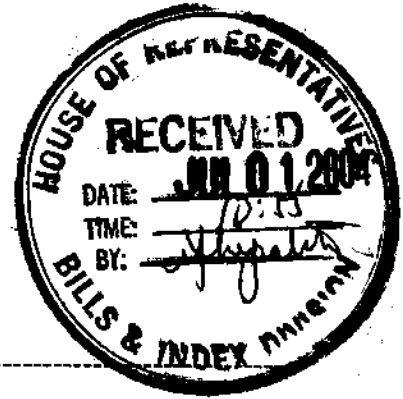


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
1st Regular Session

House Bill No. 262



Introduced by **RODRIGUEZ D. DADIVAS**

Explanatory Note

This bill seeks to amend Republic Act 6770, otherwise known as "The Ombudsman Act of 1989", by allowing the Ombudsman to seek assistance from private lawyers in handling cases against misfits in the government offices.

This bill would give enough teeth to the Office of the Ombudsman by allowing competent and well-trained private lawyers to act as prosecutors in cases involving former Presidents and Vice Presidents of the Philippines, incumbent and former members of the cabinet and incumbent and former undersecretaries appointed in the executive branch, among others.

One of the glaring examples why the need to hire these lawyers is the mismatch between the skills the government lawyers have against the fancied, high paid and prominent lawyers that comprised former President Estrada's legal team in the ongoing perjury and plunder cases against the latter.

On many instances, several misfits in public office had evaded the long arm of the law due either to the lackluster performance of the Office of the Ombudsman or the dearth of well-trained and competent lawyers and the general public has no choice but to accept defeat hook, line and sinker.

Section 1, Article XI of the 1987 Constitution provides that "Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice and lead modest lives." Erring public officials and employees should be put behind bars and let the full force of the law be applied.

In view of the foregoing, approval of this bill is earnestly sought. This bill was also filed in the Senate during the 12th Congress and pending before the Committee on Justice under Committee Report No. 16.

RODRIGUEZ D. DADIVAS
Representative
1st District, Capiz

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Introduced by **RODRIGUEZ D. DADIVAS**

AN ACT
AMENDING SECTION 31 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN
AS "THE OMBUDSMAN ACT OF 1989," AS AMENDED, ALLOWING PRIVATE
LAWYERS TO ACT AS PROSECUTORS ON BEHALF OF THE OMBUDSMAN

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

SECTION 1. Section 31 of Republic Act No. 6770 is hereby further amended to read as follows:

"Sec. 31. *Designation of Investigators and Prosecutors.* – The Ombudsman may utilize the personnel of his office and/or designate or deputize any fiscal, state prosecutor or lawyer in the government services to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. THE OMBUDSMAN MAY ALSO DESIGNATE PRIVATE LAWYERS TO ACT AS PROSECUTORS TO ASSIST IN THE PROSECUTION OF CASES PROVIDED HEREUNDER. Those designated and deputized to assist him herein provided shall be under his supervision and control.

"The Ombudsman and his investigators and prosecutors, whether regular members of his staff or designated by him as herein provided, shall have authority to administer oaths, to issue *subpoena* and *subpoena duces tecum*, to summon and compel witnesses to appear and testify under oath before them and/or bring books, documents and other things under their control, and secure the attendance or presence of any absent or recalcitrant witness through application before the Sandiganbayan or before any inferior or superior court having jurisdiction of the place where the witness or evidence is found.

"THE OMBUDSMAN MAY DESIGNATE PRIVATE LAWYERS TO ASSIST HIM IN THE PROSECUTION OF CASES IN THE FOLLOWING INSTANCES:

A. CASES INVOLVING FORMER PRESIDENTS OF THE PHILIPPINES, FORMER VICE PRESIDENTS OF THE PHILIPPINES, INCUMBENT AND FORMER MEMBERS OF THE CABINET AND

INCUMBENT AND FORMER UNDERSECRETARIES APPOINTED IN THE EXECUTIVE BRANCH;

B. CASES REQUIRING SPECIALIZED AND EXPERT KNOWLEDGE AND TRAINING OF THE LAW;

C. CASES WHERE THE PRIVATE LAWYER DEPUTIZED BY THE OMBUDSMAN IS ALSO THE COMPLAINANT IN THE FILING OF THE ORIGINAL COMPLAINT LODGED WITH THE OMBUDSMAN. WHERE THE COMPLAINANT IS NOT A LAWYER, THE OMBUDSMAN MAY ALSO DESIGNATE OR DEPUTIZE THE PRIVATE LAWYER/S HIRED AND ENGAGED BY THE SAID COMPLAINANT.

"SEC. 31-A. *DEFINITION OF PRIVATE LAWYER.* – FOR PURPOSES OF THIS ACT, THE TERM PRIVATE LAWYER SHALL MEAN OR BE UNDERSTOOD AS FOLLOWS:

(A)(I) ANY PERSON LEARNED IN THE LAW AS AN ATTORNEY, COUNSEL, OR A PERSON LICENSED TO PRACTICE LAW;

(II) ANY PERSON WHO PROSECUTES OR DEFEND CAUSES IN COURTS OR RECORD OR OTHER JUDICIAL TRIBUNAL, OR WHOSE BUSINESS IS TO GIVE LEGAL ADVICE OR ASSISTANCE IN RELATION TO ANY CAUSE OR MATTER WHATEVER; OR

(III) ANY LAWYER WHO IS NOT EMPLOYED IN ANY GOVERNMENT AGENCY AND NOT PAID OUT OF PUBLIC FUNDS; AND

(B) WITH AT LEAST FIVE (5) YEARS OF ACTIVE LITIGATION PRACTICE OR EXPERIENCE.

"SEC. 31-B. *NATURE OF SERVICES.* – THE SERVICES RENDERED BY THE PRIVATE LAWYER/S UNDER AND PURSUANT TO THIS ACT SHALL BE *PRO BONO* AND ON A PURELY VOLUNTARY BASIS EXCEPT THAT INCIDENTAL, NECESSARY AND OUT-OF-POCKET EXPENSES SHALL BE FOR THE ACCOUNT OF THE OFFICE OF THE OMBUDSMAN.

"SEC. 31-C. *PROHIBITION ON APPEARANCE.* – PRIVATE LAWYER/S DESIGNATED BY THE OMBUDSMAN UNDER AND PURSUANT TO THIS ACT AND THE FIRMS TO WHICH THEY BELONG SHALL, IN CASES WHERE ACTUAL OR POTENTIAL CONFLICT OF INTEREST ARISES, BE BARRED FROM APPEARING AS COUNSEL OR AGENT ON ANY OTHER MATTER PENDING BEFORE THE OFFICE OF THE OMBUDSMAN, AND FROM TRANSACTING BUSINESS DIRECTLY OR INDIRECTLY WITH THE SAID OFFICE, WHILE THEY ARE DEPUTIZED TO ASSIST THE OMBUDSMAN.

SEC. 2. *Separability Clause.* – If any of the provisions of this Act is declared invalid, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SEC. 3. *Repealing Clause.* – All laws, decrees, ordinance, rules and regulation, executive or administrative orders, and other presidential issuances inconsistent with this Act, are hereby repealed, amended or modified accordingly.

SEC. 4. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general publication or the Official Gazette, whichever comes earlier.

Approved,