

October 5, 1985

PRESIDENTIAL DECREE NO. 1987

AN ACT CREATING THE VIDEOGRAM REGULATORY BOARD

WHEREAS, the proliferation and unregulated circulation of videograms including, among others, videotapes, discs, cassettes or any technical improvement or variation thereof, have greatly prejudiced the operations of movie houses and theaters, and have caused a sharp decline in theatrical attendance by at least forty percent (40%) and a tremendous drop in the collection of sales, contractor's specific, amusement and other taxes, thereby resulting in substantial losses estimated at P450 Million annually in government revenues;

WHEREAS, videograms establishments collectively earn around P600 Million per annum from rentals, sales, and disposition of videograms, and such earnings have not been subjected to tax, thereby depriving the Government of approximately P180 Million in taxes each year;

WHEREAS, the unregulated activities of videogram establishments have also affected the viability of the movie industry, particularly the more than 1,200 movie houses and theaters throughout the country, and occasioned industry-wide displacement and unemployment due to the shutdown of numerous movie houses and theaters;

WHEREAS, in order to ensure national economic recovery, it is imperative for the Government to create an environment conducive to the growth and development of all business industries, including the movie industry which has an accumulated investment of about P3 Billion;

WHEREAS, proper taxation of the activities of videogram establishments will not only alleviate the dire financial condition of the movie industry upon which more than 75,000 families and 500,000 workers depend for their livelihood, but also provide an additional source of revenue for the Government, and at the same time rationalize the heretofore uncontrolled distribution of videograms;

WHEREAS, the rampant and unregulated showing of obscene videogram features constitutes a clear and present danger to the moral and spiritual well-being of the youth, and impairs the mandate of the Constitution for the State to support the rearing of the youth for civil efficiency and the development of moral character and promote their physical, intellectual, and social well-being;

WHEREAS, civic-minded citizens and groups have called for remedial measures to curb these blatant malpractices which have flaunted our censorship and copyright laws;

WHEREAS, in the face of these grave emergencies corroding the moral values of the people and betraying the national economic recovery program, bold emergency measures must be adopted with dispatch;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree:

SECTION 1. Creation. - There is hereby created an office to be known as the Videogram Regulatory Board, hereinafter referred to as the BOARD, which shall have its principal office in Metro Manila and shall be under the Office of the President of the Philippines. The BOARD shall regulate the importation, exportation, production, reproduction, distribution, exhibition, showing, sale, lease or disposition of videograms including, among others, videotapes, discs, cassettes or any technical improvement or variation thereof in accordance with such rules and regulations to be adopted by the BOARD.

SECTION 2. Composition of the Board. - The Board shall be composed of a Chairman, a Vice-Chairman and eighteen (18) members who shall all be appointed by the President of the Philippines to serve for a term of one (1) year, unless sooner removed by the President for any cause; Provided, That they shall be eligible for reappointment after the expiration of their term. If the Chairman or Vice-Chairman or any of the members fails to complete his term, any person appointed to fill the vacancy shall serve only for the unexpired portion of the term of the Board member whom he succeeds.

No person shall be appointed to the BOARD, unless he is a natural-born citizen of the Philippines, not less than twenty-one years of age, and of good moral character and standing in the community; Provided, That in the selection of the members of the BOARD due consideration shall be given to such qualifications as would produce a multi-sectoral combination of expertise in the various areas of the videogram industry; Provided, further, That at least five (5) members must be members of the Philippine Bar.

The Chairman, Vice-Chairman and members of the BOARD shall be entitled to transportation, representation and other allowances which shall in no case exceed Five Thousand Pesos (P5,000.00) per month.

SECTION 3. Powers and Functions. - The BOARD shall have the following powers and functions:

1) To supervise, regulate, grant, deny, or cancel permits for the importation, exportation, production, copying, sale, lease, exhibition or showing of videograms including, among others, videotapes, discs, cassettes or any technical improvement or variation thereof;

2) To approve or disapprove, delete, objectionable portions from and/or prohibit the importation, exportation, production, copying, distribution, sale, lease, exhibition or showing of videograms, including, among others, videotapes, discs, cassettes or any technical improvement or variation thereof, which, in the judgment of the BOARD applying contemporary Filipino cultural values as basic standard, are objectionable for being immoral, indecent, libelous, contrary to law or good customs, or injurious to the prestige of the Republic of the Philippines or its people, or with a dangerous tendency to encourage or fan hatred, the commission of violence or of a wrong or crime, such as but not limited to:

i) Those which tend to incite subversion, insurrection, rebellion, or sedition against the State or otherwise threaten the economic and/or political stability of the State;

ii) Those which tend to undermine the faith and confidence of the people in their government and/or the duly constituted authorities;

iii) Those which glorify criminals or condone crimes;

iv) Those which are libelous or defamatory to the good name and reputation of any person, whether living or dead;

v) Those which serve no other purpose but to satisfy the market for excessive violence or hard-core pornography;

vi) Those which tend to abet the traffic in and use of prohibited drugs; or

vii) Those which commit direct or indirect contempt of any court of justice or quasi-judicial tribunal whether any litigation on the subject of the video is pending or not before such court or tribunal.

3) To classify all videograms into categories such as "For General Patronage", "For Adults Only", or such other categories as the BOARD may determine for the public interest;

4) To close video theaters and other similar establishments engaged in the public exhibition or showing of videograms which violate the provisions of this Decree and the rules and regulations promulgated by the BOARD pursuant thereto;

5) To levy, assess and collect, and periodically adjust and revise the rates of fees and charges for the work of review and examination and for the issuance of licenses and permits which the BOARD is authorized to grant in the exercise of its powers and functions and in the performance of its duties and responsibilities;

6) To review and examine all videograms, including among others, videotapes, discs, cassettes or any technical improvement or variation thereof, as well as publicity materials or advertisements related thereto, with the end in view of making appropriate classification;

7) To deputize representatives from the government and from the various associations in the videogram industry, whose main duties shall be to help and ensure compliance with all laws, rules and regulations relative to this Decree. For this purpose, the BOARD may constitute such Council or Councils composed of representatives from the government and the videogram industry as may be appropriate to implement the objectives of this Decree. The BOARD may also call upon any law enforcement agency for assistance in the implementation and enforcement of its decisions, orders and rules and regulations;

8) To cause the prosecution, on behalf of the People of the Philippines, of violators of this Decree and the rules and regulations promulgated or issued by the BOARD.

9) To promulgate such rules and regulations as are necessary or proper for the implementation of this Decree and the accomplishment of its purposes and objectives. Such rules and regulations shall take effect after fifteen (15) days following their publication in newspapers of general circulation in the Philippines;

10) To prescribe the internal and operational systems and procedures for the exercise of its powers and functions including the creation and vesting of authority upon sub-committees of the BOARD for the work of review, examination or classification and other related matters; and

11) To exercise such other powers and functions as may be necessary or incidental to the attainment of the purposes and objectives of this Decree, and to perform such other related duties and responsibilities as may be directed by the President of the Philippines.

SECTION 4. Executive Officer. - The Chairman of the BOARD shall be the Chief Executive Officer. He shall Exercise the following duties and functions:

a) Execute, implement and enforce the decisions, orders, rules and regulations promulgated or issued by the BOARD;

b) Direct and supervise the operations and the internal affairs of the BOARD;

c) Establish the internal organization and administrative procedures of the BOARD, and recommend to the BOARD the appointment of the necessary administrative and subordinate personnel; and

d) Exercise such other powers and functions and perform such duties as are not specifically lodged in the BOARD.

The Chief Executive Officer shall be assisted by an Executive Director who shall be appointed by the President of the Philippines. The Executive Director shall hold office for a term of one (1) year, unless sooner removed by the President of the Philippines, for any cause.

Unless otherwise provided by law, the Chief Executive Officer shall receive an annual salary of Seventy Two Thousand Pesos (P72,000.00) and the Executive Director shall receive an annual salary of Sixty Thousand Pesos (P60,000.00).

- SECTION 6. Registration. - No person, whether natural or juridical, may engage in the importation, exportation, production, reproduction, exhibition, showing, sale, lease or disposition of videograms unless such person is first registered with and permitted by the BOARD to operate as such. The registration with and permit issued by the BOARD is a condition precedent for securing a business permit or license from the appropriate authorities.

SECTION 7. Reproduction of Cinematographic Art. - No person registered and permitted to engage in the videogram industry can copy or reproduce any cinematographic art without the written consent or approval of the producer, importer or licensee of the cinematographic art to be copied or reproduced, and in no case shall any cinematographic art be allowed to be copied or reproduced within a period of six (6) months after it is first released for theatrical exhibition, unless the producer, importer or licensee agrees to a shorter period.

SECTION 8. Sale, Lease or Disposition of Videograms. - No videogram including, among others, videotapes, discs, cassettes or any technical improvement or variation thereof, shall be sold, leased or otherwise disposed of unless first registered with the BOARD with the corresponding registration identification or seal in such form and manner as may be provided for by the BOARD.

SECTION 9. Penalty. - Any person who violates any or all of the provisions of Sections 3, 6, 7, 8 and 10 of this Decree or the rules and regulations to be promulgated pursuant thereto, either as principal, accomplice or accessory, shall, upon conviction, suffer a mandatory penalty of three (3) months and one (1) day to one (1) year imprisonment plus a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than One Hundred Thousand Pesos (P100,000.00). Should the offense be committed by a juridical person, the chairman, the president, secretary, treasurer, or the partner responsible therefor, shall be the persons penalized.

The provisions of Presidential Decree No. 968, as amended (Probation Law), shall not apply in cases of violations of this Decree, including its implementing rules and regulations.

SECTION 10. Tax on Sale, Lease or Disposition of Videograms. - Notwithstanding any provision of law to the contrary, the province shall collect a tax of thirty percent (30%) of the purchase price or rental rate, as the case may be, for every sale, lease or disposition of a videogram containing a reproduction of any motion picture or audiovisual program. Fifty percent (50%) of the proceeds of the tax collected shall accrue to the province, and the other fifty percent (50%) shall accrue to the municipality where the tax is collected; Provided, That in Metropolitan Manila, the tax shall equally by the city/municipality and the Metropolitan Manila Commission.

The tax herein imposed shall be due and payable within the first twenty (20) days of the month next following that for which it is due, by the proprietor, seller or lessor concerned, and such tax shall be

determined on the basis of a true and complete return of the amount of gross receipts derived during the preceding month. If the tax is not paid within the time fixed herein above, the taxpayer shall be subject to such surcharges, interests and penalties prescribed by the Local Tax Code. In case of willful neglect to file the return and pay the tax within the time required, or in case a fraudulent return is filed or a false return is willfully made, the taxpayer shall be subject to a surcharge of fifty percent (50%) of the correct amount of the tax due in addition to the interest and penalties provided by the Local Tax Code. Any provision of law to the contrary notwithstanding, a city may also levy and collect, among others, any of the taxes, fees and other impositions that the province or the municipality may levy and collect.

SECTION 11. Assistance in the Enforcement Functions of the BOARD. - The BOARD may solicit the direct assistance of other agencies and units of the government, and deputize, for a fixed and limited period, the heads or personnel of such agencies and units to perform enforcement function for the BOARD. The government agencies and units exercising the enforcement functions for the BOARD shall, insofar as such functions are concerned, be subject to the direction and control of the BOARD.

SECTION 12. Organizational Pattern; Personnel. - The BOARD shall determine its organizational structure and its staffing pattern. It shall have the power to suspend or dismiss for cause any employee and/or approve or disapprove the appointment, transfer or detail of employees. It shall appoint the Secretary of the BOARD who shall be the official custodian of the records of the meetings of the BOARD and who shall perform such other duties and functions as directed by the BOARD.

SECTION 13. Applicability of Civil Service Law. - The BOARD and its officers and employees shall be subject to the Civil Service Law, rules and regulations; Provided, That technical personnel shall be selected on the basis of merit and fitness to be determined in accordance with such policies and guidelines as may be approved by the BOARD.

SECTION 14. Auditor. - The Chairman of the Commission on Audit shall be the ex officio Auditor of the BOARD. For this purpose, he may appoint a representative who shall be the auditor of the BOARD, together with the necessary personnel to assist said representative in the performance of his duties. The number and salaries of the auditor and said personnel shall be determined by the Chairman of the Commission on Audit, subject to the rules and regulations of the Commission on Audit. Said salaries and all other expenses of maintaining the auditor's office shall be paid by the BOARD. The Auditor shall, as soon as practicable, but not later than three (3) months after the accounts have been submitted to audit, send an annual report to the BOARD. The Auditor shall also submit such periodic or special reports as the BOARD may deem necessary or proper.

SECTION 15. Transitory Provision. - All videogram establishments in the Philippines are hereby given a period of forty-five (45) days after the effectivity of this Decree within which to register with and secure a permit from the BOARD to engage in the videogram business and to register with the BOARD all their inventories of videograms, including videotapes, discs, cassettes or other technical improvements or variations thereof, before they could be sold, leased, or otherwise disposed of. Thereafter any videogram found in the possession of any person engaged in the videogram business without the required proof of registration by the BOARD, shall be prima facie evidence of violation of this Decree, whether the possession of such videogram be for private showing and/or for public exhibition.

SECTION 16. Appropriations. - The sum of Three Million Pesos out of any available funds from the National Treasury is hereby appropriated and authorized to be released for the organization of the BOARD and its initial operations. Henceforth, funds sufficient to fully carry out the functions and objectives of the BOARD shall be appropriated every fiscal year in the General Appropriations Act. All fees, revenues and receipts of the BOARD from any and all sources shall be used to augment the funds to support the expenditures needed by the BOARD in the pursuit of its purposes and objectives and the exercise of its powers and functions, and for such other purposes as may hereafter be directed by the President of the Philippines.

SECTION 17. Annual Reports. - The BOARD shall, within three months after the end of every fiscal year, submit its annual report to the President. The annual report shall include, among others, a statement of the BOARD's accomplishments together with its plans and recommendations to improve and develop its operations and the supervision and regulation of the videogram industry.

SECTION 18. Separability Clause. - In case any provision of this Decree shall be held or declared invalid or unconstitutional, the validity of the other provisions shall not be affected thereby.

SECTION 19. Repealing Clause. - Any provision of law, decree, executive order, letter of instructions or implementation, or other rules and regulations inconsistent with the provisions of this Decree is hereby repealed, amended or modified accordingly.

SECTION 20. Effectivity. - This Decree shall take effect after fifteen (15) days following its publication in the Official Gazette.

DONE in the City of Manila, this 5th day of October, in the year of Our Lord, nineteen hundred and eighty-five.