

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourteenth Congress

Second Regular Session

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

[REPUBLIC ACT NO. 9679]

AN ACT FURTHER STRENGTHENING THE HOME DEVELOPMENT MUTUAL FUND, AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* — This Act shall be known as the “Home Development Mutual Fund Law of 2009, otherwise known as Pag-IBIG (Pagtutulungan sa kinabukasan: Ikaw, Bangko, Industriya at Gobyerno) Fund”.

SEC. 2. *Declaration of Policy.* — It is the policy of the State to establish, develop, promote, and integrate a nationwide sound and viable tax-exempt mutual provident savings system suitable to the needs of the employed and other earning groups, and to motivate them to better plan and provide for their housing

needs, by membership in the Home Development Mutual Fund, with mandatory contributory support of the employers in the spirit of social justice and the pursuit of national development.

SEC. 3. *Statement of Objectives.* – Towards this end, the State shall integrate all laws relating to the Home Development Mutual Fund to effectively achieve the following objectives:

(a) To improve the quality of life of its citizens by providing them with sufficient shelter;

(b) To provide for an integrated nationwide provident savings system; and

(c) To provide housing through mobilization of funds for shelter finance.

SEC. 4. *Definition of Terms.* – The following terms shall mean:

(a) “Board” - the duly constituted Board of Trustees of the Home Development Mutual Fund.

(b) “Compensation” - basic monthly salary plus mandated cost of living allowance.

(c) “Contributions” - the amount payable to the Fund by the members and their employers, in accordance with this Act.

(d) “Dependents” - refers to legal dependents of a deceased member, as defined under the Family Code.

(e) “Employee” - any person in the service of an employer who receives compensation of such services.

(f) “Employer” - any person, natural or juridical, domestic or foreign, who carries on in the Philippines, or outside of the Philippines, any trade, business, industry, undertaking or activity of any kind, and uses the services of another person who is under his order as regards such services; the

government, its national and local offices, political subdivisions, branches, agencies, or instrumentalities, including corporations owned and/or controlled by the government, and the local government units.

(g) "Employment" - any service performed by an employee for his/her employer within the Philippines: *Provided, however,* That any foreign government, international organization or their wholly-owned instrumentality employing workers in the Philippines or employing Filipinos outside of the Philippines, may enter into an agreement with the Fund for the inclusion of their employees as members of the Fund: *Provided, further,* That the term of such agreement conform with the provisions of this Act.

(h) "Fund" - the fund created under this Act which is a government financial institution involved in mobilizing provident funds primarily for shelter finance;

(i) "GSIS" - the Government Service Insurance System created under Commonwealth Act No. 186, as amended.

(j) "Investible Funds" - shall mean funds available after deducting cost of operations and expenses, administrative and general expenses, reserves for benefit claims, provisions for a sinking fund for the return of the members' equity upon maturity and provision for reserve for loan repayments.

(k) "Member" - an employee coverable under this Act and pays the mandated contributions.

(l) "Membership Term" - a period of twenty (20) years commencing from the first day of the month to which the member's initial contribution to the Fund applies: *Provided,* That he shall have contributed a total of two hundred forty (240) monthly contributions at the time of maturity.

(m) "Net Fund Asset" - the total assets of the Fund less current liabilities.

(n) "Permanent Total Disability" - loss or impairment of a physical and mental function resulting from injury or sickness which completely incapacitates a member to perform any work or engage in any business or occupation as determined by the Fund.

(o) "SSS" - the Social Security System created under Republic Act No. 1161, as amended.

SEC. 5. Fund System. - To carry out the purposes of this Act, there is hereby created the Home Development Mutual Fund of 2009, also referred to herein as the Fund, a mutual provident savings system for private and government employees and other earning groups, supported by matching mandatory contributions of their respective employers with housing as the primary investment.

The Fund shall be a body corporate, with principal office in Metro Manila, and shall replace the Home Development Mutual Fund established under Presidential Decree No. 1752.

SEC. 6. Fund Coverage. - Coverage in the Fund shall be mandatory upon: (a) all employees covered by the SSS and the GSIS, and their respective employers, notwithstanding any waiver of coverage previously issued, including the uniformed members of the Armed Forces of the Philippines, the Bureau of Fire Protection, the Bureau of Jail Management and Penology, and the Philippine National Police; (b) Filipinos employed by foreign-based employers; and (c) spouses who devote full-time to managing the household and family affairs, unless they also engage in another vocation or employment which is subject to mandatory coverage, may be covered by the Fund on a voluntary basis adopting as a basis of contributions one-half (1/2) of the monthly compensation income of the employed spouse.

Coverage may also be extended to other working groups, with or without employer contributions, as may be determined by the Board of Trustees.

SEC. 7. Fund Generation and Contributions. - The money of the Fund shall be generated by the provident savings that the covered employees shall contribute for the purpose every

month, and the equal amounts that their respective employers shall mandatorily contribute.

Covered employees and employers shall contribute to the Fund based on the monthly compensation of covered employees as follows:

Employees earning not more than One thousand five hundred pesos (P1,500.00) per month – one percent (1%).

Employees earning more than One thousand five hundred pesos (P1,500.00) per month – two percent (2%).

All employers – two percent (2%) of the monthly compensation of all covered employees.

The maximum monthly compensation to be used in computing employee and employer contributions shall not be more than Five thousand pesos (P5,000.00): *Provided*, That this maximum may be fixed from time to time by the Board of Trustees through rules and regulations adopted by it, taking into consideration actuarial calculations and rates of benefits.

Notwithstanding any contract to the contrary, an employer shall not deduct, directly or indirectly, from the compensation of its employees covered by the Fund, or otherwise recover from them, the employer's contribution with respect to such employees.

SEC. 8. *Membership Term.* – Membership in the Fund shall be for a period of twenty (20) years, except when earlier terminated by reason of retirement, disability, insanity, death, departure from the country or other causes as may be provided for by the Board of Trustees: *Provided*, That those who become members of the Fund after the effectivity of this Act may withdraw the total accumulated value of their contributions to the Fund after the fifteenth (15th) year of continuous membership: *Provided*, *further*, That said members have no outstanding housing loans with the Fund: *Provided*, *finally*, That this option shall not prejudice the member's continuing membership in the Fund.

Resignation, lay-off or suspension from employment may not necessarily constitute a ground for membership termination, except for suspension of contributions.

SEC. 9. *Waiver or Suspension of Coverage.* – Coverage of the Fund and/or the payment of monthly contribution to the same may, by rules or resolutions of the Board of Trustees, be waived or suspended by reasons of nature of employment, condition of business, ability to make contributions and other reasonable considerations.

SEC. 10. *Provident Character.* – The Fund shall be private in character, owned wholly by the members, administered in trust and applied exclusively for their benefit. All the personal and employer contributions shall be fully credited to each member, accounted for individually and transferable in case of change of employment. They shall earn dividends as may be provided for in the implementing rules. The said amounts shall constitute the provident fund of each member, to be paid to him, his estate or beneficiaries upon termination of membership, or from which peripheral benefits for the member may be drawn.

SEC. 11. *Housing Features.* – A member of good standing shall be eligible to apply for housing loans, under such terms and conditions as may be authorized by the Board of Trustees, taking into account ability to pay. The Board of Trustees shall institute policies to ensure that lower-income members obtain such housing loans.

SEC. 12. *Implementing Body.* – The Home Development Mutual Fund created under this Act, shall implement the provisions hereof.

SEC. 13. *Powers and Functions of the Fund.* – The Fund shall have the powers and functions specified in this Act and the usual corporate powers:

(a) To formulate, adopt, amend and/or rescind such rules and regulations as may be necessary to carry out the provisions and purposes of this Act, as well as the effective exercise of the

powers and functions, and the discharge of duties and responsibilities of the Fund, its officers and employees;

(b) To adopt or approve the annual and supplemental budget of receipts and expenditures including salaries and allowances of the Fund personnel, to authorize such capital and operating expenditures and disbursements of the Fund as may be necessary and proper for the effective management and operation of the Fund;

(c) To submit annually to the President of the Philippines not later than March 15, a report of its activities and the state of the Fund during the preceding year, including information and recommendations for the development and improvement thereof;

(d) To invest not less than seventy percent (70%) of its investible funds to housing, in accordance with this Act;

(e) To acquire, utilize, or dispose of, in any manner recognized by law, real or personal properties to carry out the purposes of this Act;

(f) To set up its own accounting and computer systems; to conduct continuing actuarial and statistical studies and valuations to determine the financial viability of the Fund and its project; to require reports, compilations and analysis of statistical and economic data, as well as make such other studies and surveys as may be needed for the proper administration and development of the Fund;

(g) To have the power of succession; to sue and be sued; to adopt and use a corporate seal;

(h) To enter into and carry out contracts of every kind and description with any person, firm or association or corporation, domestic or foreign;

(i) To borrow funds from any source, private or government, foreign or domestic;

(j) To invest, own or otherwise participate in equity in any establishment, firm or entity; to form, organize, invest in or establish and maintain a subsidiary or subsidiaries in relation to any of its purposes;

(k) To approve appointments in the Fund except appointments to positions which are policy determining, primarily confidential or highly technical in nature according to the civil service rules and regulations: *Provided*, That all positions in the Fund shall be governed by a compensation and position classification system and qualification standards approved by the Fund's Board of Trustees based on a comprehensive job analysis, wage compensation study and audit of actual duties and responsibilities: *Provided, further*, That the compensation plan shall be comparable with prevailing compensation plans in the private sector and shall be subject to the periodic review of the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The Fund shall, therefore, be exempt from any laws, rules and regulations on salaries and compensations;

(l) To maintain a provident fund, which shall consist of contributions made by both the Fund and its officers and employees and their earnings, for the payment of benefits to such officials and employees or their heirs under such terms and conditions as it may prescribe;

(m) To design and adopt an early retirement incentive plan (ERIP) for its own personnel;

(n) To establish field offices and to conduct its business and exercise its powers in these places;

(o) To approve restructuring proposal for the payment of due but unremitted contributions and unpaid loan amortizations under such terms and conditions as the Board of Trustees may prescribe;

(p) To determine, fix and impose interest and penalties upon unpaid contributions due from employers and employees;

(q) To ensure the collection and recovery of all indebtedness, liabilities and/or accountabilities, including unpaid contributions in favor of the Fund arising from any cause or source or whatsoever, due from all obligors, whether public or private; to demand payment of the obligations referred to herein, and in the event of failure or refusal of the obligor or debtor to comply with the demand, to initiate or institute the necessary or proper actions or suits, criminal, civil, administrative, or otherwise, before the courts, tribunals, commissions, boards or bodies of proper jurisdiction: *Provided, however,* That the Fund may compromise or release, in whole or in part, any interest, penalty or civil liability to the Fund in connection with the collection of contributions and the lending operations of the Fund, under such terms and conditions as prescribed by the Board of Trustees: *Provided, further,* That the Board may, upon recommendation of the Chief Executive Officer, depute any member of the Fund's legal staff to act as special sheriff in foreclosure cases, in the sale or attachment of the debtor's properties, and in the enforcement of court writs and processes in cases involving the Fund. The special sheriff of the Fund shall make a report to the proper court after any action taken by him, which shall treat such action as if it were an act of its own sheriffs in all respects;

(r) To design and implement other programs that will further promote and mobilize savings and provide additional resources for the mutual benefit of the members with appropriate returns on the savings/investments. The program shall be so designed as to spur socioeconomic take-off and maintain continued growth;

(s) To conduct continuing actuarial and statistical studies and valuations to determine the financial condition of the Fund and taking into consideration such studies and valuations and the limitations herein provided, readjust the benefits, contributions, interest rates of the allocation or reallocation of the funds to the contingencies covered; and

(t) To exercise such powers and perform such acts as may be necessary, useful, incidental or auxiliary to carry out the provisions of this Act.

SEC. 14. Board of Trustees. — The corporate powers and functions of the Fund shall be vested in and exercised by the Board of Trustees appointed by the President of the Philippines, composed of the following:

(a) The Chairperson of the Housing and Urban Development and Coordinating Council, as the *ex officio* Chairman;

(b) The Secretary of the Department of Finance, as the *ex officio* Vice Chairman;

(c) The Secretary of the Department of Labor and Employment or his/her duly designated undersecretary, as *ex officio* member;

(d) The Secretary of the Department of Budget and Management or his/her duly designated undersecretary, as *ex officio* member;

(e) The Secretary of the Department of Trade and Industry, or his/her duly designated undersecretary, as *ex officio* member;

(f) The Chief Executive Officer of the Fund, as member; and

(g) Five (5) appointive members, two (2) representatives of private employees, two (2) representatives of private employers and one (1) representative of government employees.

The four (4) private sector representatives shall each be appointed by the President of the Philippines for a term of two (2) years: *Provided, however,* That of the first to be appointed, one (1) representative of the employers shall have a term of only one (1) year. The representative of the government employees shall be appointed by the President of the Philippines for a term of two (2) years.

The Chairman, Vice Chairman and members of the Board shall be entitled to a reasonable *per diem* for each meeting actually attended at such amounts as may be fixed by the Board in accordance with existing laws, rules and regulations.

SEC. 15. Powers of the Board. – The Board shall have the following powers:

(a) To formulate policies, rules and regulations to carry out effectively the functions of the Fund under this Act;

(b) To promulgate such rules and regulations as may be necessary or proper for the effective exercise of the powers and functions, as well as the discharge of the duties and responsibilities of the Fund, its officers and employees;

(c) To authorize expenditures of the Fund in the interest of effective administration and operations; to adopt from time to time the budgets for said purposes;

(d) To approve the annual and supplemental budget of receipts and expenditures including salaries and allowances of the Fund personnel; to authorize such capital and operating expenditures and disbursements as may be necessary and proper for the effective management and operation of the Fund;

(e) To condone, in whole or in part, penalties imposed on loans of members/borrowers who, for justifiable reasons prescribed by the Board, failed to pay on time any obligation due to the Fund: *Provided*, That such exclusive power to condone shall likewise apply to penalties imposed on employers, who justifiably fail to remit when due the required contributions of their employees;

(f) To approve the Fund's organizational and administrative structures and staffing pattern, and to establish, fix, review, revise and adjust the appropriate compensation package for the officers and employees of the Fund in accordance with Section 13(k) hereof; and

(g) To exercise such powers as may be necessary to carry into effect the powers and accomplish the purposes for which the Fund is established.

SEC. 16. Rule-Making Power. – The Board of Trustees is hereby authorized to make and change needful rules and regulations, which shall be published in accordance with law or

at least once in a newspaper of general circulation in the Philippines, to provide for, but not limited to, the following matters:

(a) The effective administration, custody, development, utilization and disposition of the Fund or parts thereof, including payment of amounts credited to members or to their beneficiaries or estates;

(b) Grounds for and effects or termination of membership other than by completion of term;

(c) Fund earnings and their distribution, investment and/or plowing back for the exclusive benefit of the members;

(d) Interim disbursements of accumulated values to members of ameliorative and similar purposes;

(e) Benefits, contributions including their rates, premium rates and interest rates;

(f) Housing and other loan assistance programs for members;

(g) Adjudication and settlement of claims and disputes and the procedures for the same on any matters involving the interests of members in the Fund;

(h) Optimize the effectiveness of the Fund's coverage; and

(i) Other matters that, by express or implied provisions of this Act, shall require implementation by appropriate policies, rules and regulations.

SEC. 17. Powers and Duties of the Chief Executive Officer. – The Chief Executive Officer of the Fund shall execute and administer the policies and resolutions approved by the Board of Trustees, prepare its agenda and direct and supervise the operations and management of the Fund. The Chief Executive Officer, subject to the approval of the Board in case of approval of

managerial positions and above, and the confirmation of the Board in below that of manager level, shall appoint the personnel of the Fund, remove, suspend or otherwise discipline them for cause and prescribe their duties and qualifications, in accordance with existing civil service laws, rules and regulations, to the end that only competent personnel may be employed.

SEC. 18. *Money Investments.* – All monies of the Fund not needed to meet current administrative and operational requirements, shall be invested with due and prudent regard for its safety, growth and liquidity needs.

SEC. 19. *Exemption from Tax, Legal Process and Lien.* – All laws to the contrary notwithstanding, the Fund and all its assets and properties, all contributions collected and all accruals thereto and income or investment earnings therefrom, as well as all supplies, equipment, papers or documents shall be exempt from any tax, assessment, fee, charge, or customs or import duty; and all benefit payments made by the Pag-IBIG Fund shall likewise be exempt from all kinds of taxes, fees or charges, and shall not be liable to attachments, garnishments, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the member to the Fund. No tax measure of whatever nature enacted shall apply to the Fund, unless it expressly revokes the declared policy of the State in Section 2 hereof granting tax exemption to the Fund. Any tax assessment against the Fund shall be null and void.

SEC. 20. *Government Guarantee.* – The benefits prescribed in this Act shall not be diminished and to guarantee said benefits, the government of the Republic of the Philippines accepts general responsibility for the solvency of the Fund.

SEC. 21. *Administration Costs.* – The Fund shall bear the costs of its administration and development, in such amounts and/or limits as the Board of Trustees may deem appropriate, but not exceeding two percent (2%) of the Net Fund Assets of the previous year, excluding operating cost directly relating to the lending operations of the Fund.

SEC. 22. *Audit.* – The Chairman of the Commission on Audit shall act as the *ex officio* auditor of the Fund and, accordingly, is empowered to appoint a representative and other subordinate personnel to perform and report on such audit duties, responsible to and removable only by the Commission on Audit Chairman, without prejudice, however, to the power of the Board of Trustees to contract for another mode of independent audit service, in addition to that provided by the Commission on Audit as provided for under Presidential Decree No. 1445, otherwise known as the Government Auditing Code of the Philippines.

SEC. 23. *Remittance of Contributions.* – (a) It shall be the duty of every employer, private or public, to set aside and remit the contributions required under this Act in accordance with a mechanism determined by the Board of Trustees.

(b) Every employer required to set aside and remit such contributions as prescribed under this Act shall be liable for their payment, and nonpayment shall further subject the employer to a penalty of three percent (3%) per month of the amounts payable from the date the contributions fall due until paid.

(c) It shall be mandatory and compulsory for all government instrumentalities, agencies, including government-owned and -controlled corporations, to provide the payment of contributions in their annual appropriations. Penal sanctions shall be imposed upon these employers who fail to include the payment of contributions on time, or delay the remittance of the required contributions to the Fund. The heads of offices and agencies shall be administratively liable for non-remittance of the required contributions to the Fund.

(d) Failure or refusal of the employer to pay or to remit the contributions herein prescribed shall not prejudice the right of the covered employee to the benefits under this Act.

(e) The contributions under this Act, in cases where an employer refuses or neglects to pay the same, shall be collected by the Fund in the same manner as taxes are made collectible under the National Internal Revenue Code, as amended.

The right to institute the necessary action against the employer may be commenced within twenty (20) years from the time delinquency is known or the assessment is made by the Fund, or from the time the benefit accrues, as the case may be.

SEC. 24. *Employment Records and Reports.* – (a) Each employer shall immediately report to the Fund the names, ages, civil status, occupations, salaries and dependents of its covered employees.

(b) Every employer shall keep true and accurate work records for such period and containing such information as the Fund may prescribe, in addition to the annual register of new and separated employees which shall be secured from the Fund, when the employee shall enter on the first day of employment or on the effective date of separation, the names of the persons employed or separated from employment and such other data that the Fund may require and said annual register shall be submitted to the Fund in the month of January each year. Such record shall be open for inspection by the Fund or its authorized representatives quarterly, or as often as the Fund may require.

SEC. 25. *Penal Provisions.* – Refusal or failure without lawful cause or with fraudulent intent to comply with the provisions of this Act, as well as the implementing rules and regulations adopted by the Board of Trustees, particularly with respect to registration of employees, collection and remittance of employee-savings as well as the employer counterparts, or the correct amount due, within the time set in the implementing rules and regulations or specific call or extension made by the Fund management shall constitute an offense punishable by a fine of not less than, but not more than twice, the amount involved or imprisonment of not more than six (6) years, or both such fine and imprisonment, in the discretion of the court, apart from the civil liabilities and/or obligations of the offender or delinquent. When the offender is a corporation, the penalty shall be imposed upon the members of the governing board and the president or general manager, without prejudice to the prosecution of related offenses under the Revised Penal Code and other laws, revocation and denial of operating rights and privileges in the Philippines, and deportation when the offender is a foreigner. In case of government instrumentalities, agencies or corporations, the

treasurer, finance officer, cashier, disbursing officer, budget officer or other official or employee who fails to include in the annual budget the amount corresponding to the employers' contributions, or who fails or refuses or delays by more than thirty (30) days from the time such amount becomes due and demandable or to deduct the monthly contributions of the employee shall, upon conviction by final judgment, suffer the penalties of imprisonment of not more than six (6) years, and a fine of not less than, but not more than twice the amount involved.

SEC. 26. *Existing Coverage.* - Membership under the Fund established under Presidential Decree No. 1752, together with amounts and benefits already accrued to the members, including employers' counterparts, as well as covering records documents, shall be transferred, continued and/or integrated into the new Fund hereby established, subject henceforth to policies and rules adopted thereunder.

SEC. 27. *Visitorial and Enforcement Powers.* - (a) The Fund or its duly authorized representatives is empowered to inspect the premises, books of accounts and records of any person or entity covered by this Act; require it to submit its reports regularly; and act on violations of any provisions of this Act.

(b) Particular aspects of the Fund's administration may be subject to supervision, visitation or verification by appropriate agencies of the government as may be designated and authorized by the President of the Philippines.

SEC. 28. *Implementing Rules and Regulations.* - The implementing rules and regulations to effectively carry out the provisions of this Act shall be adopted by and promulgated by the Board of Trustees of the Pag-IBIG Fund not later than ninety (90) days after the approval of this Act which shall be published in at least one (1) national newspaper of general circulation.

SEC. 29. *Separability Clause.* - If, for any reason, any provision of this Act, or the application thereof to any person or circumstances, is held invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in full force and effect.

SEC. 30. Repealing Clause. - Presidential Decree No. 1530, as amended by Executive Order Nos. 527 (series of 1979) and 538 (series of 1979); Presidential Decree No. 1752, as amended by Executive Order Nos. 35 (series of 1986) and 90 (series of 1986); and Republic Act No. 8501 are hereby repealed. Section 6 of Republic Act No. 7742 is hereby amended accordingly. All other laws, decrees, executive orders, or rules and regulations, or parts thereof inconsistent with or contrary to the provisions of this Act or its purposes are hereby amended or modified accordingly.


SEC. 31. Effectivity. - This Act shall take effect fifteen (15) days after the completion of its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.


Approved,


 JUAN PONCE ENRILE
 President of the Senate



 PROSPERO C. NOGRALES
 Speaker of the House
 of Representatives

This Act which is a consolidation of House Bill No. 5220 and Senate Bill No. 2971 was finally passed by the House of Representatives and the Senate on June 1, 2009.


 EMMA LIRIO-REYES
 Secretary of the Senate


 MARILYN B. BARUA-YAP
 Secretary General
 House of Representatives

Approved: 'JUL 21 2009


 GLORIA MACAPAGAL-ARROYO
 President of the Philippines

