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SENATE

S. No. 290

RECEIVED BY: 

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
MANDATING THE FULL ACCOUNTING OF ALL DISASTER-RELIEF AID OR
DONATIONS RECEIVED BY THE PHILIPPINE GOVERNMENT FOR NATURAL
AND HUMAN-INDUCED CALAMITIES

EXPLANATORY NOTE

In the aftermath of the extremely destructive super typhoon Yolanda (international codename: Haiyan) that struck our country last November 8, 2013, an outpouring of support in the form of cash and in-kind donations were directed to the Philippines by both local and foreign donors. In response to media reports alleging instances of corruption with respect to the utilization and accounting of the donated funds, Senator Miriam Defensor-Santiago introduced Proposed Senate Resolution No. 363 entitled:

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED FOR TRANSPARENCY AND ACCOUNTABILITY WITH REGARD TO INCOMING FOREIGN AND LOCAL AID FOR THE VICTIMS OF SUPER TYPHOON YOLANDA

which was referred to the Committee on Finance.

On February and March 17, 2014, the Committee of Finance conducted a hearing on the bills referred to it, including the said resolution. Subsequently, a Technical Working Group meeting was conducted by the committee to which resource persons from the Department of Foreign Affairs, Department of Budget and Management, Department of Finance and Commission on Audit were invited.

From the above-mentioned hearings and TWG meeting, one of the findings was the fact that there was no single agency in the government that has possession and knowledge of the total amount of local and foreign donations for the victims of Super

Typhoon Yolanda. The Foreign Aid Transparency Hub or FAITH, an online information portal created by the national government, captures only the foreign aid pledged and received by the county for the victims of Yolanda. It does not include the foreign or local donations that were deposited directly to the accounts of various departments or agencies, or the foreign or local donations received directly by the affected local government units.

The above findings indicated the need to institutionalize, preferably through legislation, a mechanism for the monitoring and accounting of all foreign and local donations for natural and man-made calamities. In addition, the public clamor for transparency and accountability in the utilization of the monetary and non-monetary aid received from foreign and local beneficiaries calls for proactive action from the Commission on Audit.

In view of the foregoing, the approval of the bill is earnestly sought.



FRANCIS G. ESCUDERO *FP*



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

1 Section 1. *Title.* This Act shall be known as the "*Donation Transparency Act*".

2 Sec. 2. *Declaration of Policy.* It is hereby declared the policy of the State to
3 promote transparency and accountability in the receipt and utilization of foreign and
4 local donations for natural and human-induced calamities that cause havoc and
5 destruction in the country.

6 Sec. 3. *Coverage.* This Act shall cover all foreign and local donations directed
7 to the national government, government-owned or- controlled corporations (GOCCs)
8 and local government units (LGUs) from all sources, such as foreign governments,
9 bilateral or multilateral organizations and institutions, and private individuals or
10 groups.

11 Sec. 4. *Definition of Terms.* For purposes of this Act, the following shall refer
12 to:

13 (a) "*Calamity*" - a natural or human-induced disaster causing widespread
14 human material, economic or environmental losses to a community or
15 society.

16 (b) "*Donations*" - cash or non-cash aid or grants received by the government
17 for disaster relief, recovery or rehabilitation.

18 (c) "*Donor*" - refers to foreign governments, bilateral or multilateral
19 organizations and institutions, private or groups who donate cash or
20 non-cash aid or grants to the Philippine government for disaster relief,
21 aid or rehabilitation.

1 (d) "*Donee*" - refers to departments, bureaus, and offices of the national
2 government including constitutional offices, state universities and
3 colleges, government-owned or-controlled corporations and local
4 government units that receive donations from various sources.

5 (e) "*Donation in Cash*" - refer to cash assistance from a donor
6 entity/individual to the Philippine government through any of its
7 agencies or instrumentalities.

8 (f) "*Donations in kind*" - refer to assistance in kind such as but not limited
9 to food, clothing, medicine and equipment coming from the donor
10 entity/individual to a specific national government agency or local
11 government unit for the purpose of disaster relief, recovery and
12 rehabilitation efforts.

13 Sec. 5. *Donations.* Departments, bureaus and offices of the National
14 Government, including constitutional offices enjoying fiscal autonomy, and state
15 universities and colleges may accept donations in cash or in kind from various sources,
16 domestic or foreign, for purposes relevant to their respective functions, and which
17 shall be used to cover aid, relief and rehabilitation, repair and reconstruction of
18 permanent structures affected by natural and man-made calamities. Such donations,
19 whether in cash or in kind, shall be deemed automatically appropriated.

20 Sec. 6. *Utilization and Treatment of Donations.* Donations shall be utilized in
21 accordance with the purpose identified by the donor. Donations for a specific purpose,
22 as identified by the donor, shall be treated as trust receipts: *Provided,* That in case
23 the donor does not identify a specific project or activity to be funded, such donation
24 shall be considered as calamity aid for the use of the Department of Social Welfare
25 and Development: *Provided, further,* That donations intended for program support for
26 calamities in general shall be booked as income of the National Government or local
27 government unit, as the case may be.

28 Sec. 7. *Cash Donations.* All cash donations shall be deposited under the account
29 of the Bureau of Treasury (BTr), except when the donation is made directly to the
30 agencies, in which case the donee-agency shall inform the BTr of cash donation upon
31 receipt thereof: *Provided,* That if the donation is made directly to an LGU, the Bureau
32 of Local Government Finance (BLGF) shall be informed upon its receipt of the cash
33 donation for purposes of consolidating the quarterly reports to be submitted to the
34 Office of Civil Defense (OCD), the secretariat of the National Disaster Risk Reduction
35 and Management Council (NDRRMC). An official receipt shall be issued by the
36 concerned donee-agency or LGU for cash donations received.

37 Donations in foreign currency shall be converted to the Philippine Peso at the
38 prevailing rate at the time of the receipt of the donation. Donations shall be taken up
39 in the books of the BTr as income or trust receipts.

1 The amounts received by the donee-agency shall thereafter be deposited to
2 the account of the Treasurer of the Philippines, and shall be made available to the
3 implementing agency concerned through a Special Budget pursuant to section 35,
4 Chapter 5, Book VI of E. O. No. 292: *Provided*, That if the donee-agency is an LGU,
5 the same shall be deposited to the account of the Local Treasury as a separate special
6 account maintained in every provincial, city or municipal treasury and recorded as a
7 Trust Fund under the Special Funds pursuant to Section 309 (b) Article I, Chapter II,
8 Title V, Book II of the Local Government Code.

9 In no case shall the cash donation be used for payment of Personal Services of
10 any government unit or any other expenses not related to disaster relief, recovery and
11 rehabilitation efforts.

12 *Sec. 8. Donations in Kind.* For donations in kind, an acknowledgement receipt
13 shall be issued to the donor by the donee-agency. The value of donated Property,
14 Plant and Equipment (PPE) shall be based on the declared value in the Deed of
15 Donation or the bill of lading/airway bill/parcel notice and other related documents.
16 The fair market value/appraised value shall be used in the absence of declared value.
17 The donee-agency shall submit either in printed form or by way of electronic document
18 to the OCD, quarterly reports on the receipt of donations in kind: *Provided*, That the
19 LGU shall submit to OCD thru BLGF all donations in kind that they have received:
20 *Provided, further*, That the Bureau of Customs (BOC), which processes all foreign
21 donations pursuant to Section 18 of RA 10121, otherwise known as the "Philippine
22 Disaster Risk Reduction and Management Act", shall submit a report on the
23 conditionally-free importation under this section to the OCD.

24 The head of the donee-agency or LGU shall be primarily responsible for the
25 accounting and safeguarding of all donated supplies, materials, equipment and relief
26 goods against loss and wastage.

27 *Sec. 9. Foreign Donations.* Foreign donations, whether in cash or in kind, from
28 foreign governments shall be subject to the prior clearance and approval of the
29 President upon the recommendation of the Department of Foreign Affairs (DFA). The
30 DFA shall also submit to OCD a report on foreign donations that it has processed.

31 *Sec. 10. Consolidated Reports.* The head of the donee-agency and the agency's
32 web administrator or his/her equivalent shall be responsible for ensuring that the
33 quarterly report of all donations received, whether in cash or in kind, are posted on
34 the agency's official website.

35 The BTr shall submit to OCD a quarterly report on all amounts deposited under
36 the special account it maintains for all donations received, including the amount
37 retained by the donee-agency under Section 7 of this Act.

1 The Department of Foreign Affairs (DFA) shall likewise submit a report on all
2 pledges made by foreign governments, bilateral or multilateral organizations and
3 institutions, private foreign individuals or groups to the Philippine government for
4 disaster relief, aid, or rehabilitation to OCD.

5 The OCD shall submit, either in printed form or by way of electronic document,
6 to the Department of Budget and Management (DBM), the House Committee on
7 Appropriations and the Senate Committee on Finance, a consolidated quarterly report
8 of all submissions made to OCD under this Act. The Executive Director of the OCD and
9 the NDRRMC's web administrator or his/her equivalent shall be responsible for
10 ensuring that said quarterly reports are likewise posted on the official website of the
11 NDRRMC.

12 Sec. 11. *Implementing Rules and Regulations.* The DBM, OCD, DOF, DFA,
13 Department of Interior and Local Government (DILG) and the Commission on Audit
14 (COA) shall promulgate the Implementing Rules and Regulations (IRR) for the
15 implementation of this Act within thirty (30) days from its approval.

16 The said IRR shall take effect five (5) days after its publication in a newspaper
17 of general circulation.

18 Sec. 12. *Effectivity.* - This Act shall take effect fifteen (15) days after its
19 complete publication in the Official Gazette or at least two (2) newspapers of general
20 circulation.

21
22 *Approved,*