

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

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 847

Introduced by **Honorable Roilo Golez**

EXPLANATORY NOTE

Notwithstanding the passage of a multitude of laws aimed at addressing and curbing corruption, the Philippines remains ever vulnerable to corruption and the concomitant evils that escort it. This, in turn, results in the pilferage of significant government resources. In fact, the Philippine Public Transparency Reporting Project boldly estimates that at least P280B of government funds is lost to corruption every year in the Philippines. This money could have otherwise been allocated and used for the country's educational, health, and other basic needs.

The Philippines is often cited by various international surveys as a country where corruption plays a starring role in inhibiting foreign and domestic investment. Corruption erodes the country's competitive position, thereby impeding economic growth as well as social well-being. For instance, the 2009 Corruption Perceptions Index of the Transparency International ranked the Philippines at 139th out of 180 countries (rank 1 being the least corrupt country). This is an improvement from our 141st ranking in 2008, but a steady decline from our 2006 and 2007 rankings, which placed us at and 121st and 131st, respectively. Similarly, in a 2010 survey conducted by the Political and Economic Risk Consultancy on the most corrupt countries in Asia, the Philippines ranked 4th, next only to Indonesia, Cambodia and Vietnam. This indeed is deplorable considering that the factor of corruption has become a critical international criterion for allocating scarce development aid resources, and countries will increasingly be judged by their actions in combating corruption.

Republic Act No. 1379 on asset forfeiture is an example of a good law that the Philippines has passed in its effort to curb public sector corruption. Indeed, asset forfeiture has been regarded as a potent anti-corruption tool, both locally and internationally, as it targets the very incentive for the commission of corrupt acts – *i.e.*, the proceeds. By "following the money" and making it impossible for the perpetrator of corruption to avail of the benefits of his or her criminal act, the law, principally through the Office of the Ombudsman, hopes to disincentivize corruption.

Unfortunately, an truly effective asset forfeiture mechanism is one that is not only actual and real, but is prompt. Any delay in the seizure of these target assets will provide a window, *no matter how narrow*, for the same to be dissipated and placed beyond the reach of the law enforcers. At that point, the once potent

tool that is asset forfeiture is immediately rendered inutile.

The proposed legislation aims to aid the Office of the Ombudsman, the principal *and constitutional* anti-corruption law enforcement agency, maximize its ability to resort to asset forfeiture by enabling it to freeze assets in a more timely manner. The ultimate objective is to be able to freeze the proceeds even before they are dissipated and eventually lost.

Passage of this measure is earnestly requested.



ROILO GOLEZ

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AN ACT
STRENGTHENING THE FORFEITURE POWERS OF THE STATE, AMENDING FOR THE PURPOSE
CERTAIN PROVISIONS OF REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS "AN ACT
DECLARING FORFEITURE IN FAVOR OF THE STATE ANY PROPERTY FOUND TO HAVE BEEN
UNLAWFULLY ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR THE
PROCEEDINGS THEREFOR"

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

SECTION 1. Section 2 of R.A. No.1379 is hereby amended to read as follows:

"SEC. 2. *Filing of petition.* [Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed prima facie to have been unlawfully acquired.] The [Solicitor General] **OFFICE OF THE OMBUDSMAN, MOTU PROPRIO** OR upon **VERIFIED** complaint by any [taxpayer to the city or provincial fiscal who] **PERSON** shall conduct aN [previous] inquiry similar to preliminary investigations in criminal cases **TO DETERMINE IF** [and shall certify to the Solicitor General that] there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof. **IT [,]** shall file, in the name and on behalf of the Republic of the Philippines, [in the Court of First Instance of the city or province] **WITH THE SANDIGANBAYAN OR THE APPROPRIATE REGIONAL TRIAL COURT** where said public officer [or employee] resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: *Provided*, That no such petition shall be filed **AGAINST A CANDIDATE** within **THE ELECTION PERIOD FOR WHICH HE/SHE IS SEEKING ELECTORAL OFFICE** [one year before any general election or within three months before any special election].

The resignation, dismissal or separation of the officer or employee from his office or employment in the Government or in the Government-owned or controlled corporation shall not be a bar to the filing of the petition [*Provided, however*, That the right to file such petition shall prescribe after four years from the date of the resignation, dismissal or

separation or expiration of the term of the office or employee concerned, except as to those who have ceased to hold office within ten years prior to the approval of this Act, in which case the proceedings shall prescribe after four years from the approval hereof]."

SEC. 2. Insert new Sections 3, 4, and 5 to R.A. No.1379, to read as follows:

"SEC. 3. PRESUMPTION. FAILURE OF A PUBLIC OFFICER OR EMPLOYEE TO FILE A STATEMENT OF ASSETS AND LIABILITIES AND NETWORTH PURSUANT TO SECTION 8 OF R.A. 6713 WITHIN THIRTY DAYS FROM DATE OF ASSUMPTION TO OFFICE SHALL BE *PRIMA FACIE* EVIDENCE THAT SAID PUBLIC OFFICER OR EMPLOYEE HAS NO PROPERTY, ASSET OR BUSINESS INTEREST TO DECLARE AT THE BEGINNING OF HIS/HER PUBLIC SERVICE.

SEC. 4. *PRIMA FACIE UNLAWFULLY ACQUIRED PROPERTY.* WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS ACQUIRED DURING HIS INCUMBENCY AMOUNT OF PROPERTY WHICH IS MANIFESTLY OUT OF PROPORTION TO HIS SALARY AS SUCH PUBLIC OFFICER OR EMPLOYEE AND TO HIS OTHER LAWFUL INCOME AND THE INCOME FROM LEGITIMATELY ACQUIRED PROPERTYSOURCES, SAID PROPERTY SHALL BE PRESUMED *PRIMA FACIE* TO HAVE BEEN UNLAWFULLY ACQUIRED.

SEC. 5. *FREEZE ORDER.* WHEN IT APPEARS UPON THE FILING OF THE COMPLAINT PROVIDED FOR UNDER SECTION 2 OF THIS ACT THAT AN UNLAWFULLY ACQUIRED PROPERTY OR PROPERTIES EXIST AS DEFINED IN SECTION 4 HEREIN, THE OMBUDSMAN MAY, MOTU PROPRIO OR UPON MOTION OF THE COMPLAINANT, ISSUE A FREEZE ORDER ON THE AFORESAID PROPERTY OR PROPERTIES WHICH WILL BE VALID FOR NOT MORE THAN THREE (3) MONTHS."

SEC. 3. Section 3 of R.A. No. 1379 is hereby renumbered to Section 6.

SEC. 4. Section 4 of R.A. No. 1379 is hereby amended to read as follows:

"SEC.[4] 7. *Period TO [for the] answer PETITION.* The respondent shall have a period of fifteen days **FROM NOTICE within which to present his answer."**

SEC. 5. Section 5 of R.A. No. 1379 is hereby renumbered to Section 8.

SEC. 6. Section 6 of R.A. No. 1379 is hereby amended to read as follows:

"SEC. [6] 9. *Judgment.* If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State: *Provided*, That no judgment shall be rendered within six months before any general election or within three months before any special election. [The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.]"

SEC. 7. Section 7 of R.A. No. 1379 is hereby amended to read as follows:

“SEC. [7] **10. Appeal.** The parties may appeal from the judgment of the **SANDIGANBAYAN OR THE REGIONAL TRIAL COURT** [Court of First Instance] as provided in the Rules of Court for appeals in civil cases.”

SEC. 8. Section 9 of R.A. No. 1379 is hereby amended to read as follows:

“SEC. [9] **12. Immunity.** The [Solicitor General] **OMBUDSMAN** may grant immunity from criminal prosecution to any person who testifies to the unlawful manner in which the respondent has acquired any of the property in question in cases where such testimony is necessary to prove violations of this Act.”

SEC. 9. Section 10 of RA 1379 is hereby amended to read as follows:

“SEC. [10] **13. Effect of record of title.** The fact that any real property has been recorded in the Registry of Property or office of the Register of Deeds in the name of the respondent or of any person mentioned in paragraphs (1) and (2) of subsection (b) of section one hereof shall not prevent the rendering of the judgment referred to in section **EIGHT** [six] of this Act.”

SEC. 10. Section 11 of RA 1379 is hereby renumbered to Section 14.

SEC. 11. Section 12 of RA 1379 is hereby amended to read as follows:

“SEC. [12] **15. Penalties.** Any public officer or employee who shall, after the effective date of this Act, transfer or convey any unlawfully acquired property shall be [repressed] **PENALIZED** with imprisonment for a term **OF** not **LESS THAN SIX** [exceeding five] years **AND ONE DAY BUT NOT MORE THAN FIFTEEN YEARS**, [or a fine not exceeding ten thousand pesos, or both such imprisonment and fine] **PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE, AND CONFISCATION OR FORFEITURE IN FAVOR OF THE GOVERNMENT OF ANY PROHIBITED INTEREST.** [The same repression shall be imposed upon any person who shall knowingly accept such transfer or conveyance.]

THE SAME PENALTIES SHALL BE IMPOSED UPON ANY PERSON WHO SHALL KNOWINGLY ACCEPT SUCH UNLAWFUL TRANSFER OR CONVEYANCE. ANY SUCH CONVEYANCE SHALL BE VOID AB INITIO.”

SEC. 12. Rules and Regulation. The Ombudsman shall issue within ninety (90) days after the approval of this Act, the necessary rules and regulation relating to the administrative aspects of the provisions of this Act.

SEC. 13. *Separability Clause.* If for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 14. *Repealing Clause.* All laws, decrees, orders or rules and regulations, and other issuances which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 15. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two newspapers of general circulation.

Approved,