

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HB NO. 1616

Introduced by Rep. Roseller L. Barinaga

EXPLANATORY NOTE

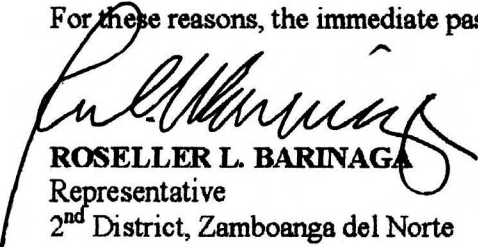
Philippine national heritage plays an important role not only in the aspect of the Filipino people's in national identity rather also of their common destiny as a nation. It is believed that only by knowing the collective strength of the people can a nation be prepared to meet the challenges posed by globalization.

Our national heritage, therefore, as a people, is the foundation upon which we build our present as well as our future. Knowing our national heritage would serve as an anchor amidst the chaos that modernization brings. By preserving our national heritage, we keep our integrity as a people.

Investing on the preservation of such national heritage would necessarily prevent cultural bankruptcy of which many Filipino social scientists fear is closely nearing.

This bill, therefore, proposes the mechanism of how the State can go about preserve the Filipino national heritage. This may not be though the end-all of everything, but certainly this measure is a vital legacy that can help maintain and enrich the so-called Filipino national heritage for future generations.

For these reasons, the immediate passage of this bill is earnestly sought.


ROSELLER L. BARINAGA
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines)
Thirteenth Congress)
First Regular Session)

HOUSE OF REPRESENTATIVES

HB NO. 1616

Introduced by Rep. Roseller L. Barinaga

AN ACT
TO PROMOTE THE PROTECTION AND CONSERVATION OF THE NATIONAL
HERITAGE, THE CREATION OF A NATIONAL HERITAGE COMMISSION, AND
PROVIDING PENALTIES AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* This Act may be cited as the "National Heritage Act of 2004."

SEC. 2. *Declaration of Policy.* Pursuant to Article XIV, section 15 of the Constitution, "the State shall conserve, promote and popularize the nation's historical and cultural heritage and resources, as well as artistic creations." Further, Article XIV, section 16 provides that, "the country's artistic and historic wealth constitutes the cultural treasure of the nation and shall be under the protection of the State, which may regulate its disposition."

Consonant with these principles, it is hereby declared to be the policy of the State to preserve, develop and administer the national heritage for the enhancement of our national identity.

The State shall endeavor to create a balanced atmosphere where the historic past would coexist with modern society in harmony. It shall approach the problem of conservation in an integrated and holistic manner, cutting across all relevant disciplines and technologies.

The State shall administer the heritage resources in a spirit of stewardship for the inspiration and benefit of the present and future generations.

SEC. 3. *Definition of terms.* For purposes of this Act, the terms and phrases used shall mean or understood as follows:

a) *Cultural properties* are old buildings, monuments, shrines, documents and objects which may be classified as antiques, relics or artifacts, landmarks, anthropological and

historical sites, and specimens of natural history which are of cultural, historical, anthropological, archaeological and ethnographical materials, meteorites and tektites, historical objects and manuscripts; decorative articles or personal adornment, works of art such as paintings, sculptures, carvings, jewelry, music, architecture, sketches, drawings or illustrations in part or in whole; coins, medals, badges, insignias, coat of arm, vehicles or ships or boats in part or in whole;

b) *Cultural significance* means aesthetic, architectural, historical, scientific, social spiritual, linguistic or technological value;

c) *Heritage resources* means any place or object of cultural significance

d) *Historical site* is any place, province, city, town and/or any location and structure which has played a significant and important role in the history of the country and nation. Such significance and importance may be cultural, political, sociological or historical;

e) *Archaeological site* is any place which may be underground or on the surface, underwater or at sea level, which contains fossils, artifacts and other cultural, geological, botanical, zoological materials which depict and document evidence of paleontological and pre-historic events;

f) *Anthropological area* is any place where studies of specific cultural groups are being or should be undertaken in the field of anthropology. Anthropology in this case is descriptive, interpretative and comparative study of all aspects of various cultural linguistic groups, including the collection and analysis of their particular material culture;

g) *Conservation* in relation to heritage resources includes protection, maintenance, preservation and sustainable use of places, or objects to safeguard their cultural significance;

h) *Commission* shall refer to the National Heritage Commission which is hereto created under this Act;

i) *Council* shall refer to the Heritage Advisory Council;

j) *Dealers* are persons or enterprises that acquire heritage properties for the purpose of engaging in the acquisition and resale of the same;

SEC. 4. National Heritage Commission. There shall be established a National Heritage Commission composed of the following;

- a) Secretary of Education (Dep. Ed.);
- b) Director of the National Historical Institute (NHI);
- c) President of the Cultural Center of the Philippines (CCP);
- d) Chairman, National Commission of Culture and the Arts (NCCA); and
- e) Curator, The National Museum;

SEC. 5. *Functions, Powers and Duties.* To carry out its mandate, the Commission shall exercise the following functions, powers and duties:

- a) Establish national principles, standards and policy for the identification, recording and management of heritage resources;
- b) Promulgate rules and regulations pertaining to conservation;
- c) Administer and coordinate funding of conservation projects;
- d) Acquire, lease or hold real property and personal property as it deems necessary in the fulfilment of its work;
- e) Sell and convey any real or personal property or interest therein, in excess of its needs;
- f) Adopt, issue, promulgate regulations pertaining to conservation, and preservation of heritage objects and sites;
- g) Participate and cooperate with other public and private agencies having mutual interests and purposes in programs intended to preserve and improve historic resources of the State
- h) Enter into heritage agreements with private owners, pursuant to Section 11 of this Act;
- i) Expropriate private property in accordance with Section 19 of this Act;
- j) To sue and be sued;
- k) To have a seal; and
- l) To undertake other activities, necessary or convenient to enhance and achieve its objectives.

All contributions of real or personal property made to the Commission whether by donation, devise, gift or bequest shall be free from all forms of taxes and shall be deductible in full from the income of the donor for the purpose of computing his income tax liability. Provided, that such donations are duly acknowledged and receipted.

SEC. 6. *The Heritage Advisory Council.* The Heritage Advisory Council shall serve as an Advisory body to the Commission on issues covered by this Act and in other matters involving interests relating to cultural heritage.

The members must be appointed taking into considerations their qualifications or special expertise in fields relevant to heritage resources. It will consist of ten (10) members.

The members of the council shall hold office for a period not exceeding three years and may be reappointed. No member may serve for more than two consecutive terms.

SEC. 7. *Functions of the Council.* The functions of the Council shall be to:

- a) Propose policies and priorities for the identification, protection, preservation and enhancement of the national heritage, including monuments, archaeological objects, heritage objects, architectural heritage;
- b) Initiate, plan, undertake and supervise the restoration, upkeep and maintenance of heritage objects and sites in coordination with local government units, other government agencies, non-profit organizations and civil society;
- c) Identify record and manage significant heritage resources and keep permanent and up-to-date records of such work. It will promote the systematic identification and recording of heritage resources;
- d) Coordinate the management of the heritage resources by all agencies of the State and other bodies, and monitor their activities to ensure that they comply with the national principles, standards and policy set forth;
- e) Promote training and education in fields related to the management of heritage resources;
- f) Undertake studies and research and make reports relating to conservation and preservation matters; and
- f) Assist the Commission in the performance of its functions, powers and duties.

SEC. 8. *Meetings of the Council.* The Council may meet as often as necessary, but at least four (4) times a year. The members shall receive per diems in an amount to be determined by the Council, on meetings actually attended by them.

SEC. 9. *Quorum.* A quorum for the meeting of the Council shall be a majority of its members. Any decision of the Council shall be taken by resolution of the majority of the members present, and in the event of a tie, the chairperson presiding shall have a casting vote in addition to his deliberative vote as a member of the Council.

SEC. 10. *National Heritage Resource Assistance Program.* The Commission, upon the recommendation of the Council, may provide financial assistance in the form of a grant or a loan to historic, archaeological, architectural, artistic organizations or for any purpose ancillary to those purposes.

No grant made pursuant to this Act shall be treated as taxable income.

The Council shall prescribe the procedures for applications for approval and granting of financial assistance and the criteria for the assessment of projects.

The Commission shall establish and maintain a program, upon approval of the Council, by which, it may ensure loans to finance any project for the preservation of a property included in the National Register. The Commission shall impose conditions it may

deem necessary to ensure adequate protection of the financial interest of the Philippine government.

SEC. 11. *Preservation of religious edifices and sites.* The Commission can assist in the preservation of religious edifices and sites, so long as it is secular in purpose and does not promote religion.

SEC. 12. *Heritage agreements.* The Commission, upon advice of the Council, may enter into agreements with private owners of properties with cultural significance with regard to the preservation of said property. Such agreement must be in the form of a binding contract, and may included such terms and conditions as the parties think fit such as, but not limited to:

- a) Public access to the property;
- b) Value of the easement;
- c) Duration of the servitude on the property;
- d) Restriction of the right of the owner or occupier to do certain acts or things on or near the place;
- e) Maintenance and management of the place;
- f) Provision of financial assistance;
- g) Procedure for the resolution of any dispute arising out of the agreement.

Such agreement would be considered as *preservation easement* and would attach and bind future owners thereto.

The extent of said interest would be considered as a charitable contribution and would be tax deductible for income tax purposes.

SEC. 13. *Compulsory repair order.* When a privately-owned heritage site is being allowed by the owner to fall into disrepair, for the purpose of affecting or enabling its destruction or demolition or is neglected to such an extent that it will lose its potential for conservation, the Commission may serve on the owner of such property, an order to repair or maintain such site. If the owner fails to comply with said order, repairs may be undertaken by the Commission for the account of the owner. If said owner fails to reimburse the Commission, the property shall be forfeited in its favor.

SEC. 14. *Declaration and Register of Protected Sites.* For the purposes of the consolidation of information on heritage resources, the Commission shall undertake an intensive archival and historical research, to compile and maintain an inventory of the national heritage resources within three (3) years from the approval of this Act.

Towards this end, the Commission is authorized to improve and expand the National Register kept by the National Museum pursuant to the provisions of Republic Act No. 4846, as amended by Presidential Decree No. 374.

The Commission shall by notice, publish in the *Official Gazette* or any newspapers of general circulation declare an area to be protected zone and/or restricted area.

SEC. 15. *Upgrade of training.* The Commission shall develop and make available to government agencies, local governments, private organizations, training in, or information concerning professional methods and techniques for the preservation of historic properties and the administration of the heritage preservation program of the government.

SEC. 16. *Indigenous properties.* The Commission shall establish a program and promulgate regulations to assist indigenous people in preserving their particular historic properties.

SEC. 17. *Prohibited Acts.* The following acts are prohibited, unless otherwise permitted by the Commission.

- a) To destroy, demolish, mutilate or damage any object of cultural heritage;
- b) To modify, alter, repair, or destroy the original features of any national shrine, monument, landmark and other historic edificies declared and classified by the National Historical Institute as such without the prior written permission from the Commission. This includes the security zone, extending five meters from the visible perimeter of the monument or site.
- c) To explore, excavate or undertake diggings or archaeological or historical sites for the purpose of obtaining materials of cultural historical value without the prior written authority from the Commission. No excavation or diggings shall be permitted without the supervision of a certified archaeologist.

SEC. 18. *Written permission required.* All restorations, reconstruction and preservations of government historical buildings, shrines, landmarks, monuments and sites which has been designated as national cultural treasures and important cultural properties shall be undertaken with the written permission of the Commission.

Nothing in this Act shall be construed to include the buildings and premises of the Malacañang Palace, the Supreme Court, the House of Representatives and the Senate.

The heads of a government agency, local government unit, private entities must take into account the effect of any undertaking on any district, site, building or structure, or object that is included in the National Register. The head of said agency shall afford the Council a reasonable opportunity to comment on said undertaking.

SEC. 19. *Rules and regulations for the grant of permits.* The Commission shall promulgate rules and guidelines for the grant of permits. Such rules and regulations shall be published in a newspaper of general circulation and shall be approved by the Secretary for Education, Culture and Sports.

SEC. 20. *Right to revoke permit.* The Commission has the right to revoke the permit issued to the applicant for cause such as but not limited to a violation or inability of the permittee to comply with the terms and conditions of the permit or any part thereof.

SEC. 21. *Authority of bring national heritage properties out of country.* National heritage properties may be taken out of the country only with a written permit secured from the Commission, only for the purpose of exchange programs or for scientific scrutiny, or exhibit.

SEC. 22. *Expropriation.* The Commission may, on the advice of the Council, and after consultation with the Secretary of Finance, purchase or expropriate property for conservation or any other purpose under this Act, if it is for a public purpose or in the public interest.

Owners or holders of rights of protected objects or sites that are expropriated are entitled to just compensation by the State for the financial loss incurred by virtue of the expropriation order. The owner of the property must be given an hearing before any property is expropriated.

SEC. 23. *Dealing or possessing a punishable act.* The act of dealing in or possessing with intent to deal, any object of cultural significance, or any part thereof, or associated objects, unless authorized to do so, is punishable under this Act.

SEC. 24. *Awards and citations.* To encourage preservation of the national heritage, the Commission shall establish annual conservation program under which monetary prizes, awards and citations will be given by the President of the Philippines, upon the recommendation of the Commission, for special achievements and important contributions and services in the area of heritage preservation and conservation efforts.

SEC. 25. *Penal Provisions.* Any violations of the provisions of this Act, upon conviction, subject the offender to a fine of not less than Two Hundred Thousand Pesos (P200,000.00) or imprisonment for a term of not less than ten (10) years or both upon the discretion of the Court: *Provided*, That any equipment, tools, paraphernalia used in violation of this Act shall be summarily confiscated and forfeited in favor of the Commission: *Provided, further*, That if the violation is committed by a juridical person, the manager, representative, director, agent or employee of said juridical person responsible for the act shall also be liable to the penalties provided herein: *Provided, finally*, That if the offender is an alien residing in the Philippines, he shall be under the custody of the Commission on Immigration and Deportation for appropriate proceedings.

SEC. 26. *Appropriation.* The sum of One Hundred Million Pesos (100,000,000.00) is hereby appropriated annually from the General Fund, not otherwise appropriated by law, to carry out the provisions of this Act.

SEC. 27. *Repealing clause.* Any provision of existing laws, rules, decrees and executive orders inconsistent with the provisions of this Act are hereby repealed and modified accordingly.

SEC. 28. *Separability clause.* Any portion or provision of this Act that may be declare unconstitutional shall not have the effect of nullifying other portions or provisions hereof as long as such remaining provisions can still subsist and be given effect.

SEC. 26. *Effectivity clause.* This Act shall take fifteen (15) days after publication in the Official Gazette or a newspaper of general circulation.

Approved.