
* Legal FiNeSse *

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Rent Control Law Extended

The Rental Reform Act of 2002, Republic Act No. 9161, was enacted on December 22, 2001 and took effect on January 1, 2002. Said law provides that beginning January 1, 2002 until December 31, 2004 monthly rentals of all residential units not exceeding P7,500.00 in the National Capital Region and monthly rentals of all residential units not exceeding P4,000.00 in all other areas shall not be increased by more than ten percent (10%).

The law also provides grounds for judicial ejectment as follows: a) assignment of lease or subleasing without prior written consent of the owner/lessor; b) arrears in payment of rent for a total of three (3) months; c) legitimate need of the owner/lessor for his own use or for the use of any immediate family as a residential unit; d) need of the lessor to make necessary repairs of the leased premises which is subject of an existing order of condemnation; and e) expiration of the period of the lease contract. Ejectment upon the ground that the leased premises have been sold or mortgaged to a third person is not allowed.

A penalty of not less than P5,000.00 but not more than P15,000.00 or imprisonment of not less than one (1) month and one (1) day to not more than six (6) months or both shall be imposed on any person, natural or juridical, found guilty of violating any provisions of this law.

Proposed Bill Abolishing Death Penalty Law Introduced

Senator Aquilino Q. Pimentel, Jr. filed Senate Bill No. 827 that seeks to abolish the Death Penalty and impose the penalty of Qualified Reclusion Perpetua (life imprisonment) in lieu thereof, thereby amending Republic Act 7659 or the Death Penalty Law. The Bill is based on the Senator's interpretation of the Constitutional provision against cruel and unusual punishment. In his "Explanatory Note," the Senator queried: "If it is a cruel and unusual punishment to cut off parts of the body of a convict, why is it not cruel and unusual punishment to take his very life?" The proposed bill is yet to be calendared for discussion and debate by the Senate.

Implementing Rules of Anti-Money Laundering Law Now in Effect

The Implementing Rules and Regulations (IRR) of R.A. 9160 or the Anti-Money Laundering Act of 2001 (AMLA) was approved on March 8, 2002 by the Congressional Oversight Committee and will take effect on April 2, 2002.

Among the salient features of the IRR are the following:

1. It enumerates 114 unlawful activities thereby naming all acts or omissions referred to in the AMLA.
2. It points out the distinction between elements of the offense of money laundering which must be proved beyond reasonable doubt and elements of felony or offense constituting the unlawful activity, including identity of perpetrators and details of actual commission of the unlawful activity, which need not be so established.
3. The IRR also requires all suspicious transactions with covered institutions like banks, *irrespective of amounts involved*, to be reported when there is reasonable belief that any money laundering offense is about to, is being or has been committed. It also provides for the discretionary administrative sanctions for non-compliance with suspicious transaction reporting requirements as authorized by the charters of SEC, IC, and BSP.
4. The IRR likewise provides that the authority to inquire into bank deposits does not apply to deposits and investments opened or created prior to the effectivity of the AMLA on October 17, 2001, except when transactions occurring, initiated or commenced on or after said date relate to or involve bank accounts and investment accounts opened or created prior to October 17, 2001.

BIR Allows Non-Filing of Income Tax Returns for Private and Government Employees

Under Revenue Regulation No. 3-2002, private and government wage earners need not file their 2001 tax returns if taxes withheld from them were equal to the amount of income tax due on their salaries. This method allows the BIR to rely solely on the Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding

Taxes or BIR Form No. 1604-CF filed by the employers duly stamped received by the BIR and accompanied by a joint certification under oath of the employee and the employer that the employer's filing of BIR Form 1604-CF is deemed a substituted filing of the employee's income tax return.

SEC Sets Guidelines for Conduct of Tele/Videoconferencing

Implementing its earlier opinion, the SEC in Memorandum Circular No. 15 issued on 20 November 2001 has now set the guidelines for the conduct of corporate board meetings where the directors are not physically present and are in different local or international places.

The "Tele/Videoconferencing Rules" require the corporate secretary to send out notices of the meeting to all the directors in accordance with the corporation's by-laws and which include an inquiry on whether the director will be physically present or participate through tele/videoconferencing. Should the director choose tele/videoconferencing, said director is required to notify the Secretary at least five (5) days prior to the scheduled meeting of the board. In the absence of such notice, it is presumed that the director will physically attend. During the meeting, all the participants are required to identify themselves before speaking and must clearly hear and/or see each other in the course of the meeting, otherwise, the Secretary shall identify the last speaker for purposes of record. In any event, the minutes of the meeting of the board shall contain the signatures of all the directors who attended the meeting, be it personally or through tele/videoconferencing.

It must be stressed, however, that this medium is available only for directors' meetings and does not cover stockholders' meetings that still require physical presence of stockholders or representation by proxy and the conduct thereof in the place of the principal office of the corporation.

Rules and Regulations Covering Form and Content of Financial Statements Issued by SEC

SEC also recently amended Securities Regulation Code (SRC) 68 to provide for the requirements applicable to the form and content of financial statements required to be filed with the SEC by all corporations that file with the SEC audited financial statements prepared in conformity with the generally accepted accounting principles except those whose paid-up capital is less than P50,000, and banks, insurance companies and public utilities. The standards to be followed in such preparation are those set by the Accounting Standards Council. SEC also now stresses that management of all covered corporations are required to acknowledge their responsibility over their financial statements such that the fairness and representations made therein is an implicit and integral part of management's responsibility. The independent CPA's responsibility is thus confined to the expression of his opinion on such statements which he has examined.

FNS Hong Kong Liaison Office Established

The Firm now maintains a service company in Hong Kong known as Fortun, Narvasa & Salazar (H.K.) Services, Limited which serves as a liaison and referral office for FNS. It is run by Randy Salazar, one of the Firm's Special Counsels, who has been a resident of Hong Kong for almost 20 years. FNS HK aims to help the Firm's Philippine clients set up business there and assist the Firm build up its clientele from Hong Kong. FNS HK may be reached at iahksifn@netvigator.com. The Firm's Counsels and Partners hied off to Hong Kong on January 25th for a Cocktail Reception at the Foreign Correspondent's Club to introduce the new office to the Hong Kong business community.

Firm Movements

At the Firm's annual lawyers' planning meeting held on February 9th at the Manuel M. Lopez Development Center in Antipolo City, the Managing Partner, Dicky Salazar, announced the promotion of Bayani Loste to Senior Associate effective April 1st. Bay, however, had to go on a sabbatical but promised to be back next year.

The Firm also recently congratulated Atty. Mia Y. Alinsonorin who successfully hurdled the September 2001 Bar Exams. Mia, who joined the Firm in January, is now a full-fledged lawyer. Her classmate at the Ateneo Law School, Atty. Karl Castillo, will also be joining the Firm on April 15th.

Globalaw 2nd Regional Meeting to be Hosted by FNS in Manila on June 6th and 7th

As the sole Philippine member of Globalaw, an international group of some 75 law firms in 65 countries, the Firm will host the regional meeting of the Asia-Pacific members in June. At least 10 law firms from the US, Hong Kong and Australia are expected to send representatives to the conference aimed at fostering closer ties among member firms.