

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2544



Introduced by Representative Nerissa Corazon Soon-Ruiz

EXPLANATORY NOTE

Major disasters and tragedies have struck our country in recent years claiming hundreds of lives and causing much damage to life and property. Recent examples are the Manor Hotel disaster in Quezon City, Cherry Hills Subdivision disaster in Antipolo, Rizal, the collapse of Villa San Pedro in Cebu City, the sinking of MV Princess of the Orient, the MV Doña Paz, MV Doña Marilyn, the crash of Cebu Pacific Airlines Flight 357 and Air Philippines in Samal Island and the burning of the Ozone Disco, to name a few.

The main point of contention in these disasters is the issue on public liability: who are primarily liable for damages for the loss of lives and destruction of properties? Concerned entities often pass the blame to others. The most common defense used to escape liability is to declare them as accidents or call the disasters as the "acts of God" or *force majeure*. This defense usually deflects the responsibility and liability from the owners or operators and their agents and servants.

The responsibility for damages and injuries to life and property that happen between two individuals, or when they are inflicted by an establishment to an individual, is easily identified and settled. But when damages and injuries affect several persons especially if they happen as a result of the operation of an establishment or public utility providing services or in the course of business of an individual or corporation, victims are at a loss as to who should be made liable for the injuries and damage they suffered.

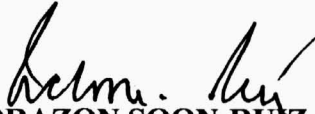
The usual scenario when these tragedies happen is that owners and operators (and their agents and servants) of public utilities, business establishments, buildings, and other facilities used by (or that affect) the public would immediately disclaim responsibility by calling them accidents or acts of God or pass the blame on the government.

Tragedies and accidents (except those caused by nature such as earthquakes, tornadoes, cyclones and the likes) are caused by human error, either intentionally, willful neglect, reckless imprudence, omission, lack of foresight or adequate knowledge and skills, thus, must be attributed to the owners. Under the principle of *parens patriae* (a good parent to his family), the State can require the owners of establishments to take responsibility to ensure that no damage or injury will happen to any person or property.

To address this concern, a public utility law must be enacted to hold owners and operators directly and primarily responsible for injuries and damages arising from the operation or incidental to the operation of their enterprise, establishments, property, personnel and their accessories.

The law must also require all owners and operators of business establishments, public utilities and services, buildings, machinery, and their accessories to have mandatory public liability insurance to pay for injuries and damages arising from the operation of the above.

In view of the aforementioned, the approval of this bill is therefore earnestly recommended.


NERISSA CORAZON SOON-RUIZ, M.D.

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HOUSE BILL NO. 2544

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AN ACT PROVIDING FOR PUBLIC LIABILITY INSURANCE FOR THE PURPOSE OF PROVIDING IMMEDIATE RELIEF TO PERSONS AFFECTED BY ACCIDENT ARISING FROM THE OPERATIONS OR INCIDENTAL TO THE OPERATIONS OF ESTABLISHMENTS, ENTERPRISES, PUBLIC UTILITIES AND VEHICLES, BUILDINGS, MACHINERY AND THEIR ACCESORIES

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

SECTION 1. Short Title. - This Act shall be known as the "Public Liability Insurance Act of 2001."

SECTION 2. Declaration of Policy.-It is hereby declared the policy of the State to:

- (a) Promote the welfare and general well-being of the public by providing ample protection to all victims of accidents or disasters occurring on account of the operations of business establishments/enterprises.
- (b) Ensure that immediate compensation or relief be provided to victims of accidents due to operations or incidental to the operations of establishments, enterprises, public utilities, buildings, machinery and their accessories.
- (c) Ensure the accountability of owners or operators of establishments, enterprises, public utilities and vehicles, buildings, machinery and their accessories by requiring them to have in place public utility insurance which ensure that compensation, assistance or restitution be paid in respect of death of, or personal injury to, any person or persons or damage to property due to their business or operations or incidental thereto.

SECTION 3. Definition of Terms. - As used in this Act, the term:

- a. accident - refers to an accident involving a fortuitous, sudden or unintentional occurrence sometimes due to negligence resulting in death of, or injury to, any person or damage to any property;
- b. Commissioner - refers to the commissioner of the Insurance Commission;

- c. injury - includes permanent total or permanent partial disability or sickness resulting out of an accident;
- d. owner - means the person who owns, operates or has control over the business establishments, public utilities and services, buildings, machinery and their accessories, and includes:
 - 1. in the case of the firm, any of its partners;
 - 2. in the case of an association, any of its members; and
 - 3. in the case of a company, any of its directors, managers, secretaries or other officers who is directly in charge of, and is responsible to the company for the conduct of the business of the company
- e. public liability insurance - insurance that covers the insured's legal liability for death of, or accidental bodily injuries to, any person or persons or damage to property of others whilst in the course of business.

SECTION 4. Liability to Give Relief in Certain Cases on Principles of No Fault. -

- (a) Where death or injury to any person or damage to any property has resulted from an accident arising from the operations or incidental to the operations of establishments, enterprises, public utilities and vehicles, buildings, machinery and their accessories, the owner shall be liable to give such relief as specified in the schedule of indemnities to be set forth by the Insurance Commissioner for such death, injury or damage.
- (b) In any claim for relief under this Act, the claimant shall not be required to plead and establish the death, injury or damage to property in respect of which the claim has been made was due to any wrongful act, neglect or default of any person.
- (c) Injury shall include permanent total or permanent partial disability or sickness resulting out of an accident.

SECTION 5. Duty of Owner to Take Out Public Liability Insurance Policies. -

(a) Every owner shall take out, before he starts operation of his business, enterprise, establishment, public utilities and vehicles, buildings, machinery and/or their accessories, one or more public liability insurance policies which ensure that compensation will be paid in respect of death of, or personal injury to, any person or damage to property by reason of the operation of his business or enterprise or incidental thereto. Such policies should provide contracts of insurance whereby the owner is insured against liability to give relief under Section 4 of this Act.

Provided that any owner already in business immediately before the effectivity of this Act shall take out such insurance policy or policies within one year from such effectivity.

(b) Every owner shall get the insurance policy referred to in sub-section (a), renewed from time to time before the expiry of the period of validity thereof so that the insurance policies may remain in force throughout the period during which such business operation is continued.

(c) The insurance policy taken out or renewed by an owner shall cover liability for death or bodily injuries arising out from the operations of the business or incidental thereto in the amount not less than fifty thousand pesos (P50,000.00) per person per accident. Liability insurance coverage for damaged property shall be to the extent of the owner's insurable interest thereof but not to exceed the value of the property.

In no way under any of the circumstances mentioned above should the total liability of owners/operators exceed the amount of the paid up capital of their undertaking.

For the purpose of this section, "paid-up capital" means, in the case of an owner not being a company, the market value of all assets and stocks of the undertaking on the date of the contract of insurance.

(d) The appropriate regulatory government agency shall not allow the issuance of the necessary business permits to operate, to include the registration or renewal of registration as the case may be, to owner or operator of business establishments, enterprises, public utilities and vehicles, buildings, machinery and their accessories without first requiring from the owner or operator the presentation and filing of a substantiating document in a form approved by the Commissioner evidencing that the policy of public liability insurance required in this Act is in effect.

(e) Any owner or operator who intentionally contravenes subsection (a) of this Section shall be guilty of an offense punishable on conviction by imprisonment for a period of not more than two (2) years, or by a fine not exceeding Five Hundred Thousand Pesos without prejudice to the closure of his/its business or enterprise.

(f) Where an offense under this provision has been committed by an instrumentality of the State, the head of such office or the local chief executive shall be deemed to be guilty of the offense and shall be liable to be proceeded against and punished accordingly;

SECTION 6. Duty of Insurers or the Insurance Companies --

(a) The liability of the insurer under an insurance policy shall not exceed the amount specified in the terms of the contract of insurance in that insurance policy.

(b) No owner or operator shall be unreasonably denied the policy of public liability insurance as required by Section (5) hereof by the insurance companies authorized to issue the same; otherwise, the Commissioner shall require from said owner or operator, in lieu of the insurance policy, a certificate that a cash deposit has been made

with the Insurance Commission in such amount to be required by the Commissioner as limits of indemnity for the legal liabilities of the owner pursuant to this Act.

(c) No insurance company may issue the policy of public liability insurance under this section unless so authorized under existing laws.

(d) The authority to engage in the casualty line of business of an insurance company that refuses to issue or renew, without just cause, the insurance policy therein required shall be withdrawn immediately.

SECTION 7. The National Government may, by appropriate legislation, exempt from the operation of sub-section (a) of Section 5 hereof any owner, namely:

- a. the Local Government units;
- b. any corporation owned or controlled by the Government; or
- c. any local authority;

Provided that no such order shall be made in relation to such owner unless a fund has been established and is maintained by that owner in accordance with the rule made in this behalf for meeting any liability under sub-section (a) of Section (4).

SECTION 8. Application for Claim for Relief. -

(a) In the settlement and payment of relief under this Act, the indemnity shall not be availed of by any accident victim or claimant as an instrument of enrichment by reason of an accident, but as an assistance or restitution insofar as can fairly be ascertained.

(b) An application for claim for relief may be made:

- by the person who has sustained the injury;
- by the owner of the property to which the damage has been caused;
- where death has resulted from the accident, by all or any of the legal representatives of the deceased; or
- by any agent duly authorized by such person or owner of such property or all or any of the legal representatives of the deceased, as the case maybe:

Provided that where all the legal representatives of the deceased have not joined in any such application for relief, the application shall be made on behalf of or for the benefit of all legal representatives of the deceased and the legal representatives who have not so joined shall be impleaded as respondents to the application.

(c) Every application under sub-section (b) shall be made to the insurer and shall be in such form, contain such particulars and accompanied by such documents as may be prescribed by the Commissioner.

(d) No application for relief shall be entertained unless it is made within five years from the occurrence of the accident.

(e) A claim for relief in respect of death of, or injury to, any person or damage to any property shall be disposed of as expeditiously as possible and every endeavor shall be made to dispose of such claim within three months from the receipt of the application for relief under sub-section (b).

(f) The right to claim relief under sub-section (a) of Section 4 hereof in respect to death of, or injury to, any person or damage to any property shall be in addition to any other right to claim compensation in respect thereof under any law for the time being in force.

(g) Notwithstanding the immediately preceding subsection (f), where in respect of death of, or injury to, any person or damage to any property, the owner, liable to give claim for relief, is also liable to pay compensation under any other law, the amount of such compensation shall be reduced by the amount of relief paid under this Act.

(h) An action or suit for recovery of damage due to loss or injury must be brought in proper cases, with the Commissioner or the Courts within one year from denial of the claim, otherwise the claimant's right of action shall prescribe.

SECTION 9. Award of Relief. -

(a) On receipt of an application under sub-section (b) of Section 8, the insurer shall, after giving notice of the application to the owner and after giving the parties an opportunity to be heard, hold an inquiry into the claim or each of the claims, and may make an award determining the amount of relief which appears to him to be just and specifying the person or persons to whom such amount of relief shall be paid.

(b) The insurer shall arrange to deliver copies of the award to the parties concerned expeditiously and in any case within a period of fifteen days from the date of the award.

(c) In case of any dispute in the enforcement of the provisions of any policy issued pursuant to this Act, the adjudication of such dispute shall be within the original and exclusive jurisdiction of the Commissioner, subject to the limitations provided in section four hundred sixteen (Sec. 416) of the Insurance Code of the Philippines.

(d) In holding any inquiry under sub-section (c), the Commissioner may, subject to any rules made on this behalf, follow such summary procedure as he thinks fit.

(e) The Commissioner shall have all the powers of a Civil Court for the purpose of taking evidence in oath and of enforcing the attendance of witnesses and of compelling the discovery and production of documents and material objects and for such other purposes as may be prescribed.

(f) The Commissioner shall issue such orders, guidelines, rules and regulations as may be necessary to carry out the provisions of this Act within six months from the passage hereof.

SECTION 10. Separability of Provisions. If any provisions of this Act or the application thereof to any person or circumstance are held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

SECTION 11. Effectivity. This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

Approved.