

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City, Philippines

THIRTEENTH CONGRESS  
Second Regular Session

HOUSE BILL NO. 4265



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**INTRODUCED BY HONORABLE DR. REY B. AQUINO**

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**EXPLANATORY NOTE**

Under the Philippine law, when two Filipinos marry, they are married for life, to be separated only by death or in, in some exceptional cases as may be provided by law, by a court decree Divorce may not be validly contracted by either spouse because there is no law allowing divorce for being against public policy.

Article 26 of the Family Code of the Philippines states that:

“ All marriages outside the Philippines, in accordance with the laws in force in the country where they were solemnized and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 36, 37, and 38.

“ Where a marriage between a Filipino citizen and a foreigner is validly celebrated a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under the Philippine law. ( As amended by Executive Order 227)”

Article 26 of the Family Code speaks of two state policies. The first paragraph adheres to the principle of *lex celebrationis*, which states that a marriage formally valid where celebrated is valid everywhere.

The second State policy declares that where an alien married to a Filipino obtains a valid divorce abroad thereby capacitating the alien spouse to remarry under the Philippine law. In other words, the divorce decree granted abroad is given effect here as far as the Filipino spouse is concerned.

The second policy enunciated by Article 26, however, speaks only of a marriage between an alien and a Filipino citizen, but does not contemplate a marriage between two

Filipinos, where one or both of whom eventually adopt a foreign citizenship and subsequently contract a valid divorce.

When one spouse, after marriage, subsequently adopts a foreign citizenship, and thereafter contracts a valid divorce decree from his country of citizenship, such decree of divorce is given recognition in our jurisdiction. Said spouse will be considered in our legal system as an alien and a divorced person. Such divorce, however is not to be given effect over spouse who remains a Filipino.

Apparently, there is an oversight of the formulation of the law on marriage which, if left uncorrected, would place a number of Filipinos in quandary, a situation where he or she is deemed legally married to his or her spouse when the latter has been freed from the marriage bonds, and subsequently contracted a valid marriage.

It is in this regard that this bill seeks to amend the article 26 of the Family Code.

Its immediate passage is earnestly sought.



**DR. REY B. AQUINO**  
Representative  
Third District of Pampanga

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AN ACT AMENDING ARTICLE 26 OF THE FAMILY CODE

SECTION 1. Article 26 of the Family Code is amended as follows:

“ All marriages outside the Philippines, in accordance with the laws in force in the country where they were solemnized and valid there as such, shall also be valid in this country, except those prohibited under Articles 35 (1), (4), (5) and (6), 36, 37, and 38.

“ Where a marriage between a Filipino citizen and a foreigner is validly celebrated a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall have capacity to remarry under the Philippine law. ( As amended by Executive Order 227)”

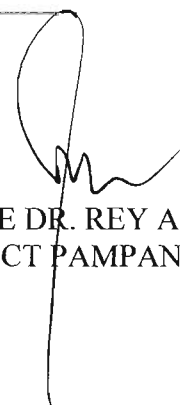
*“ The preceeding paragraph shall likewise apply to Filipino spouses where one of whom, subsequent to the marriage, adopts a foreign citizenship and thereafter obtained a valid divorce decree. “*

SECTION 2. *Separability Clause.* If any portion or provision of this Act shall be declared unconstitutional, such declaration shall not invalidate other parts thereof, which shall remain in full force and effect.

SECTION 3. *Repealing Clause.* All laws, presidential decrees, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby modified or repealed accordingly.

SECTION 4. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation."

APPROVED. \_\_\_\_\_



REPRESENTATIVE DR. REY AQUINO  
THIRD DISTRICT PAMPANGA