

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

FIFTEENTH CONGRESS
First Regular Session
0753

Introduced by Representative Rodolfo W. Antonino

EXPLANATORY NOTE

A successful terrorist group, like any other criminal organization, must be one that is able to build and maintain an effective financial infrastructure. It must locate, develop and keep sources of funding, means of laundering those funds, and finding ways to ensure that those funds can be used to obtain material and other logistics needed to commit terrorist acts.

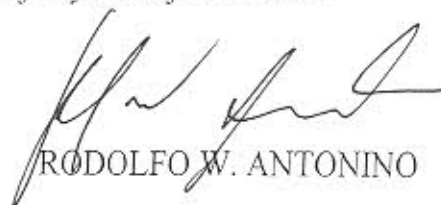
Experts on global terrorism generally agree that terrorist financing comes from either of the following sources: from states or organizations with highly developed financial structure; from individuals or groups with substantive financial means; or from income derived from crime or other unlawful activities such as kidnapping for ransom, drug trafficking, smuggling, illegal gambling, etc. The 11 March 2004 Madrid train bombings is an example of a terrorist act financed by illegal activities, specifically, narcotics trafficking. However, experts failed to include the income derived from lawful or legitimate sources, or a combination of both lawful and unlawful sources. No anti-terrorism financing law would be effective if the remedies of freezing and confiscation would only cover illegitimate funds or those of illicit origins.

In 2001, the Philippines signed and subsequently ratified the 1999 UN Convention on the Suppression of the Financing of Terrorism or Terrorist Financing Convention, obligating itself to criminalize the financing of terrorism and impose measures designed to prevent terrorists' access to funds, however acquire, which may later on be forfeited. Following the adoption of this Convention, the UN Security Council issued Resolution Nos. 1267 (1999) and 1373 (2001) and successor Resolutions.

This bill intends to complement and reinforce existing laws on anti-money laundering and anti-terrorism. It defines terrorist financing as a crime separate and distinct from the crime of terrorism and provides penalties to deter terrorist financiers from providing logistics and support to terrorists. It is also intends, as a measure on the part of the Philippines, to comply with the Terrorist Financing Convention, UNSC Resolution Nos. 1267, 1373 and its successor resolutions, as well as the Financial Action Task Force's Special Recommendations on terrorist financing.

Without discouraging or prohibiting financial institutions from doing business with legitimate customers, this bill intends to deny terrorists and their supporters access to legitimate international financial systems. It strengthens the country's support to fight terrorism as it continues to threaten global peace and security, and reaffirms UNSC Resolution 1373 which *"recognizes the need for States to complement international cooperation by taking additional measures to prevent and suppress the financing and preparation of any acts of terrorism"*.

The passage of this bill is earnestly sought.



RODOLFO W. ANTONINO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
First Regular Session

House Bill No. 0753

Introduced by: Representative Rodolfo W. Antonino

**AN ACT DEFINING TERRORIST FINANCING AS A CRIME AND PROVIDING
PENALTIES THEREFOR**

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

1 SECTION 1. **Short Title** – This Act shall be known as the “*Terrorist Financing*
2 *Suppression Act of 2010*”.

3 SEC. 2. **Declaration of Policy** – It is the policy of the State to protect life, liberty,
4 and property from acts of terrorism, and to condemn terrorists and those who support and
5 finance terrorists as inimical and dangerous to the national security of the country and to
6 the welfare of the people. Toward this end, the State shall reinforce its fight against
7 terrorism by defining terrorist financing as a crime and providing penalties for the
8 commissions thereof.

9 SEC. 3. **Definition of Terms**. – As used in this Act:

10 a) *Anti-Money Laundering Council (AMLC)* refers to the agency created by
11 virtue of Republic Act No. 9160, as amended, otherwise known as the “Anti-Money
12 Laundering Act of 2001, as amended”;

13 b) *Anti-Terrorism Council (ATC)* refers to the agency created by virtue of
14 Republic Act No. 9372, otherwise known as the Human Security Act of 2007;

15 c) *Covered institution* refers to or shall have the same meaning as defined
16 under the Anti-Money Laundering Act (AMLA), as amended;

d) *Forfeiture* refers to an act where a court order transfers, after due process, in favor of the government ownership of property or funds representing, involving or relating to a terrorist act or terrorist financing;

e) *Freeze* refers to the act of blocking or restraining specific property or funds from being transacted, converted, concealed, moved or disposed. The owner of said frozen property or funds shall retain ownership thereof although the government possesses, administers or manages the property or funds;

f) *Property or funds* refers to assets of every kind, whether real or personal, tangible or intangible, movable or immovable, however acquired or regardless of its source, including legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including but not limited to cash, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letters of credit and other monetary instruments;

g) *Terrorist* refers to any natural person who: (i) commits, or attempts, or conspires to commit terrorist acts by any means, directly or indirectly, unlawfully and willfully; (ii) participates, as a principal or as an accomplice, in terrorist acts; (iii) organizes or directs others to commit terrorist acts; or (iv) contributes to the commission of terrorist acts by a group of persons acting with common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;

h) *Terrorist act* refers to the following:

1: Any act or combination of acts punishable under any of the following provisions of the Revised Penal Code (RPC) and other special laws;

- i) Article 122 (RPC) on piracy in general and mutiny in the high seas or in the Philippine waters;
- ii) Article 134 (RPC) on rebellion or insurrection;
- iii) Article 134-a (RPC) on *Coup de'état*, including acts committed by private persons;
- iv) Article 248 (RPC) on murder;
- v) Article 267 (RPC) on kidnapping and serious illegal detention;
- vi) Article 324 (RPC) on crimes involving destruction;
- vii) Presidential Decree No. 1613, the Law on Arson;
- viii) Republic Act No. 6969, otherwise known as the "*Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990*";
- ix) Republic Act No. 5207, otherwise known as the "*Atomic Energy Regulatory and Liability Act of 1968*";
- x) Republic Act No. 6235 entitled, "*An Act Prohibiting Certain Acts Inimical to Civil Aviation and for other purposes*";
- xi) Presidential Decree No. 532, entitled, "*Anti-Piracy and Anti-Highway Robbery Law of 1974*";
- xii) Presidential Decree No. 1866, as amended by RA 8294 and further amended by RA 9516 (Sections 3 & 4), entitled "*Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunition or Explosives or Instruments Used in the Manufacture of Firearms, Ammunition or Explosives, and Imposing*

1 *Stiffer Penalties for Certain Violations Thereof and for Relevant*
2 *Purposes”;*

3 which sows and creates a condition of widespread and extraordinary fear and panic
4 among the populace, in order to coerce the government to give in to an unlawful
5 demand;

6 2. Any other act intended to cause death or serious bodily injury to a civilian or to any
7 person not taking an active part in the hostilities in a situation of armed conflict, when the
8 purpose of such act, by nature of its context, is to intimidate a population, or to compel a
9 government or an international organization to do or to abstain from doing any act.

10 *i) Terrorist entity or organization* refers to any entity owned or controlled by
11 any terrorist or group of terrorists that: (i) commits, or attempts to commit, terrorist acts by
12 any means, directly or indirectly, unlawfully and willfully; (ii) participates as an
13 accomplice in terrorist acts; (iii) organizes or directs others to commit terrorist acts; or (iv)
14 contributes to the commission of terrorist acts by a group of persons acting with common
15 purpose of furthering the terrorist act where the contribution is made intentionally and
16 with the aim of furthering the terrorist act or with the knowledge of the intention of the
17 group to commit a terrorist act.

18 SEC 4. ***Terrorist Financing.*** – Any person who, directly or indirectly, willfully
19 and without lawful excuse, provides, collects or uses property or funds or makes available
20 property or financial service or other related services, by any means, with the unlawful and
21 willful intention that they should be used or in the knowledge that they will be used, in full
22 or in part: (a) to carry out a terrorist act or acts; (b) by a terrorist entity or organization; or
23 (c) by an individual terrorist shall be guilty of the crime of terrorist financing and shall be

1 imposed the penalty of *reclusion temporal* in its maximum period to *reclusion perpetua*
2 and a fine of not less than Five Hundred Thousand Pesos (PhP 500,000.00) nor more than
3 One Million Pesos (PhP 1,000,000.00).

4 ***Provided, however,*** That with respect to c), it shall be an affirmative defense that
5 the person providing the property or funds had no knowledge or reason to believe that the
6 property or funds will be used for activities related to terrorist acts.

7 For purposes of this Act, knowledge may be established by direct evidence or
8 inferred from the attendant circumstances.

9 **SEC. 5. *Conspiracy to Commit Terrorist Financing.*** – Persons who conspire to
10 commit the crime of terrorist financing shall suffer the penalty of *reclusion temporal* in its
11 maximum period to *reclusion perpetua* and a fine of not less than Five Hundred Thousand
12 Pesos (PhP 500,000.00) nor more than One Million Pesos (PhP1,000,000.00).

13 There is conspiracy when two or more persons come to an agreement concerning
14 the commission of the crime of terrorist financing as herein defined and decide to commit
15 the same.

16 **SEC. 6. *Accomplice.*** – Any person who, not being a principal under Article 17 of
17 the Revised Penal Code or a conspirator as defined in Section 4 hereof, cooperates in the
18 execution of either the crime of terrorist or conspiracy to commit terrorism by previous or
19 simultaneous act, shall suffer the penalty one degree lower than that prescribed for the
20 conspirator.

21 **SEC.7. *Accessory.*** – Persons who, having knowledge of the commission of the
22 crime of terrorist financing but without having participated therein as a principal take part,
23 subsequent to its commission, by profiting themselves or assisting the principal or
24 principals to profit by the effects of the crime, or by concealing or destroying the effects of

1 the crime in order to prevent its discovery, or by harboring, concealing or assisting in the
2 escape of the principal of the crime shall be guilty as an accessory to the crime of terrorist
3 financing and shall be imposed a penalty two degrees lower than that prescribed for
4 principals in the crime of terrorist financing.

5 SEC. 8. *Prohibition Against Use or Possession of Property or Funds for*
6 *Terrorist Purposes.* – Every person who (a) uses property or funds, directly or indirectly,
7 in whole or in part, for the purpose of facilitating or carrying out any terrorist act; or (b)
8 possesses property or funds intending that it be used or knowing or having reasonable
9 grounds to believe that it will be used, directly or indirectly, in whole or in part, for the
10 purpose of facilitating or carrying out a terrorist act shall be guilty as a principal of the
11 crime of terrorist financing.

12 SEC. 9. *Prohibition Against Dealing with Property of Terrorists.* – It shall be
13 unlawful for any person to (a) deal directly or indirectly, with any property or funds that
14 he knows or has reasonable ground to believe is owned or controlled by or on behalf of
15 any terrorist, terrorist entity or organization, including funds derived or generated from
16 property or funds owned or controlled, directly or indirectly, by any terrorist, terrorist
17 entity or organization; (b) enter into or facilitate, directly or indirectly, any financial
18 transaction related to a dealing in property or funds owned or controlled by or on behalf of
19 any terrorist, terrorist entity or organization; or (c) provide any financial service or any
20 other related services with respect to any property or funds owned or controlled by, or on
21 behalf or for the benefit of, or on the direction or order of, any terrorist, terrorist entity or
22 organization.

23 Violation of this Section shall be penalized as a principal of the crime of terrorist
24 financing; *Provided*, That any person who acts reasonably in taking measures to comply

1 with this Section shall not be liable in any criminal proceeding if the person took all
2 reasonable steps to satisfy himself that the relevant property was not owned or controlled
3 by or on behalf of any terrorist or terrorist entity or organization.

4 SEC. 10. *Offense by a Juridical Person or Corporate Body.* – Where the crime of
5 terrorist financing has been committed by a company, firm, society or other body of
6 juridical person, any person who, at the time of the commission of the offense, was a
7 director, manager, secretary or other similar officer or a partner of the company, firm,
8 society or other body of juridical person or was purporting to act in any such capacity,
9 shall be guilty of the crime of terrorist financing and shall be penalized accordingly unless
10 he proves that the acts constituting the offense was committed without his consent or
11 connivance and that he had exercised the due diligence required to prevent the commission
12 of the offense having regard to the nature of his functions.

13 In addition to any administrative fine or sanction that may be imposed, the court
14 may revoke or suspend the license of the juridical person found to have violated the
15 provisions of this Act.

16 SEC. 11. *Jurisdiction of Terrorist Financing and Related Cases.* – The Regional
17 Trial Court shall have original jurisdiction over all cases of terrorist financing.

18 Sec. 12. *Authority to Investigate Terrorist Financing and Related Cases.* – The
19 AMLC, either at its own initiative or at the request of the ATC, is hereby authorized to
20 investigate: i) any property or funds that are in any way related to terrorist financing or
21 terrorist act; ii) property or funds of any person or persons in relation to whom there is
22 probable cause to believe that they are committing or attempting or conspiring to commit,
23 or participating in or facilitating the commission of a terrorist act or terrorist financing as
24 defined herein.

1 It may also enlist the assistance of any branch, department, bureau, office, agency
2 or instrumentality of the government, including government-owned and- controlled
3 corporations in undertaking countermeasures to terrorist financing, which may include the
4 use of its personnel, facilities and resources for the more resolute prevention, detection and
5 investigation of terrorist financing offenses and prosecution of offenders.

6 For purposes of this Section and notwithstanding the provisions of Republic Act
7 No. 1405, as amended, Republic Act No. 6426, as amended; Republic Act No. 8791, and
8 other laws, the AMLC is hereby authorized to inquire into or examine deposits and
9 investments with any banking institution or non-bank financial institution and their
10 subsidiaries and affiliates without a court order.

11 SEC. 13. *Authority to Freeze.* – The AMLC, either at its own initiative or at the
12 request of the ATC, is hereby authorized to issue an order to freeze without delay: i) the
13 property or funds that are in any way related to terrorist financing or a terrorist act; or ii)
14 the property or funds of any person or persons in relation to whom there is probable cause
15 to believe that they are committing or attempting or conspiring to commit, or participating
16 in or facilitating the commission of terrorist financing or a terrorist act as defined herein.

17 The freeze order shall be effective for a period not exceeding thirty (30) days.
18 Upon a petition filed by the AMLC before the expiration of the period, the effectivity of
19 the freeze order may be extended up to a period not exceeding six (6) months upon order
20 of the Court of Appeals, provided that the thirty-day (30-day) period shall be tolled upon
21 filing of a petition to extend the effectivity of the freeze order.

22 Notwithstanding the provisions of the preceding Section, the AMLC, consistent
23 with its international obligations, is authorized to issue a freeze order to comply with the
24 binding convention, directive or resolution of the United Nations, the United Nations

1 Security Council and other international organizations of which the Philippines is a
2 member. Said freeze order shall be effective until the basis for the issuance thereof shall
3 have been lifted. During the effectivity of the freeze, an aggrieved party may, within
4 twenty (20) days from issuance, file with the Court of Appeals a petition to determine the
5 basis of the freeze order.

6 However, if the property or funds subject of the freeze order are found to be in any
7 way related to terrorist financing or terrorist act committed within the jurisdiction of the
8 Philippines, said property or funds shall be the subject of civil forfeiture proceedings as
9 hereinafter provided.

10 SEC. 14. *Duty of the Covered Institutions and Government Agency upon receipt*
11 *of the Freeze Order.* – Upon receipt of notice of freeze order, the covered institution or
12 government agency shall immediately preserve the subject property or funds in accordance
13 with the Resolution of the AMLC and shall forthwith furnish a copy of the notice of the
14 freeze order upon the owner or holder of the subject property, or funds. Any person who
15 fails to comply with a freeze order shall be penalized with imprisonment ranging from six
16 (6) months to four (4) years and a fine of not less than One Hundred Thousand Pesos (PhP
17 100,000.00) nor more than Five Hundred Thousand Pesos (PhP 500,000.00) at the
18 discretion of the court, without prejudice to the administrative sanctions that the AMLC
19 may impose on the erring covered institution.

20 SEC. 15. *Predicate Offense to Money Laundering.* - Terrorism financing and other
21 violations under this Act shall be a predicate offense to money laundering as defined in the
22 Anti-Money Laundering Act of 2001 (AMLA), as amended.

1 SEC. 16. *Civil Forfeiture.* – The procedure for the civil forfeiture of property or
2 funds found to be in any way related to terrorist financing and other violations of this Act
3 shall be made in accordance with the AMLA, as amended, its Revised Implementing
4 Rules and Regulations and the Rules of Procedure promulgated by the Supreme Court.

5 SEC. 17. *Extra-Territorial Application of this Act.* – Subject to the provision of an
6 existing treaty, including the 1999 International Convention for the Suppression of the
7 Financing of Terrorism, of which the Philippines is a State Party, and to any contrary
8 provision of any law of preferential application, the provisions of this Act shall apply: a)
9 to individual persons who commit any of the crimes defined and punished in this Act
10 within the terrestrial domain, interior waters, maritime zone, and airspace of the
11 Philippines; b) to individual persons who, although physically outside the territorial limits
12 of the Philippines, commit, conspire or plot to commit any of the crimes defined and
13 punished in this Act inside the territorial limits of the Philippines; c) to individual persons
14 who, although physically outside the territorial limits of the Philippines, commit any of the
15 said crimes on board Philippine ship or Philippine airship; d) to individual persons who
16 commit any of said crimes within any embassy, consulate, or diplomatic premises
17 belonging to or occupied by the Philippine government in an official capacity; e) to
18 individual persons who, although physically outside the territorial limits of the Philippines,
19 commit said crimes against Philippine citizens or persons of Philippine descent, where
20 their citizenship or ethnicity was a factor in the commission of the crime; and f) to
21 individual persons who, although physically outside the territorial limits of the Philippines,
22 commit said crimes directly against the Philippine government.

1 The provisions of this Act shall likewise apply to a Filipino national who, although
2 outside the territorial jurisdiction of the Philippines, commit, conspire or plot to commit
3 any of the crimes defined and punished in this Act.

4 SEC. 18. *Extradition.* – The Philippines shall negotiate the inclusion of terrorist
5 financing as herein defined among extraditable offenses in all future treaties.

6 SEC. 19. *Applicability of the Revised Penal Code.* – The provisions of Book I of
7 the Revised Penal Code shall be applicable to this Act.

8 SEC. 20. *Separability Clause.* – If, for any reason, any provision of this Act is
9 declared invalid or unconstitutional, the remaining provisions not affected thereby shall
10 continue to be in force and effect.

11 SEC. 21. *Repealing Clause.* – All laws, decrees, executive orders, proclamations,
12 rules and regulations, and other issuances, or parts thereof, which are inconsistent with the
13 provisions of this Act are hereby repealed or modified accordingly.

14 SEC. 22. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
15 publication in the Official Gazette or in at least two (2) newspapers of general circulation,
16 whichever is earlier.

17 Approved,