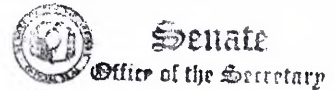


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



22 AUG -8 AIO :21

SENATE
S. No. 1064

RECEIVED BY:

Introduced by Senator Grace Poe

**AN ACT
STRENGTHENING THE FORFEITURE POWERS OF THE STATE, AMENDING
FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 1379,
OTHERWISE KNOWN AS "AN ACT DECLARING FORFEITURE IN FAVOR OF
THE STATE ANY PROPERTY FOUND TO HAVE BEEN UNLAWFULLY
ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR
THE PROCEEDINGS THEREFOR"**

EXPLANATORY NOTE

Republic Act (R.A.) No. 1379 enforces the right of the State to recover from public officials or employees, including their transferees or nominees, properties which were not lawfully acquired by them.

Due to modern methods and sophisticated means being employed by corrupt public officials and employees, however, they are still able to stash away unlawfully acquired properties. There is, thus, a need to amend certain provisions of the law to help the State recover assets stolen by public officials and employees. The Office of the Ombudsman, as the chief enforcer of R.A. No. 1379, must likewise keep up with unscrupulous public officers and employees and arm itself with the necessary powers to run after their ill-gotten wealth.

With the enactment of this bill into law, public officials or employees will be prevented from concealing, destroying or dissipating their unlawfully acquired properties, thereby safeguarding the interests of the State in the recovery of assets that rightfully belong to the people.

GRACE POE
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NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
Office of the Secretary

'22 AUG -8 A10 :21

SENATE
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RECEIVED BY:

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AN ACT

STRENGTHENING THE FORFEITURE POWERS OF THE STATE, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS "AN ACT DECLARING FORFEITURE IN FAVOR OF THE STATE ANY PROPERTY FOUND TO HAVE BEEN UNLAWFULLY ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR THE PROCEEDINGS THEREFOR"

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

1 Section 1. Section 1 (b) of R.A. No. 1379 is hereby amended to read as
2 follows:

3 **(B) "LEGALLY ACQUIRED PROPERTY" MEANS ANY REAL OR**
4 **PERSONAL PROPERTY, MONEY, OR SECURITIES WHICH THE PUBLIC**
5 **OFFICER OR EMPLOYEE HAS ACQUIRED FROM THE PROCEEDS OF HIS**
6 **SALARY, BENEFITS AND/OR OTHER EMOLUMENTS, AND/OR FROM OTHER**
7 **LAWFUL INCOME SUCH AS, BUT NOT LIMITED TO, BUSINESS INTERESTS.**
8 **IT SHALL ALSO INCLUDE REAL OR PERSONAL PROPERTY, MONEY OR**
9 **SECURITIES WHICH THE PUBLIC OFFICER OR EMPLOYEE HAS, AT ANY**
10 **TIME, ACQUIRED BY INHERITANCE, OR BY DONATION BEFORE HIS**
11 **BECOMING A PUBLIC OFFICER OR EMPLOYEE, OR ANY PROPERTY**
12 **ALREADY PERTAINING TO HIM WHEN HE QUALIFIED FOR PUBLIC OFFICE**
13 **OR EMPLOYMENT, AND THE INCOME FROM SAID PROPERTIES."**

14 Sec.2. Insert new Section 1 (C) in R.A. No. 1379 to read as follows:

15 **(C) "ILLEGALLY ACQUIRED PROPERTY" SHALL REFER TO THE**
16 **PROPERTY NOT FALLING UNDER PARAGRAPH (B) OF THIS SECTION. IT**
17 **ALSO INCLUDES:**

1 **A. PROPERTY UNLAWFULLY ACQUIRED BY THE RESPONDENT, BUT**
2 **ITS OWNERSHIP IS CONCEALED BY ITS BEING RECORDED IN THE NAME**
3 **OF, OR HELD BY, THE RESPONDENT'S SPOUSE, ASCENDANTS,**
4 **DESCENDANTS, RELATIVES, OR ANY OTHER PERSON EXCEPT IN THE**
5 **FOLLOWING INSTANCES:**

6 **1) WHEN THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS,**
7 **OR ANY OTHER PERSON CAN PROVE THAT HE ACQUIRED SAID**
8 **PROPERTY FROM THE PROCEEDS OF HIS SALARY, BENEFITS**
9 **AND/OR EMOLUMENTS, OR FROM THE PROCEEDS OF HIS BUSINESS**
10 **INTERESTS; OR**

11 **2) WHEN THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS,**
12 **OR ANY OTHER PERSON CAN PROVE THAT THE PROPERTY WAS**
13 **RECEIVED THROUGH DONATION OR INHERITANCE FROM OTHER**
14 **PERSONS OTHER THAN RESPONDENT.**

15 **B. PROPERTY UNLAWFULLY ACQUIRED BY THE RESPONDENT, BUT**
16 **TRANSFERRED BY HIM TO ANOTHER PERSON OR PERSONS.**

17 **C. PROPERTY DONATED TO THE RESPONDENT DURING HIS**
18 **INCUMBENCY, UNLESS HE CAN PROVE THAT THE DONATION IS LAWFUL."**

19 Sec. 3. Section 2 of R.A. No. 1379 is hereby amended to read as follows:

20 "**SEC. 2. Filing of petition.** – Whenever any public officer or employee has
21 acquired during his incumbency an amount of property which is manifestly out of
22 proportion to his salary as such public officer or employee and to his other lawful
23 income and the income from [~~legitimately~~] **LEGALLY** acquired property, said
24 property shall be presumed *prima facie* to have been unlawfully acquired. The
25 [~~Solicitor General~~] **OFFICE OF THE OMBUDSMAN, MOTU PROPIO OR** upon
26 **VERIFIED** complaint by any [~~taxpayer to the city or provincial fiscal who~~]
27 **PERSON** shall conduct [~~a previous inquiry~~] **A FACT-FINDING**
28 **INVESTIGATION** [~~similar to preliminary investigations in criminal cases~~] **TO**
29 **DETERMINE IF** [~~and shall certify to the Solicitor General that there is~~
30 ~~reasonable ground to believe~~] **THERE EXISTS PRIMA FACIE EVIDENCE**
31 **THAT A PROPERTY HAS BEEN UNLAWFULLY ACQUIRED** [~~that there has~~
32 ~~been committed a violation of this Act and the respondent is probably guilty~~

1 thereof]. **IT [r]** shall file, in the name and on behalf of the Republic of the
2 Philippines, ~~[in the Court of First Instance of the city or province]~~ **WITH THE**
3 **SANDIGANBAYAN OR THE APPROPRIATE REGIONAL TRIAL COURT**
4 where said public officer or employee resides or holds office, a petition for a writ
5 commanding said officer or employee to show cause why the property aforesaid,
6 or any part thereof, should not be declared property of the State: *Provided*, That
7 no such petition shall be filed ~~[within one year before any general election or~~
8 ~~within three months before any special election]~~ **AGAINST A PUBLIC OFFICER**
9 **OR EMPLOYEE WITHIN THE ELECTION PERIOD."**

10 The resignation, dismissal or separation of the officer or employee from
11 his office or employment in the Government or in the Government-owned or
12 controlled corporation shall not be a bar to the filing of the petition. ~~[Provided,~~
13 ~~however, That the right to file such petition shall prescribe after four years from~~
14 ~~the date of resignation, dismissal or separation or expiration of the term of the~~
15 ~~officer or employee concerned, except as to those who have ceased to hold office~~
16 ~~within ten years prior to the approval of this Act, in which case the proceedings~~
17 ~~shall prescribe after four years from the approval hereof.]~~

18 Sec. 4. Insert new Sections 2-A and 2-B to R.A. No. 1379 to read as
19 follows:

20 **"SEC. 2-A. PRIMA FACIE PRESUMPTIONS. –**

21 **1) WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS ACQUIRED**
22 **DURING HIS INCUMBENCY PROPERTY OR PROPERTIES WHICH ARE**
23 **MANIFESTLY OUT OF PROPORTION TO HIS SALARY, AS SUCH**
24 **PUBLIC OFFICER OR EMPLOYEE, AND TO HIS OTHER LAWFUL**
25 **INCOME, AND THE INCOME FROM OTHER LEGALLY ACQUIRED**
26 **PROPERTY/PROPERTIES, SAID PROPERTY SHALL BE PRESUMED**
27 **PRIMA FACIE TO HAVE BEEN UNLAWFULLY ACQUIRED.**

28 **2) FAILURE OF A PUBLIC OFFICER OR EMPLOYEE TO FILE A**
29 **STATEMENT OF ASSETS, LIABILITIES AND NET WORTH WITHIN THE**
30 **PERIOD PRESCRIBED BY LAW FROM DATE OF ASSUMPTION TO**
31 **OFFICE SHALL BE PRIMA FACIE EVIDENCE THAT SAID PUBLIC**
32 **OFFICER OR EMPLOYEE HAS NO PROPERTY, ASSET OR BUSINESS**

1 INTEREST TO DECLARE AT THE BEGINNING OF HIS PUBLIC
2 SERVICE.

3 3) FAILURE OF A PUBLIC OFFICER TO FILE A STATEMENT OF ASSETS,
4 LIABILITIES AND NET WORTH FOR ANY PARTICULAR YEAR AFTER
5 ASSUMPTION TO OFFICE SHALL BE *PRIMA FACIE* EVIDENCE THAT
6 THE PUBLIC OFFICER OR EMPLOYEE HAS NO OTHER INFORMATION
7 TO DECLARE OUTSIDE OF HIS DECLARATION IN HIS PRIOR
8 SUBMISSIONS, WITHOUT PREJUDICE TO ANY LIABILITIES THAT
9 MAY HAVE BEEN INCURRED UNDER EXISTING LAWS.

10 SEC. 2-B. *ADVERSE CLAIM PRIOR TO FILING OF PETITION.* –
11 WHEN, DURING OR AFTER THE FACT-FINDING INVESTIGATION OF
12 THE OFFICE OF THE OMBUDSMAN, IT APPEARS THAT THERE IS
13 REASONABLE GROUND TO BELIEVE THAT A PUBLIC OFFICER OR
14 EMPLOYEE HAS UNLAWFULLY ACQUIRED PROPERTY, THE SAID
15 OFFICE, ON BEHALF OF THE REPUBLIC OF THE PHILIPPINES, MAY
16 FILE AN ADVERSE CLAIM IN THE PROPER REGISTRY OF DEEDS, OR
17 THE APPROPRIATE PUBLIC REGISTRY, SETTING FORTH A
18 DESCRIPTION OF THE PROPERTY/IES COVERED BY THE FACT-
19 FINDING INVESTIGATION, AND THE CLAIM OF RIGHT OR INTEREST
20 OF THE STATE THEREIN AS POSSIBLE SUBJECTS OF FORFEITURE.”

21 Sec. 5. Section 4 of R.A. No. 1379 is hereby amended to read as follows:

22 “SEC. 4. *Period TO [for-the] answer PETITION.* – The respondent
23 shall have a period of fifteen days **FROM NOTICE** within which to [present]
24 **FILE** his answer.”

25 Sec. 6. Insert new Section 5-A in R.A. No. 1379 to read as follows:

26 “SEC. 5-A. *AUTHORITY TO SELL PENDING FORFEITURE*
27 *PROCEEDING.* – IN CASE THERE IS DANGER OF DEPRECIATION TO THE
28 VALUE OF THE PERSONAL PROPERTY OR SPOILAGE IN CASE OF
29 PERISHABLE PROPERTIES, UPON MOTION FILED BY THE OFFICE OF THE
30 OMBUDSMAN BEFORE THE PROPER COURT, THE PERSONAL PROPERTY
31 SUBJECT OF FORFEITURE MAY BE SOLD AT PUBLIC AUCTION PENDING
32 THE RESOLUTION OF THE FORFEITURE PROCEEDING. THE PROCEEDS OF

1 **THE SALE AT PUBLIC AUCTION SHALL BE HELD IN TRUST BY THE OFFICE**
2 **OF THE OMBUDSMAN UNTIL THE FORFEITURE PROCEEDING IS FINALLY**
3 **RESOLVED."**

4 Sec. 7. Section 6 of R.A. No. 1379 is hereby amended to read as follows:

5 "SEC. 6. *Judgment* - If the respondent is unable to show to the
6 satisfaction of the court that he has lawfully acquired the property in
7 question, then the court shall declare such property [7] forfeited in favor of
8 the State, and by virtue of such judgment the property aforesaid shall
9 become property of the State. *Provided, THAT IF ANY PROPERTY*
10 **DECLARED FORFEITED IN FAVOR OF THE STATE HAD BEEN LOST,**
11 **DESTROYED OR HAD DEPRECIATED IN VALUE, THE COURT MAY**
12 **INCLUDE A DISPOSITION IN THE JUDGMENT, OR ISSUE SUCH**
13 **SUPPLEMENTAL JUDGMENTS AS MAY BE NECESSARY, TO FORFEIT**
14 **SUCH FUNDS OR PROPERTIES OWNED BY THE RESPONDENT AS**
15 **MAY BE SUFFICIENT TO SATISFY THE STATE'S CLAIM, PROVIDED,**
16 **FURTHER, [~~That no judgment shall be rendered within six months before~~**
17 **~~any general election or within three months before any special election. The~~**
18 **~~Court may, in addition, refer this case to the corresponding Executive~~**
19 **~~Department for administrative or criminal action, or both.] THAT THIRTY-~~**
20 **FIVE PERCENT (35%) OF THE VALUE OF SUCH PROPERTY**
21 **FORFEITED IN A FINAL AND EXECUTORY ORDER OF THE COURT**
22 **SHALL BE EARMARKED AS ADDITIONAL FUNDING FOR THE OFFICE**
23 **OF THE OMBUDSMAN; PROVIDED, FURTHER, THAT IF THE**
24 **PROPERTY IS NOT IN CASH, IT SHALL BE SOLD AT PUBLIC AUCTION**
25 **AND THE PROCEEDS THEREOF, AFTER DEDUCTING THE ALLOCATED**
26 **THIRTY-FIVE PERCENT (35%) FOR THE OFFICE OF THE**
27 **OMBUDSMAN, SHALL ACCRUE TO THE GENERAL FUND."**

28 Sec. 8. Section 7 of R.A. No. 1379 is hereby amended to read as follows:

29 "SEC. 7. *Appeal*. - The parties may appeal from the judgment of the
30 [~~Court of First Instance as] PROPER COURT FORFEITING THE~~
31 **PROPERTY/PROPERTIES IN BEHALF OF THE STATE IN THE MANNER**
32 provided in the Rules of Court for appeals in civil cases."

1 Sec. 9. Section 9 of R.A. No. 1379 is hereby amended to read as follows:

2 “SEC. 9. *Immunity.* – The [~~Solicitor General~~] **OMBUDSMAN** may
3 grant immunity from criminal prosecution to any person who testifies to the
4 unlawful manner in which the respondent has acquired any of the property in
5 question in cases where such testimony is necessary to prove violations of
6 this Act.”

7 Sec. 10. Section 12 of R.A. No. 1379 is hereby amended to read as follows:

8 “SEC. 12. *Penalties.* – Any public officer or employee who shall, after
9 the effective date of this Act, transfer or convey any unlawfully acquired
10 property shall be [~~repressed~~] **PENALIZED** with imprisonment for a term [not
11 exceeding five years] **OF NOT LESS THAN ONE YEAR AND ONE DAY BUT**
12 **NOT MORE THAN SIX YEARS**, or a fine not exceeding [~~ten thousand~~
13 ~~pesos~~] **TWICE THE AMOUNT OF THE PROPERTY TRANSFERRED OR**
14 **CONVEYED**, or both such imprisonment and fine, **PERPETUAL**
15 **DISQUALIFICATION FROM PUBLIC OFFICE, AND CONFISCATION OR**
16 **FORFEITURE IN FAVOR OF THE GOVERNMENT OF ANY PROHIBITED**
17 **INTEREST.** [~~The same repression shall be imposed upon any person who~~
18 ~~shall knowingly accept such transfer or conveyance.~~]

19 **THE SAME PENALTIES SHALL BE IMPOSED UPON ANY PERSON**
20 **WHO SHALL KNOWINGLY ACCEPT SUCH UNLAWFUL TRANSFER OR**
21 **CONVEYANCE. ANY SUCH CONVEYANCE SHALL BE VOID *AB INITIO*.”**

22 Sec. 11. *Separability Clause.* – If for any reason, any section or provision of
23 this Act is declared to be unconstitutional or invalid, the other sections or provisions
24 hereof which are not affected thereby shall continue to be in full force and effect.

25 Sec. 12. *Repealing Clause.* - All laws, decrees, orders or rules and regulations
26 and other issuances which are inconsistent with the provisions of this Act are hereby
27 repealed, amended or modified accordingly.

28 Sec. 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its
29 publication in two (2) national newspapers of general circulation.

Approved,