

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

THIRTEENTH CONGRESS
FIRST REGULAR SESSION

HOUSE BILL NO. 4803



Introduced by **HONORABLE RODOLFO G. VALENCIA**

EXPLANATORY NOTE

Recognizing shelter as one of the primary or basic needs of man, this administration and many of its predecessors, has made the provision of shelter to every Filipino a top priority, if not its centerpiece. Many laws have been passed on this subject, among the most notable of which is Republic Act. No. 6552 or what is widely known as the Maceda Law, in honor of the distinguished former Senator Ernesto S. Maceda who principally authored the same.

Approved into law on August 26, 1972, and still in its original form up to the present, the Maceda Law aims "to protect buyers of real estate on installment payments against onerous and oppressive conditions. (Sec. 2)" Noble as this intention may be, the relevance of the law has been overtaken by supervening events resulting in inequities where the buyer originally sought to be protected now enjoys benefits at the expense of the seller, a legitimate real estate developer, who is left to suffer the consequences of the strict application of the law vis-à-vis those supervening events.

This bill, therefore, seeks to restore the balance between the interests of the buyers of real property, on the one hand, and the welfare of legitimate real estate developers/sellers, on the other.

Among the amendments proposed in this bill is the removal of the obligation of the seller to refund to the buyer the cash surrender value of the total payments he has made whether or not he has paid an equivalent of two (2) years of installments.

Even at the early stages of the sale, especially if the payments made by the buyer in the year of sale reaches at least twenty-five (25%) percent of the selling price (otherwise known as deferred sales on installment), the seller is required by law to pay to the Bureau of Internal Revenue (BIR) creditable withholding tax (CWT) ranging from 1 ½% to 5% and value-added tax (VAT) of 10% both based on the gross selling price. On the other hand, the local government unit likewise imposes business tax based on the gross receipts of the seller. There are also the commissions paid to brokers and selling agents

and marketing or selling expenses, all totaling approximately 10% of the selling price which have to be paid or incurred by the seller even prior to receipt of full payment of the selling price. These taxes, which were not yet in existence at the time the Maceda Law was enacted in 1972, and the commission and selling expenses do not go into the coffers of the seller but are actually and mandatorily paid to third parties.

Moreover, it is a normal condition in installment sales that occupancy and possession of the real property is given to the buyer even with minimal payment ranging from 10% to 30% of the selling price. The buyer already enjoys the beneficial use of the property even prior to full payment thereof and the property is exposed to depreciation and damage while in possession of the buyer. Hence, it is only justifiable and reasonable that reasonable rent for the use and occupation of the property be charged against the installment payments made by the buyer.

However, it is herein proposed that a separate rule be adopted for buyers of lot only who did not occupy or utilize the same for whatever purpose and of house and lot packages that were not yet turned over to and accepted by the buyer in accordance with the contractual agreement between the buyer and seller. In these cases, the buyers who have paid at least two (2) years of installments shall be entitled to 50% refund of the total payments made after deducting payments applied to penalty and miscellaneous fees and those paid as CWT, VAT, business tax, commissions and marketing other expenses.

To maintain the equilibrium between the interests of the seller and buyer, another amendment proposed herein is to increase the required number of months that the buyer is in arrears before the cancellation of the contract by notarial act may be availed. Thus, instead of just one (1) month default, the proposed amendment requires at least three (3) months. This is also to harmonize the Maceda Law provisions with the policies imposed by the Home Development Mutual Fund (HDMF) on its housing loans.

Clearly, the passage of time and the enactment of laws and ordinances have tilted the balance in favor of the buyer, leaving the seller to suffer the burdensome consequences of such developments. The Maceda Law, in its original form, is no longer relevant and applicable to the current business climate, trends and practice. At a time such as now when the real estate industry is experiencing extreme difficulty, an amendment to the Maceda Law is called for.



HON. RODOLFO G. VALENCIA

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

THIRTEENTH CONGRESS
FIRST REGULAR SESSION

HOUSE BILL NO. 4803

Introduced by **HONORABLE RODOLFO G. VALENCIA**

AN ACT
AMENDING REPUBLIC ACT NO. 6552, OTHERWISE KNOWN AS THE
REALTY INSTALLMENT BUYER ACT, AND FOR OTHER PURPOSES

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

SECTION 1. Section 3 hereby amended to read as follows:

“Section 3. In all transactions or contracts involving the sale or financing of residential real [estate] property on installment payments, including residential condominium apartments, but excluding industrial lots, commercial buildings, farm and leisure lots, and sales to tenants under Agrarian Reform Laws, Rules and Regulations [Republic Act Numbered Thirty Eight Hundred Forty Four, as amended by Republic Act Numbered Sixty Three Hundred Eighty Nine], where the buyer has paid at least two years of installments and thereafter defaults in the payment of three (3) consecutive installments, the buyer is entitled to [the following rights in case he defaults in the payment of succeeding installments:

(a) To] pay, without [additional interest] penalty, the unpaid installments due within thirty (30) days from receipt of a notice of cancellation by notarial act [the total grace period earned buy him which is hereby fixed at the rate of one month grace period for every year of

installment payments made], provided that, this right shall be exercised by the buyer only once during [in every five years of] the life of the contract and its extensions, if any[.], and

(b) If the contract is cancelled, the seller shall refund to the buyer the cash surrender value of the payment on the property equivalent to fifty percent (50%) of the total payments made,] provided further that, the actual cancellation of the contract shall take place after the lapse of the thirty-day[s] period aforementioned. [from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value of the buyer.]

[Downpayments, deposits or options on the contract shall be included in the computation of the total number of installment payments made.]

SECTION 2. Section 4 is hereby amended to read as follows:

“SECTION 4. In case where less than two years of installments were paid, including options or reservations, the [seller shall give the buyer a grace period of not less than sixty days from the date the installment became due

“If the buyer fails to pay the installment due at the expiration of the grace period the] seller may cancel the contract after thirty days, from receipt by the buyer of the notice of cancellation [or the demand for rescission] of the contract by notarial act.

SECTION 3. A new Section 5 shall be inserted which shall read as follows:

SECTION 5. In either of the above cases, all payments made by the buyer shall be forfeited in favor of the seller as rentals and/or liquidated damages, provided however, that in case the subject matter of the installment sales is:

- (a) a lot only which was not occupied nor utilized by the buyer for any purpose whatsoever; or
- (b) a house and lot which has not yet been turned over to and accepted by the buyer in accordance with the contractual agreement between the buyer and the seller,

The buyer, in case he has paid at least two (2) years of installments, shall be entitled to a refund of the cash surrender value equivalent to fifty (50%) percent of the total payments made after deducting payments applied to penalty, miscellaneous fees, and taxes and expenses actually paid or incurred by the seller to a third party such as creditable withholding tax and value added tax paid to the Bureau of Internal Revenue, and commission and marketing expenses paid to brokers and selling agents, duly covered by appropriate receipts and/or check vouchers clearly showing the amounts paid.

SECTION 4. The existing Section 5 and the succeeding sections shall be renumbered accordingly.

SECTION 5. If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

SECTION 6. All other laws, decrees, orders, issuances, rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 7. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Approved,



HON. RODOLFO G. VALENCIA