

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

THIRTEENTH CONGRESS
Second Regular Congress

HOUSE BILL NO. 5338



Introduced by **HONORABLE HERMILANDO I. MANDANAS**

EXPLANATORY NOTE

This bill seeks to define the policies, principles and procedure for the declaration of a state of national emergency.

Congress is empowered to enact a law on the powers of the President in times of national emergency, as provided in Section 23(2), Article VI of the 1987 Constitution, as follows:

“ARTICLE VI
“The Legislative Department

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“Section 23. (1) The Congress, by a vote of two-thirds of both Houses in joint session assembled, voting separately, shall have the sole power to declare the existence of a state of war;

“(2) In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Congress, such powers shall cease upon the next adjournment thereof.”

The 1987 Constitution also grants Congress the power to review the declaration of a state of martial law or suspension of the privilege of the writ of habeas corpus, as provided in Section 18, Article VII thereof, as follows:

“ARTICLE VII
“The Executive Department

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“Sec. 18. The President shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion. In case of invasion or rebellion, when the public safety requires it, he may, for a period

not exceeding sixty days, suspend the privilege of the writ of habeas corpus or place the Philippines or any part thereof under martial law. Within forty-eight hours from the proclamation of martial law or the suspension of the writ of habeas corpus, the President shall submit a report in person or in writing to the Congress. The Congress, voting jointly, or by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, the Congress, may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it."

Section 17, Article XII of the 1987 Constitution authorizes the State to take over the operations of privately-owned public utilities or business affected with the public interest in times of national emergency, as follows:

"ARTICLE XII
"National Economy and Patrimony

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"Sec. 17. In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operations of any privately owned public utility or business affected with the public interest."

If the power is exercised by the President, the same may be subject to review by Congress.

Said powers of Congress are consistent with the following provisions of Article II on Declaration of Principles and State Policies of the 1987 Constitution, as follows:

"ARTICLE II
"DECLARATION OF PRINCIPLES AND STATE POLICIES

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"Sec. 2. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

"Sec. 3. Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.

"Sec. 4. The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be

required under conditions provided by law, to render personal military or civil service.

“Sec. 5. The maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment of all people of the blessings of democracy.

“Sec. 10. The State shall promote social justice in all phases of national development.

“Sec. 11. The State values the dignity of every human person and guarantees full respect for human rights.

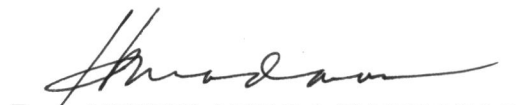
“Sec. 27. The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

“Sec. 28. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving the public interest.”

The Bill of Rights, Article III of the 1987 Constitution, also needs to be preserved, protected and upheld, even in times of emergency.

Accordingly, there is need for Congress to exercise its power by law, to review or extend any declaration of a state of national emergency by the President, consistent with Section 23, Article VI of the Constitution.

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


Rep. HERMILANDO I. MANDANAS
Second District, Batangas

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REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES

THIRTEENTH CONGRESS
Second Regular Session

House Bill No. 5338

Introduced by Honorable HERMILANDO I. MANDANAS

**AN ACT DEFINING THE POLICIES, PRINCIPLES AND PROCEDURE
FOR THE DECLARATION OF A STATE OF NATIONAL EMERGENCY**

Section 1. Title. – This Act shall be known as the National Emergency Act of 2006.

Section 2. Declaration of Policy. – The State reiterates its adherence to the following policies and principles as enshrined in the 1987 Constitution:

1. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.
2. Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.
3. The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required under conditions provided by law, to render personal military or civil service.
4. The maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment of all people of the blessings of democracy.
5. The State shall promote social justice in all phases of national development.
6. The State values the dignity of every human person and guarantees full respect for human rights.
7. The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.
8. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving the public interest.

58 The State further emphasizes that the Bill of Rights, Article III of the 1987
59 Constitution, shall be preserved, protected and upheld, even in times of
60 emergency, state of war, declaration of martial law or suspension of the privilege
61 of writ of habeas corpus.
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63 **Section 3. Declaration of a State of War.** – The Congress, by a vote of
64 two-thirds of both Houses in joint session assembled, voting separately, shall
65 have the sole power to declare the existence of a state of war.
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67 **Section 4. Declaration of a State of National Emergency.** – In times of war
68 or other national emergency, the Congress, in joint session, voting separately,
69 shall authorize the President, for a limited period, and subject to such restrictions
70 as it may prescribe, to exercise powers and necessary and proper to carry out a
71 declared national policy, or revoke the declaration of the state of national
72 emergency. Unless sooner withdrawn by resolution of the Congress, such state
73 of national emergency shall cease upon the next adjournment thereof.
74 Furthermore, within forty-eight (48) hours after the declaration of a state of
75 national emergency, the President shall submit a report, in person or in writing, to
76 Congress, which shall convene in joint session, within twenty-four (24) hours
77 after such declaration even without need of any call. *Provided*, that deliberations
78 of Congress may be done in executive session, if requested by the President in
79 writing.
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81 **Section 5. Suspension of the Privilege of the Writ of Habeas Corpus;**
82 **Declaration of Martial Law.** – In case of invasion or rebellion, when the public
83 safety requires it, the President may, for a period not exceeding sixty days,
84 suspend the privilege of the writ of habeas corpus or place the Philippines or any
85 part thereof under martial law. Within forty-eight (48) hours from the proclamation
86 of martial law or the suspension of the writ of habeas corpus, the President shall
87 submit a report in person or in writing to the Congress. The Congress, voting
88 jointly, or by a vote of at least a majority of all its Members in regular or special
89 session, may revoke such proclamation or suspension, which revocation shall
90 not be set aside by the President. Upon the initiative of the President, the
91 Congress, may, in the same manner, extend such proclamation or suspension
92 for a period to be determined by the Congress, if the invasion or rebellion shall
93 persist and public safety requires it.
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95 The Congress, if not in session, shall, within twenty-four hours following
96 such proclamation or suspension, convene in accordance with its rules without
97 need of a call. Deliberations of Congress shall be done in executive session, if
98 requested by the President in writing.
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100 The Supreme Court may review, in an appropriate proceeding filed by any
101 citizen, the sufficiency of the factual basis of the proclamation of martial law or
102 the suspension of the privilege of the writ or the extension thereof, and must
103 promulgate its decision thereon within thirty days from its filing.
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105 A state of martial law does not suspend the operation of the Constitution,
106 nor supplant the functioning of the civil courts, or legislative assemblies, nor
107 authorize the conferment of jurisdiction on military courts and agencies over
108 civilians where civil courts are able to function, nor automatically suspend the
109 privilege of the writ.
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111 The suspension of the privilege of the writ shall apply only to persons
112 judicially charged for rebellion or offenses inherent in or directly connected with
113 invasion.
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During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released.

Section 6. *Review of Take-Over of Public Utilities or Business Affected With the Public Interest.* – In times of national emergency affecting the national economy, and subject to the provisions of Section 4 hereof, the President may declare a state of national emergency and the State may temporarily take over or direct the operations of any privately owned public utility or business affected with the public interest.

Section 7. *Separability Clause.* – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

Section 8. *Repealing Clause.* – All laws, decrees, executive orders, proclamations and other executive issuances, which are inconsistent with or contrary to the provisions of this Act, are hereby amended or repealed.

Section 9. *Effectivity Clause.* – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) national newspapers of general circulation.

APPROVED.