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## **REPUBLIC ACT 8763**

ACT CONSOLIDATING AND AMENDING REPUBLIC ACT NOS. 580, 1557, 5488, AND 7835 AND EXECUTIVE ORDER NOS. 535 AND 90, AS THEY APPLY TO THE HOME INSURANCE AND GUARANTY CORPORATION WHICH SHALL BE RENAMED AS HOME GUARANTY CORPORATION, AND FOR OTHER PURPOSES

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

### CHAPTER I ~ TITLE AND DECLARATION OF POLICY

Section 1. *Title.* ~ This Act shall be known as Home Guaranty Corporation Act of 2000".

Section 2. *Declaration of Policy.* ~ It is hereby declared the policy of the State to undertake, in cooperation with the private sector, continuing nationwide housing program which will make available at affordable cost decent housing.

In recognition of the role of housing as catalyst of economic growth and development, it is hereby declared a Statement policy to strengthen, promote and support the component activities of housing production and finance.

Section 3. *Statement of Objectives.* ~ Toward this end, the State shall integrate all laws providing for housing credit guaranty to attain the following objectives:

(a) Ensure continuous funding support to vigorously implement the government's programs for urban and rural housing, resettlement, the development of site and services, and the renewal of blighted areas;

(b) Enhance the capability of low-income groups to acquire decent and low-cost housing units through the introduction of support mechanisms and facilities which shall render affordable such acquisitions;

(c) Provide for a strong and sustainable housing finance program with complimentary support systems, which will pump prime, build-up and strengthen available sources of cheap and long term capital;

(d) Increase the private sectors' participation in the investment of their funds into the mainstream of housing finance for developmental and end-user financing requirements;

(e) Encourage the flow of private funds for mass housing development and homebuyers' financing through a viable system of mortgage and credit guaranty;

(f) Enjoin the active participation of local government units in socialized housing programs through adequate measures for housing development in their respective areas;

(g) Strengthen the capital base and optimize the resources of the Nation Government and the Corporation to ensure that homeless families across the nation can enjoy benefits that can be derived from the government's guaranties facilities;

(h) Serve the housing requirement of all the underprivileged and those gainfully employed especially those who are not members of any funding agencies such as the Government Service and Insurance System (GSIS), Social Security System (SSS), and Home Development Mutual Fund (HDMF); and

(i) Institutionalize and promote the aided self-help approach in homeownership and introduce support facilities that will enhance the capability of low income groups to acquire decent housing.

## CHAPTER II ~b HOME GUARANTY CORPORATION

Section 4. *Home Guaranty Corporation.* ~ The Home Insurance and Guaranty Corporation is hereby renamed as the Home Guaranty Corporation, hereinafter referred to as the Corporation, which shall have its principal office in Metropolitan Manila and shall exist for a period of fifty (50) years from December 15, 2000. The Corporation may establish such offices, agencies, subsidiaries or branches anywhere in the Philippines as its operations would require and its Board of Directors would determine.

Section 5. *Corporation Powers and Functions.* ~ The Corporation, in addition to the regular powers and functions provided under Section 36 of the Corporation Code, shall have the following powers and functions, subject to the limitations hereinafter provided:

(a) To promote homebuilding and land ownership, giving primary preference to the homeless and underprivileged sectors of the society;

(b) To guaranty the payment in favor of any natural or juridical person, of any and all forms of mortgages, loans and other forms of credit facilities and receivables arising from financial contracts exclusively for residential purposes and the necessary support facilities thereto;

(c) To assist private developers to undertake socialized, low and medium cost mass housing projects by encouraging private funds to finance such housing projects through a viable system of long-term mortgages, guaranties and other incentives;

(d) To pursue the development and sustainability of a secondary mortgage market for housing as the primarily strategy to encourage private sector participation in housing finance. The Corporation shall undertake such programs and measures using the guaranty cover as enhancement to encourage trading by the public in a secondary market for housing mortgages, bonds, debentures, notes and securities;

(e) To underwrite, purchase, own, sell, mortgage or otherwise dispose of stocks, bonds, debentures, securities and other evidence of indebtedness issued in correction with the powers enumerated in this Act: Provided, That, it shall not engage in direct mortgage lending activities;

(f) To borrow money and/or to issue bonds, debentures, securities, collaterals, notes and other obligations in local currencies with the approval of the President of the Philippines after consultation with the Monetary Board of the Bangko Sentral ng Pilipinas, and in foreign currencies, here or abroad, with the approval of the President of the Philippines with the Monetary Board of Bangko Sentral ng Pilipinas and the Secretary of Finance, but in no case to exceed at any one time the aggregate amount of the principal obligations of all mortgages and account guaranteed under this Act. This bonds and other obligations shall be issued under such terms and conditions as provided in this act and the rules and regulations prescribed by the Corporation, and in such manner as maybe stipulated therein and shall bear such rate of interest as may be fixed by the Corporation. Such obligation shall be secured by the assets of the Corporation including the stocks, bonds, debentures and other securities underwritten, purchased or held by it under the provisions of this Act. Such obligations may be issued and

offered for sale at such price as the Corporation may determine, and shall be exempt from taxation as hereinafter provided as to principal and interest, except state, inheritance and gift taxes.

Bonds issued by the Corporation shall be registered at the request of the holder thereof under such rules and regulations as may be prescribed by the Corporation;

(g) To promote housing by the aided self –help method whereby families with some outside aid build their own houses with their own labor; to provide technical guidance to such families; to guaranty loans to such families on first liens on house and land with such other security and conditions as the Corporation shall determine, providing at least for ultimate recovery of principals; and to do all other activities as are relevant and significant in such a program of aided self-help for housing;

(h) To adopt, alter, and use a corporate seal; to enter contracts; and to sue and be sued in any court of competent jurisdiction;

(i) To acquire, purchase, own, hold, manage, administer, operate, develop, lease pledge, mortgage, exchange, sell, transfer or otherwise dispose of, in any manner permitted by law, real and personal property with every kind and description, monies and funds, or any interest therein as may be necessary to carry out the purposes and objectives of the Corporation; and

(j) To do any and all acts and things and to exercise all powers which may be necessary or convenient to the accomplishment or furtherance of its purposes and objectives, or which a natural person can do and exercise and which may now be or hereafter be authorized by law.

**Section 6. *Authorized Capital Stock.*** ~ The Corporation shall have an authorized capital stock of Fifty Billion pesos (P50,000,000,000.00), divided into Fifty Million (50,000,000.00) shares of common stock with a par value of One Thousand Pesos (P1,000.00) per share.

Out of the increase in its authorized capital stocks of Forty-Seven Billion Five Hundred Million Pesos (P47,500,000,000.00), the amount of Seven Billion Five Hundred Million Pesos (P7,500,000,000.00) is hereby appropriated out of the funds of the National Treasury, not otherwise appropriated. Succeeding National Government equity to the Corporation shall be included in the annual General Appropriations Act.

No portion of the authorized capital stocks of the Corporation shall accrue to any agency or instrumentality of the National Government, including government-owned or-controlled corporations.

**Section 7. *Use of Net Worth*** ~ The use of the net worth of the Corporation shall be subject to the following limitations:

(a) At least forty percent (40%) shall be allocated exclusively for socialized housing, to be distributed equitably among all the regions, to the extent practicable;

(b) At least thirty percent (30%) shall be allocated exclusively for low-cost housing, to be distributed equitably among all the regions, to the extent practicable;

(c) At least twenty percent (20%) shall be allocated exclusively for medium-cost housing, to be distributed equitably among all the regions, to the extent practicable; and

(d) Not more than ten percent (10%) may be allocated for open housing.

Investments, if any, by the Corporation in any establishment or enterprise, whether public or private, shall be subject to the same limitation, herein above provided as well as those specified in Chapter III of this Act.

Section 8. *Board of Directors.* ~ The Corporation shall be governed and its activities be directed, controlled and manage by a Board of Directors, hereinafter referred to as the Board, which shall be composed of seven (7) members, as follows:

- (a) The Secretary of the Department of Finance as the *ex-officio* Chairman;
- (b) The Chairman of the Housing and Urban Development Coordinating Council (HUDCC), as the *ex-officio* Vice Chairman;
- (c) The Director General of the National Economic and Development Authority (NEDA), as *ex-officio* member;
- (d) The President of the Corporation, as member; and
- (e) Three (3) other members to be appointed by the President of the Philippines, who shall serve for a term of five (5) years; *Provided*, That the person appointed shall be of good moral character, of unquestionable integrity of known probity and patriotism and with expertise and experience of at least ten (10) years in business, finance and the professions: *Provided, further*, That in the event of a vacancy, the successor appointed to fill the same shall serve only unexpired portion of the term of the member he succeeds to.

The decision of the Board shall be made by a vote of the majority of all its members.

The Chairman of the Corporation shall preside over meetings of the Board of Directors. The Vice Chairman of the Board shall assist the Chairman and act in his stead in case of the latter's absence or incapacity.

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

Section 9. *Powers, Functions and Duties of the Board of Directors.* ~ The Board shall have the following powers, functions and duties:

- (a) To adopt the by-laws of the Corporations and to revise or amend the same as may be expedient;
- (b) To direct the management, operations and administration of the Corporations;
- (c) To authorize such expenditures by the Corporations as are in the interest of the effective administration and operations of the Corporation;
- (d) To formulate, revise or adjust periodically all policies, and to promulgate the necessary rules and regulations and manuals of procedures for the effective implementation of the provisions of this Act, in any event to conform to the prevailing economic and financial conditions: *Provided*, That anything contained herein to the contrary notwithstanding, manual or procedures, on ceilings and limitation shall be subject to the concurrence of the Monetary Board of the Bangko Sentral ng Pilipinas;
- (e) To create offices or positions necessary for the efficient management, operation, and administration of the Corporation: *Provided*, That all positions in the Home Guaranty Corporation (HGC) shall be governed by a compensation and position classification system and qualifications standards approved by the Corporation's Board of Directors based on a comprehensive job analysis and audit on actual duties and responsibilities: *Provided, further*, That the compensation plan shall be comparable with the prevailing compensation plans in the private sector and which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law, and from other laws, rules and regulations on salaries and

compensations; and to establish a Provident Fund and determine the Corporation's and the employee's contributions to the Fund; and

(f) To exercise such other powers as may necessary and proper for the effective enforcement of this Act and to accomplish the purposes for which the Corporation was organized; and to do and to perform any and all acts and incidental to the attainment of all the purposes of the Corporation

Section 10. *President of Corporation.* ~ The President of Corporation shall be appointed by the President of the Philippines for a term of five (5) years unless sooner removed for cause. He shall be a person of good moral character, of unquestionable integrity, of known probity and patriotism, and with expertise and experience of at least ten (10) years in business, finance and the professions. He shall receive such compensation, allowances and other emoluments as may be determined by the Board.

Section 11. *Powers and Duties of the President.* ~ The President shall have the following powers and duties:

(a) To prepare the agenda for meetings of the Board, and to submit for its consideration the policies and measures which the necessary to carry out the purposes and provisions of this Act;

(b) To execute and administer the policies and measures approved by the Board;

(c) To represent the Corporation in all dealings with other offices, agencies and instrumentalities of the Government and with all persons and entities, public or private, domestic or foreign; and

(d) To exercise such other powers, functions, and duties as may be delegated by the Board.

Section 12. *Executive Vice President and General Manager of the Corporation.* ~ The Executive Vice President, who shall be the Board of Directors. He shall act as President of the Corporation in the latter's absence.

### CHAPTER III ~ CREDIT GUARANTY

Section 13. *Requirements for Guaranty.* ~ To be eligible for credit guaranty, the account shall:

(a) For developmental loans, involve a principal obligation not to exceed: (i) seventy percent (70%) of the prudent production cost of the project for bond guaranty coverage; and (ii) sixty percent (60%) of the prudent production cost of the project for cash guaranty coverage.

Such obligations may cover the installation of improvements involving:

(1) a project by a developmental builder for the construction of not less than twenty (20) dwelling at one time under a single-mortgage with a release clause permitting the subsequent sale of each individual completed house together with land. Loans for advances of funds used for purchase of materials in anticipation of mass construction and standardization of parts may be guaranteed in the discretion of the Corporation; and

(2) a rental project of at least twenty (20) units and involve a principal obligation, including such initial service charges, appraisal, inspection, and other fees as the Corporation shall approve.

The prudent production cost of the project shall be determined in accordance with the prevailing industry standards: *Provided*, That the builder shall submit certified bills of sale and other evidences of prudent production cost of the project and the Corporation shall be the sole

judge of the prudence of the expenditure as necessary to comply with the plans and specifications.

(b) For single family residence, involve a principal obligation not to exceed; (i) one hundred percent (100%) of the appraised value of the property for socialized housing packages; (ii) ninety percent (90%) of the appraised value of the property for low-cost housing packages; (iii) eighty percent (80%) of the appraised value of the property for medium-cost housing packages; and (iv) seventy percent (70%) of the appraised value of the property for open housing packages.

The Corporation as a matter of sound business policy may set downward limits on the total amount to be guaranteed for the aforesated programs which limits may be adjusted to conform with the prevailing economic and financial conditions subject to the concurrence of the Monetary Board of the Bangko Sentral ng Pilipinas;

(c) Be secured by a first lien on real estate or other rights in including leasehold rights under a contract of lease for not less than twenty (20) years to run from the date the guaranty as executed, held by a qualified lender or trustee determined by the Corporation as responsible and able to service the guaranteed account: *Provided*, That such mortgage rights, or other rights in are duly annotated on the title to the real estate; or otherwise effectively protected;

(d) Be intended for production and/or acquisition of residential lot or house and lot, improvements, repairs and mass housing construction projects;

(e) Contain complete amortization provision satisfactory to the Corporation requiring periodic payments by the borrower not in excess of his reasonable ability to pay the loan which shall comply with the required loan to collateral ratio as determined by the Corporation;

(f) Have a maturity satisfactory to the Corporation but not to exceed thirty (30) years;

(g) Contain such terms and provisions with respect to insurance, repair alternations, payments of taxes, default, reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Corporation may in its discretion prescribe; and

(h) Shall involve real properties held by the following:

(1) The National Government, provincial, city or municipal governments, or government-owned or -controlled corporation and agencies;

(2) Private corporations, banking institutions, trust companies, personal finance companies, mortgage companies, building and loan associations, savings and loan associations, installment lending companies, insurance companies, developmental builders, associations and cooperative societies which are legal agents of owner-occupants, or trust formed or created for the purpose of rehabilitating slum or blighted areas, or providing housing for rent or sale, and which possess powers necessary therefore and incidental thereto; and

(3) An individual owner or joint-owners.

#### Section 14. *Guaranty Premiums, Appraisal Fees and Other Charges.* ~

(a) The Corporation shall fix in accordance with sound actuarial practice and the risk characteristics involved, the rates of guaranty premiums to be imposed: *Provided, however*, That no guaranty premium shall be fixed at less than one half of one percent (1/2 of 1%) of the amount of the outstanding principal obligation for socialized housing; three fourths of one percent (3/4 of 1%) for low-cost housing; one percent (1%) for medium-cost; and one and one half percent (1.5%) for open housing. Such guaranty premiums shall be payable by the

mortgagee or guaranteed entity, either in cash or in debentures issued by the Corporation at its present value, in such manner as maybe prescribed by the Corporation. In addition, the Corporation may charge and collect from the mortgagee or guaranteed entity, such fees and amounts as maybe reasonable to implement its guaranty programs.

(b) In addition, the Corporation may fix, charge and collect such fees and amounts as may be reasonable for the appraisal of a property or project offered for guaranty and may likewise charge and collect such fees and amount as may be reasonable for the inspection of such property or project during construction.

#### Section 15. *Guaranty Coverage and Composition of Guaranteed Accounts.* ~

(a) The Corporation shall guaranty payments of the balance outstanding and due on the guaranteed principal obligation, plus interest and yields thereon up to eleven percent (11%) per ten percent (10%) per annum for low-cost housing packages; nine and one-half percent (9.5%) per annum for medium-cost housing packages; and eight and one-half percent (8.5%) per annum for open housing packages;

(b) The corporation shall guarantee accounts under this Act, as follows:

(1) At least forty percent (40%) of guaranty accounts shall be allocated for socialized housing packages;

(2) At least thirty percent (30%) of guaranty accounts shall be allocated for low-cost housing packages;

(3) At least twenty percent (20%) of guaranty accounts shall be allocated for medium-cost housing packages; and

(4) Not more than ten percent (10%) of guaranty accounts may be allocated for open housing packages.

For the foregoing purpose, the respective ceilings for socialized, low-cost, medium-cost, and open housing shall be jointly determined by the Housing and Urban Development Coordinating Council and the National Economic and Development Authority: *Provided*, That at any time, but not more often than once every two (2) years, such ceilings may be reviewed or revised to conform to prevailing economic conditions.

(c) The Corporation shall as much as possible and practicable, allocate its guaranty obligations fairly and equitably among all the regions of the country.

Section 16. *Guaranty Limitations.* ~ Any and all guaranty issued by the Corporation shall be subject to the following limitations, anything to the contrary notwithstanding:

(a) The extension of guaranty or guaranties for development projects for the account of anyone institution or entity shall not, at any time, exceed three (3) times the net worth of such institution or entity;

(b) The extension of guaranty shall not exempt banks and other financial institutions regulated by the Bangko Sentral ng Pilipinas from complying with the pertinent single borrowers limit as provided by the Monetary Board of the Bangko Sentral ng Pilipinas;

(c) The aggregated amount of the outstanding obligations shall not, at anytime, exceed twenty (20) times the capital and surplus of the Corporation;

(d) All guaranteed bonds, debentures, commercial papers and other securities issued by the individual persons which are sold to the public shall be subject to the registration requirements under the Revised Securities Act;

(e) The Corporation shall set aside five percent (5%) of its annual net operating revenues before interests as reserve or sinking fund to answer for guaranty calls; and

(f) All rules and regulations and limitations under this Act shall be subject to the concurrence of the Monetary Board of the Bangko Sentral ng Pilipinas.

*Section 17. Payments of Guaranty Calls. ~*

(a) In the event of a default on the guaranteed obligation in accordance with the regulations of the Corporation, the guaranty entity shall be entitled to receive the benefit of the guaranty as herein provided, upon (1) the prompt conveyance to the Corporation of the right to the property securing the guaranteed obligations; and (2) the assignment to the Corporation of all claims of the mortgagee against the mortgagor under the guaranteed obligation. Upon such conveyance and assignment, the obligation of the guaranty entity to pay the premium charges for guaranty shall cease and the Corporation shall, at its option, pay in cash and/or issue to the guaranteed entity, debenture bonds equivalent to the guaranteed obligations;

(b) For the purpose of the above subsection (a), the balance outstanding and due on the guaranteed mortgage shall be determined in accordance with the rules and regulations prescribed by the Corporation;

(c) Debentures issued under this Section shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be in coupon or registered form;

(d) Debentures issued under this Section to any mortgagee with respect to mortgages or loans guaranteed under Chapters III and IV shall be executed in the name of the Home Guaranty as obligor, and signed for the Corporation by the President of the Corporation, either by his written or engraved signature, and shall be negotiable, exempt from taxation to the extent specified in this Act, attachment, execution or seizure, redeemable at the option of the Corporation at or before maturity and fully guaranteed as to principal and interest by the Republic of the Philippines. All such debentures shall be dated as of the date the mortgagee conveys and assigns to the Corporation its right under the mortgage and valid claims against the mortgagor and shall bear interest not exceeding the interest rate established for the principal obligation. The interest of the debentures shall be payable semi-annually on the first day of January and the first day of July of each year. The debenture shall mature ten (10) years after date on which the debentures were issued or three (3) years after July first following the maturity of the mortgage on the property on exchange for the debentures were issued whichever is the shorter period, and may be used at the option of the mortgagee in the payment of the guaranty premium due to Corporation.

(e) If the net amount realized from the sale or disposition of any property conveyed to the Corporation under this section and the claims assigned therewith, after deducting all expenses incurred by the corporation in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be paid to the mortgagor of the property;

(f) The aggregate amount at any time of all such debentures, securities, and other evidences of indebtedness issued under this Section, shall be determined by the Corporation with the approval of the President of the Philippines after consultation with the Monetary Board of the Bangko Sentral ng Pilipinas, which shall in no case exceed the aggregate amount of the outstanding principal obligations of all mortgages insured under this Act; and

(g) The Corporation may, in accordance with the provisions of the mortgage, or in the absence thereof, upon such term and conditions as it may prescribe, release part or parts of the mortgage property from the lien of the mortgage.

Section 18. *Guaranty of the Republic of the Philippines.* ~

(a) The Republic of the Philippines hereby fully and unconditionally guaranties to payment by the Corporation both of the principal sums and interest of the bonds, debentures, collateral, notes or other such obligations of the Corporation, issued or incurred by the virtue of this Act and shall pay such principal sums and interest and in the event that the Corporation fails to do so: *Provided*, That such guaranty shall be expressed on the face of the certificate of indebtedness: *Provided further*, That the aggregate of such bonds, debentures, collateral, notes or other such obligations of the Corporation does not exceed at any time, the limit prescribed under Section 5 (f) of this Act.

(b) The Republic Act of the Philippines hereby fully and unconditionally guaranties the guaranty obligations of the Corporation incurred in accordance with this Act both as to principal, and as to interest up to eleven percent (11%) for socialized housing, ten percent (10%) for low cost housing, nine and one-half percent (9.5%) for medium cost housing and eight and one-half percent (8.5%) for open housing: *Provided, further*, That the aggregate amount of the outstanding obligations shall not, at any time, exceed twenty (20) times the capital and surplus of the Corporation.

The Republic Act of the Philippines shall succeed to all the rights of the holders of such bonds, debentures, collateral, notes or other instruments to the extent of the payments made, unless the sums so paid by the Republic of the Philippines shall be refunded by the corporation within a reasonable time.

Section 19. *Tax Exemption.* ~ Interest and yields earned or accumulated on mortgage, debentures, bonds, notes, mortgage and asset backed securities, interest under a lease, and other credit instruments, whether issued by the Corporation or covered by its guaranties in favor of natural or judicial persons, in cash or in bonds, shall be exempt from all taxation to the same extent provided in Section (15) (a) hereof: *Provided, however*, That the Corporation shall have the authority to increase the limit of such exemption in such varying amounts shall be reflective of the social concern of the state: *Provided further*, That the exercise of said authority shall be subject to the approval of the President of the Philippines upon the recommendation of the Monetary Board of the Bangko Sentral ng Pilipinas: *provided finally*, That the Corporation shall not exercise such authority more often than once every five years.

#### CHAPTER IV ~ BUILDING AND LOANS ASSOCIATIONS

Section 20. *Building and Loans Associations.* ~

(a) In order to encourage the accumulation of savings and the financing of homes through the local mutual thrift institutions, The Corporation is authorized, under such rules and regulations as it may prescribed, to issue contracts of guaranty for the accounts of such buildings and loan associations in accordance with the best practices of known mutual thrift and home financing institutions.

(b) Whenever guaranteed by the Corporation and where the loan is intended for housing development, such association shall lend their funds only on the security of first clients of real estate located within an area to be determined by the Corporation.

(c) The Corporation is authorized to subscribed for preferred shares in such associations as to assets of the associations and which shall be entitled to a dividend, if earned, after payment of expenses and provision of reasonable reserves, to the same extent or other

shareholders: *Provided, however,* That no such subscription shall be made unless in the judgement of the Corporation the funds are necessary for encouragement of reasonable local home financing in the community to be served. In case of liquidation of such associations, the shares held by the corporation shall be retired on the same basis as payments are made to other shareholders in accordance with other laws.

(d) When guaranteed by the Corporation, such associations including their franchises, capital, reserves, surplus, and their loans, receipts and incomes shall be exempt from all taxation now or hereafter imposed by the government.

Section 21. *Open-end Mortgages.* ~ Notwithstanding any other provision of this Act, in connection with any mortgage guaranteed pursuant to any section of this Act which covers a property upon which there is located a dwelling designed for residential use, the corporation is authorized, upon such terms and conditions as it may prescribe, to guarantee the amount of such advances for the improvement or repair of the property made to the mortgagor pursuant to an "open-end" advances. Only advances for such improvements or repairs as will substantially protect or improve the basic liability or utility of the property involved shall be eligible for guaranty under section. No such advances shall be guaranteed under this section if the amount thereof plus the amount of the unpaid balance of the original obligation of the mortgage would exceed the amount of such original principal obligation unless the mortgagor certifies that the proceeds of such advance be used to finance the construction of additional rooms or other enclosed space as part of dwelling. The guaranty of "open-end" advances shall not be taken into account in determining the aggregate amount of principal obligations of mortgages which may be guaranteed under this Act.

Section 22. *Investments of Funds.* ~ Corporate funds not needed for the current operations for the Corporation, shall be deposited with any government bank as may be approved by the board, or invested in bonds or other obligations guaranteed as to principal and interest by the government. The Corporation may purchase in the open market debentures issued under the provisions of this Act which debentures will be cancelled and not re-issued.

## CHAPTER V ~ MISCELLANEOUS PROVISIONS

Section 23. *Definitions.* ~ As used in this Act, and unless the context requires, the term:

(a) "*Bond guaranty coverage*" refers to the type of guaranty coverage which entitles the guaranteed entity to a claim payment in the form of debenture bonds upon call on the guaranty.

(b) "*Builder/Developer*" refers to the person or entity who develops raw lands for housing;

(c) "*Cash guaranty coverage*" refers to the type guaranty coverage which entitles the guaranteed entity to cash payment upon call on the guaranty.

(d) "*Development loan*" pertains to a type of loan the proceeds of which shall be used for housing subdivision development or construction of residential houses;

(e) "*Guaranty premium*" refers to the fee to be charged by the Corporation for the extension of the guaranty;

(f) "*Housing finance*" refers to the comprehensive funds flow system covering the entire housing provision cycle from identification of financial requirements, fund sourcing for various aspects of housing program, such as lot acquisition, development and construction, to end buyers financing;

(g) "*Maturity date*" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with the periodic payments provided for in the mortgage;

(h) "*Mortgage*" shall mean a first mortgage on real estate in fee simple, or in the interest of either the lessor or the lessee thereof under a lease for not less than twenty (20) years to run from the date the mortgage was executed, upon which there is located or upon which there is to be constructed a building or buildings designed principally for residential use; and the term "first mortgage" means such classes of first mortgages as are commonly given to secure advances on, or the unpaid purchase price of, real estate, together with the credit instruments, if any secured thereby, and may be in the form of bonds, notes, stocks and mortgage and asset-backed securities, trust mortgages or mortgage indentures of deeds of trust securing notes, bonds, or other credit instrument.

(i) "*Mortgagee*" shall mean the original lender under a mortgage, and its successors and assigns, and includes the holders of bonds, notes, stocks, mortgage and asset-backed securities and other credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee herein named;

(j) "*Mortgagor*" shall mean the original borrower under a mortgage as defined herein, and its successor and assigns;

(k) "*Net-worth*" shall mean the paid up capital plus (50%) of the retained earnings of the Corporation.

(l) "*Open-housing*" refers to housing packages with cost above the medium package cost set in Section 15 of this Act but in no case costing more than Five Million Pesos (5,000,000.00);

(m) "*Prudent production cost*" of the project shall mean with respect to the relevant project, the relevant cost of the builder of the proposed physical improvements, including buildings, utilities within the boundaries of the subject property, cost of land, architects' fees, taxes and interest accruing during construction, but not including builders' profit nor other charges, except for estimated depreciated cost of any existing utilities;

(n) "*Rental housing*" shall mean, housing the occupancy of which is permitted by the owner thereof in consideration of the payment agreed charges, whether or not by the terms agreement, such payment over a period of time will entitle the occupant to the ownership of the premises.

(o) "*Secondary mortgage market*" means a market where existing mortgages are sold to and bought by the public;

(p) "*Single family residence*" means a type of residential structure designed to include one dwelling; and

(q) "*Slum or blighted area*" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement, or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health or morals.

Section 24. *Warranties of Developers/Builders, Sellers, or Funders* ~ The Corporation not require guaranteed sellers, developers/builders, or funders, or such other persons as may be required by the said Corporation to become warrantor, to deliver to the purchaser or owner of such property a warranty that the dwelling were constructed in substantial conformity with the plans and specifications on which the corporation based its valuation of the dwelling. The Corporation shall deliver to the developer/builder, seller, or funder or other warrantor their written approval of any amendment of, or change or variation in, such plans and specifications which the Corporation deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such

warranty shall apply only with respect to such instances or substantial non conformity to such approved plans and specifications to which as to purchaser or homeowner has given written notice to the warrantor within two (2) years from the date of conveyance or title to, or initial occupancy of the dwelling, whichever first occurs, without prejudice to all other rights and privileges which such purchaser or owner may have any other law or instrument. Any amendment of, or change, or variation in, such plans and specifications shall be with the prior written approval of the Corporation.

*Section 25. Participation of Financing Institutions and Other Investors. ~*

(a) All banking institutions, trust companies, personal finance companies, mortgage companies, building and loan associations, savings and loans associations, installment lending companies, insurance companies, the GSIS, the SSS, the Development Bank of the Philippines (DBP), and other government financing institutions or other government owned and controlled operations, are hereby authorized to invest part of their funds for the purpose of giving loans and advances of credit contemplated provided in this Act, as well as on the purchases of obligations representing loans and advances of credit made pursuant to the provisions of this Act, any provision of their respective charters or by-laws to the contrary notwithstanding. All housing loans, within the loan ceiling fixed by the foregoing government institutions shall be guaranteed by the Corporation under the provisions of this Act.

All mortgagee institutions participating in the mortgage guaranty program shall be bound by the terms and conditions of the guaranteed mortgage loans as may be approved by the Corporation. Any amount invested by all foregoing entities in the financing or mortgage loans for housing development under this Act shall be guaranteed both the Corporation and the government of the Republic of the Philippines.

(b) The aforementioned government financing institutions are hereby authorized to constitute the secondary market for guaranteed and shall;

1) Purchase, service or sell mortgages which are guaranteed under the provisions of this Act.

2) Subject to the approval of the Monetary Board of the Bangko Sentral ng Pilipinas, issue bonds, debentures, securities, collaterals and other obligations against the security of mortgage as their respective boards may designate and such obligations may be issued and offered for sale at such price or prices as the particular government institutions may determine, and shall be negotiable and exempt from taxes both as to principal and interest, subject to section 19 hereof.

*Section 26. Powers over Homeowners Associations. –* The powers authorities and responsibilities vested in the Corporation with respect to homeowners association under Republic Act No. 580, as amended by Executive Order No. 535 is hereby transferred to the housing and Land use Regulatory Board (HLURB).

Subject to existing laws, the HLURB is hereby authorized to create additional positions and augment its present budget as may be needed for the operation and maintenance of the newly created unit or office as a consequence of the transfer of functions and powers.

Pending the approval of the HLURB Revised Staffing and Organizational plan and release of budgetary allocations thereof, the Corporation shall extend technical, operational and administrative assistance to the HLURB as may be mutually deemed necessary to ensure smooth turnover of functions. However, such assistance shall not extend beyond a period of one (1) year from date of activity of this Act.

*Section 27. Penalties. ~*

(a) Whoever, for the purpose of obtaining any loan or credit from any person, partnership, association or corporation with the intent that such loans or advance of credit shall be offered to or accepted by the Corporation for guaranty, or for the purpose of credit, or mortgage guaranteed by the said Corporation, or the acceptance, release, or substitution of any security on such loan, advance of credit, or for the purpose of influencing in any way the action of the said Corporation under this Act, (1) makes, passes, utters or publishes, or causes to be made any statement knowing to be false, or (2) alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper or documents, or (3) utters, publishes, or passes as true or causes to be uttered, published, or passed as true, any instrument, paper or documents, knowing it to have been altered, forged or counterfeited, or (4) willfully overvalues any security, asset, or income, shall be punished by a fine of not less than the amount of the loan or loans involved or by imprisonment for not more than ten(10)years or both.

(b) Whoever (1) falsely makes, forges, or counterfeits any obligation or coupon, in imitation of or purporting to be an obligation or coupon under authority of this Act, or (2) passes, utters or publishes, or attempts to pass, utter, or publish any false, forged, or counterfeited obligation or coupon purporting to have been so issued knowing the same to be false, forged or counterfeited, or (3) falsely utters any obligation or coupon so issued or purporting to have been so issued, or (4) passes, utters, publishes, or attempts to pass, utters or publish, as true, any falsely altered or spurious obligation or coupon so issued or purporting to have been so issued, knowing the same to be falsely altered or spurious shall be punished by a fine of not less than the amount of loan involved, or by imprisonment for not more than five(5)years, or both.

(c) Any person (1) who willfully and knowingly makes, circulates, or transmits to another or others any statement, or rumor written, printed, or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of the Corporation, or (2) who knowingly counsels, aids, procures, or induces another to start, transmit, or circulate such any statement of rumor, is guilty of felony punishable by a fine of not less than the amount of loan involved or by imprisonment of not exceeding one(1)year, or both.

Section 28. *Fund Sources for Operation.* ~ The Bangko Sentral ng Pilipinas, may extend to the Corporation advances which may be needed for its operations and grant loans secured by any assets which are defined as acceptable securities by the Monetary Board.

Section 29. *Exemptions.* ~ The Corporation is exempted from the coverage of the regulations of Bangko Sentral ng Pilipinas governing quasi-banking functions.

Section 30. *Legal Counsel* ~ The Office of the Government Corporate Counsel shall be the General Counsel of the Corporation.

Section 31. *Resident Auditor.* ~ The resident Auditor of the Corporation shall be Appointed by the chairman of the Commission on Audit, who shall also appoint for a cause, remove upon the recommendation of the President Auditor, the personnel of the Auditing Office. The Auditor shall submit, through the Commission, an annual report on the financial condition and the result of the operations of the Corporation to the President of the Republic of the Philippines, each member of the Senate and the House of Representatives, The National Economic and Development Authority and the Chairman of the Commission on Audit.

Section 32. *Reports.* ~ The Corporation shall submit a quarterly report to the President of the Philippines and to each member of the Congress of the Philippines, within the forty-five (45) days of the succeeding quarter, regarding its activities under this Act for the previous quarter.

Section 33. *Transitory Provision.* ~ Any and all policies, guidelines, programs, ceilings and limits currently in effect with respect to the issuance of guaranty shall be submitted to the Monetary Board of Bangko Sentral ng Pilipinas for concurrence within six (6) months after the effectivity of this Act.

Section 34. *Report on the Development of the Secondary Mortgage Market.* ~ The Housing and Urban Development Coordinating Council and the Corporation shall submit to the President of the Philippines and to Congress a program for the development of the secondary mortgage market.

Section 35. *Sunset Review.* ~ Every year after the effectivity of this Act, Congress shall conduct a sunset review which shall entail a systematic evaluation of the Corporation to determine whether or not the performance, impact or accomplishments will respect to its mandates merit its continued existence. Such review shall be undertaken by the Committee on Housing and Urban Development and the Committee on Government Corporations and Public Enterprises of the Senate and the Committee on Housing and Urban Development and the Committee on Government Enterprises and Privatization of the House of Representatives which have legislative jurisdiction over the Corporation.

Section 36. *Suppletory Application of the Corporation Code.* ~ The provision of the Corporation Code shall have suppletory application in matters not provided in this Act.

Section 37. *Implementing Rules and Regulation.* ~ The Corporation with the Department of Finance, the Housing and Urban Development Coordinating Council, and the Department of Budget and Management shall promulgate the rules and regulations necessary for the implementation of and consistent with this Act.

Section 38. *Repeal.* ~ Republic Act 580,1577 and 5488, and Executive Order No. 535 are hereby repealed. The provisions of Republic Act Nos. 6486,7279 and 7835, and Executive Order No. 90 and all other laws, orders and proclamations, rules and regulations, or parts thereof, inconsistent with or contrary to the provisions of this Act or its purpose are hereby amended or modified accordingly.

Section 39. *Separability Provisions.* ~ If for any reason, any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remaining provisions is not affected thereby shall continue to be in full force and effect.

Section 40. *Effectivity.* ~ This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved March 7, 2000