

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



THIRTEENTH CONGRESS

HOUSE BILL NO. 3859

Introduced by Hon. Edmundo O. Reyes, Jr.

EXPLANATORY NOTE

A corporation's personality is distinct and separate from its principal shareholders, incorporators, officers and board of directors. However, the said persons should be held liable for corporate acts made in their capacity as agents of the corporation. The purpose therefore of this bill is to make sure that the act of the agents who abscond by divesting their principal shares in the company is punished and that the agent of the corporation is held liable and accountable for his action. Divestment of shares in a corporation, while the company is under investigation for an offense or the company has just experienced a major accident, disaster or catastrophe, will be a prima facie evidence of guilt.

A case in point is the Marcopper mining company, which was 40% owned by the Canadian company Placer Dome. When an industrial disaster struck in March 1996, Placer Dome proudly exclaimed they would carry out cleanup and rehabilitation efforts on the Boac River and pay compensation for the loss caused by the spill entirely on its account and voluntarily without need of legal pressure. Over the past several months, the agents of Placer Dome divested their 40% interest in Marcopper. The said shares were transferred to a holding company in March 1997 and shortly after, Placer Dome sold this holding company to Marcopper for \$ 1.00. This way, Placer Dome extricated itself of any legal entanglements. Although Placer Dome owned responsibility and committed to rehabilitate the environment and compensate the victims, it walked away scot-free. It would now be very difficult to run after Placer Dome for any liability or for its failure to fulfill its commitment since it has no property left in Philippine jurisdiction. Placer Dome and its agents have absconded to the prejudice of the people of the Philippines

Moreover, in the light of the many pyramid scams as well as the bankruptcy of pre-need corporations, a law is needed to penalize the agents who try to run away from their responsibility by divesting their shares from the troubled corporation. These agents divest their principal shares when the company comes under investigation and while the

prosecution gathers evidence to prove guilt of fraud and negligence on the part of the agents. This bill seeks to make this act a criminal offense so that the agents are held liable before they get the chance to flee from the justice system.

With the approval of this bill, divestment or transfer of shares during this critical period immediately following a major accident, disaster or catastrophe or while an investigation has been initiated against the corporation or partnership and its agents, is taken as prima facie evidence of guilt, and such action shall be penalized in the full extent of the law making it a criminal offense in itself with a penalty of death. This bill when passed will protect the general welfare of ordinary citizens against agents of trouble-ridden corporations who attempt to circumvent the law share transfer or sale.

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



EDMUNDO O. REYES, JR.

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AN ACT
PUNISHING CULPABLE INSOLVENCY FOR NATURAL AND JURIDICAL
PERSONS

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

SEC. 1. *Short Title.* - This Act shall be known as the "Culpable Insolvency Act of 2005."

SEC. 2. *Culpable Insolvency.* - The incorporators, principal shareholders, board of directors and officers of a corporation or partnership who divest his/her shares from the corporation or partnership immediately after major accident, disaster or catastrophe or while an investigation is ongoing shall be punished the penalty of death.

SEC. 3. *Liability under the Revised Penal Code.* - Prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Revised Penal Code.

SEC. 4. *Repealing Clause.* - All laws, presidential decrees, executive and administrative orders inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 5. *Effectivity Clause.* - This Act shall take effect fifteen (15) days from its publication in at least two newspapers of general circulation in the Philippines.

Approved.