

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3971



Introduced by Speaker Jose de Venecia, Jr.,
Co-Authored by Reps. Raul del Mar and Arthur Defensor

EXPLANATORY NOTE

As part of my "12-point program to create new wealth" in the country and spur faster economic growth, I proposed to revive reclamation as a major economic activity and contributor to the Gross National Product. Reclaimed land provided a major stimulus in the economic miracles of Hong Kong and Singapore. Their massive reclamation projects fueled its miraculous growth and economic transformation that began in the early 60's that continues up to today. Their major industrial complexes, housing projects, commercial centers, airports and seaports were partly aided by the "new wealth" generated by reclamation.

The Philippines has long benefited from reclamation activities. The areas now covered by the Cultural Center of the Philippines, Philippine International Convention Center and Philippine Plaza were the result of reclamation done since the 1950's and 1960s. In the 1980s and 1990s, the Public Estates Authority carried out a number of reclamation projects mostly along the portions of Manila Bay bounded by the Cities of Manila and Pasay. However, reclamation activities suffered a setback in the country because of the controversial Public Estates Authority-Amari case in the late 1990's.

The re-launching of a major reclamation program in Manila Bay, Cebu, Mindanao, and northern Luzon can be a very important component of our "wealth creation" plan. Through the enterprise of reclaiming foreshore underwater lands, new assets and new wealth are created in the form of useful real property that can be developed for commercial, industrial or even residential purposes.

The economic potential of reclamation projects is immense. Apart from the royalty and regulatory fees, the economic activity and jobs created during the actual construction of a reclamation project are quite significant. On top of these, the national government can raise hundreds of billions of pesos from the auction of reclaimed lands or even just the sale the right to reclaim over specified foreshore areas. For instance, if one

values the Amari Roxas Boulevard coastal project at roughly P50,000 per square meter, the 750 hectares that were set for reclamation would have given the economy some P375 billion in new assets, more than two thirds of which will go to the government.

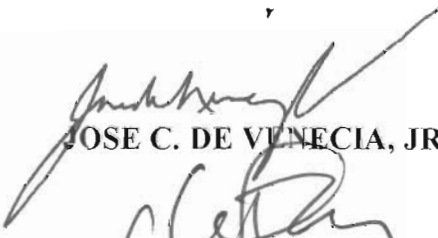
In Singapore, land reclamation would cost an estimated S\$15 (Php 503) per square meter, while the reclaimed land were sold at about S\$850 (Php 28,500) per square meter, which translates to a mark-up of 32 times over the cost of reclamation. Another potential source of revenues in the reclamation program is if a market for recovered materials can be developed. For instance, between Indonesia and Singapore, over US\$ 200 Million (roughly P11 Billion) in trade was generated from sand—a low value commodity—bought from source areas at about S\$1.50 (Php 50.30) per cubic meter and sold to Singaporean construction firms at S\$15 (Php 502.50) per cubic meter.

The practice of land reclamation is not limited only to island states, whose land areas are small. In fact, land reclamation continues to play a significant role in the development of coastal areas around the world, including Australia, Britain, China, Japan, Korea, The Netherlands and the United States.

This bill seeks to abolish the Public Estate Authority (PEA), and recommends the creation of a new body “The Philippine Reclamation and Development Corporation (PRDC)”, to replace the PEA in overseeing major government reclamation projects. This change of mandate is necessary, considering the unfavorable circumstances and the legal constraints experienced by international investors with the PEA.

The bill also clarifies the nature and ownership of all reclaimed lands, by expressly stating that all lands reclaimed by the corporation shall be owned by it and are deemed alienable lands, which can be sold, conveyed or disposed by the corporation. The clarification on the nature and ownership of reclaimed land is necessary to prevent the recurrence of legal issues and pitfalls experienced by the PEA in the past.

In view of the foregoing, the immediate passage of the bill is earnestly sought.



JOSE C. DE VENECIA, JR.



RAUL V. DEL MAR



ARTHUR D. DEFENSOR

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

**THIRTEENTH CONGRESS
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HOUSE BILL NO. 3971

Introduced by the Hon. Speaker Jose de Venecia,

**AN ACT
ABOLISHING THE PUBLIC ESTATES AUTHORITY
AND CREATING IN ITS PLACE
THE PHILIPPINE RECLAMATION AND DEVELOPMENT
CORPORATION AND FOR OTHER PURPOSES**

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

SECTION 1. Abolition of the Public Estates Authority - The Public Estates Authority (PEA) created under Presidential Decree No. 1084 as amended is hereby abolished.

SECTION 2. Creation of the Philippine Reclamation and Development Corporation - There is hereby created an independent entity, which shall be a body corporate known as the Philippine Reclamation and Development Corporation, hereinafter referred to as the Corporation. Considering its unique functions and responsibilities, the Corporation, shall enjoy fiscal and administrative autonomy and shall operate on a self-liquidating basis. The Corporation shall adopt and implement a policy of public disclosure and transparency in all its transactions involving public interest. The Corporation shall be attached to the Office of the President for policy coordination and administrative supervision.

SECTION 3. Purposes of the Corporation. - The Corporation shall have the following purposes:

- (a) To reclaim land, including foreshore and submerged areas, primarily for the purpose of generating income for the government;

- (b) To develop, improve, acquire, administer, deal in, subdivide, dispose, mortgage, lease and sell lands, buildings, estates and other forms of real property owned, managed, controlled and/or operated by the Government, including those belonging to or to be acquired by the Corporation;
- (c) To provide for, operate or administer such services, utilities and infrastructure as may be necessary for the efficient, economical and beneficial utilization of the properties specified in the above (a) and (b).

SECTION 4. Powers and Functions of the Corporation - The Corporation shall have the following powers and functions:

- (a) To succeed in its corporate name, to sue and be sued in such corporate name, and to adopt, alter and use a corporate seal which shall be judicially noticed;
- (b) To adopt, amend and repeal its by-laws;
- (c) To hold lands of the public domain in excess of the area permitted to private corporations by statute;
- (d) To reclaim lands on foreshore and submerged areas among others, by dredging, filling or other means, by itself or through a qualified party by contract who may be compensated for the reclamation works done with the land reclaimed;
- (e) To construct work across, or otherwise, any stream, watercourse, canal, ditch, flume, street, avenue, highway or railway of private or public ownership, as the location of said works may require: Provided, That said works be constructed in such a manner as not to endanger life or property or in a manner not to impair unnecessarily their usefulness. Every person or entity whose property is crossed or intersected by said works shall not obstruct any such crossings or intersections and shall grant the Corporation or its representatives, the proper authority for the execution of such work. The Corporation is hereby given the right-of-way to locate, construct and maintain such works over and throughout the lands owned by the Republic of the Philippines or any of its branches and political subdivisions,
- (f) To identify, utilize and acquire jurisdiction over borrow areas as use for landfill, dredge fill and sand fill for reclamation;

- (g) To review and approve all reclamation. The reclamation projects of local government units and other government entities, whether funded by government funds or not, shall be submitted to the Corporation for approval-,
- (h) To issue such rules and regulations including the identification of such requirements as may be necessary for the evaluation and sound administration of all reclamation projects,
- (i) To establish and implement a system of coordination with all concerned government agencies including monitoring of the progress of all reclamation projects;
- (j) To provide advice and assistance to the President in the formulation, implementation and evaluation of plans or policies relative to all reclamation projects as would maximize their contribution to national development; and
- (k) To exercise the right of eminent domain in the name of the Republic of the Philippines, and in the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the Republic of the Philippines, and thereupon, all such real estate shall be entrusted to the Corporation as the agent of the Republic of the Philippines to accomplish the aims and purposes of this Act;
- (l) To purchase, lease, build, alter, construct, erect, enlarge, occupy, manage, sell, mortgage, dispose of, or otherwise deal in, buildings of every kind and character whatsoever, whether belonging to, or to be acquired by the Corporation-,
- (m) To issue such regulations as may be necessary for the proper use by private parties of any or all of the highways, roads, utilities, buildings found within its properties and to impose or collect fees or tolls for their use, provided, that, all receipts by the Corporation from fees, tolls and other charges are automatically appropriated for its use;
- (n) To own or operate railroads, tramways and other kinds of land transportation, vessels and pipelines, power house, hotels, restaurants, terminals, warehouses and to manufacture, produce, purchase, sell, dispose, encumber or otherwise deal in, rolling stock, equipment, tools

and other appliances; to construct and operate in connection with its railroad lines toll viaducts, toll bridges and toll tunnels;

- (o) To construct, maintain and operate mains, pipes, machinery, water reservoirs, artesian wells as may be reasonably and necessarily required for the transaction of the lawful business of the Corporation;
- (p) To construct, maintain and operate such storm drains or systems of sanitary sewers as may be necessary for the proper sanitation of its areas of operation, to charge and collect such sums for construction and rates for this service as may be determined by the Board to be equitable and just; and to process waste materials obtained in the sewers for fertilizing purposes;
- (q) To invest its funds and other assets in such ventures, investments, and undertakings as may be considered appropriate to ensure their full utilization consistent with the objectives of the Corporation,
- (r) In the disposition of its assets and properties, the Corporation shall have the authority to determine the kind and manner of payment for the transfer thereof to any third party;
- (s) To enter into, make, perform and carry out contracts of every class, kind and description, which are necessary or incidental to the realization of its purposes with any person, firm or corporation, private or public, and with any foreign government or entity;
- (t) To organize subsidiary companies to undertake any of the activities mentioned herein. The capital stock of such subsidiary companies shall be subscribed in whole or in part by the Corporation;
- (u) To perform such acts and exercise such functions as may be necessary for the attainment of the purposes and objectives herein specified, or as may be directed by the President of the Republic of the Philippines or provided by law.

SECTION 5. Regulatory Power of the Corporation. - The Corporation shall be the Government's sole regulatory body for all reclamation projects. The provision of any law to the contrary notwithstanding, the reclamation of areas under water whether foreshore, offshore or inland, shall be limited to the National Government or any person authorized by the Corporation under a proper contract. All reclamation made in violation of this provision shall be forfeited in favor of the

State without need of judicial action. Towards this end, the Corporation shall be primarily responsible for the following-

- a. To undertake all reclamation projects for and in behalf of the National Government, either by itself or through a proper contract executed by it with any person or entity,
- b. To integrate, direct and coordinate all reclamation projects, whether undertaken by the Corporation in behalf of the National Government, by local government units (LGUs), government-owned or controlled corporations (GOCCs) or other government agencies (OGAs) authorized to reclaim under their charters or other existing laws, so as to achieve economy and efficiency in the reclamation and administration of reclaimed lands;
- c. To grant clearance/authority to reclaim offshore areas which are covered by contracts of lease or any other arrangements with the Department of Environment and Natural Resources (DENR),
- d. To coordinate with the LRA and DENR with respect to the titling of reclaimed lands and for the latter agencies to give priority to the issuance of titles over reclaimed lands. The LRA shall not issue any title over reclaimed lands without the favorable endorsement of the Corporation;
- e. To coordinate with the Land Management Bureau (LMB), and for the latter agency to give priority to the approval of surveys and technical descriptions of the Corporation's reclaimed lands-
- f. To issue implementing rules and regulations for the proper regulation of all reclamation projects; to impose and collect reasonable fees and charges in connection with the exercise of its regulatory functions; and to impose penalties of fines ranging from a minimum of One Hundred Thousand Pesos (P100,000.00) to a maximum of one per cent (1%) of the total reclamation cost, or imprisonment through the proper court action or both, or any other sanctions which it may deem proper, for any violation of the reclamation rules and regulations that it shall promulgate.

SECTION 6. Ownership of Reclaimed Lands. - The Corporation shall own all lands reclaimed by and/or in behalf of the Corporation. All lands allocated for roads, bridges and open spaces, which shall be devoted primarily for public use, shall be in the name of the Republic of the Philippines. The remaining areas shall

comprise the alienable or disposable reclaimed lands of the Corporation, which can be sold, conveyed or disposed of by the Corporation in the manner and form of payment to be determined by its Board of Directors. They shall form part of the patrimonial properties of the State unless the reclamation was undertaken with the specific purpose beforehand of devoting the reclaimed land to public use.

Any and all income that the Corporation may derive from the sale, lease or use of the reclaimed lands shall be used in tile operations of the Corporation in carrying out its mandate under this Act.

SECTION 7. Jurisdiction over Reclaimed Lands. - Jurisdiction over reclaimed lands is vested in the National Government, which, by and through the Corporation, has the sole discretion to determine whether such area reclaimed may be converted into an independent city, municipality or community, or even an economic zone after complying with the requirements of existing laws on the matter. However, LGUs shall acquire jurisdiction over lands reclaimed with the use of local government funds, or through a proper contract executed by the LGU concerned with any other person or entity.

SECTION 8. Capital Stock. - The capital of the Corporation shall be ONE HUNDRED BILLION PHILIPPINE PESOS (P100,000,000,000.00) divided into TWENTY MILLION (20,000,000) shares with par value of FIVE THOUSAND PHILIPPINE PESOS (P5,000.00) per share,

As subscription to these shares and in full payment thereof by the Republic of the Philippines, the following shall apply:

1. The fair value of the assets transferred to the Corporation from the defunct PEA as provided in Section 9 hereof,
2. An appropriation hereby made of THREE HUNDRED MILLION PHILIPPINE PESOS (P300,000,000.00).

The President and Chief Executive Officer of the Corporation shall act as title proxy of the shares of stocks owned by the Republic of the Philippines, unless otherwise directed by the President of the Philippines.

SECTION 9. Transfer of Assets, Liabilities and Other Obligations. - The assets, liabilities and other obligations of the PEA are hereby transferred to the Corporation, including the Toll Operation Certificate dated May 31, 1990 granted by the Toll Regulatory Board to the Public Estates Authority.

SECTION 10. Board of Directors: Composition. - The powers and functions of the Corporation shall be exercised by a Board of Directors to be composed of seven (7) members, as follows:

- (a) The Secretary of the Department of Environment and Natural Resources (DENR) who shall be the ex officio Chairman-,
- (b) The Secretary of the Department of Public Works and Highways (DPWH) as ex officio member;
- (c) The Secretary of the Department of Finance (DOF) as ex officio member;
- (d) Three (3) other members from the private sector,
- (e) The President and Chief Executive Officer of the Corporation shall also be a member.

The President and Chief Executive Officer, and members of the Board of Directors of the Corporation from the private sector shall be appointed by the President of the Philippines for a fixed term of six (6) years. In case of any vacancy in the Board, the appointee shall serve the unexpired term of the predecessor.

No person shall be appointed or designated as member of the Board unless he is a natural-born citizen of the Philippines, at least thirty-five (35) years of age, of good moral character, of unquestionable integrity, and of recognized competence in relevant fields such as economics, management, law, engineering, [or] finance, urban planning and real estate.

SECTION 11. Powers and Functions of the Board. - The Board of Directors shall be the policy-making body of the Corporation and shall perform the following functions:

- (a) Approve and amend the organizational structure of the Corporation, determine the duties and responsibilities of all officers and employees, and the compensation and benefit scheme-,
- (b) Upon recommendation of the President/CEO, appoint officers and employees; discipline, suspend or remove them for cause, provided, however, that the Board may delegate such powers to the President/CEO with respect to employees below the rank of manager. In the filling of positions created, preference shall be given to the

personnel of the PEA on the basis of their qualifications and satisfactory services rendered.

- (c) Submit an annual report of the operations of the Corporation to the President of the Philippines;
- (d) Carry out the purposes of the Corporation as provided in this Act.

SECTION 12. Duties and Responsibilities of the Chairman of the Board of Directors - The Chairman shall preside at all meetings of tile Board, for which he shall be authorized to call meetings thereof He shall also have such powers and perform such duties as the Board of Directors may prescribe. In his absence, the President and Chief Executive Officer shall so preside.

SECTION 13. Duties and Responsibilities of the President and Chief Executive Officer of the Corporation. - The President and Chief Executive Officer of tile Corporation shall have the following duties and responsibilities:

- (a) To execute, administer and implement the policies and measures approved by the Board of Directors;
- (b) To manage the business affairs and operations of the Corporation and its subsidiaries, and, otherwise have over-all management responsibility of the Corporation;
- (c) To execute on behalf of the Corporation all contracts and instruments necessary in the normal conduct of the business of the Corporation or otherwise affecting its interests;
- (d) To prosecute, maintain, defend, compromise or abandon any lawsuit, in which the corporation is either a plaintiff or defendant, in connection with the business of the corporation;
- (e) To represent the Corporation in all dealings with offices, agencies and instrumentalities of the government, and with all persons and other entities, public or private, domestic or foreign;
- (f) To prepare the agenda for the meetings of the Board of Directors and to submit for the consideration of the Board such policies and measures as lie believes necessary to carry out the purposes and objectives of this Act,
- (g) To initiate disciplinary measures or proceedings against employees,

- (h) To perform such other functions or duties as are incident to his office or as may be entrusted to him by the Board of Directors.

SECTION 14. Issuance of Bonds. - The Corporation, upon the recommendation of the Secretary of Finance, the Monetary Board and the National Economic and Development Authority and with the approval of the President, is hereby authorized to issue bonds or other securities, whether tax-exempt or not, which may be guaranteed by the Government, to finance its operations.

SECTION 15. Loans. - The Corporation, as well as any affiliate corporation in which it holds, owns and/or controls by itself or jointly with one or more government-owned or controlled corporations at least seventy-five percent (75%) of the issued and outstanding shares of stock entitled to vote, when specifically authorized by the President of the Philippines, is hereby authorized to contract loans, credits, in any convertible foreign currency or capital goods, and indebtedness from time to time from foreign governments, or any international financial institutional or fund sources, or any entities, on such terms and conditions as it shall deem appropriate for the accomplishment of its purposes and to enter into and execute agreements and other documents specifying such terms and conditions.

SECTION 16. Government Financial Institutions Guarantee. - The provision of any law to the contrary notwithstanding, any financial institution owned or controlled by the Government of the Republic of the Philippines, other than the Bangko Sentral ng Pilipinas, Government Service Insurance System, and the Social Security System, is hereby empowered to guarantee acceptance credits, loans, transactions, undertakings or obligations of any kind which may be incurred by the Corporation whether directly or indirectly, in favor of any person, association or entity, whether domestic or foreign.

SECTION 17. Legal Counsel. - The Corporation, in its discretion, may seek legal assistance or be represented by either the Office of the Government Corporate Counsel (OGCC) or the Office of the Solicitor General (OSG) on all legal matters and judicial or quasi-judicial cases affecting the Corporation. In extraordinary cases and whenever the Corporation deems it best to be represented by a private legal counsel, especially in the event of disagreement with the OGCC or the OSG, it shall have the authority to hire private legal counsel without the required prior approval of OSG or OGCC, as the case may be, and the Commission on Audit (COA).

SECTION 18. Injunction and Restraining Order. - The implementation of the priority projects of the Corporation are urgent and necessary and shall not be

restrained or enjoined except by an order issued by the Supreme Court of the Philippines.

SECTION 19. Position Classification and Compensation. - The Corporation shall be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however establish its organizational, administrative structure and staffing pattern, approved by its Board, based on a comprehensive job analysis and audit of actual duties and responsibilities. It shall also establish and fix the appropriate compensation package of its officers and employees with reasonable allowances, incentives, bonuses, privileges and other benefits as may be necessary or proper for the effective management, operation, and administration of the Corporation, which shall be exempt from Republic Act No. 6758, otherwise known as the Salary Standardization Law: *Provided however*, that the compensation package shall be subject to periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and efficiency, and *Provided further*, that the total personal services budget of the Corporation shall not be more than sixty percent (60%) of its total operation budget.

SECTION 20. Exemption from Taxes. The provisions of existing laws to the contrary notwithstanding, and for a period of five (5) years from start of commercial operations, no tax, charges or fees of any kind, nature or description imposed or levied by any municipal, city, provincial or national authority shall be imposed, levied or assessed on or be collected from the Corporation or any of its co-ventures or partners, in connection with its activities pursued in accordance with and pursuant to this Act, other than taxes on its income. Further, all lands, buildings, and other real properties of the Corporation, including lands reclaimed from the foreshore and offshore areas, shall be exempt from payment of real estates taxes, until they are transferred to entities that are not tax exempt..

SECTION 21. Separation Benefits of PEA Personnel. - Employees separated and/or phased out from the service as a result of the abolition and/or reorganization under the provisions of this Act shall, within three (3) months from their separation and/or phase out from the service, receive a separation pay equivalent to three (3) times the monthly gross basic salary for every year of service in the government and the refund of their personal contributions plus interest including the government share to the Government Service Insurance System (GSIS). In addition to the benefits hereinabove provided, those who are qualified to retire shall be allowed to retire and be entitled to all benefits provided under any of the existing retirement laws. Funds of the Corporation may be used for this purpose.

SECTION 22. Transition. – The Corporation shall be organized within thirty (30) days upon the effectivity of this Act. The incumbent Chairman, Board of Directors of PEA and the General Manager shall act as the interim Chairman, Board and Acting President and CEO until their replacement or retention by new appointments are made by the President of the Philippines. Said officials shall oversee the transition requirements of the Corporation until the President makes the above-mentioned new appointments.

SECTION 23. Separability Clause. - If any provision or section of this Act or the application thereof to any person or circumstance is held invalid, the other provisions or sections of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SECTION 24. Repealing Clause. - Presidential Decree No. 1084, as amended, and all existing laws except Republic Act No. 7656 (An Act Requiring Government-Owned or Controlled Corporations to Declare Dividends Under Certain Conditions to the National Government and for Other Purposes), which appropriated certain portions or certain percentages of the annual net income of PEA to be used for purposes other than for PEA's primary mandates, are hereby repealed, thus:

- a. Sec. 42 of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992;
- b. Section 10 of Republic Act No. 7835, otherwise known as the Comprehensive and Integrated Shelter and Urban Development Financing Program;
- c. Section 112 of Republic Act No. 8435, otherwise known as the Agriculture and Fisheries Modernization Act of 1997.

All laws, decrees, executive orders, instructions, rules and regulations, and parts thereof inconsistent with this Act, are hereby repealed and modified accordingly.

SECTION 25. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,