

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

FIFTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 546

INTRODUCED BY CONGRESSMAN PEDRO P. ROMUALDO

EXPLANATORY NOTE

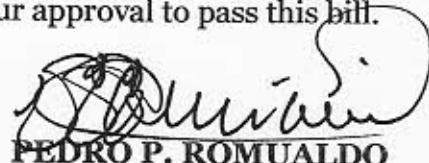
During the Third Congress, it passed Republic Act No. 1060, entitled "An Act Increasing the Penalty for the Crime of Malversation of Public Funds or Property, By Amending Article Two Hundred Seventeen of the Revised Penal Code, approved on 12 June 1954.

For nearly fifty-five (55) years, we have been implementing the penalties prescribed under the Revised Penal Code as amended by R.A. 1060. It is high time that we revisit the existing provisions of the Revised Penal Code on the subject of "Malversation of Public Funds or Property" as found in Articles 217 – 222 of Chapter Four.

The intent of this proposal is to upgrade the existing penalty structure and modify accordingly the equivalent misappropriated monetary value to reflect the prevailing value of our Philippine peso.

In the present provisions, the monetary classification is too small and yet, the penalties imposed are quite onerous. There are some cases which involved less than twelve thousand pesos and the corresponding penalty ranges from prisjon correccional to reclusion temporal in its minimum. Up to this day, many persons are still languishing in jail serving their jail sentences and have been meted out permanent disqualification by the courts based on these existing provisions.

We need to revise these provisions to promote a just and equitable law. Therefore, it is with urgency that we sought your approval to pass this bill.



PEDRO P. ROMUALDO

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HOUSE BILL NO. _____

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AN ACT
AMENDING FURTHER ARTICLES 217, 218, 219, 220, 221 AND 222,
CHAPTER FOUR OF THE REVISED PENAL CODE

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

**SECTION. 1. Article 217 of the Revised Penal Code is hereby further
amended to read, as follows and subsections subsequently
renumbered:**

“Art. 217. *Malversation of public funds or property; Presumption of
malversation.* — Any public officer who, by reason of the duties of his office, is
accountable for public funds or property, shall appropriate the same or shall take
or misappropriate or shall consent, through abandonment or negligence, shall
permit any other person to take such public funds, or property, wholly or
partially, or shall otherwise be guilty of the misappropriation or malversation of
such funds or property, shall suffer:

1. THE PENALTY OF ARRESTO MAYOR IN ITS MEDIUM
PERIOD, IF THE AMOUNT INVOLVED IS LESS THAN TEN
THOUSAND PESOS.

2. THE PENALTY OF ARRESTO MAYOR IN ITS MAXIMUM
PERIOD, IF THE AMOUNT INVOLVED IS TEN THOUSAND PESOS
(P\10,000.00) DOES NOT EXCEED TWENTY THOUSAND PESOS (P\
20,000.00).

3. THE PENALTY OF PRISION CORRECCIONAL IN ITS
MINIMUM PERIOD, IF THE AMOUNT INVOLVED IN THE

MISAPPROPRIATION OR MALVERSATION IS TWENTY THOUSAND PESOS (P\ 20,000.00) DOES NOT EXCEED THIRTY THOUSAND PESOS (P\ 30,000.00).

[1.] 4. The penalty of prision correccional in its medium and maximum periods, if the amount involved in the misappropriation or malversation is **THIRTY THOUSAND PESOS (P\30,000.00)** does not exceed [two hundred] **FIFTY THOUSAND pesos (P\ 50,000.00)**.

[2.] 5. The penalty of prision mayor in its minimum and medium periods, if the amount involved is more than [two hundred] **FIFTY THOUSAND pesos (P\ 50,000.00)** but does not exceed [six thousand] **ONE HUNDRED THOUSAND pesos (P\ 100,000.00)**.

[3.] 6. The penalty of prision mayor in its maximum period to reclusion temporal in its minimum period, if the amount involved is more than [six thousand] **ONE HUNDRED THOUSAND pesos (P\ 100,000.00)** but is less than [twelve thousand] **TWO HUNDRED FIFTY THOUSAND pesos (P\ 250,000.00)**.

[4.] 7. The penalty of reclusion temporal, in its medium and maximum periods, if the amount involved is more than [twelve thousand] **TWO HUNDRED FIFTY THOUSAND pesos (P\ 250,000.00)** is less than [twenty-two thousand] **FIVE HUNDRED THOUSAND pesos (P\ 500,000.00)**. If the amount exceeds the latter, the penalty shall be [reclusion temporal] in its maximum period to reclusion perpetua.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use."

SECTION 2. Article 218 is hereby amended to read as follows:

"Art. 218. *Failure of accountable officer to render accounts.* — Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the **[Insular Auditor] COMMISSION ON AUDIT**, or to **[a] THE provincial auditor** and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by prision correccional in its minimum period, or by a fine ranging from **[200 to 6,000] TWENTY THOUSAND pesos (P\20,000.00)**, or both."

SECTION 3. Article 219 is hereby amended to read as follows:

"Art. 219. Failure of a responsible public officer to render accounts before leaving the country. — Any public officer who unlawfully leaves or attempts to leave the Philippine Islands without securing a certificate from the COMMISSION ON AUDIT [Insular Auditor] showing that his accounts have been finally settled, shall be punished by arresto mayor, or a fine ranging from TWENTY THOUSAND PESOS (P\ 20,000.00) TO FIFTY THOUSAND (P\ 50,000.00) [200 to 1,000] pesos or both."

SECTION 4. Article 220 is hereby amended to read as follows:

"Art. 220. Illegal use of public funds or property. — Any public officer who shall apply any public fund or property under his administration to any public use other than for which such fund or property were appropriated by law or ordinance shall suffer the penalty of prisjon correccional in its minimum period or a fine EQUIVALENT TO [ranging from one-half] FIFTY PERCENT (50%) [to] OF the total of the sum misapplied, if by reason of such misapplication, any damages or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from FIVE PERCENT (5%) to FIFTY percent (50%) of the sum misapplied."

SECTION 5. Article 221 is hereby amended to read as follows:

"Art. 221. Failure to make delivery of public funds or property. — Any public officer under obligation to make payment from Government funds in his possession, who shall fail to make such payment, shall be punished by arresto mayor and a fine from FIVE PERCENT (5%) to TWENTY-FIVE PERCENT (25 %) of the sum which he failed to pay.

This provision shall apply to any public officer who, being ordered by competent authority to deliver any property in his custody or under his administration shall refuse to make such delivery.

The fine shall be graduated in such case by the value of the thing, provided that it shall not be less than FIVE THOUSAND [50] pesos (P\ 5,000.00)."

SECTION 6. Article 222 is hereby amended to read as follows:

"Art. 222. Officers included in the preceding provisions. — The provisions of this chapter shall apply to private individuals who in any capacity whatsoever, IS IN [have] charge of any [insular], provincial or municipal funds, revenues, or property and to any administrator or depository of funds or property attached, seized or deposited by public authority, even if such property belongs to a private individual."

SECTION 7. If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SECTION 8. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 9. This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,