trustees or Officers.* — Directors or trustees who willfully and knowingly vote for or assent to patently unlawful acts of the corporation or who are guilty of gross negligence or bad faith in directing the affairs of the corporation or acquire any personal or pecuniary interest in conflict with their duty as such directors or trustees shall be liable jointly and severally for all damages resulting therefrom suffered by the corporation, its stockholders or members and other persons.

A director, trustee or officer shall not attempt to acquire, or acquire any interest adverse to the corporation in respect

of any matter which has been reposed in them in confidence, and upon which, equity imposes a disability upon themselves to deal in their own behalf; otherwise, the said director, trustee or officer shall be liable as a trustee for the corporation and must account for the profits which otherwise would have accrued to the corporation.

*SEC. 31. Dealings of Directors, Trustees or Officers with the Corporation.* – A contract of the corporation with one (1) or more of its directors, trustees, officers or their spouses and relatives within the fourth civil degree of consanguinity or affinity is voidable, at the option of such corporation, unless all the following conditions are present:

- (a) The presence of such director or trustee in the board meeting in which the contract was approved was not necessary to constitute a quorum for such meeting;
- (b) The vote of such director or trustee was not necessary for the approval of the contract;
- (c) The contract is fair and reasonable under the circumstances;
- (d) In case of corporations vested with public interest, material contracts are approved by at least two-thirds (2/3) of the entire membership of the board, with at least a majority of the independent directors voting to approve the material contract; and
- (e) In case of an officer, the contract has been previously authorized by the board of directors.

Where any of the first three (3) conditions set forth in the preceding paragraph is absent, in the case of a contract with a director or trustee, such contract may be ratified by the vote of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock or of at least two-thirds (2/3) of the members in a meeting called for the purpose: *Provided*, That full disclosure of the adverse interest of the directors or trustees involved is made at such meeting and the contract is fair and reasonable under the circumstances.

*SEC. 32. Contracts Between Corporations with Interlocking Directors.* – Except in cases of fraud, and provided the contract is fair and reasonable under the circumstances, a contract between two (2) or more corporations having interlocking directors shall not be invalidated on that ground alone: *Provided*, That if the interest of the interlocking director in one (1) corporation is substantial and the interest in the other corporation or corporations is merely nominal, the contract shall be subject to the provisions of the preceding section insofar as the latter corporation or corporations are concerned.

Stockholdings exceeding twenty percent (20%) of the outstanding capital stock shall be considered substantial for purposes of interlocking directors.

*SEC. 33. Disloyalty of a Director.* – Where a director, by virtue of such office, acquires a business opportunity which should belong to the corporation, thereby obtaining profits to the prejudice of such corporation, the director must account for and refund to the latter all such profits, unless the act has been ratified by a vote of the stockholders owning or representing at least two-thirds (2/3) of the outstanding capital stock. This provision shall be applicable, notwithstanding the fact that the director risked one's own funds in the venture.

*SEC. 34. Executive, Management, and Other Special Committees.* – If the bylaws so provide, the board may create an executive committee composed of at least three (3) directors. Said committee may act, by majority vote of all its members, on such specific matters within the competence of the board, as may be delegated to it in the bylaws or by majority vote of the board, except with respect to the: (a) approval of any action for which shareholders' approval is also required; (b) filling of vacancies in the board; (c) amendment or repeal of bylaws or the adoption of new bylaws; (d) amendment or repeal of any resolution of the board which by its express terms is not amendable or repealable; and (e) distribution of cash dividends to the shareholders.

The board of directors may create special committees of temporary or permanent nature and determine the members' term, composition, compensation, powers, and responsibilities.

## TITLE IV

## POWERS OF CORPORATIONS

SEC. 35. *Corporate Powers and Capacity.* — Every corporation incorporated under this Code has the power and capacity:

- (a) To sue and be sued in its corporate name;
- (b) To have perpetual existence unless the certificate of incorporation provides otherwise;
- (c) To adopt and use a corporate seal;
- (d) To amend its articles of incorporation in accordance with the provisions of this Code;
- (e) To adopt bylaws, not contrary to law, morals or public policy, and to amend or repeal the same in accordance with this Code;
- (f) In case of stock corporations, to issue or sell stocks to subscribers and to sell treasury stocks in accordance with the provisions of this Code; and to admit members to the corporation if it be a nonstock corporation;
- (g) To purchase, receive, take or grant, hold, convey, sell, lease, pledge, mortgage, and otherwise deal with such real and personal property, including securities and bonds of other corporations, as the transaction of the lawful business of the corporation may reasonably and necessarily require, subject to the limitations prescribed by law and the Constitution;
- (h) To enter into a partnership, joint venture, merger, consolidation, or any other commercial agreement with natural and juridical persons;
- (i) To make reasonable donations, including those for the public welfare or for hospital, charitable, cultural, scientific, civic, or similar purposes: *Provided*, That no foreign corporation shall give donations in aid of any political party or candidate or for purposes of partisan political activity;

- (j) To establish pension, retirement, and other plans for the benefit of its directors, trustees, officers, and employees; and
- (k) To exercise such other powers as may be essential or necessary to carry out its purpose or purposes as stated in the articles of incorporation.

*SEC. 36. Power to Extend or Shorten Corporate Term.* – A private corporation may extend or shorten its term as stated in the articles of incorporation when approved by a majority vote of the board of directors or trustees, and ratified at a meeting by the stockholders or members representing at least two-thirds (2/3) of the outstanding capital stock or of its members. Written notice of the proposed action and the time and place of the meeting shall be sent to stockholders or members at their respective place of residence as shown in the books of the corporation, and must be deposited to the addressee in the post office with postage prepaid, served personally, or when allowed in the bylaws or done with the consent of the stockholder, sent electronically in accordance with the rules and regulations of the Commission on the use of electronic data messages. In case of extension of corporate term, a dissenting stockholder may exercise the right of appraisal under the conditions provided in this Code.

*SEC. 37. Power to Increase or Decrease Capital Stock; Incur, Create or Increase Bonded Indebtedness.* – No corporation shall increase or decrease its capital stock or incur, create or increase any bonded indebtedness unless approved by a majority vote of the board of directors and by two-thirds (2/3) of the outstanding capital stock at a stockholders' meeting duly called for the purpose. Written notice of the time and place of the stockholders' meeting and the purpose for said meeting must be sent to the stockholders at their places of residence as shown in the books of the corporation and served on the stockholders personally, or through electronic means recognized in the corporation's bylaws and/or the Commission's rules as a valid mode for service of notices.

A certificate must be signed by a majority of the directors of the corporation and countersigned by the chairperson and secretary of the stockholders' meeting, setting forth:

- (a) That the requirements of this section have been complied with;
- (b) The amount of the increase or decrease of the capital stock;
- (c) In case of an increase of the capital stock, the amount of capital stock or number of shares of no-par stock thereof actually subscribed, the names, nationalities and addresses of the persons subscribing, the amount of capital stock or number of no-par stock subscribed by each, and the amount paid by each on the subscription in cash or property, or the amount of capital stock or number of shares of no-par stock allotted to each stockholder if such increase is for the purpose of making effective stock dividend therefor authorized;
- (d) Any bonded indebtedness to be incurred, created or increased;
- (e) The amount of stock represented at the meeting; and
- (f) The vote authorizing the increase or decrease of the capital stock, or the incurring, creating or increasing of any bonded indebtedness.

Any increase or decrease in the capital stock or the incurring, creating or increasing of any bonded indebtedness shall require prior approval of the Commission, and where appropriate, of the Philippine Competition Commission. The application with the Commission shall be made within six (6) months from the date of approval of the board of directors and stockholders, which period may be extended for justifiable reasons.

Copies of the certificate shall be kept on file in the office of the corporation and filed with the Commission and attached to the original articles of incorporation. After approval by the Commission and the issuance by the Commission of its certificate of filing, the capital stock shall be deemed increased or decreased and the incurring, creating or increasing of any bonded indebtedness authorized, as the certificate of filing may declare: *Provided*, That the Commission shall not accept for filing any certificate of increase of capital stock unless

accompanied by a sworn statement of the treasurer of the corporation lawfully holding office at the time of the filing of the certificate, showing that at least twenty-five percent (25%) of the increase in capital stock has been subscribed and that at least twenty-five percent (25%) of the amount subscribed has been paid in actual cash to the corporation or that property, the valuation of which is equal to twenty-five percent (25%) of the subscription, has been transferred to the corporation: *Provided, further,* That no decrease in capital stock shall be approved by the Commission if its effect shall prejudice the rights of corporate creditors.

Nonstock corporations may incur, create or increase bonded indebtedness when approved by a majority of the board of trustees and of at least two-thirds (2/3) of the members in a meeting duly called for the purpose.

Bonds issued by a corporation shall be registered with the Commission, which shall have the authority to determine the sufficiency of the terms thereof.

**SEC. 38. Power to Deny Preemptive Right.** – All stockholders of a stock corporation shall enjoy preemptive right to subscribe to all issues or disposition of shares of any class, in proportion to their respective shareholdings, unless such right is denied by the articles of incorporation or an amendment thereto: *Provided,* That such preemptive right shall not extend to shares issued in compliance with laws requiring stock offerings or minimum stock ownership by the public; or to shares issued in good faith with the approval of the stockholders representing two-thirds (2/3) of the outstanding capital stock, in exchange for property needed for corporate purposes or in payment of a previously contracted debt.

**SEC. 39. Sale or Other Disposition of Assets.** – Subject to the provisions of Republic Act No. 10667, otherwise known as the "Philippine Competition Act", and other related laws, a corporation may, by a majority vote of its board of directors or trustees, sell, lease, exchange, mortgage, pledge, or otherwise dispose of its property and assets, upon such terms and conditions and for such consideration, which may be money, stocks, bonds, or other instruments for the payment of money or other property or consideration, as its board of directors or trustees may deem expedient.

A sale of all or substantially all of the corporation's properties and assets, including its goodwill, must be authorized by the vote of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, or at least two-thirds (2/3) of the members, in a stockholders' or members' meeting duly called for the purpose.

In nonstock corporations where there are no members with voting rights, the vote of at least a majority of the trustees in office will be sufficient authorization for the corporation to enter into any transaction authorized by this section.

The determination of whether or not the sale involves all or substantially all of the corporation's properties and assets must be computed based on its net asset value, as shown in its latest financial statements. A sale or other disposition shall be deemed to cover substantially all the corporate property and assets if thereby the corporation would be rendered incapable of continuing the business or accomplishing the purpose for which it was incorporated.

Written notice of the proposed action and of the time and place for the meeting shall be addressed to stockholders or members at their places of residence as shown in the books of the corporation and deposited to the addressee in the post office with postage prepaid, served personally, or when allowed by the bylaws or done with the consent of the stockholder, sent electronically: *Provided*, That any dissenting stockholder may exercise the right of appraisal under the conditions provided in this Code.

After such authorization or approval by the stockholders or members, the board of directors or trustees may, nevertheless, in its discretion, abandon such sale, lease, exchange, mortgage, pledge, or other disposition of property and assets, subject to the rights of third parties under any contract relating thereto, without further action or approval by the stockholders or members.

Nothing in this section is intended to restrict the power of any corporation, without the authorization by the stockholders or members, to sell, lease, exchange, mortgage,

pledge, or otherwise dispose of any of its property and assets if the same is necessary in the usual and regular course of business of the corporation or if the proceeds of the sale or other disposition of such property and assets shall be appropriated for the conduct of its remaining business.

*SEC. 40. Power to Acquire Own Shares.* — Provided that the corporation has unrestricted retained earnings in its books to cover the shares to be purchased or acquired, a stock corporation shall have the power to purchase or acquire its own shares for a legitimate corporate purpose or purposes, including the following cases:

- (a) To eliminate fractional shares arising out of stock dividends;
- (b) To collect or compromise an indebtedness to the corporation, arising out of unpaid subscription, in a delinquency sale, and to purchase delinquent shares sold during said sale; and
- (c) To pay dissenting or withdrawing stockholders entitled to payment for their shares under the provisions of this Code.

*SEC. 41. Power to Invest Corporate Funds in Another Corporation or Business or for Any Other Purpose.* — Subject to the provisions of this Code, a private corporation may invest its funds in any other corporation, business, or for any purpose other than the primary purpose for which it was organized, when approved by a majority of the board of directors or trustees and ratified by the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, or by at least two-thirds (2/3) of the members in the case of nonstock corporations, at a meeting duly called for the purpose. Notice of the proposed investment and the time and place of the meeting shall be addressed to each stockholder or member at the place of residence as shown in the books of the corporation and deposited to the addressee in the post office with postage prepaid, served personally, or sent electronically in accordance with the rules and regulations of the Commission on the use of electronic data message, when allowed by the bylaws or done with the consent of the stockholders: *Provided*, That any dissenting stockholder shall have appraisal right as provided in this Code: *Provided*,

however, That where the investment by the corporation is reasonably necessary to accomplish its primary purpose as stated in the articles of incorporation, the approval of the stockholders or members shall not be necessary.

SEC. 42. *Power to Declare Dividends.* — The board of directors of a stock corporation may declare dividends out of the unrestricted retained earnings which shall be payable in cash, property, or in stock to all stockholders on the basis of outstanding stock held by them: *Provided*, That any cash dividends due on delinquent stock shall first be applied to the unpaid balance on the subscription plus costs and expenses, while stock dividends shall be withheld from the delinquent stockholders until their unpaid subscription is fully paid: *Provided, further*, That no stock dividend shall be issued without the approval of stockholders representing at least two-thirds (2/3) of the outstanding capital stock at a regular or special meeting duly called for the purpose.

Stock corporations are prohibited from retaining surplus profits in excess of one hundred percent (100%) of their paid-in capital stock, except: (a) when justified by definite corporate expansion projects or programs approved by the board of directors; or (b) when the corporation is prohibited under any loan agreement with financial institutions or creditors, whether local or foreign, from declaring dividends without their consent, and such consent has not yet been secured; or (c) when it can be clearly shown that such retention is necessary under special circumstances obtaining in the corporation, such as when there is need for special reserve for probable contingencies.

SEC. 43. *Power to Enter into Management Contract.* — No corporation shall conclude a management contract with another corporation unless such contract is approved by the board of directors and by stockholders owning at least the majority of the outstanding capital stock, or by at least a majority of the members in the case of a nonstock corporation, of both the managing and the managed corporation, at a meeting duly called for the purpose: *Provided*, That (a) where a stockholder or stockholders representing the same interest of both the managing and the managed corporations own or control more than one-third (1/3) of the total outstanding

capital stock entitled to vote of the managing corporation; or (b) where a majority of the members of the board of directors of the managing corporation also constitute a majority of the members of the board of directors of the managed corporation, then the management contract must be approved by the stockholders of the managed corporation owning at least two-thirds (2/3) of the total outstanding capital stock entitled to vote, or by at least two-thirds (2/3) of the members in the case of a nonstock corporation.

These shall apply to any contract whereby a corporation undertakes to manage or operate all or substantially all of the business of another corporation, whether such contracts are called service contracts, operating agreements or otherwise: *Provided, however,* That such service contracts or operating agreements which relate to the exploration, development, exploitation or utilization of natural resources may be entered into for such periods as may be provided by pertinent laws or regulations.

No management contract shall be entered into for a period longer than five (5) years for any one (1) term.

SEC. 44. *Ultra Vires Acts of Corporations.* – No corporation shall possess or exercise corporate powers other than those conferred by this Code or by its articles of incorporation and except as necessary or incidental to the exercise of the powers conferred.

## TITLE V

### BYLAWS

SEC. 45. *Adoption of Bylaws.* – For the adoption of bylaws by the corporation, the affirmative vote of the stockholders representing at least a majority of the outstanding capital stock, or of at least a majority of the members in case of nonstock corporations, shall be necessary. The bylaws shall be signed by the stockholders or members voting for them and shall be kept in the principal office of the corporation, subject to the inspection of the stockholders or members during office hours. A copy thereof, duly certified by a majority of the directors or trustees and countersigned by the secretary of the

corporation, shall be filed with the Commission and attached to the original articles of incorporation.

Notwithstanding the provisions of the preceding paragraph, bylaws may be adopted and filed prior to incorporation; in such case, such bylaws shall be approved and signed by all the incorporators and submitted to the Commission, together with the articles of incorporation.

In all cases, bylaws shall be effective only upon the issuance by the Commission of a certification that the bylaws are in accordance with this Code.

The Commission shall not accept for filing the bylaws or any amendment thereto of any bank, banking institution, building and loan association, trust company, insurance company, public utility, educational institution, or other special corporations governed by special laws, unless accompanied by a certificate of the appropriate government agency to the effect that such bylaws or amendments are in accordance with law.

SEC. 46. *Contents of Bylaws.* — A private corporation may provide the following in its bylaws:

- (a) The time, place and manner of calling and conducting regular or special meetings of the directors or trustees;
- (b) The time and manner of calling and conducting regular or special meetings and mode of notifying the stockholders or members thereof;
- (c) The required quorum in meetings of stockholders or members and the manner of voting therein;
- (d) The modes by which a stockholder, member, director, or trustee may attend meetings and cast their votes;
- (e) The form for proxies of stockholders and members and the manner of voting them;
- (f) The directors' or trustees' qualifications, duties and responsibilities, the guidelines for setting the compensation of directors or trustees and officers, and the maximum number

of other board representations that an independent director or trustee may have which shall, in no case, be more than the number prescribed by the Commission;

(g) The time for holding the annual election of directors or trustees and the mode or manner of giving notice thereof;

(h) The manner of election or appointment and the term of office of all officers other than directors or trustees;

(i) The penalties for violation of the bylaws;

(j) In the case of stock corporations, the manner of issuing stock certificates; and

(k) Such other matters as may be necessary for the proper or convenient transaction of its corporate affairs for the promotion of good governance and anti-graft and corruption measures.

An arbitration agreement may be provided in the bylaws pursuant to Section 181 of this Code.

*SEC. 47. Amendment to Bylaws.* – A majority of the board of directors or trustees, and the owners of at least a majority of the outstanding capital stock, or at least a majority of the members of a nonstock corporation, at a regular or special meeting duly called for the purpose, may amend or repeal the bylaws or adopt new bylaws. The owners of two-thirds (2/3) of the outstanding capital stock or two-thirds (2/3) of the members in a nonstock corporation may delegate to the board of directors or trustees the power to amend or repeal the bylaws or adopt new bylaws: *Provided*, That any power delegated to the board of directors or trustees to amend or repeal the bylaws or adopt new bylaws shall be considered as revoked whenever stockholders owning or representing a majority of the outstanding capital stock or majority of the members shall so vote at a regular or special meeting.

Whenever the bylaws are amended or new bylaws are adopted, the corporation shall file with the Commission such amended or new bylaws and, if applicable, the stockholders' or members' resolution authorizing the delegation of the power to amend and/or adopt new bylaws, duly certified under oath

by the corporate secretary and a majority of the directors or trustees.

The amended or new bylaws shall only be effective upon the issuance by the Commission of a certification that the same is in accordance with this Code and other relevant laws.

## TITLE VI

### MEETINGS

SEC. 48. *Kinds of Meetings.* – Meetings of directors, trustees, stockholders, or members may be regular or special.

SEC. 49. *Regular and Special Meetings of Stockholders or Members.* – Regular meetings of stockholders or members shall be held annually on a date fixed in the bylaws, or if not so fixed, on any date after April 15 of every year as determined by the board of directors or trustees: *Provided*, That written notice of regular meetings shall be sent to all stockholders or members of record at least twenty-one (21) days prior to the meeting, unless a different period is required in the bylaws, law, or regulation: *Provided, further*, That written notice of regular meetings may be sent to all stockholders or members of record through electronic mail or such other manner as the Commission shall allow under its guidelines.

At each regular meeting of stockholders or members, the board of directors or trustees shall endeavor to present to stockholders or members the following:

(a) The minutes of the most recent regular meeting which shall include, among others:

(1) A description of the voting and vote tabulation procedures used in the previous meeting;

(2) A description of the opportunity given to stockholders or members to ask questions and a record of the questions asked and answers given;

(3) The matters discussed and resolutions reached;

(4) A record of the voting results for each agenda item;

- (5) A list of the directors or trustees, officers and stockholders or members who attended the meeting; and
  - (6) Such other items that the Commission may require in the interest of good corporate governance and the protection of minority stockholders;
- (b) A members' list for nonstock corporations and, for stock corporations, material information on the current stockholders, and their voting rights;
  - (c) A detailed, descriptive, balanced and comprehensible assessment of the corporation's performance, which shall include information on any material change in the corporation's business, strategy, and other affairs;
  - (d) A financial report for the preceding year, which shall include financial statements duly signed and certified in accordance with this Code and the rules the Commission may prescribe, a statement on the adequacy of the corporation's internal controls or risk management systems, and a statement of all external audit and non-audit fees;
  - (e) An explanation of the dividend policy and the fact of payment of dividends or the reasons for nonpayment thereof;
  - (f) Director or trustee profiles which shall include, among others, their qualifications and relevant experience, length of service in the corporation, trainings and continuing education attended, and their board representations in other corporations;
  - (g) A director or trustee attendance report, indicating the attendance of each director or trustee at each of the meetings of the board and its committees and in regular or special stockholder meetings;
  - (h) Appraisals and performance reports for the board and the criteria and procedure for assessment;
  - (i) A director or trustee compensation report prepared in accordance with this Code and the rules the Commission may prescribe;

(j) Director disclosures on self-dealings and related party transactions; and/or

(k) The profiles of directors nominated or seeking election or reelection.

A director, trustee, stockholder, or member may propose any other matter for inclusion in the agenda at any regular meeting of stockholders or members.

Special meetings of stockholders or members shall be held at any time deemed necessary or as provided in the bylaws: *Provided, however,* That at least one (1) week written notice shall be sent to all stockholders or members, unless a different period is provided in the bylaws, law or regulation.

A stockholder or member may propose the holding of a special meeting and items to be included in the agenda.

Notice of any meeting may be waived, expressly or impliedly, by any stockholder or member: *Provided,* That general waivers of notice in the articles of incorporation or the bylaws shall not be allowed: *Provided, further,* That attendance at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

Whenever for any cause, there is no person authorized or the person authorized unjustly refuses to call a meeting, the Commission, upon petition of a stockholder or member on a showing of good cause therefor, may issue an order, directing the petitioning stockholder or member to call a meeting of the corporation by giving proper notice required by this Code or the bylaws. The petitioning stockholder or member shall preside thereat until at least a majority of the stockholders or members present have chosen from among themselves, a presiding officer.

Unless the bylaws provide for a longer period, the stock and transfer book or membership book shall be closed at least twenty (20) days for regular meetings and seven (7) days for special meetings before the scheduled date of the meeting.

In case of postponement of stockholders' or members' regular meetings, written notice thereof and the reason therefor shall be sent to all stockholders or members of record at least two (2) weeks prior to the date of the meeting, unless a different period is required under the bylaws, law or regulation.

The right to vote of stockholders or members may be exercised in person, through a proxy, or when so authorized in the bylaws, through remote communication or *in absentia*. The Commission shall issue the rules and regulations governing participation and voting through remote communication or *in absentia*, taking into account the company's scale, number of shareholders or members, structure, and other factors consistent with the protection and promotion of shareholders' or members' meetings.

**SEC. 50. Place and Time of Meetings of Stockholders or Members.** – Stockholders' or members' meetings, whether regular or special, shall be held in the principal office of the corporation as set forth in the articles of incorporation, or, if not practicable, in the city or municipality where the principal office of the corporation is located: *Provided*, That any city or municipality in Metro Manila, Metro Cebu, Metro Davao, and other Metropolitan areas shall, for purposes of this section, be considered a city or municipality.

Notice of meetings shall be sent through the means of communication provided in the bylaws, which notice shall state the time, place and purpose of the meetings.

Each notice of meeting shall further be accompanied by the following:

(a) The agenda for the meeting;

(b) A proxy form which shall be submitted to the corporate secretary within a reasonable time prior to the meeting;

(c) When attendance, participation, and voting are allowed by remote communication or *in absentia*, the requirements and procedures to be followed when a stockholder or member elects either option; and

(d) When the meeting is for the election of directors or trustees, the requirements and procedure for nomination and election.

All proceedings and any business transacted at a meeting of the stockholders or members, if within the powers or authority of the corporation, shall be valid even if the meeting is improperly held or called: *Provided*, That all the stockholders or members of the corporation are present or duly represented at the meeting and not one of them expressly states at the beginning of the meeting that the purpose of their attendance is to object to the transaction of any business because the meeting is not lawfully called or convened.

SEC. 51. *Quorum in Meetings.* – Unless otherwise provided in this Code or in the bylaws, a quorum shall consist of the stockholders representing a majority of the outstanding capital stock or a majority of the members in the case of nonstock corporations.

SEC. 52. *Regular and Special Meetings of Directors or Trustees; Quorum.* – Unless the articles of incorporation or the bylaws provides for a greater majority, a majority of the directors or trustees as stated in the articles of incorporation shall constitute a quorum to transact corporate business, and every decision reached by at least a majority of the directors or trustees constituting a quorum, except for the election of officers which shall require the vote of a majority of all the members of the board, shall be valid as a corporate act.

Regular meetings of the board of directors or trustees of every corporation shall be held monthly, unless the bylaws provide otherwise.

Special meetings of the board of directors or trustees may be held at any time upon the call of the president or as provided in the bylaws.

Meetings of directors or trustees of corporations may be held anywhere in or outside of the Philippines, unless the bylaws provide otherwise. Notice of regular or special meetings stating the date, time and place of the meeting must be sent

to every director or trustee at least two (2) days prior to the scheduled meeting, unless a longer time is provided in the bylaws. A director or trustee may waive this requirement, either expressly or impliedly.

Directors or trustees who cannot physically attend or vote at board meetings can participate and vote through remote communication such as videoconferencing, teleconferencing, or other alternative modes of communication that allow them reasonable opportunities to participate. Directors or trustees cannot attend or vote by proxy at board meetings.

A director or trustee who has a potential interest in any related party transaction must recuse from voting on the approval of the related party transaction without prejudice to compliance with the requirements of Section 31 of this Code.

*SEC. 53. Who Shall Preside at Meetings.* – The chairman or, in his absence, the president shall preside at all meetings of the directors or trustees as well as of the stockholders or members, unless the bylaws provide otherwise.

*SEC. 54. Right to Vote of Secured Creditors and Administrators.* – In case a stockholder grants security interest in his or her shares in stock corporations, the stockholder-grantor shall have the right to attend and vote at meetings of stockholders, unless the secured creditor is expressly given by the stockholder-grantor such right in writing which is recorded in the appropriate corporate books.

Executors, administrators, receivers, and other legal representatives duly appointed by the court may attend and vote in behalf of the stockholders or members without need of any written proxy.

*SEC. 55. Voting in Case of Joint Ownership of Stock.* – The consent of all the co-owners shall be necessary in voting shares of stock owned jointly by two (2) or more persons, unless there is a written proxy, signed by all the co-owners, authorizing one (1) or some of them or any other person to vote such share or shares: *Provided*, That when the shares are owned in an "and/or" capacity by the holders thereof, any one of the joint owners can vote said shares or appoint a proxy therefor.

SEC. 56. *Voting Right for Treasury Shares.* – Treasury shares shall have no voting right as long as such shares remain in the Treasury.

SEC. 57. *Manner of Voting; Proxies.* – Stockholders and members may vote in person or by proxy in all meetings of stockholders or members.

When so authorized in the bylaws or by a majority of the board of directors, the stockholders or members of corporations may also vote through remote communication or *in absentia*: *Provided*, That the votes are received before the corporation finishes the tally of votes.

A stockholder or member who participates through remote communication or *in absentia* shall be deemed present for purposes of quorum.

The corporation shall establish the appropriate requirements and procedures for voting through remote communication and *in absentia*, taking into account the company's scale, number of shareholders or members, structure and other factors consistent with the basic right of corporate suffrage.

Proxies shall be in writing, signed and filed, by the stockholder or member, in any form authorized in the bylaws and received by the corporate secretary within a reasonable time before the scheduled meeting. Unless otherwise provided in the proxy form, it shall be valid only for the meeting for which it is intended. No proxy shall be valid and effective for a period longer than five (5) years at any one time.

SEC. 58. *Voting Trusts.* – One or more stockholders of a stock corporation may create a voting trust for the purpose of conferring upon a trustee or trustees the right to vote and other rights pertaining to the shares for a period not exceeding five (5) years at any time: *Provided*, That in the case of a voting trust specifically required as a condition in a loan agreement, said voting trust may be for a period exceeding five (5) years but shall automatically expire upon full payment of the loan. A voting trust agreement must be in writing and notarized, and shall specify the terms and conditions thereof.

A certified copy of such agreement shall be filed with the corporation and with the Commission; otherwise, the agreement is ineffective and unenforceable. The certificate or certificates of stock covered by the voting trust agreement shall be cancelled and new ones shall be issued in the name of the trustee or trustees, stating that they are issued pursuant to said agreement. The books of the corporation shall state that the transfer in the name of the trustee or trustees is made pursuant to the voting trust agreement.

The trustee or trustees shall execute and deliver to the transferors, voting trust certificates, which shall be transferable in the same manner and with the same effect as certificates of stock.

The voting trust agreement filed with the corporation shall be subject to examination by any stockholder of the corporation in the same manner as any other corporate book or record: *Provided*, That both the trustor and the trustee or trustees may exercise the right of inspection of all corporate books and records in accordance with the provisions of this Code.

Any other stockholder may transfer the shares to the same trustee or trustees upon the terms and conditions stated in the voting trust agreement, and thereupon shall be bound by all the provisions of said agreement.

No voting trust agreement shall be entered into for purposes of circumventing the laws against anti-competitive agreements, abuse of dominant position, anti-competitive mergers and acquisitions, violation of nationality and capital requirements, or for the perpetuation of fraud.

Unless expressly renewed, all rights granted in a voting trust agreement shall automatically expire at the end of the agreed period. The voting trust certificates as well as the certificates of stock in the name of the trustee or trustees shall thereby be deemed cancelled and new certificates of stock shall be reissued in the name of the trustors.

The voting trustee or trustees may vote by proxy or in any manner authorized under the bylaws unless the agreement provides otherwise.

TITLE VII  
STOCKS AND STOCKHOLDERS

SEC. 59. *Subscription Contract.* – Any contract for the acquisition of unissued stock in an existing corporation or a corporation still to be formed shall be deemed a subscription within the meaning of this Title, notwithstanding the fact that the parties refer to it as a purchase or some other contract.

SEC. 60. *Pre-incorporation Subscription.* – A subscription of shares in a corporation still to be formed shall be irrevocable for a period of at least six (6) months from the date of subscription, unless all of the other subscribers consent to the revocation, or the corporation fails to incorporate within the same period or within a longer period stipulated in the contract of subscription. No pre-incorporation subscription may be revoked after the articles of incorporation is submitted to the Commission.

SEC. 61. *Consideration for Stocks.* – Stocks shall not be issued for a consideration less than the par or issued price thereof. Consideration for the issuance of stock may be:

- (a) Actual cash paid to the corporation;
- (b) Property, tangible or intangible, actually received by the corporation and necessary or convenient for its use and lawful purposes at a fair valuation equal to the par or issued value of the stock issued;
- (c) Labor performed for or services actually rendered to the corporation;
- (d) Previously incurred indebtedness of the corporation;
- (e) Amounts transferred from unrestricted retained earnings to stated capital;
- (f) Outstanding shares exchanged for stocks in the event of reclassification or conversion;
- (g) Shares of stock in another corporation; and/or

(h) Other generally accepted form of consideration.

Where the consideration is other than actual cash, or consists of intangible property such as patents or copyrights, the valuation thereof shall initially be determined by the stockholders or the board of directors, subject to the approval of the Commission.

Shares of stock shall not be issued in exchange for promissory notes or future service. The same considerations provided in this section, insofar as applicable, may be used for the issuance of bonds by the corporation.

The issued price of no-par value shares may be fixed in the articles of incorporation or by the board of directors pursuant to authority conferred by the articles of incorporation or the bylaws, or if not so fixed, by the stockholders representing at least a majority of the outstanding capital stock at a meeting duly called for the purpose.

*SEC. 62. Certificate of Stock and Transfer of Shares.* — The capital stock of corporations shall be divided into shares for which certificates signed by the president or vice president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the bylaws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner, his attorney-in-fact, or any other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates, and the number of shares transferred. The Commission may require corporations whose securities are traded in trading markets and which can reasonably demonstrate their capability to do so to issue their securities or shares of stocks in uncertificated or scripless form in accordance with the rules of the Commission.

No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation.

SEC. 63. *Issuance of Stock Certificates.* — No certificate of stock shall be issued to a subscriber until the full amount of the subscription together with interest and expenses (in case of delinquent shares), if any is due, has been paid.

SEC. 64. *Liability of Directors for Watered Stocks.* — A director or officer of a corporation who: (a) consents to the issuance of stocks for a consideration less than its par or issued value; (b) consents to the issuance of stocks for a consideration other than cash, valued in excess of its fair value; or (c) having knowledge of the insufficient consideration, does not file a written objection with the corporate secretary, shall be liable to the corporation or its creditors, solidarily with the stockholder concerned for the difference between the value received at the time of issuance of the stock and the par or issued value of the same.

SEC. 65. *Interest on Unpaid Subscriptions.* — Subscribers to stocks shall be liable to the corporation for interest on all unpaid subscriptions from the date of subscription, if so required by and at the rate of interest fixed in the subscription contract. If no rate of interest is fixed in the subscription contract, the prevailing legal rate shall apply.

SEC. 66. *Payment of Balance of Subscription.* — Subject to the provisions of the subscription contract, the board of directors may, at any time, declare due and payable to the corporation unpaid subscriptions and may collect the same or such percentage thereof, in either case, with accrued interest, if any, as it may deem necessary.

Payment of unpaid subscription or any percentage thereof, together with any interest accrued, shall be made on the date specified in the subscription contract or on the date stated in the call made by the board. Failure to pay on such date shall render the entire balance due and payable and shall make the stockholder liable for interest at the legal rate on such balance, unless a different interest rate is provided in the subscription contract. The interest shall be computed from the date specified, until full payment of the subscription. If no payment is made within thirty (30) days from the said date, all stocks covered by the subscription shall thereupon become delinquent and shall be subject to sale as hereinafter provided, unless the board of directors orders otherwise.

SEC. 67. *Delinquency Sale.* – The board of directors may, by resolution, order the sale of delinquent stock and shall specifically state the amount due on each subscription plus all accrued interest, and the date, time and place of the sale which shall not be less than thirty (30) days nor more than sixty (60) days from the date the stocks become delinquent.

Notice of the sale, with a copy of the resolution, shall be sent to every delinquent stockholder either personally, by registered mail, or through other means provided in the bylaws. The same shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in the province or city where the principal office of the corporation is located.

Unless the delinquent stockholder pays to the corporation, on or before the date specified for the sale of the delinquent stock, the balance due on the former's subscription, plus accrued interest, costs of advertisement and expenses of sale, or unless the board of directors otherwise orders, said delinquent stock shall be sold at a public auction to such bidder who shall offer to pay the full amount of the balance on the subscription together with accrued interest, costs of advertisement and expenses of sale, for the smallest number of shares or fraction of a share. The stock so purchased shall be transferred to such purchaser in the books of the corporation and a certificate for such stock shall be issued in the purchaser's favor. The remaining shares, if any, shall be credited in favor of the delinquent stockholder who shall likewise be entitled to the issuance of a certificate of stock covering such shares.

Should there be no bidder at the public auction who offers to pay the full amount of the balance on the subscription together with accrued interest, costs of advertisement, and expenses of sale, for the smallest number of shares or fraction of a share, the corporation may, subject to the provisions of this Code, bid for the same, and the total amount due shall be credited as fully paid in the books of the corporation. Title to all the shares of stock covered by the subscription shall be vested in the corporation as treasury shares and may be disposed of by said corporation in accordance with the provisions of this Code.

SEC. 68. *When Sale May be Questioned.* – No action to recover delinquent stock sold can be sustained upon the ground of irregularity or defect in the notice of sale, or in the sale itself of the delinquent stock, unless the party seeking to maintain such action first pays or tenders to the party holding the stock the sum for which the same was sold, with interest from the date of sale at the legal rate. No such action shall be maintained unless a complaint is filed within six (6) months from the date of sale.

SEC. 69. *Court Action to Recover Unpaid Subscription.* – Nothing in this Code shall prevent the corporation from collecting through court action, the amount due on any unpaid subscription, with accrued interest, costs and expenses.

SEC. 70. *Effect of Delinquency.* – No delinquent stock shall be voted for, be entitled to vote, or be represented at any stockholder's meeting, nor shall the holder thereof be entitled to any of the rights of a stockholder except the right to dividends in accordance with the provisions of this Code, until and unless payment is made by the holder of such delinquent stock for the amount due on the subscription with accrued interest, and the costs and expenses of advertisement, if any.

SEC. 71. *Rights of Unpaid Shares, Nondelinquent.* – Holders of subscribed shares not fully paid which are not delinquent shall have all the rights of a stockholder.

SEC. 72. *Lost or Destroyed Certificates.* – The following procedure shall be followed by a corporation in issuing new certificates of stock in lieu of those which have been lost, stolen or destroyed:

(a) The registered owner of a certificate of stock in a corporation or such person's legal representative shall file with the corporation an affidavit in triplicate setting forth, if possible, the circumstances as to how the certificate was lost, stolen or destroyed, the number of shares represented by such certificate, the serial number of the certificate and the name of the corporation which issued the same. The owner of such certificate of stock shall also submit such other information and evidence as may be deemed necessary; and

(b) After verifying the affidavit and other information and evidence with the books of the corporation, the corporation shall publish a notice in a newspaper of general circulation in the place where the corporation has its principal office, once a week for three (3) consecutive weeks at the expense of the registered owner of the certificate of stock which has been lost, stolen or destroyed. The notice shall state the name of the corporation, the name of the registered owner, the serial number of the certificate, the number of shares represented by such certificate, and shall state that after the expiration of one (1) year from the date of the last publication, if no contest has been presented to the corporation regarding the certificate of stock, the right to make such contest shall be barred and the corporation shall cancel the lost, destroyed or stolen certificate of stock in its books. In lieu thereof, the corporation shall issue a new certificate of stock, unless the registered owner files a bond or other security as may be required, effective for a period of one (1) year, for such amount and in such form and with such sureties as may be satisfactory to the board of directors, in which case a new certificate may be issued even before the expiration of the one (1) year period provided herein. If a contest has been presented to the corporation or if an action is pending in court regarding the ownership of the certificate of stock which has been lost, stolen or destroyed, the issuance of the new certificate of stock in lieu thereof shall be suspended until the court renders a final decision regarding the ownership of the certificate of stock which has been lost, stolen or destroyed.

Except in case of fraud, bad faith, or negligence on the part of the corporation and its officers, no action may be brought against any corporation which shall have issued certificate of stock in lieu of those lost, stolen or destroyed pursuant to the procedure above-described.

## TITLE VIII

### CORPORATE BOOKS AND RECORDS

SEC. 73. *Books to be Kept; Stock Transfer Agent.* — Every corporation shall keep and carefully preserve at its principal office all information relating to the corporation including, but not limited to:

- (a) The articles of incorporation and bylaws of the corporation and all their amendments;
- (b) The current ownership structure and voting rights of the corporation, including lists of stockholders or members, group structures, intra-group relations, ownership data, and beneficial ownership;
- (c) The names and addresses of all the members of the board of directors or trustees and the executive officers;
- (d) A record of all business transactions;
- (e) A record of the resolutions of the board of directors or trustees and of the stockholders or members;
- (f) Copies of the latest reportorial requirements submitted to the Commission; and
- (g) The minutes of all meetings of stockholders or members, or of the board of directors or trustees. Such minutes shall set forth in detail, among others: the time and place of the meeting held, how it was authorized, the notice given, the agenda therefor, whether the meeting was regular or special, its object if special, those present and absent, and every act done or ordered done at the meeting. Upon the demand of a director, trustee, stockholder or member, the time when any director, trustee, stockholder or member entered or left the meeting must be noted in the minutes; and on a similar demand, the yeas and nays must be taken on any motion or proposition, and a record thereof carefully made. The protest of a director, trustee, stockholder or member on any action or proposed action must be recorded in full upon their demand.

Corporate records, regardless of the form in which they are stored, shall be open to inspection by any director, trustee, stockholder or member of the corporation in person or by a representative at reasonable hours on business days, and a demand in writing may be made by such director, trustee or stockholder at their expense, for copies of such records or excerpts from said records. The inspecting or reproducing party shall remain bound by confidentiality rules under prevailing

laws, such as the rules on trade secrets or processes under Republic Act No. 8293, otherwise known as the "Intellectual Property Code of the Philippines", as amended, Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012", Republic Act No. 8799, otherwise known as "The Securities Regulation Code", and the Rules of Court.

A requesting party who is not a stockholder or member of record, or is a competitor, director, officer, controlling stockholder or otherwise represents the interests of a competitor shall have no right to inspect or demand reproduction of corporate records.

Any stockholder who shall abuse the rights granted under this section shall be penalized under Section 158 of this Code, without prejudice to the provisions of Republic Act No. 8293, otherwise known as the "Intellectual Property Code of the Philippines", as amended, and Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012".

Any officer or agent of the corporation who shall refuse to allow the inspection and/or reproduction of records in accordance with the provisions of this Code shall be liable to such director, trustee, stockholder or member for damages, and in addition, shall be guilty of an offense which shall be punishable under Section 161 of this Code: *Provided*, That if such refusal is made pursuant to a resolution or order of the board of directors or trustees, the liability under this section for such action shall be imposed upon the directors or trustees who voted for such refusal: *Provided, further*, That it shall be a defense to any action under this section that the person demanding to examine and copy excerpts from the corporation's records and minutes has improperly used any information secured through any prior examination of the records or minutes of such corporation or of any other corporation, or was not acting in good faith or for a legitimate purpose in making the demand to examine or reproduce corporate records, or is a competitor, director, officer, controlling stockholder or otherwise represents the interests of a competitor.

If the corporation denies or does not act on a demand for inspection and/or reproduction, the aggrieved party may report such denial or inaction to the Commission. Within five

(5) days from receipt of such report, the Commission shall conduct a summary investigation and issue an order directing the inspection or reproduction of the requested records.

Stock corporations must also keep a stock and transfer book, which shall contain a record of all stocks in the names of the stockholders alphabetically arranged; the installments paid and unpaid on all stocks for which subscription has been made, and the date of payment of any installment; a statement of every alienation, sale or transfer of stock made, the date thereof, by and to whom made; and such other entries as the bylaws may prescribe. The stock and transfer book shall be kept in the principal office of the corporation or in the office of its stock transfer agent and shall be open for inspection by any director or stockholder of the corporation at reasonable hours on business days.

A stock transfer agent or one engaged principally in the business of registering transfers of stocks in behalf of a stock corporation shall be allowed to operate in the Philippines upon securing a license from the Commission and the payment of a fee to be fixed by the Commission, which shall be renewable annually: *Provided*, That a stock corporation is not precluded from performing or making transfers of its own stocks, in which case all the rules and regulations imposed on stock transfer agents, except the payment of a license fee herein provided, shall be applicable: *Provided, further*, That the Commission may require stock corporations which transfer and/or trade stocks in secondary markets to have an independent transfer agent.

**SEC. 74. Right to Financial Statements.** – A corporation shall furnish a stockholder or member, within ten (10) days from receipt of their written request, its most recent financial statement, in the form and substance of the financial reporting required by the Commission.

At the regular meeting of stockholders or members, the board of directors or trustees shall present to such stockholders or members a financial report of the operations of the corporation for the preceding year, which shall include financial statements, duly signed and certified in accordance with this Code, and the rules the Commission may prescribe.

However, if the total assets or total liabilities of the corporation are less than Six hundred thousand pesos (P600,000.00), or such other amount as may be determined appropriate by the Department of Finance, the financial statements may be certified under oath by the treasurer and the president.

## TITLE IX

### MERGER AND CONSOLIDATION

SEC. 75. *Plan of Merger or Consolidation.* – Two (2) or more corporations may merge into a single corporation which shall be one of the constituent corporations or may consolidate into a new single corporation which shall be the consolidated corporation.

The board of directors or trustees of each corporation, party to the merger or consolidation, shall approve a plan of merger or consolidation setting forth the following:

- (a) The names of the corporations proposing to merge or consolidate, hereinafter referred to as the constituent corporations;
- (b) The terms of the merger or consolidation and the mode of carrying the same into effect;
- (c) A statement of the changes, if any, in the articles of incorporation of the surviving corporation in case of merger; and, in case of consolidation, all the statements required to be set forth in the articles of incorporation for corporations organized under this Code; and
- (d) Such other provisions with respect to the proposed merger or consolidation as are deemed necessary or desirable.

SEC. 76. *Stockholders' or Members' Approval.* – Upon approval by a majority vote of each of the board of directors or trustees of the constituent corporations of the plan of merger or consolidation, the same shall be submitted for approval by the stockholders or members of each of such corporations at separate corporate meetings duly called for the purpose. Notice

of such meetings shall be given to all stockholders or members of the respective corporations in the same manner as giving notice of regular or special meetings under Section 49 of this Code. The notice shall state the purpose of the meeting and include a copy or a summary of the plan of merger or consolidation.

The affirmative vote of stockholders representing at least two-thirds (2/3) of the outstanding capital stock of each corporation in the case of stock corporations or at least two-thirds (2/3) of the members in the case of nonstock corporations shall be necessary for the approval of such plan. Any dissenting stockholder may exercise the right of appraisal in accordance with this Code: *Provided*, That if after the approval by the stockholders of such plan, the board of directors decides to abandon the plan, the right of appraisal shall be extinguished.

Any amendment to the plan of merger or consolidation may be made: *Provided*, That such amendment is approved by a majority vote of the respective boards of directors or trustees of all the constituent corporations and ratified by the affirmative vote of stockholders representing at least two-thirds (2/3) of the outstanding capital stock or of two-thirds (2/3) of the members of each of the constituent corporations. Such plan, together with any amendment, shall be considered as the agreement of merger or consolidation.

SEC. 77. *Articles of Merger or Consolidation.* — After the approval by the stockholders or members as required by the preceding section, articles of merger or articles of consolidation shall be executed by each of the constituent corporations, to be signed by the president or vice president and certified by the secretary or assistant secretary of each corporation setting forth:

- (a) The plan of the merger or the plan of consolidation;
- (b) As to stock corporations, the number of shares outstanding, or in the case of nonstock corporations, the number of members;
- (c) As to each corporation, the number of shares or members voting for or against such plan, respectively;

- (d) The carrying amounts and fair values of the assets and liabilities of the respective companies as of the agreed cut-off date;
- (e) The method to be used in the merger or consolidation of accounts of the companies;
- (f) The provisional or pro forma values, as merged or consolidated, using the accounting method; and
- (g) Such other information as may be prescribed by the Commission.

*SEC. 78. Effectivity of Merger or Consolidation.* – The articles of merger or of consolidation, signed and certified as required by this Code, shall be submitted to the Commission for its approval: *Provided*, That in the case of merger or consolidation of banks or banking institutions, loan associations, trust companies, insurance companies, public utilities, educational institutions, and other special corporations governed by special laws, the favorable recommendation of the appropriate government agency shall first be obtained. If the Commission is satisfied that the merger or consolidation of the corporations concerned is consistent with the provisions of this Code and existing laws, it shall issue a certificate approving the articles and plan of merger or of consolidation, at which time the merger or consolidation shall be effective.

If, upon investigation, the Commission has reason to believe that the proposed merger or consolidation is contrary to or inconsistent with the provisions of this Code or existing laws, it shall set a hearing to give the corporations concerned the opportunity to be heard. Written notice of the date, time, and place of hearing shall be given to each constituent corporation at least two (2) weeks before said hearing. The Commission shall thereafter proceed as provided in this Code.

*SEC. 79. Effects of Merger or Consolidation.* – The merger or consolidation shall have the following effects:

- (a) The constituent corporations shall become a single corporation which, in case of merger, shall be the surviving corporation designated in the plan of merger; and, in case of

consolidation, shall be the consolidated corporation designated in the plan of consolidation;

(b) The separate existence of the constituent corporations shall cease, except that of the surviving or the consolidated corporation;

(c) The surviving or the consolidated corporation shall possess all the rights, privileges, immunities, and powers and shall be subject to all the duties and liabilities of a corporation organized under this Code;

(d) The surviving or the consolidated corporation shall possess all the rights, privileges, immunities and franchises of each constituent corporation; and all real or personal property, all receivables due on whatever account, including subscriptions to shares and other choses in action, and every other interest of, belonging to, or due to each constituent corporation, shall be deemed transferred to and vested in such surviving or consolidated corporation without further act or deed; and

(e) The surviving or consolidated corporation shall be responsible for all the liabilities and obligations of each constituent corporation as though such surviving or consolidated corporation had itself incurred such liabilities or obligations; and any pending claim, action or proceeding brought by or against any constituent corporation may be prosecuted by or against the surviving or consolidated corporation. The rights of creditors or liens upon the property of such constituent corporations shall not be impaired by the merger or consolidation.

## TITLE X

### APPRAISAL RIGHT

#### SEC. 80. *When the Right of Appraisal May Be Exercised.*

– Any stockholder of a corporation shall have the right to dissent and demand payment of the fair value of the shares in the following instances:

(a) In case an amendment to the articles of incorporation has the effect of changing or restricting the rights of any

stockholder or class of shares, or of authorizing preferences in any respect superior to those of outstanding shares of any class, or of extending or shortening the term of corporate existence;

(b) In case of sale, lease, exchange, transfer, mortgage, pledge or other disposition of all or substantially all of the corporate property and assets as provided in this Code;

(c) In case of merger or consolidation; and

(d) In case of investment of corporate funds for any purpose other than the primary purpose of the corporation.

SEC. 81. *How Right is Exercised.* — The dissenting stockholder who votes against a proposed corporate action may exercise the right of appraisal by making a written demand on the corporation for the payment of the fair value of shares held within thirty (30) days from the date on which the vote was taken: *Provided*, That failure to make the demand within such period shall be deemed a waiver of the appraisal right. If the proposed corporate action is implemented, the corporation shall pay the stockholder, upon surrender of the certificate or certificates of stock representing the stockholder's shares, the fair value thereof as of the day before the vote was taken, excluding any appreciation or depreciation in anticipation of such corporate action.

If, within sixty (60) days from the approval of the corporate action by the stockholders, the withdrawing stockholder and the corporation cannot agree on the fair value of the shares, it shall be determined and appraised by three (3) disinterested persons, one of whom shall be named by the stockholder, another by the corporation, and the third by the two (2) thus chosen. The findings of the majority of the appraisers shall be final, and their award shall be paid by the corporation within thirty (30) days after such award is made: *Provided*, That no payment shall be made to any dissenting stockholder unless the corporation has unrestricted retained earnings in its books to cover such payment: *Provided, further*, That upon payment by the corporation of the agreed or awarded price, the stockholder shall forthwith transfer the shares to the corporation.

*SEC. 82. Effect of Demand and Termination of Right.*

– From the time of demand for payment of the fair value of a stockholder's shares until either the abandonment of the corporate action involved or the purchase of the said shares by the corporation, all rights accruing to such shares, including voting and dividend rights, shall be suspended in accordance with the provisions of this Code, except the right of such stockholder to receive payment of the fair value thereof: *Provided*, That if the dissenting stockholder is not paid the value of the said shares within thirty (30) days after the award, the voting and dividend rights shall immediately be restored.

*SEC. 83. When Right to Payment Ceases.* – No demand for payment under this Title may be withdrawn unless the corporation consents thereto. If, however, such demand for payment is withdrawn with the consent of the corporation, or if the proposed corporate action is abandoned or rescinded by the corporation or disapproved by the Commission where such approval is necessary, or if the Commission determines that such stockholder is not entitled to the appraisal right, then the right of the stockholder to be paid the fair value of the shares shall cease, the status as the stockholder shall be restored, and all dividend distributions which would have accrued on the shares shall be paid to the stockholder.*SEC. 84. Who Bears Costs of Appraisal.* – The costs and expenses of appraisal shall be borne by the corporation, unless the fair value ascertained by the appraisers is approximately the same as the price which the corporation may have offered to pay the stockholder, in which case they shall be borne by the latter. In the case of an action to recover such fair value, all costs and expenses shall be assessed against the corporation, unless the refusal of the stockholder to receive payment was unjustified.*SEC. 85. Notation on Certificates; Rights of Transferee.*

– Within ten (10) days after demanding payment for shares held, a dissenting stockholder shall submit the certificates of stock representing the shares to the corporation for notation that such shares are dissenting shares. Failure to do so shall, at the option of the corporation, terminate the rights under this Title. If shares represented by the certificates bearing such

notation are transferred, and the certificates consequently cancelled, the rights of the transferor as a dissenting stockholder under this Title shall cease and the transferee shall have all the rights of a regular stockholder; and all dividend distributions which would have accrued on such shares shall be paid to the transferee.

## TITLE XI

### NONSTOCK CORPORATION

SEC. 86. *Definition.* – For purposes of this Code and subject to its provisions on dissolution, a nonstock corporation is one where no part of its income is distributable as dividends to its members, trustees, or officers: *Provided*, That any profit which a nonstock corporation may obtain incidental to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized, subject to the provisions of this Title.

The provisions governing stock corporations, when pertinent, shall be applicable to nonstock corporations, except as may be covered by specific provisions of this Title.

SEC. 87. *Purposes.* – Nonstock corporations may be formed or organized for charitable, religious, educational, professional, cultural, fraternal, literary, scientific, social, civic service, or similar purposes, like trade, industry, agricultural and like chambers, or any combination thereof, subject to the special provisions of this Title governing particular classes of nonstock corporations.

## CHAPTER I

### MEMBERS

SEC. 88. *Right to Vote.* – The right of the members of any class or classes to vote may be limited, broadened, or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, broadened, or denied, each member, regardless of class, shall be entitled to one (1) vote.

Unless otherwise provided in the articles of incorporation or the bylaws, a member may vote by proxy, in accordance

with the provisions of this Code. The bylaws may likewise authorize voting through remote communication and/or *in absentia*.

SEC. 89. *Nontransferability of Membership.* – Membership in a nonstock corporation and all rights arising therefrom are personal and nontransferable, unless the articles of incorporation or the bylaws otherwise provide.

SEC. 90. *Termination of Membership.* – Membership shall be terminated in the manner and for the causes provided in the articles of incorporation or the bylaws. Termination of membership shall extinguish all rights of a member in the corporation or in its property, unless otherwise provided in the articles of incorporation or the bylaws.

## CHAPTER II

### TRUSTEES AND OFFICERS

SEC. 91. *Election and Term of Trustees.* – The number of trustees shall be fixed in the articles of incorporation or bylaws which may or may not be more than fifteen (15). They shall hold office for not more than three (3) years until their successors are elected and qualified. Trustees elected to fill vacancies occurring before the expiration of a particular term shall hold office only for the unexpired period.

Except with respect to independent trustees of nonstock corporations vested with public interest, only a member of the corporation shall be elected as trustee.

Unless otherwise provided in the articles of incorporation or the bylaws, the members may directly elect officers of a nonstock corporation.

SEC. 92. *List of Members and Proxies, Place of Meetings.* – The corporation shall, at all times, keep a list of its members and their proxies in the form the Commission may require. The list shall be updated to reflect the members and proxies of record twenty (20) days prior to any scheduled election. The bylaws may provide that the members of a nonstock corporation may hold their regular or special meetings at any place even outside the place where the principal office

of the corporation is located: *Provided*, That proper notice is sent to all members indicating the date, time and place of the meeting: *Provided, further*, That the place of meeting shall be within Philippine territory.

## CHAPTER III

### DISTRIBUTION OF ASSETS IN NONSTOCK CORPORATIONS

SEC. 93. *Rules of Distribution.* – The assets of a nonstock corporation undergoing the process of dissolution for reasons other than those set forth in Section 139 of this Code shall be applied and distributed as follows:

- (a) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;
- (b) Assets held by the corporation upon a condition requiring return, transfer or conveyance, and which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with such requirements;
- (c) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one (1) or more corporations, societies or organizations engaged in activities in the Philippines substantially similar to those of the dissolving corporation according to a plan of distribution adopted pursuant to this Chapter;
- (d) Assets other than those mentioned in the preceding paragraphs, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws, to the extent that the articles of incorporation or the bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution; and
- (e) In any other case, assets may be distributed to such persons, societies, organizations or corporations, whether or not organized for profit, as may be specified in a plan of distribution adopted pursuant to this Chapter.

SEC. 94. *Plan of Distribution of Assets.* — A plan providing for the distribution of assets, consistent with the provisions of this Title, may be adopted by a nonstock corporation in the process of dissolution in the following manner:

- (a) The board of trustees shall, by majority vote, adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a regular or special meeting of members having voting rights;
- (b) Each member entitled to vote shall be given a written notice setting forth the proposed plan of distribution or a summary thereof and the date, time and place of such meeting within the time and in the manner provided in this Code for the giving of notice of meetings; and
- (c) Such plan of distribution shall be adopted upon approval of at least two-thirds (2/3) of the members having voting rights present or represented by proxy at such meeting.

## TITLE XII

### CLOSE CORPORATIONS

SEC. 95. *Definition and Applicability of Title.* — A close corporation, within the meaning of this Code, is one whose articles of incorporation provides that: (a) all the corporation's issued stock of all classes, exclusive of treasury shares, shall be held of record by not more than a specified number of persons, not exceeding twenty (20); (b) all the issued stock of all classes shall be subject to one (1) or more specified restrictions on transfer permitted by this Title; and (c) the corporation shall not list in any stock exchange or make any public offering of its stocks of any class. Notwithstanding the foregoing, a corporation shall not be deemed a close corporation when at least two-thirds (2/3) of its voting stock or voting rights is owned or controlled by another corporation which is not a close corporation within the meaning of this Code.

Any corporation may be incorporated as a close corporation, except mining or oil companies, stock exchanges, banks, insurance companies, public utilities, educational

institutions and corporations declared to be vested with public interest in accordance with the provisions of this Code.

The provisions of this Title shall primarily govern close corporations: *Provided*, That other Titles in this Code shall apply suppletorily, except as otherwise provided under this Title.

SEC. 96. *Articles of Incorporation.* – The articles of incorporation of a close corporation may provide for:

- (a) A classification of shares or rights, the qualifications for owning or holding the same, and restrictions on their transfers, subject to the provisions of the following section;
- (b) A classification of directors into one (1) or more classes, each of whom may be voted for and elected solely by a particular class of stock; and
- (c) Greater quorum or voting requirements in meetings of stockholders or directors than those provided in this Code.

The articles of incorporation of a close corporation may provide that the business of the corporation shall be managed by the stockholders of the corporation rather than by a board of directors. So long as this provision continues in effect, no meeting of stockholders need be called to elect directors: *Provided*, That the stockholders of the corporation shall be deemed to be directors for the purpose of applying the provisions of this Code, unless the context clearly requires otherwise: *Provided, further*, That the stockholders of the corporation shall be subject to all liabilities of directors.

The articles of incorporation may likewise provide that all officers or employees or that specified officers or employees shall be elected or appointed by the stockholders, instead of by the board of directors.

SEC. 97. *Validity of Restrictions on Transfer of Shares.* – Restrictions on the right to transfer shares must appear in the articles of incorporation, in the bylaws, as well as in the certificate of stock; otherwise, the same shall not be binding on any purchaser in good faith. Said restrictions shall not be more onerous than granting the existing stockholders or the

corporation the option to purchase the shares of the transferring stockholder with such reasonable terms, conditions or period stated. If, upon the expiration of said period, the existing stockholders or the corporation fails to exercise the option to purchase, the transferring stockholder may sell their shares to any third person.

*SEC. 98. Effects of Issuance or Transfer of Stock in Breach of Qualifying Conditions. —*

(a) If a stock of a close corporation is issued or transferred to any person who is not eligible to be a holder thereof under any provision of the articles of incorporation, and if the certificate for such stock conspicuously shows the qualifications of the persons entitled to be holders of record thereof, such person is conclusively presumed to have notice of the fact of the ineligibility to be a stockholder.

(b) If the articles of incorporation of a close corporation states the number of persons, not exceeding twenty (20), who are entitled to be stockholders of record, and if the certificate for such stock conspicuously states such number, and the issuance or transfer of stock to any person would cause the stock to be held by more than such number of persons, the person to whom such stock is issued or transferred is conclusively presumed to have notice of this fact.

(c) If a stock certificate of a close corporation conspicuously shows a restriction on transfer of the corporation's stock and the transferee acquires the stock in violation of such restriction, the transferee is conclusively presumed to have notice of the fact that the stock was acquired in violation of the restriction.

(d) Whenever a person to whom stock of a close corporation has been issued or transferred has or is conclusively presumed under this section to have notice of: (1) the person's ineligibility to be a stockholder of the corporation; or (2) that the transfer of stock would cause the stock of the corporation to be held by more than the number of persons permitted under its articles of incorporation; or (3) that the transfer violates a restriction on transfer of stock, the corporation may, at its option, refuse to register the transfer in the name of the transferee.

(e) The provisions of subsection (d) shall not be applicable if the transfer of stock, though contrary to subsections (a), (b) or (c), has been consented to by all the stockholders of the close corporation, or if the close corporation has amended its articles of incorporation in accordance with this Title.

(f) The term "transfer", as used in this section, is not limited to a transfer for value.

(g) The provisions of this section shall not impair any right which the transferee may have to either rescind the transfer or recover the stock under any express or implied warranty.

SEC. 99. *Agreements by Stockholders.* —

(a) Agreements duly signed and executed by and among all stockholders before the formation and organization of a close corporation shall survive the incorporation and shall continue to be valid and binding between such stockholders, if such be their intent, to the extent that such agreements are consistent with the articles of incorporation, irrespective of where the provisions of such agreements are contained, except those required by this Title to be embodied in said articles of incorporation.

(b) A written agreement signed by two (2) or more stockholders may provide that in exercising any voting right, the shares held by them shall be voted as provided or as agreed, or in accordance with a procedure agreed upon by them.

(c) No provision in a written agreement signed by the stockholders, relating to any phase of corporate affairs, shall be invalidated between the parties on the ground that its effect is to make them partners among themselves.

(d) A written agreement among some or all of the stockholders in a close corporation shall not be invalidated on the ground that it relates to the conduct of the business and affairs of the corporation as to restrict or interfere with the discretion or powers of the board of directors: *Provided,* That

such agreement shall impose on the stockholders who are parties thereto the liabilities for managerial acts imposed on directors by this Code.

(e) Stockholders actively engaged in the management or operation of the business and affairs of a close corporation shall be held to strict fiduciary duties to each other and among themselves. The stockholders shall be personally liable for corporate torts unless the corporation has obtained reasonably adequate liability insurance.

*SEC. 100. When a Board Meeting is Unnecessary or Improperly Held.* – Unless the bylaws provide otherwise, any action taken by the directors of a close corporation without a meeting called properly and with due notice shall nevertheless be deemed valid if:

(a) Before or after such action is taken, a written consent thereto is signed by all the directors; or

(b) All the stockholders have actual or implied knowledge of the action and make no prompt objection in writing; or

(c) The directors are accustomed to take informal action with the express or implied acquiescence of all the stockholders; or

(d) All the directors have express or implied knowledge of the action in question and none of them makes a prompt objection in writing.

An action within the corporate powers taken at a meeting held without proper call or notice is deemed ratified by a director who failed to attend, unless after having knowledge thereof, the director promptly files his written objection with the secretary of the corporation.

*SEC. 101. Preemptive Right in Close Corporations.* – The preemptive right of stockholders in close corporations shall extend to all stock to be issued, including reissuance of treasury shares, whether for money, property or personal services, or in payment of corporate debts, unless the articles of incorporation provide otherwise.

SEC. 102. *Amendment of Articles of Incorporation.* – Any amendment to the articles of incorporation which seeks to delete or remove any provision required by this Title or to reduce a quorum or voting requirement stated in said articles of incorporation shall require the affirmative vote of at least two-thirds (2/3) of the outstanding capital stock, whether with or without voting rights, or of such greater proportion of shares as may be specifically provided in the articles of incorporation for amending, deleting or removing any of the aforesaid provisions, at a meeting duly called for the purpose.

SEC. 103. *Deadlocks.* – Notwithstanding any contrary provision in the close corporation's articles of incorporation, bylaws, or stockholders' agreement, if the directors or stockholders are so divided on the management of the corporation's business and affairs that the votes required for a corporate action cannot be obtained, with the consequence that the business and affairs of the corporation can no longer be conducted to the advantage of the stockholders generally, the Commission, upon written petition by any stockholder, shall have the power to arbitrate the dispute. In the exercise of such power, the Commission shall have authority to make appropriate orders, such as: (a) cancelling or altering any provision contained in the articles of incorporation, bylaws, or any stockholders' agreement; (b) cancelling, altering or enjoining a resolution or act of the corporation or its board of directors, stockholders, or officers; (c) directing or prohibiting any act of the corporation or its board of directors, stockholders, officers, or other persons party to the action; (d) requiring the purchase at their fair value of shares of any stockholder, either by the corporation regardless of the availability of unrestricted retained earnings in its books, or by the other stockholders; (e) appointing a provisional director; (f) dissolving the corporation; or (g) granting such other relief as the circumstances may warrant.

A provisional director shall be an impartial person who is neither a stockholder nor a creditor of the corporation or any of its subsidiaries or affiliates, and whose further qualifications, if any, may be determined by the Commission. A provisional director is not a receiver of the corporation and does not have the title and powers of a custodian or receiver. A provisional director shall have all the rights and powers of

a duly elected director, including the right to be notified of and to vote at meetings of directors until removed by order of the Commission or by all the stockholders. The compensation of the provisional director shall be determined by agreement between such director and the corporation, subject to approval of the Commission, which may fix the compensation absent an agreement or in the event of disagreement between the provisional director and the corporation.

SEC. 104. *Withdrawal of Stockholder or Dissolution of Corporation.* – In addition and without prejudice to other rights and remedies available under this Title, any stockholder of a close corporation may, for any reason, compel the corporation to purchase shares held at fair value, which shall not be less than the par or issued value, when the corporation has sufficient assets in its books to cover its debts and liabilities exclusive of capital stock: *Provided*, That any stockholder of a close corporation may, by written petition to the Commission, compel the dissolution of such corporation whenever any acts of the directors, officers, or those in control of the corporation are illegal, fraudulent, dishonest, oppressive or unfairly prejudicial to the corporation or any stockholder, or whenever corporate assets are being misapplied or wasted.

## TITLE XIII

### SPECIAL CORPORATIONS

#### CHAPTER I

##### EDUCATIONAL CORPORATIONS

SEC. 105. *Incorporation.* – Educational corporations shall be governed by special laws and by the general provisions of this Code.

SEC. 106. *Board of Trustees.* – Trustees of educational institutions organized as nonstock corporations shall not be less than five (5) nor more than fifteen (15): *Provided*, That the number of trustees shall be in multiples of five (5).

Unless otherwise provided in the articles of incorporation or bylaws, the board of trustees of incorporated schools,

colleges, or other institutions of learning shall, as soon as organized, so classify themselves that the term of office of one-fifth (1/5) of their number shall expire every year. Trustees thereafter elected to fill vacancies, occurring before the expiration of a particular term, shall hold office only for the unexpired period. Trustees elected thereafter to fill vacancies caused by expiration of term shall hold office for five (5) years. A majority of the trustees shall constitute a quorum for the transaction of business. The powers and authority of trustees shall be defined in the bylaws.

For institutions organized as stock corporations, the number and term of directors shall be governed by the provisions on stock corporations.

## CHAPTER II

### RELIGIOUS CORPORATIONS

**SEC. 107. *Classes of Religious Corporations.*** – Religious corporations may be incorporated by one (1) or more persons. Such corporations may be classified into corporations sole and religious societies.

Religious corporations shall be governed by this Chapter and by the general provisions on nonstock corporations insofar as applicable.

**SEC. 108. *Corporation Sole.*** – For the purpose of administering and managing, as trustee, the affairs, property and temporalities of any religious denomination, sect or church, a corporation sole may be formed by the chief archbishop, bishop, priest, minister, rabbi, or other presiding elder of such religious denomination, sect or church.

**SEC. 109. *Articles of Incorporation.*** – In order to become a corporation sole, the chief archbishop, bishop, priest, minister, rabbi, or presiding elder of any religious denomination, sect or church must file with the Commission articles of incorporation setting forth the following:

(a) That the applicant chief archbishop, bishop, priest, minister, rabbi, or presiding elder represents the religious

denomination, sect or church which desires to become a corporation sole;

(b) That the rules, regulations and discipline of the religious denomination, sect or church are consistent with becoming a corporation sole and do not forbid it;

(c) That such chief archbishop, bishop, priest, minister, rabbi, or presiding elder is charged with the administration of the temporalities and the management of the affairs, estate and properties of the religious denomination, sect or church within the territorial jurisdiction, so described succinctly in the articles of incorporation;

(d) The manner by which any vacancy occurring in the office of chief archbishop, bishop, priest, minister, rabbi, or presiding elder is required to be filled, according to the rules, regulations or discipline of the religious denomination, sect or church; and

(e) The place where the principal office of the corporation sole is to be established and located, which place must be within the territory of the Philippines.

The articles of incorporation may include any other provision not contrary to law for the regulation of the affairs of the corporation.

*SEC. 110. Submission of the Articles of Incorporation.*

— The articles of incorporation must be verified, by affidavit or affirmation of the chief archbishop, bishop, priest, minister, rabbi, or presiding elder, as the case may be, and accompanied by a copy of the commission, certificate of election or letter of appointment of such chief archbishop, bishop, priest, minister, rabbi, or presiding elder, duly certified to be correct by any notary public.

From and after filing with the Commission of the said articles of incorporation, verified by affidavit or affirmation, and accompanied by the documents mentioned in the preceding paragraph, such chief archbishop, bishop, priest, minister, rabbi, or presiding elder shall become a corporation sole and all temporalities, estate and properties of the religious denomination, sect or church theretofore administered or

managed as such chief archbishop, bishop, priest, minister, rabbi, or presiding elder shall be personally held in trust as a corporation sole, for the use, purpose, exclusive benefit and on behalf of the religious denomination, sect or church, including hospitals, schools, colleges, orphan asylums, parsonages, and cemeteries thereof.

SEC. 111. *Acquisition and Alienation of Property.* — A corporation sole may purchase and hold real estate and personal property for its church, charitable, benevolent, or educational purposes, and may receive bequests or gifts for such purposes. Such corporation may sell or mortgage real property held by it by obtaining an order for that purpose from the Regional Trial Court of the province where the property is situated upon proof that the notice of the application for leave to sell or mortgage has been made through publication or as directed by the Court, and that it is in the interest of the corporation that leave to sell or mortgage be granted. The application for leave to sell or mortgage must be made by petition, duly verified, by the chief archbishop, bishop, priest, minister, rabbi, or presiding elder acting as corporation sole, and may be opposed by any member of the religious denomination, sect or church represented by the corporation sole: *Provided*, That in cases where the rules, regulations, and discipline of the religious denomination, sect or church, religious society, or order concerned represented by such corporation sole regulate the method of acquiring, holding, selling, and mortgaging real estate and personal property, such rules, regulations and discipline shall govern, and the intervention of the courts shall not be necessary.

SEC. 112. *Filling of Vacancies.* — The successors in office of any chief archbishop, bishop, priest, minister, rabbi, or presiding elder in a corporation sole shall become the corporation sole on their accession to office and shall be permitted to transact business as such upon filing a copy of their commission, certificate of election, or letters of appointment, duly certified by any notary public with the Commission.

During any vacancy in the office of chief archbishop, bishop, priest, minister, rabbi, or presiding elder of any religious denomination, sect or church incorporated as a

corporation sole, the person or persons authorized by the rules, regulations or discipline of the religious denomination, sect or church represented by the corporation sole to administer the temporalities and manage the affairs, estate, and properties of the corporation sole shall exercise all the powers and authority of the corporation sole during such vacancy.

SEC. 113. *Dissolution.* — A corporation sole may be dissolved and its affairs settled voluntarily by submitting to the Commission a verified declaration of dissolution, setting forth:

- (a) The name of the corporation;
- (b) The reason for dissolution and winding up;
- (c) The authorization for the dissolution of the corporation by the particular religious denomination, sect or church; and
- (d) The names and addresses of the persons who are to supervise the winding up of the affairs of the corporation.

Upon approval of such declaration of dissolution by the Commission, the corporation shall cease to carry on its operations except for the purpose of winding up its affairs.

SEC. 114. *Religious Societies.* — Unless forbidden by competent authority, the Constitution, pertinent rules, regulations, or discipline of the religious denomination, sect or church of which it is a part, any religious society, religious order, diocese, or synod, or district organization of any religious denomination, sect or church, may, upon written consent and/or by an affirmative vote at a meeting called for the purpose of at least two-thirds (2/3) of its membership, incorporate for the administration of its temporalities or for the management of its affairs, properties, and estate by filing with the Commission, articles of incorporation verified by the affidavit of the presiding elder, secretary, or clerk or other member of such religious society or religious order, or diocese, synod, or district organization of the religious denomination, sect or church, setting forth the following:

- (a) That the religious society or religious order, or diocese, synod, or district organization is a religious organization of a religious denomination, sect or church;

- (b) That at least two-thirds (2/3) of its membership has given written consent or has voted to incorporate, at a duly convened meeting of the body;
- (c) That the incorporation of the religious society or religious order, or diocese, synod, or district organization is not forbidden by competent authority or by the Constitution, rules, regulations or discipline of the religious denomination, sect or church of which it forms part;
- (d) That the religious society or religious order, or diocese, synod, or district organization desires to incorporate for the administration of its affairs, properties and estate;
- (e) The place within the Philippines where the principal office of the corporation is to be established and located; and
- (f) The names, nationalities, and residence addresses of the trustees, not less than five (5) nor more than fifteen (15), elected by the religious society or religious order, or the diocese, synod, or district organization to serve for the first year or such other period as may be prescribed by the laws of the religious society or religious order, or of the diocese, synod, or district organization.

### CHAPTER III

#### ONE PERSON CORPORATIONS

SEC. 115. *Applicability of Provisions to One Person Corporations.* – The provisions of this Title shall primarily apply to One Person Corporations. Other provisions of this Code apply suppletorily, except as otherwise provided in this Title.

SEC. 116. *One Person Corporation.* – A One Person Corporation is a corporation with a single stockholder: *Provided*, That only a natural person, trust, or an estate may form a One Person Corporation.

Banks and quasi-banks, preneed, trust, insurance, public and publicly-listed companies, and non-chartered government-owned and -controlled corporations may not incorporate as One Person Corporations: *Provided, further*, That a natural person

who is licensed to exercise a profession may not organize as a One Person Corporation for the purpose of exercising such profession except as otherwise provided under special laws.

*SEC. 117. Minimum Capital Stock Not Required for One Person Corporation.* – A One Person Corporation shall not be required to have a minimum authorized capital stock except as otherwise provided by special law.

*SEC. 118. Articles of Incorporation.* – A One Person Corporation shall file articles of incorporation in accordance with the requirements under Section 14 of this Code. It shall likewise substantially contain the following:

(a) If the single stockholder is a trust or an estate, the name, nationality, and residence of the trustee, administrator, executor, guardian, conservator, custodian, or other person exercising fiduciary duties together with the proof of such authority to act on behalf of the trust or estate; and

(b) Name, nationality, residence of the nominee and alternate nominee, and the extent, coverage and limitation of the authority.

*SEC. 119. Bylaws.* – The One Person Corporation is not required to submit and file corporate bylaws.

*SEC. 120. Display of Corporate Name.* – A One Person Corporation shall indicate the letters "OPC" either below or at the end of its corporate name.

*SEC. 121. Single Stockholder as Director, President.* – The single stockholder shall be the sole director and president of the One Person Corporation.

*SEC. 122. Treasurer, Corporate Secretary, and Other Officers.* – Within fifteen (15) days from the issuance of its certificate of incorporation, the One Person Corporation shall appoint a treasurer, corporate secretary, and other officers as it may deem necessary, and notify the Commission thereof within five (5) days from appointment.

The single stockholder may not be appointed as the corporate secretary.

A single stockholder who is likewise the self-appointed treasurer of the corporation shall give a bond to the Commission in such a sum as may be required: *Provided*, That the said stockholder/treasurer shall undertake in writing to faithfully administer the One Person Corporation's funds to be received as treasurer, and to disburse and invest the same according to the articles of incorporation as approved by the Commission. The bond shall be renewed every two (2) years or as often as may be required.

*SEC. 123. Special Functions of the Corporate Secretary.*

– In addition to the functions designated by the One Person Corporation, the corporate secretary shall:

- (a) Be responsible for maintaining the minutes book and/or records of the corporation;
- (b) Notify the nominee or alternate nominee of the death or incapacity of the single stockholder, which notice shall be given no later than five (5) days from such occurrence;
- (c) Notify the Commission of the death of the single stockholder within five (5) days from such occurrence and stating in such notice the names, residence addresses, and contact details of all known legal heirs; and
- (d) Call the nominee or alternate nominee and the known legal heirs to a meeting and advise the legal heirs with regard to, among others, the election of a new director, amendment of the articles of incorporation, and other ancillary and/or consequential matters.

*SEC. 124. Nominee and Alternate Nominee.* – The single stockholder shall designate a nominee and an alternate nominee who shall, in the event of the single stockholder's death or incapacity, take the place of the single stockholder as director and shall manage the corporation's affairs.

The articles of incorporation shall state the names, residence addresses and contact details of the nominee and alternate nominee, as well as the extent and limitations of their authority in managing the affairs of the One Person Corporation.

The written consent of the nominee and alternate nominee shall be attached to the application for incorporation. Such consent may be withdrawn in writing any time before the death or incapacity of the single stockholder.

*SEC. 125. Term of Nominee and Alternate Nominee.* — When the incapacity of the single stockholder is temporary, the nominee shall sit as director and manage the affairs of the One Person Corporation until the stockholder, by self determination, regains the capacity to assume such duties.

In case of death or permanent incapacity of the single stockholder, the nominee shall sit as director and manage the affairs of the One Person Corporation until the legal heirs of the single stockholder have been lawfully determined, and the heirs have designated one of them or have agreed that the estate shall be the single stockholder of the One Person Corporation.

The alternate nominee shall sit as director and manage the One Person Corporation in case of the nominee's inability, incapacity, death, or refusal to discharge the functions as director and manager of the corporation, and only for the same term and under the same conditions applicable to the nominee.

*SEC. 126. Change of Nominee or Alternate Nominee.* — The single stockholder may, at any time, change its nominee and alternate nominee by submitting to the Commission the names of the new nominees and their corresponding written consent. For this purpose, the articles of incorporation need not be amended.

*SEC. 127. Minutes Book.* — A One Person Corporation shall maintain a minutes book which shall contain all actions, decisions, and resolutions taken by the One Person Corporation.

*SEC. 128. Records in Lieu of Meetings.* — When action is needed on any matter, it shall be sufficient to prepare a written resolution, signed and dated by the single stockholder, and recorded in the minutes book of the One Person Corporation. The date of recording in the minutes book shall be deemed to be the date of the meeting for all purposes under this Code.

SEC. 129. *Reportorial Requirements.* – The One Person Corporation shall submit the following within such period as the Commission may prescribe:

- (a) Annual financial statements audited by an independent certified public accountant: *Provided*, That if the total assets or total liabilities of the corporation are less than Six hundred thousand pesos (P600,000.00), the financial statements shall be certified under oath by the corporation's treasurer and president;
- (b) A report containing explanations or comments by the president on every qualification, reservation, or adverse remark or disclaimer made by the auditor in the latter's report;
- (c) A disclosure of all self-dealings and related party transactions entered into between the One Person Corporation and the single stockholder; and
- (d) Other reports as the Commission may require.

For purposes of this provision, the fiscal year of a One Person Corporation shall be that set forth in its articles of incorporation or, in the absence thereof, the calendar year.

The Commission may place the corporation under delinquent status should the corporation fail to submit the reportorial requirements three (3) times, consecutively or intermittently, within a period of five (5) years.

SEC. 130. *Liability of Single Shareholder.* – A sole shareholder claiming limited liability has the burden of affirmatively showing that the corporation was adequately financed.

Where the single stockholder cannot prove that the property of the One Person Corporation is independent of the stockholder's personal property, the stockholder shall be jointly and severally liable for the debts and other liabilities of the One Person Corporation.

The principles of piercing the corporate veil applies with equal force to One Person Corporations as with other corporations.

*SEC. 131. Conversion from an Ordinary Corporation to a One Person Corporation.* – When a single stockholder acquires all the stocks of an ordinary stock corporation, the latter may apply for conversion into a One Person Corporation, subject to the submission of such documents as the Commission may require. If the application for conversion is approved, the Commission shall issue a certificate of filing of amended articles of incorporation reflecting the conversion. The One Person Corporation converted from an ordinary stock corporation shall succeed the latter and be legally responsible for all the latter's outstanding liabilities as of the date of conversion.

*SEC. 132. Conversion from a One Person Corporation to an Ordinary Stock Corporation.* – A One Person Corporation may be converted into an ordinary stock corporation after due notice to the Commission of such fact and of the circumstances leading to the conversion, and after compliance with all other requirements for stock corporations under this Code and applicable rules. Such notice shall be filed with the Commission within sixty (60) days from the occurrence of the circumstances leading to the conversion into an ordinary stock corporation. If all requirements have been complied with, the Commission shall issue a certificate of filing of amended articles of incorporation reflecting the conversion.

In case of death of the single stockholder, the nominee or alternate nominee shall transfer the shares to the duly designated legal heir or estate within seven (7) days from receipt of either an affidavit of heirship or self-adjudication executed by a sole heir, or any other legal document declaring the legal heirs of the single stockholder and notify the Commission of the transfer. Within sixty (60) days from the transfer of the shares, the legal heirs shall notify the Commission of their decision to either wind up and dissolve the One Person Corporation or convert it into an ordinary stock corporation.

The ordinary stock corporation converted from a One Person Corporation shall succeed the latter and be legally responsible for all the latter's outstanding liabilities as of the date of conversion.

## TITLE XIV

## DISSOLUTION

SEC. 133. *Methods of Dissolution.* – A corporation formed or organized under the provisions of this Code may be dissolved voluntarily or involuntarily.

SEC. 134. *Voluntary Dissolution Where No Creditors are Affected.* – If dissolution of a corporation does not prejudice the rights of any creditor having a claim against it, the dissolution may be effected by majority vote of the board of directors or trustees, and by a resolution adopted by the affirmative vote of the stockholders owning at least majority of the outstanding capital stock or majority of the members of a meeting to be held upon the call of the directors or trustees.

At least twenty (20) days prior to the meeting, notice shall be given to each shareholder or member of record personally, by registered mail, or by any means authorized under its bylaws, whether or not entitled to vote at the meeting, in the manner provided in Section 50 of this Code and shall state that the purpose of the meeting is to vote on the dissolution of the corporation. Notice of the time, place, and object of the meeting shall be published once prior to the date of the meeting in a newspaper published in the place where the principal office of said corporation is located, or if no newspaper is published in such place, in a newspaper of general circulation in the Philippines.

A verified request for dissolution shall be filed with the Commission stating: (a) the reason for the dissolution; (b) the form, manner, and time when the notices were given; (c) names of the stockholders and directors or members and trustees who approved the dissolution; (d) the date, place, and time of the meeting in which the vote was made; and (e) details of publication.

The corporation shall submit the following to the Commission: (1) a copy of the resolution authorizing the dissolution, certified by a majority of the board of directors or trustees and countersigned by the secretary of the corporation;

(2) proof of publication; and (3) favorable recommendation from the appropriate regulatory agency, when necessary.

Within fifteen (15) days from receipt of the verified request for dissolution, and in the absence of any withdrawal within said period, the Commission shall approve the request and issue the certificate of dissolution. The dissolution shall take effect only upon the issuance by the Commission of a certificate of dissolution.

No application for dissolution of banks, banking and quasi-banking institutions, preneed, insurance and trust companies, NSSLAs, pawnshops, and other financial intermediaries shall be approved by the Commission unless accompanied by a favorable recommendation of the appropriate government agency.

*SEC. 135. Voluntary Dissolution Where Creditors are Affected; Procedure and Contents of Petition.* – Where the dissolution of a corporation may prejudice the rights of any creditor, a verified petition for dissolution shall be filed with the Commission. The petition shall be signed by a majority of the corporation's board of directors or trustees, verified by its president or secretary or one of its directors or trustees, and shall set forth all claims and demands against it, and that its dissolution was resolved upon by the affirmative vote of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock or at least two-thirds (2/3) of the members at a meeting of its stockholders or members called for that purpose. The petition shall likewise state: (a) the reason for the dissolution; (b) the form, manner, and time when the notices were given; and (c) the date, place, and time of the meeting in which the vote was made. The corporation shall submit to the Commission the following: (1) a copy of the resolution authorizing the dissolution, certified by a majority of the board of directors or trustees and countersigned by the secretary of the corporation; and (2) a list of all its creditors.

If the petition is sufficient in form and substance, the Commission shall, by an order reciting the purpose of the petition, fix a deadline for filing objections to the petition which date shall not be less than thirty (30) days nor more than

sixty (60) days after the entry of the order. Before such date, a copy of the order shall be published at least once a week for three (3) consecutive weeks in a newspaper of general circulation published in the municipality or city where the principal office of the corporation is situated, or if there be no such newspaper, then in a newspaper of general circulation in the Philippines, and a similar copy shall be posted for three (3) consecutive weeks in three (3) public places in such municipality or city.

Upon five (5) days' notice, given after the date on which the right to file objections as fixed in the order has expired, the Commission shall proceed to hear the petition and try any issue raised in the objections filed; and if no such objection is sufficient, and the material allegations of the petition are true, it shall render judgment dissolving the corporation and directing such disposition of its assets as justice requires, and may appoint a receiver to collect such assets and pay the debts of the corporation.

The dissolution shall take effect only upon the issuance by the Commission of a certificate of dissolution.

**SEC. 136. *Dissolution by Shortening Corporate Term.*** — A voluntary dissolution may be effected by amending the articles of incorporation to shorten the corporate term pursuant to the provisions of this Code. A copy of the amended articles of incorporation shall be submitted to the Commission in accordance with this Code.

Upon the expiration of the shortened term, as stated in the approved amended articles of incorporation, the corporation shall be deemed dissolved without any further proceedings, subject to the provisions of this Code on liquidation.

In the case of expiration of corporate term, dissolution shall automatically take effect on the day following the last day of the corporate term stated in the articles of incorporation, without the need for the issuance by the Commission of a certificate of dissolution.

**SEC. 137. *Withdrawal of Request and Petition for Dissolution.*** — A withdrawal of the request for dissolution shall

be made in writing, duly verified by any incorporator, director, trustee, shareholder, or member and signed by the same number of incorporators, directors, trustees, shareholders, or members necessary to request for dissolution as set forth in the foregoing sections. The withdrawal shall be submitted no later than fifteen (15) days from receipt by the Commission of the request for dissolution. Upon receipt of a withdrawal of request for dissolution, the Commission shall withhold action on the request for dissolution and shall, after investigation: (a) make a pronouncement that the request for dissolution is deemed withdrawn; (b) direct a joint meeting of the board of directors or trustees and the stockholders or members for the purpose of ascertaining whether to proceed with dissolution; or (c) issue such other orders as it may deem appropriate.

A withdrawal of the petition for dissolution shall be in the form of a motion and similar in substance to a withdrawal of request for dissolution but shall be verified and filed prior to publication of the order setting the deadline for filing objections to the petition.

SEC. 138. *Involuntary Dissolution.* — A corporation may be dissolved by the Commission *motu proprio* or upon filing of a verified complaint by any interested party. The following may be grounds for dissolution of the corporation:

- (a) Non-use of corporate charter as provided under Section 21 of this Code;
- (b) Continuous inoperation of a corporation as provided under Section 21 of this Code;
- (c) Upon receipt of a lawful court order dissolving the corporation;
- (d) Upon finding by final judgment that the corporation procured its incorporation through fraud;
- (e) Upon finding by final judgment that the corporation:
  - (1) Was created for the purpose of committing, concealing or aiding the commission of securities violations, smuggling, tax evasion, money laundering, or graft and corrupt practices;

(2) Committed or aided in the commission of securities violations, smuggling, tax evasion, money laundering, or graft and corrupt practices, and its stockholders knew of the same; and

(3) Repeatedly and knowingly tolerated the commission of graft and corrupt practices or other fraudulent or illegal acts by its directors, trustees, officers, or employees.

If the corporation is ordered dissolved by final judgment pursuant to the grounds set forth in subparagraph (e) hereof, its assets, after payment of its liabilities, shall, upon petition of the Commission with the appropriate court, be forfeited in favor of the national government. Such forfeiture shall be without prejudice to the rights of innocent stockholders and employees for services rendered, and to the application of other penalty or sanction under this Code or other laws.

The Commission shall give reasonable notice to, and coordinate with, the appropriate regulatory agency prior to the involuntary dissolution of companies under their special regulatory jurisdiction.

SEC. 139. *Corporate Liquidation.* — Except for banks, which shall be covered by the applicable provisions of Republic Act No. 7653, otherwise known as "The New Central Bank Act", as amended, and Republic Act No. 3591, otherwise known as the Philippine Deposit Insurance Corporation Charter, as amended, every corporation whose charter expires pursuant to its articles of incorporation, is annulled by forfeiture, or whose corporate existence is terminated in any other manner, shall nevertheless remain as a body corporate for three (3) years after the effective date of dissolution, for the purpose of prosecuting and defending suits by or against it and enabling it to settle and close its affairs, dispose of and convey its property, and distribute its assets, but not for the purpose of continuing the business for which it was established.

At any time during said three (3) years, the corporation is authorized and empowered to convey all of its property to trustees for the benefit of stockholders, members, creditors and other persons in interest. After any such conveyance by the corporation of its property in trust for the benefit of its stockholders, members, creditors and others in interest, all

interest which the corporation had in the property terminates, the legal interest vests in the trustees, and the beneficial interest in the stockholders, members, creditors or other persons-in-interest.

Except as otherwise provided for in Sections 93 and 94 of this Code, upon the winding up of corporate affairs, any asset distributable to any creditor or stockholder or member who is unknown or cannot be found shall be escheated in favor of the national government.

Except by decrease of capital stock and as otherwise allowed by this Code, no corporation shall distribute any of its assets or property except upon lawful dissolution and after payment of all its debts and liabilities.

## TITLE XV

### FOREIGN CORPORATIONS

#### SEC. 140. *Definition and Rights of Foreign Corporations.*

— For purposes of this Code, a foreign corporation is one formed, organized or existing under laws other than those of the Philippines' and whose laws allow Filipino citizens and corporations to do business in its own country or State. It shall have the right to transact business in the Philippines after obtaining a license for that purpose in accordance with this Code and a certificate of authority from the appropriate government agency.

#### SEC. 141. *Application to Existing Foreign Corporations.*

— Every foreign corporation which, on the date of the effectivity of this Code, is authorized to do business in the Philippines under a license issued to it shall continue to have such authority under the terms and conditions of its license, subject to the provisions of this Code and other special laws.

SEC. 142. *Application for a License.* — A foreign corporation applying for a license to transact business in the Philippines shall submit to the Commission a copy of its articles of incorporation and bylaws, certified in accordance with law, and their translation to an official language of the Philippines, if necessary. The application shall be under oath

and, unless already stated in its articles of incorporation, shall specifically set forth the following:

- (a) The date and term of incorporation;
- (b) The address, including the street number, of the principal office of the corporation in the country or State of incorporation;
- (c) The name and address of its resident agent authorized to accept summons and process in all legal proceedings and all notices affecting the corporation, pending the establishment of a local office;
- (d) The place in the Philippines where the corporation intends to operate;
- (e) The specific purpose or purposes which the corporation intends to pursue in the transaction of its business in the Philippines: *Provided*, That said purpose or purposes are those specifically stated in the certificate of authority issued by the appropriate government agency;
- (f) The names and addresses of the present directors and officers of the corporation;
- (g) A statement of its authorized capital stock and the aggregate number of shares which the corporation has authority to issue, itemized by class, par value of shares, shares without par value, and series, if any;
- (h) A statement of its outstanding capital stock and the aggregate number of shares which the corporation has issued, itemized by class, par value of shares, shares without par value, and series, if any;
- (i) A statement of the amount actually paid in; and
- (j) Such additional information as may be necessary or appropriate in order to enable the Commission to determine whether such corporation is entitled to a license to transact business in the Philippines, and to determine and assess the fees payable.

Attached to the application for license shall be a certificate under oath duly executed by the authorized official or officials of the jurisdiction of its incorporation, attesting to the fact that the laws of the country or State of the applicant allow Filipino citizens and corporations to do business therein, and that the applicant is an existing corporation in good standing. If the certificate is in a foreign language, a translation thereof in English under oath of the translator shall be attached to the application.

The application for a license to transact business in the Philippines shall likewise be accompanied by a statement under oath of the president or any other person authorized by the corporation, showing to the satisfaction of the Commission and when appropriate, other governmental agencies that the applicant is solvent and in sound financial condition, setting forth the assets and liabilities of the corporation as of the date not exceeding one (1) year immediately prior to the filing of the application.

Foreign banking, financial, and insurance corporations shall, in addition to the above requirements, comply with the provisions of existing laws applicable to them. In the case of all other foreign corporations, no application for license to transact business in the Philippines shall be accepted by the Commission without previous authority from the appropriate government agency, whenever required by law.

*SEC. 143. Issuance of a License.* — If the Commission is satisfied that the applicant has complied with all the requirements of this Code and other special laws, rules and regulations, the Commission shall issue a license to transact business in the Philippines to the applicant for the purpose or purposes specified in such license. Upon issuance of the license, such foreign corporation may commence to transact business in the Philippines and continue to do so for as long as it retains its authority to act as a corporation under the laws of the country or State of its incorporation, unless such license is sooner surrendered, revoked, suspended, or annulled in accordance with this Code or other special laws. Within sixty (60) days after the issuance of the license to transact business in the Philippines, the licensee, except foreign banking or insurance corporations, shall deposit with the Commission for the benefit of present and future creditors of the licensee in

the Philippines, securities satisfactory to the Commission, consisting of bonds or other evidence of indebtedness of the Government of the Philippines, its political subdivisions and instrumentalities, or of government-owned or -controlled corporations and entities, shares of stock or debt securities that are registered under Republic Act No. 8799, otherwise known as "The Securities Regulation Code", shares of stock in domestic corporations listed in the stock exchange, shares of stock in domestic insurance companies and banks, any financial instrument determined suitable by the Commission, or any combination thereof with an actual market value of at least Five hundred thousand pesos (P500,000.00) or such other amount that may be set by the Commission: *Provided, however,* That within six (6) months after each fiscal year of the licensee, the Commission shall require the licensee to deposit additional securities or financial instruments equivalent in actual market value to two percent (2%) of the amount by which the licensee's gross income for that fiscal year exceeds Ten million pesos (P10,000,000.00). The Commission shall also require the deposit of additional securities or financial instruments if the actual market value of the deposited securities or financial instruments has decreased by at least ten percent (10%) of their actual market value at the time they were deposited. The Commission may, at its discretion, release part of the additional deposit if the gross income of the licensee has decreased, or if the actual market value of the total deposit has increased, by more than ten percent (10%) of their actual market value at the time they were deposited. The Commission may, from time to time, allow the licensee to make substitute deposits for those already on deposit as long as the licensee is solvent. Such licensee shall be entitled to collect the interest or dividends on such deposits. In the event the licensee ceases to do business in the Philippines, its deposits shall be returned, upon the licensee's application and upon proof to the satisfaction of the Commission that the licensee has no liability to Philippine residents, including the Government of the Republic of the Philippines. For purposes of computing the securities deposit, the composition of gross income and allowable deductions therefrom shall be in accordance with the rules of the Commission.

SEC. 144. *Who May be a Resident Agent.* – A resident agent may be either an individual residing in the Philippines

or a domestic corporation lawfully transacting business in the Philippines: *Provided*, That an individual resident agent must be of good moral character and of sound financial standing: *Provided, further*, That in case of a domestic corporation who will act as a resident agent, it must likewise be of sound financial standing and must show proof that it is in good standing as certified by the Commission.

*SEC. 145. Resident Agent; Service of Process.* – As a condition to the issuance of the license for a foreign corporation to transact business in the Philippines, such corporation shall file with the Commission a written power of attorney designating a person who must be a resident of the Philippines, on whom summons and other legal processes may be served in all actions or other legal proceedings against such corporation, and consenting that service upon such resident agent shall be admitted and held as valid as if served upon the duly authorized officers of the foreign corporation at its home office. Such foreign corporation shall likewise execute and file with the Commission an agreement or stipulation, executed by the proper authorities of said corporation, in form and substance as follows:

“The (name of foreign corporation) hereby stipulates and agrees, in consideration of being granted a license to transact business in the Philippines, that if the corporation shall cease to transact business in the Philippines, or shall be without any resident agent in the Philippines on whom any summons or other legal process may be served, then service of any summons or other legal process may be made upon the Commission in any action or proceeding arising out of any business or transaction which occurred in the Philippines and such service shall have the same force and effect as if made upon the duly authorized officers of the corporation at its home office.”

Whenever such service of summons or other process is made upon the Commission, the Commission shall, within ten (10) days thereafter, transmit by mail a copy of such summons or other legal process to the corporation at its home or principal office. The sending of such copy by the Commission shall be a necessary part of and shall complete such service. All expenses incurred by the Commission for such service shall

be paid in advance by the party at whose instance the service is made.

It shall be the duty of the resident agent to immediately notify the Commission in writing of any change in the resident agent's address.

SEC. 146. *Law Applicable.* – A foreign corporation lawfully doing business in the Philippines shall be bound by all laws, rules and regulations applicable to domestic corporations of the same class, except those which provide for the creation, formation, organization or dissolution of corporations or those which fix the relations, liabilities, responsibilities, or duties of stockholders, members, or officers of corporations to each other or to the corporation.

SEC. 147. *Amendments to Articles of Incorporation or Bylaws of Foreign Corporations.* – Whenever the articles of incorporation or bylaws of a foreign corporation authorized to transact business in the Philippines are amended, such foreign corporation shall, within sixty (60) days after the amendment becomes effective, file with the Commission, and in proper cases, with the appropriate government agency, a duly authenticated copy of the amended articles of incorporation or bylaws, indicating clearly in capital letters or underscoring the change or changes made, duly certified by the authorized official or officials of the country or State of incorporation. Such filing shall not in itself enlarge or alter the purpose or purposes for which such corporation is authorized to transact business in the Philippines.

SEC. 148. *Amended License.* – A foreign corporation authorized to transact business in the Philippines shall obtain an amended license in the event it changes its corporate name, or desires to pursue other or additional purposes in the Philippines, by submitting an application with the Commission, favorably endorsed by the appropriate government agency in the proper cases.

SEC. 149. *Merger or Consolidation Involving a Foreign Corporation Licensed in the Philippines.* – One or more foreign corporations authorized to transact business in the Philippines may merge or consolidate with any domestic corporation or

corporations if permitted under Philippine laws and by the law of its incorporation: *Provided*, That the requirements on merger or consolidation as provided in this Code are followed.

Whenever a foreign corporation authorized to transact business in the Philippines shall be a party to a merger or consolidation in its home country or State as permitted by the law authorizing its incorporation, such foreign corporation shall, within sixty (60) days after the effectivity of such merger or consolidation, file with the Commission, and in proper cases, with the appropriate government agency, a copy of the articles of merger or consolidation duly authenticated by the proper official or officials of the country or State under whose laws the merger or consolidation was effected: *Provided, however*, That if the absorbed corporation is the foreign corporation doing business in the Philippines, the latter shall at the same time file a petition for withdrawal of its license in accordance with this Title.

SEC. 150. *Doing Business Without a License.* – No foreign corporation transacting business in the Philippines without a license, or its successors or assigns, shall be permitted to maintain or intervene in any action, suit or proceeding in any court or administrative agency of the Philippines; but such corporation may be sued or proceeded against before Philippine courts or administrative tribunals on any valid cause of action recognized under Philippine laws.

SEC. 151. *Revocation of License.* – Without prejudice to other grounds provided under special laws, the license of a foreign corporation to transact business in the Philippines may be revoked or suspended by the Commission upon any of the following grounds:

- (a) Failure to file its annual report or pay any fees as required by this Code;
- (b) Failure to appoint and maintain a resident agent in the Philippines as required by this Title;
- (c) Failure, after change of its resident agent or address, to submit to the Commission a statement of such change as required by this Title;

- (d) Failure to submit to the Commission an authenticated copy of any amendment to its articles of incorporation or bylaws or of any articles of merger or consolidation within the time prescribed by this Title;
- (e) A misrepresentation of any material matter in any application, report, affidavit or other document submitted by such corporation pursuant to this Title;
- (f) Failure to pay any and all taxes, imposts, assessments or penalties, if any, lawfully due to the Philippine Government or any of its agencies or political subdivisions;
- (g) Transacting business in the Philippines outside of the purpose or purposes for which such corporation is authorized under its license;
- (h) Transacting business in the Philippines as agent of or acting on behalf of any foreign corporation or entity not duly licensed to do business in the Philippines; or
- (i) Any other ground as would render it unfit to transact business in the Philippines.

SEC. 152. *Issuance of Certificate of Revocation.* – Upon the revocation of the license to transact business in the Philippines, the Commission shall issue a corresponding certificate of revocation, furnishing a copy thereof to the appropriate government agency in the proper cases.

The Commission shall also mail the notice and copy of the certificate of revocation to the corporation, at its registered office in the Philippines.

SEC. 153. *Withdrawal of Foreign Corporations.* – Subject to existing laws and regulations, a foreign corporation licensed to transact business in the Philippines may be allowed to withdraw from the Philippines by filing a petition for withdrawal of license. No certificate of withdrawal shall be issued by the Commission unless all the following requirements are met:

- (a) All claims which have accrued in the Philippines have been paid, compromised or settled;
- (b) All taxes, imposts, assessments, and penalties, if any, lawfully due to the Philippine Government or any of its agencies or political subdivisions, have been paid; and
- (c) The petition for withdrawal of license has been published once a week for three (3) consecutive weeks in a newspaper of general circulation in the Philippines.

## TITLE XVI

### INVESTIGATIONS, OFFENSES, AND PENALTIES

SEC. 154. *Investigation and Prosecution of Offenses.* – The Commission may investigate an alleged violation of this Code, or of a rule, regulation, or order of the Commission.

The Commission may publish its findings, orders, opinions, advisories, or information concerning any such violation, as may be relevant to the general public or to the parties concerned, subject to the provisions of Republic Act No. 10173, otherwise known as the "Data Privacy Act of 2012", and other pertinent laws.

The Commission shall give reasonable notice to and coordinate with the appropriate regulatory agency prior to any such publication involving companies under their regulatory jurisdiction.

SEC. 155. *Administration of Oaths, Subpoena of Witnesses and Documents.* – The Commission, through its designated officer, may administer oaths and affirmations, issue subpoena and subpoena duces tecum, take testimony in any inquiry or investigation, and may perform other acts necessary to the proceedings or to the investigation.

SEC. 156. *Cease and Desist Orders.* – Whenever the Commission has reasonable basis to believe that a person has violated, or is about to violate this Code, a rule, regulation, or order of the Commission, it may direct such person to desist from committing the act constituting the violation.

The Commission may issue a cease and desist order *ex parte* to enjoin an act or practice which is fraudulent or can be reasonably expected to cause significant, imminent, and irreparable danger or injury to public safety or welfare. The *ex parte* order shall be valid for a maximum period of twenty (20) days, without prejudice to the order being made permanent after due notice and hearing.

Thereafter, the Commission may proceed administratively against such person in accordance with Section 158 of this Code, and/or transmit evidence to the Department of Justice for preliminary investigation or criminal prosecution and/or initiate criminal prosecution for any violation of this Code, rule, or regulation.

SEC. 157. *Contempt.* — Any person who, without justifiable cause, fails or refuses to comply with any lawful order, decision, or *subpoena* issued by the Commission shall, after due notice and hearing, be held in contempt and fined in an amount not exceeding Thirty thousand pesos (P30,000.00). When the refusal amounts to clear and open defiance of the Commission's order, decision, or *subpoena*, the Commission may impose a daily fine of One thousand pesos (P1,000.00) until the order, decision, or *subpoena* is complied with.

SEC. 158. *Administrative Sanctions.* — If, after due notice and hearing, the Commission finds that any provision of this Code, rules or regulations, or any of the Commission's orders has been violated, the Commission may impose any or all of the following sanctions, taking into consideration the extent of participation, nature, effects, frequency and seriousness of the violation:

- (a) Imposition of a fine ranging from Five thousand pesos (P5,000.00) to Two million pesos (P2,000,000.00), and not more than One thousand pesos (P1,000.00) for each day of continuing violation but in no case to exceed Two million pesos (P2,000,000.00);
- (b) Issuance of a permanent cease and desist order;
- (c) Suspension or revocation of the certificate of incorporation; and

(d) Dissolution of the corporation and forfeiture of its assets under the conditions in Title XIV of this Code.

SEC. 159. *Unauthorized Use of Corporate Name; Penalties.* – The unauthorized use of a corporate name shall be punished with a fine ranging from Ten thousand pesos (P10,000.00) to Two hundred thousand pesos (P200,000.00).

SEC. 160. *Violation of Disqualification Provision; Penalties.* – When, despite the knowledge of the existence of a ground for disqualification as provided in Section 26 of this Code, a director, trustee or officer willfully holds office, or willfully conceals such disqualification, such director, trustee or officer shall be punished with a fine ranging from Ten thousand pesos (P10,000.00) to Two hundred thousand pesos (P200,000.00) at the discretion of the court, and shall be permanently disqualified from being a director, trustee or officer of any corporation. When the violation of this provision is injurious or detrimental to the public, the penalty shall be a fine ranging from Twenty thousand pesos (P20,000.00) to Four hundred thousand pesos (P400,000.00).

SEC. 161. *Violation of Duty to Maintain Records, to Allow their Inspection or Reproduction; Penalties.* – The unjustified failure or refusal by the corporation, or by those responsible for keeping and maintaining corporate records, to comply with Sections 45, 73, 92, 128, 177 and other pertinent rules and provisions of this Code on inspection and reproduction of records shall be punished with a fine ranging from Ten thousand pesos (P10,000.00) to Two hundred thousand pesos (P200,000.00), at the discretion of the court, taking into consideration the seriousness of the violation and its implications. When the violation of this provision is injurious or detrimental to the public, the penalty is a fine ranging from Twenty thousand pesos (P20,000.00) to Four hundred thousand pesos (P400,000.00).

The penalties imposed under this section shall be without prejudice to the Commission's exercise of its contempt powers under Section 157 hereof.

SEC. 162. *Willful Certification of Incomplete, Inaccurate, False, or Misleading Statements or Reports; Penalties.* – Any person who willfully certifies a report required under this Code,

knowing that the same contains incomplete, inaccurate, false, or misleading information or statements, shall be punished with a fine ranging from Twenty thousand pesos (P20,000.00) to Two hundred thousand pesos (P200,000.00). When the wrongful certification is injurious or detrimental to the public, the auditor or the responsible person may also be punished with a fine ranging from Forty thousand pesos (P40,000.00) to Four hundred thousand pesos (P400,000.00).

*SEC. 163. Independent Auditor Collusion; Penalties.* – An independent auditor who, in collusion with the corporation's directors or representatives, certifies the corporation's financial statements despite its incompleteness or inaccuracy, its failure to give a fair and accurate presentation of the corporation's condition, or despite containing false or misleading statements, shall be punished with a fine ranging from Eighty thousand pesos (P80,000.00) to Five hundred thousand pesos (P500,000.00). When the statement or report certified is fraudulent, or has the effect of causing injury to the general public, the auditor or responsible officer may be punished with a fine ranging from One hundred thousand pesos (P100,000.00) to Six hundred thousand pesos (P600,000.00).

*SEC. 164. Obtaining Corporate Registration Through Fraud; Penalties.* – Those responsible for the formation of a corporation through fraud, or who assisted directly or indirectly therein, shall be punished with a fine ranging from Two hundred thousand pesos (P200,000.00) to Two million pesos (P2,000,000.00). When the violation of this provision is injurious or detrimental to the public, the penalty is a fine ranging from Four hundred thousand pesos (P400,000.00) to Five million pesos (P5,000,000.00).

*SEC. 165. Fraudulent Conduct of Business; Penalties.* – A corporation that conducts its business through fraud shall be punished with a fine ranging from Two hundred thousand pesos (P200,000.00) to Two million pesos (P2,000,000.00). When the violation of this provision is injurious or detrimental to the public, the penalty is a fine ranging from Four hundred thousand pesos (P400,000.00) to Five million pesos (P5,000,000.00).

*SEC. 166. Acting as Intermediaries for Graft and Corrupt Practices; Penalties.* – A corporation used for fraud, or for committing or concealing graft and corrupt practices as defined under pertinent statutes, shall be liable for a fine ranging from One hundred thousand pesos (P100,000.00) to Five million pesos (P5,000,000.00).

When there is a finding that any of its directors, officers, employees, agents, or representatives are engaged in graft and corrupt practices, the corporation's failure to install: (a) safeguards for the transparent and lawful delivery of services; and (b) policies, code of ethics, and procedures against graft and corruption shall be *prima facie* evidence of corporate liability under this section.

*SEC. 167. Engaging Intermediaries for Graft and Corrupt Practices; Penalties.* – A corporation that appoints an intermediary who engages in graft and corrupt practices for the corporation's benefit or interest shall be punished with a fine ranging from One hundred thousand pesos (P100,000.00) to One million pesos (P1,000,000.00).

*SEC. 168. Tolerating Graft and Corrupt Practices; Penalties.* – A director, trustee, or officer who knowingly fails to sanction, report, or file the appropriate action with proper agencies, allows or tolerates the graft and corrupt practices or fraudulent acts committed by a corporation's directors, trustees, officers, or employees shall be punished with a fine ranging from Five hundred thousand pesos (P500,000.00) to One million pesos (P1,000,000.00).

*SEC. 169. Retaliation Against Whistleblowers.* – A whistleblower refers to any person who provides truthful information relating to the commission or possible commission of any offense or violation under this Code. Any person who, knowingly and with intent to retaliate, commits acts detrimental to a whistleblower such as interfering with the lawful employment or livelihood of the whistleblower, shall, at the discretion of the court, be punished with a fine ranging from One hundred thousand pesos (P100,000.00) to One million pesos (P1,000,000.00).

SEC. 170. *Other Violations of the Code; Separate Liability.* – Violations of any of the other provisions of this Code or its amendments not otherwise specifically penalized therein shall be punished by a fine of not less than Ten thousand pesos (P10,000.00) but not more than One million pesos (P1,000,000.00). If the violation is committed by a corporation, the same may, after notice and hearing, be dissolved in appropriate proceedings before the Commission: *Provided*, That such dissolution shall not preclude the institution of appropriate action against the director, trustee, or officer of the corporation responsible for said violation: *Provided, further*, That nothing in this section shall be construed to repeal the other causes for dissolution of a corporation provided in this Code.

Liability for any of the foregoing offenses shall be separate from any other administrative, civil, or criminal liability under this Code and other laws.

SEC. 171. *Liability of Directors, Trustees, Officers, or Other Employees.* – If the offender is a corporation, the penalty may, at the discretion of the court, be imposed upon such corporation and/or upon its directors, trustees, stockholders, members, officers, or employees responsible for the violation or indispensable to its commission.

SEC. 172. *Liability of Aiders and Abettors and Other Secondary Liability.* – Anyone who shall aid, abet, counsel, command, induce, or cause any violation of this Code, or any rule, regulation, or order of the Commission shall be punished with a fine not exceeding that imposed on the principal offenders, at the discretion of the court, after taking into account their participation in the offense.

## TITLE XVII

### MISCELLANEOUS PROVISIONS

SEC. 173. *Outstanding Capital Stock Defined.* – The term “outstanding capital stock”, as used in this Code, shall mean the total shares of stock issued under binding subscription contracts to subscribers or stockholders, whether fully or partially paid, except treasury shares.

SEC. 174. *Designation of Governing Boards.* – The provisions of specific provisions of this Code to the contrary notwithstanding, nonstock or special corporations may, through their articles of incorporation or their bylaws, designate their governing boards by any name other than as board of trustees.

SEC. 175. *Collection and Use of Registration, Incorporation and Other Fees.* – For a more effective implementation of this Code, the Commission is hereby authorized to collect, retain, and use fees, fines, and other charges pursuant to this Code and its rules and regulations. The amount collected shall be deposited and maintained in a separate account which shall form a fund for its modernization and to augment its operational expenses such as, but not limited to, capital outlay, increase in compensation and benefits comparable with prevailing rates in the private sector, reasonable employee allowance, employee health care services, and other insurance, employee career advancement and professionalization, legal assistance, seminars, and other professional fees.

SEC. 176. *Stock Ownership in Corporations.* – Pursuant to the duties specified by Article XIV of the Constitution, the National Economic and Development Authority (NEDA) shall, from time to time, determine if the corporate vehicle has been used by any corporation, business, or industry to frustrate the provisions of this Code or applicable laws, and shall submit to Congress, whenever deemed necessary, a report of its findings, including recommendations for their prevention or correction.

The Congress of the Philippines may set maximum limits for stock ownership of individuals or groups of individuals related to each other by consanguinity, affinity, or by close business interests, in corporations declared to be vested with public interest pursuant to the provisions of this section, or whenever necessary to prevent anti-competitive practices as provided in Republic Act No. 10667, otherwise known as the "Philippine Competition Act", or to implement national economic policies designed to promote general welfare and economic development, as declared in laws, rules and regulations.

In recommending to the Congress which corporations, businesses and industries will be declared as vested with public interest, and in formulating proposals for limitations on stock ownership, the NEDA shall consider the type and nature of the industry, size of the enterprise, economies of scale, geographic location, extent of Filipino ownership, labor intensity of the activity, export potential, as well as other factors which are germane to the realization and promotion of business and industry.

SEC. 177. *Reportorial Requirements of Corporations.* Except as otherwise provided in this Code or in the rules issued by the Commission, every corporation, domestic or foreign, doing business in the Philippines shall submit to the Commission:

- (a) Annual financial statements audited by an independent certified public accountant: *Provided*, That if the total assets or total liabilities of the corporation are less than Six hundred thousand pesos (P600,000.00), the financial statements shall be certified under oath by the corporation's treasurer or chief financial officer; and
- (b) A general information sheet.

Corporations vested with public interest must also submit the following:

- (1) A director or trustee compensation report; and
- (2) A director or trustee appraisal or performance report and the standards or criteria used to assess each director or trustee.

The reportorial requirements shall be submitted annually and within such period as may be prescribed by the Commission.

The Commission may place the corporation under delinquent status in case of failure to submit the reportorial requirements three (3) times, consecutively or intermittently, within a period of five (5) years. The Commission shall give reasonable notice to and coordinate with the appropriate

regulatory agency prior to placing on delinquent status companies under their special regulatory jurisdiction.

Any person required to file a report with the Commission may redact confidential information from such required report: *Provided*, That such confidential information shall be filed in a supplemental report prominently labelled "confidential", together with a request for confidential treatment of the report and the specific grounds for the grant thereof.

*SEC. 178. Visitorial Power and Confidential Nature of Examination Results.* – The Commission shall exercise visitorial powers over all corporations, which powers shall include the examination and inspection of records, regulation and supervision of activities, enforcement of compliance, and imposition of sanctions in accordance with this Code.

Should the corporation, without justifiable cause, refuse or obstruct the Commission's exercise of its visitorial powers, the Commission may revoke its certificate of incorporation, without prejudice to the imposition of other penalties and sanctions under this Code.

All interrogatories propounded by the Commission and the answers thereto, as well as the results of any examination made by the Commission or by any other official authorized by law to make an examination of the operations, books, and records of any corporation, shall be kept strictly confidential, except when the law requires the same to be made public, when necessary for the Commission to take action to protect the public or to issue orders in the exercise of its powers under this Code, or where such interrogatories, answers or results are necessary to be presented as evidence before any court.

*SEC. 179. Powers, Functions, and Jurisdiction of the Commission.* – The Commission shall have the power and authority to:

(a) Exercise supervision and jurisdiction over all corporations and persons acting on their behalf, except as otherwise provided under this Code;

- (b) Pursuant to Presidential Decree No. 902-A, retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution. The Commission shall retain jurisdiction over pending suspension of payment/rehabilitation cases filed as of 30 June 2000 until finally disposed;
- (c) Impose sanctions for the violation of this Code, its implementing rules and orders of the Commission;
- (d) Promote corporate governance and the protection of minority investors, through, among others, the issuance of rules and regulations consistent with international best practices;
- (e) Issue opinions to clarify the application of laws, rules and regulations;
- (f) Issue cease and desist orders *ex parte* to prevent imminent fraud or injury to the public;
- (g) Hold corporations in direct and indirect contempt;
- (h) Issue *subpoena duces tecum* and summon witnesses to appear in proceedings before the Commission;
- (i) In appropriate cases, order the examination, search and seizure of documents, papers, files and records, and books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases, subject to the provisions of existing laws;
- (j) Suspend or revoke the certificate of incorporation after proper notice and hearing;
- (k) Dissolve or impose sanctions on corporations, upon final court order, for committing, aiding in the commission of, or in any manner furthering securities violations, smuggling, tax evasion, money laundering, graft and corrupt practices, or other fraudulent or illegal acts;
- (l) Issue writs of execution and attachment to enforce payment of fees, administrative fines, and other dues collectible under this Code;

(m) Prescribe the number of independent directors and the minimum criteria in determining the independence of a director;

(n) Impose or recommend new modes by which a stockholder, member, director, or trustee may attend meetings or cast their votes, as technology may allow, taking into account the company's scale, number of shareholders or members, structure, and other factors consistent with the basic right of corporate suffrage;

(o) Formulate and enforce standards, guidelines, policies, rules and regulations to carry out the provisions of this Code; and

(p) Exercise such other powers provided by law or those which may be necessary or incidental to carrying out the powers expressly granted to the Commission.

In imposing penalties and additional monitoring and supervision requirements, the Commission shall take into consideration the size, nature of the business, and capacity of the corporation.

No court below the Court of Appeals shall have jurisdiction to issue a restraining order, preliminary injunction, or preliminary mandatory injunction in any case, dispute, or controversy that directly or indirectly interferes with the exercise of the powers, duties and responsibilities of the Commission that falls exclusively within its jurisdiction.

*SEC. 180. Development and Implementation of Electronic Filing and Monitoring System.* – The Commission shall develop and implement an electronic filing and monitoring system. The Commission shall promulgate rules to facilitate and expedite, among others, corporate name reservation and registration, incorporation, submission of reports, notices, and documents required under this Code, and sharing of pertinent information with other government agencies.

*SEC. 181. Arbitration for Corporations.* – An arbitration agreement may be provided in the articles of incorporation or bylaws of a corporation. When such an agreement is in place,

disputes between the corporation, its stockholders or members, which arise from the implementation of the articles of incorporation or bylaws, or from intra-corporate relations, shall be referred to arbitration. A dispute shall be nonarbitrable when it involves criminal offenses and interests of third parties.

The arbitration agreement shall be binding on the corporation, its directors, trustees, officers, and executives or managers.

To be enforceable, the arbitration agreement should indicate the number of arbitrators and the procedure for their appointment. The power to appoint the arbitrators forming the arbitral tribunal shall be granted to a designated independent third party. Should the third party fail to appoint the arbitrators in the manner and within the period specified in the arbitration agreement, the parties may request the Commission to appoint the arbitrators. In any case, arbitrators must be accredited or must belong to organizations accredited for the purpose of arbitration.

The arbitral tribunal shall have the power to rule on its own jurisdiction and on questions relating to the validity of the arbitration agreement. When an intra-corporate dispute is filed with a Regional Trial Court, the court shall dismiss the case before the termination of the pretrial conference, if it determines that an arbitration agreement is written in the corporation's articles of incorporation, bylaws, or in a separate agreement.

The arbitral tribunal shall have the power to grant interim measures necessary to ensure enforcement of the award, prevent a miscarriage of justice, or otherwise protect the rights of the parties.

A final arbitral award under this section shall be executory after the lapse of fifteen (15) days from receipt thereof by the parties and shall be stayed only by the filing of a bond or the issuance by the appellate court of an injunctive writ.

The Commission shall formulate the rules and regulations, which shall govern arbitration under this section, subject to existing laws on arbitration.

**SEC. 182. *Jurisdiction Over Party-List Organizations.*** – The powers, authorities, and responsibilities of the Commission involving party-list organizations are transferred to the Commission on Elections (COMELEC).

Within six (6) months after the effectivity of this Act, the monitoring, supervision, and regulation of such corporations shall be deemed automatically transferred to the COMELEC.

For this purpose, the COMELEC, in coordination with the Commission, shall promulgate the corresponding implementing rules for the transfer of jurisdiction over the abovementioned corporations.

**SEC. 183. *Applicability of the Code.*** – Nothing in this Act shall be construed as amending existing provisions of special laws governing the registration, regulation, monitoring and supervision of special corporations such as banks, nonbank financial institutions and insurance companies.

Notwithstanding any provision to the contrary, regulators such as the Bangko Sentral ng Pilipinas and the Insurance Commission shall exercise primary authority over special corporations such as banks, nonbank financial institutions, and insurance companies under their supervision and regulation.

**SEC. 184. *Effect of Amendment or Repeal of This Code, or the Dissolution of a Corporation.*** – No right or remedy in favor of or against any corporation, its stockholders, members, directors, trustees, or officers, nor any liability incurred by any such corporation, stockholders, members, directors, trustees, or officers, shall be removed or impaired either by the subsequent dissolution of said corporation or by any subsequent amendment or repeal of this Code or of any part thereof.

**SEC. 185. *Applicability to Existing Corporations.*** – A corporation lawfully existing and doing business in the

Philippines affected by the new requirements of this Code shall be given a period of not more than two (2) years from the effectivity of this Act within which to comply.

SEC. 186. *Separability Clause.* – If any provision of this Act is declared invalid or unconstitutional, the other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 187. *Repealing Clause.* – Batas Pambansa Blg. 68, otherwise known as "The Corporation Code of the Philippines", is hereby repealed. Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with any provision of this Act is hereby repealed or modified accordingly.

SEC. 188. *Effectivity.* – This Act shall take effect upon completion of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,



GLORIA MACAPAGAL-ARROYO

*Speaker of the House  
of Representatives*



VICENTE C. SOTTO III

*President of the Senate*

This Act which is a consolidation of Senate Bill No. 1280 and House Bill No. 8374 was passed by the Senate and the House of Representatives on November 28, 2018.

DANTE ROBERTO P. MALING  
*Acting Secretary General*  
*House of Representatives*

MYRA MARIE D. VILLARICA  
*Secretary of the Senate*

Approved: **FEB 20 2019**

  
RODRIGO ROA DUTERTE  
*President of the Philippines*

