

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 2471

Introduced by REP. MA. RACHEL J. ARENAS.

EXPLANATORY NOTE

Corruption remains to be the major hindrance in the development and progress of our nation. More importantly, the integrity and trustworthiness of our government will continue to be questioned until this perennial problem is finally resolved.

The difficulty in combating corruption lies in its very nature of being committed behind closed doors and well beyond the purview of the public eye. This is where the importance of obtaining credible witnesses, with reliable information regarding the corrupt practices of government officials or employees comes into place.

This proposed legislation seeks to encourage whistleblowers to come into the open and put an end to the corrupt acts of these government officials and employees. At the same time, it aims to strengthen the present machinery in ensuring the full protection and security of these brave witnesses against any form of retaliation or ostracism. A rewards and benefits system will also be established in order to ensure the livelihood and welfare of these whistleblowers.

In order, however, to protect the public, a rigid procedure will also be enforced in order to prevent any abuse of the provisions of this Act as well as to prevent false testimonies that will only wreck more havoc into our society.

In view of the above premises, the immediate approval of this bill is urgently sought.


MA. RACHEL J. ARENAS

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**AN ACT PROVIDING FOR PROTECTION, SECURITY AND
BENEFITS OF WHISTLEBLOWERS AND OTHER PURPOSES**

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

1 SECTION 1. *Title of the Act.* – This Act shall be known as the
2 “Whistleblower Act of 2010”.
3

4 Sec. 2. *Declaration of Policy.* – Public office is a public trust. It is the
5 policy of the State to promote and ensure full accountability in the conduct of
6 its officers and employees, and exact full retribution from those who shall
7 engage in grant and corrupt practices. Towards this end, the State shall;
8

- 9 A. Maintain honest and high standards of integrity in the public service;
10
11 B. Safeguard the national interest through the prosecution of corrupt
12 and erring public officials and employees; and
13
14 C. Encourage and facilitate the disclosure of corrupt conduct and
15 practices in the public service by providing benefits and protection to
16 whistleblowers.
17

18 Nothing in this Act shall diminish or restrict the entitlement, receipt or
19 enjoyment by a whistleblower or an informant of more or higher benefits
20 provided under existing laws.
21

22 Sec. 3. *Definition of Terms.* – As used in this Act, the following terms
23 shall mean:
24

- 25 1. “Acts constituting graft and corruption” shall mean any conduct, act
26 or omission of public officers and employees solely, or in
27 cooperation or conspiracy with private persons, which are covered
28 by, or constitute as violations of the laws enumerated in Section 4 of

1 this Act;

- 2
- 3 2. "Employee" shall mean any person who is made to suffer work by,
4 or who renders service for, an employer. The term shall include
5 public officers and employees as defined in this Act as well as any
6 person considered an employee under the Labor Code;
7
- 8 3. "Employer" shall mean any individual, partnership, association,
9 corporation or entity, including the government, or any person or
10 group of persons who shall directly or indirectly, for or on behalf of
11 said individual, partnership, association, corporation or entity,
12 employs an employee as defined in this Act;
13
- 14 4. "Government" includes the National Government, and any of its
15 subdivisions, agencies or instrumentalities, including government
16 owned and controlled corporations and their subsidiaries, and the
17 local government units;
18
- 19 5. "Whistleblower" shall refer to an informant or any person who has
20 privileged or personal knowledge or access to data, events or
21 information and who shall deliberately disclose any individual,
22 collective, or organized conduct of any public officer/s and
23 employees constituting graft and corruption as defined under this
24 Act;
25
- 26 6. "Public officer" shall refer to any person holding any public office in
27 the Government of the Republic of the Philippines by virtue of an
28 appointment, election or contract;
29
- 30 7. "Retaliatory action" shall refer to any negative or obstructive
31 response, reaction or reprisal to the disclosure made under this Act
32 aimed at, pertaining to, or against a whistleblower or an informant or
33 any of the members of his/her family and relatives up to the fourth
34 civil degree of consanguinity or affinity. Said action shall include
35 criminal, civil or administrative proceedings commenced or pursued
36 against said whistleblower or any member of his family or relative
37 up to the second degree of consanguinity or affinity, as well as any
38 retaliatory action in the workplace;
39
- 40 8. "Retaliatory action in the workplace" shall refer to any
41 discriminatory conduct or policy which affects the promotion or job
42 assignment, including undue negative performance appraisal, close
43 monitoring by supervisors, unwarranted criticism or avoidance by
44 co-employees, blacklisting from other job opportunities, or
45 prejudicial transfer by reason of the disclosure made under this Act;
46
- 47 9. "Qualified Whistleblower" shall mean an informant or any person

1 qualified and admitted into the Whistleblowers' Protection Program
2 of the Office of the Ombudsman in accordance with this Act and its
3 rules and regulations.
4

5 Sec. 4. *Coverage.* – Conduct constituting graft and corruption, whether
6 or not commenced or consummated before the effectivity of this Act, shall
7 mean any conduct, act or omission of public officers and employees solely, or
8 in cooperation or conspiracy with private person/s, which are covered by, or
9 amount to violations of:
10

- 11 A. Presidential Decree No. 46;
- 12
- 13 B. Republic Act No. 3019;
- 14
- 15 C. Republic Act No. 6713;
- 16
- 17 D. Republic Act No. 7080; and
- 18
- 19 E. Titles II and VII of Book 2 of the Revised Penal Code.
20

21 Sec. 5. *Admission to the Program.* - Whistleblowers or informants,
22 whether from the public or private sector, shall be entitled to the benefits under
23 this Act, provided that all the following requisites concur:
24

- 25 A. The disclosure is voluntary, in writing and under oath;
- 26
- 27 B. The disclosure relates to conduct constituting graft and corruption
28 under this Act;
- 29
- 30 C. The disclosure is not yet subject of a complaint filed with the Office
31 of the Ombudsman or investigated by any other investigating
32 agency, unless in the opinion of the Ombudsman, such a disclosure is
33 necessary for an effective and successful investigation or
34 prosecution, or essential for the acquisition of material evidence not
35 in its possession;
- 36
- 37 D. The information given by the whistleblower can be corroborated; and
38
- 39 E. The information disclosed leads to the successful gathering of
40 evidence and/or conduct of investigation sufficient to sustain a
41 finding of probable cause for the filing of a criminal complaint or
42 information before a court of competent jurisdiction.
43

44 Sec. 6. *Necessary of Testimony.* - The testimony of the whistleblower in
45 court shall not be necessary for the entitlement or enjoyment of the benefits of
46 this Act. In the event that the Whistleblower's testimony is required as found
47 by the Office of the Ombudsman, to be necessary and indispensable for the
48 successful prosecution of a case, he shall be entitled to the additional benefits
49 and protection under Republic Act No. 6981 otherwise known as the *Witness*

1 *Protection, Security and Benefit Act.*

2
3 *Sec. 7. Memorandum of Agreement with the Person to be Protected. -*
4 Before the person is provided protection as a whistleblower or informant of the
5 State, he shall first execute a Memorandum of Agreement which shall set forth
6 his/her responsibilities including the following;

- 7
8 a. To provide information to and testify before all appropriate law
9 enforcement officials concerning any proceeding in connection with
10 or arising from the activities involved in the offense subject matter
11 thereof;
12
13 b. To avoid the commission of a crime;
14
15 c. To take all necessary precautions to avoid detection by others of the
16 facts concerning the protection provided him under this Act;
17
18 d. To cooperate with respect to all reasonable requests of officers and
19 employees of the government who are providing him/her protection
20 under this Act; and
21
22 e. To regularly inform the appropriate program official of his current
23 activities and address.
24

25 *Sec. 8. Breach of Memorandum of Agreement. -* Substantial breach of
26 the Memorandum of Agreement shall be ground for the termination of the
27 protection provided under this Act; Provided, however, that before terminating
28 the same, the Ombudsman shall send notice to the whistleblower concerned,
29 stating therein the reason for such termination. Reasonable time shall be
30 afforded the informant to take appropriate and necessary measures for his/her
31 protection and security in view thereof.
32

33 *Sec. 9. Protection Against Other Actions. -* A whistleblower or any
34 person who has made a disclosure under this Act, shall not be subject to any
35 liability, whether administrative, civil, criminal or other proceedings for
36 making such disclosure or acts in relation thereto. No action, claim or demand
37 may be taken against a whistleblower for making such disclosure nor shall any
38 evidence presented be used against him in court and other administrative or
39 quasi-judicial agency/body.
40

41 This protection shall also operate as immunity in favor of a
42 whistleblower or informant against any action or proceeding taken against
43 him/her by any person subject to disclosure, by reason thereof and acts in
44 relation to the subject of disclosure.
45

46 *Sec. 10. Defense of Privileged Communication. -* A whistleblower or
47 any person who has made a disclosure under this Act shall have, as defense in
48 any other inquiry or proceeding, the absolute privilege with respect to the

1 subject matter of his/her disclosure or information given to the proper
2 authorities.

3
4 Sec. 11. *Confidentiality*. - Except insofar as allowed by this Act, during
5 and after the disclosure and throughout and after any proceeding taken
6 thereafter, the whistleblower or an informant shall be entitled to absolute
7 confidentiality as to:

- 8
9 1. His identity;
10
11 2. The subject matter of his disclosure; and
12
13 3. The person to whom such disclosure was made.
14

15 There shall be no such confidentiality in his/her identity if a
16 whistleblower or an informant makes a public disclosure of a conduct
17 constituting graft and corruption as defined in this Act unless, notwithstanding
18 such public disclosure, he/she has taken means and measures obviously
19 intended to preserve his/her anonymity.
20

21 Sec. 12. *No Breach of Duty of Confidentiality*. - An informant who has
22 made a disclosure under this Act on whom provision of law, regulation,
23 issuance, practice or other convention, imposes upon him/her a duty to
24 maintain confidentiality with respect to any information disclosed, is
25 considered not to have committed a breach thereof.
26

27 Sec. 13. *Confidential Information*. - No person to whom a disclosure has
28 been made or referred shall disclose any information that may identify or tend
29 to identify a whistleblower or informant or reveal the subject matter of such
30 disclosure, except only as to the following circumstances:
31

- 32 a. The whistleblower consents in writing prior to the disclosure of an
33 information;
34
35 b. The disclosure is indispensable and essential as determined by the
36 Office of the Ombudsman, having regard to the necessary
37 proceedings to be taken after the disclosure; or
38
39 c. The disclosure or referral is made pursuant to an obligation under
40 this Act.
41
42

43 The prohibition on disclosure under this Section shall apply to any
44 person who has become privy to any confidential information, whether
45 officially or by other means.
46

47 Sec. 14. *Protection against Disciplinary Actions or Reprisals*. - A
48 whistleblower or a person who has made or is believed or suspected to have
49 made a disclosure under this Act is not liable to disciplinary action for making

1 said disclosure.

2
3 Prohibited acts under this section include retaliatory action in the
4 workplace or prejudicial conduct towards the whistleblower, such as
5 discriminatory action behind policies and procedures, reprimand or punitive
6 transfer, unwarranted referral to a psychiatrist or counselor, and undue poor
7 performance reviews. Other prejudicial conducts include obstruction of an
8 investigation, withdrawal of essential resources, undue reports and the
9 attachment of unfair personnel file notes.

10
11 To this end, any employer who shall discourage and impose sanctions or
12 reprisals based on workplace interaction, which shall include workplace
13 ostracism, questions and attacks on motives, accusations of disloyalty and
14 dysfunction, public humiliation, and the denial of work or promotion, or who
15 encourages, causes or does retaliatory action or reprisal against an informant or
16 anyone believed or suspected to be one shall be liable for an offense defined
17 under this Act.

18
19 Any employee who refuses to follow orders of employers that would
20 cause them to violate any provision of this Act shall likewise be protected from
21 reprisals and retaliatory action in the workplace.

22
23 For purposes of this protection, an applicant for employment shall be
24 deemed an employee and entitled to such protection.

25
26 Provided however, that an employer of a whistleblower shall be notified
27 through a certification issued by the Office of the Ombudsman, within a period
28 of thirty (30) days from the date when the informant last reported for work.
29 Provided further that an employer shall have the option to remove such
30 whistleblower from employment after securing a clearance from the Office of
31 the Ombudsman or the Department of Labor and Employment in case of a
32 prolonged absence due to transfer or permanent relocation under this Act or
33 R.A. No. 6891.

34
35 Sec. 15. *Security and Protection of a Whistleblower.* - When determined
36 to be necessary and appropriate by the Office of the Ombudsman, a
37 whistleblower, even if the disclosure is made in confidence, shall be entitled to
38 personal security. Should, at anytime, the identity of the informant be revealed,
39 or his anonymity compromised, the whistleblower shall, in addition to the other
40 benefits under this Act, and when warranted, be entitled to the benefits of R. A.
41 No. 6981.

42
43 Sec. 16. *Confidentiality of the Proceedings.* - All proceedings involving
44 application and/or enjoyment of the benefits under this Act, under the Office of
45 the Ombudsman, including any action taken thereon, shall be confidential in
46 nature. No information or documents given or submitted in support thereof
47 shall be released except upon written order of the Office of the Ombudsman,

1 and provided such disclosure shall not endanger the life of a qualified
2 whistleblower.

3
4 *Sec. 17. Financial Rewards for Informants.* - The whistleblower shall be
5 entitled to a corresponding monetary reward in accordance with the provisions
6 of this Act and its implementing rules and regulations.

7
8 The whistleblower or informant shall receive an amount in accordance
9 with the following schedule:
10

Salary Grade of the Most Senior Respondent	Financial Reward of Qualified Whistleblower
33	5,000,000
32	4,000,000
31	3,000,000
30	2,500,000
29	2,000,000
28	1,500,000
27	1,000,000
26	900,000
24-25	800,000
22-23	700,000
20-21	600,000
18-19	500,000
16-17	400,000
14-15	300,000
12-13	200,000
10-11	100,000
5-9	75,000
1-4	50,000

11
12 Upon being qualified as a whistleblower and admitted to the program by
13 the Office of the Ombudsman, fifty percent (50%) of the reward shall be given
14 to the qualified whistleblower. The remaining fifty percent (50%) shall be
15 given prior to the filing of a case in a proper court.
16

17 For cases not susceptible to pecuniary estimation, such as plunder,
18 forfeiture of ill gotten wealth, bribery, malversation and damage or injury to
19 government, the whistleblower shall be entitled to an additional reward of ten
20 percent (10%) of the amount recovered by final judgment.
21

22 During the pendency of the case, however, a whistleblower shall be
23 advanced the amount equivalent to not less than twenty five percent (25%) of
24 the additional reward of the total award due consistent with the nature of the
25 case and the amount involved and deemed recoverable. This shall be given in
26 accordance with the rules and regulations implementing this Act.

1
2 Sec. 18. *Abstract.* - All government agencies, offices, bureaus and local
3 government units, including government-owned and -controlled corporations,
4 whether or not with original charters, shall conspicuously display an abstract of
5 this Act and the rights and protections of whistleblowers, including the
6 obligations of employers under this Act. Such abstract shall be provided in the
7 rules and regulations.
8

9 All government agencies, offices, bureaus and local government units,
10 including government-owned and -controlled corporations, whether or not with
11 original charters, are likewise required to put in place internal procedures for
12 dealing with whistleblowers, consistent with the provisions of this Act and its
13 rules and regulations. Said internal procedure shall be widely disseminated to
14 all employees.
15

16 Sec. 19. *Credibility of Informant.* - In all cases, the fact of the
17 entitlement of the qualified whistleblower or informant to the protection and
18 benefits provided in this Act shall not be admissible in evidence to diminish or
19 affect his credibility.
20

21 Sec. 20. *Penalty For Retaliatory Acts Against A Whistleblower.* - A fine
22 of not more than One Hundred Thousand Pesos (Php100,000.00) or
23 imprisonment of not less than six (6) months but not more than six (6) years or
24 both at the discretion of the court, and in case of a public officer or employee,
25 the penalty of perpetual disqualification from holding public office, shall be
26 imposed on any person who commits any of the retaliatory acts as defined in
27 this Act against a qualified whistleblower or informant and/or hinders, delays,
28 prevents or dissuades said whistleblower or informant, from doing the acts
29 enumerated hereunder:
30

- 31 (a) Attending, assisting or testifying before any investigating agency
32 or quasi-judicial body or judicial;
33
34 (b) Reporting to a law enforcement officer or judge the commission
35 or possible commission of an offense, or a violation of conditions
36 of probation, parole, or release pending judicial proceedings;
37
38 (c) Seeking the arrest of another person in connection with the
39 offense;
40
41 (d) Causing a criminal prosecution, or a proceeding for the
42 revocation of a parole or probation; and
43
44 (e) Performing and enjoying the rights and benefits under this Act or
45 attempt to do so.
46

47 Sec. 21. *Violation of Confidentiality.* - Any person who violates the
48 protection of confidentiality of a protected disclosure under Sections 10, 11, 12,

1 and 15 of this Act, shall suffer the penalty of not more than six (6) years but not
2 less than six (6) months with an accessory penalty of temporary absolute
3 disqualification for public office in case of a public officer or employee, and
4 shall be civilly liable to indemnify the informant in such amount of damages as
5 may be awarded and deemed reasonable by a competent court.
6

7 *Sec. 22. Retaliatory Action in the Workplace.* - Any person who violates
8 the protection of confidentiality of a protected disclosure under Section 10, 11,
9 12 and 15 of this Act, shall suffer the penalty of not more than six (6) months
10 with an accessory penalty of temporary absolute disqualification for public
11 office in case of a public officer or employee, and shall be civilly liable to
12 indemnify a whistleblower in such amount of damages as may be awarded by a
13 competent court.
14

15 Toward this end, the aggrieved whistleblower shall be entitled to the
16 provisional remedy of injunction against any retaliatory action in the
17 workplace, prejudicial conduct or discriminatory treatment by reason of the
18 whistleblower's disclosure.
19

20 The proceedings herein shall be independent of any action that an
21 aggrieved person may take before the Civil Service Commission or the
22 National Labor Relations Commission, for unfair or discriminatory practices,
23 for claims for back wages, and other labor disputes, or before other quasi-
24 judicial agencies for any action that may or may not have arisen from a
25 disclosure or believed or suspected disclosure.
26

27 *Sec. 23. Discriminatory Hiring.* - Any person, firm, corporation, office
28 or employer who shall deny a qualified applicant for employment, or who shall
29 reject his application for employment due to knowledge, belief or suspicion
30 that the applicant is a whistleblower or informant for the State, shall be guilty
31 of an offense and shall suffer the penalty of not more than six (6) months
32 imprisonment with the accessory penalty of suspension of the right to hold
33 public office in case of a public officer or employee, and shall be civilly liable
34 to indemnify the informant of damages as may be awarded by a competent
35 court.
36

37 *Sec. 24. Failure of an Employer to Post Abstract.* - The failure to post
38 an Abstract required under Section 18 of this Act shall constitute an offense
39 and shall be penalized with a fine in the amount of One Hundred Thousand
40 Pesos (Php100,000.00) for the first offense. The amount shall be doubled for
41 every succeeding offense, and shall suffer an imprisonment of not more than
42 six (6) months at the discretion of the court with the accessory penalty of
43 suspension of the right to hold public office in case of a public officer or
44 employee. For this purpose, the president, manager, or head of office, bureau or
45 agency shall be held responsible for such violation.
46

47 *Sec. 25. Failure to Act or Report to the Office of the Ombudsman.* - Any

1 person under obligation to report a disclosure under this Act to the Office of the
2 Ombudsman, who fails to do so within the period of two (2) months, or who
3 fails to act thereon or cause an investigation thereof, shall be guilty of an
4 offense and shall suffer the penalty of not more than one (1) month
5 imprisonment, and/or a fine amounting to not more than Fifty Thousand Pesos
6 (Php 50,000.00).
7

8 Sec. 26. *False and Misleading Disclosures.* - Any person who
9 deliberately and voluntarily gives false or misleading information in connection
10 with conduct constituting graft and corruption under this Act shall, in addition
11 to penalties under other laws, be guilty of an offense and shall suffer the
12 penalty of imprisonment of not more than twelve (12) years and shall also
13 suffer the penalty of perpetual absolute disqualification from holding public
14 office in case of public officer or employee, in addition to other criminal and
15 civil liability he may incur under existing laws.
16

17 Sec. 27. *Powers and Functions of the Ombudsman.* - In addition to its
18 powers and functions under existing laws, the Office of the Ombudsman shall
19 have the following powers and functions:
20

- 21 (a) Supervise, monitor and coordinate all efforts relative to the
22 implementation and enforcement of the provisions of this Act;
23
- 24 (b) Investigate all disclosures made under this Act and prosecute the
25 same when warranted;
26
- 27 (c) Evaluate the qualification of whistleblowers or informants for
28 coverage within this Act, and make the appropriate decision on
29 their entitlement to the benefits extended herein;
30
- 31 (d) Undertake, in coordination and cooperation with the private and
32 public sectors, an information campaign to educate the public on
33 the provisions and benefits of this Act;
34
- 35 (e) Develop plans and implement programs to further encourage
36 whistleblowers or informants on graft and corrupt activities with
37 a view to effective deterrence and/or prosecution;
38
- 39 (f) Control and administer, consistent with the provisions and
40 purpose of this Act, the protection and benefits of whistleblowers
41 in connection with the cases within the coverage of Section 4 of
42 this Act;
43
- 44 (9) Call upon, or deputize any department, bureau, office or any
45 other government agency or public official to assist in the
46 effective implementation and enforcement of this Act; and
47
- 48 (h) Grant immunity in accordance with the provisions of this Act and

1 its implementing rules and regulations.
2

3 Sec. 28. *Implementing Rules and Regulations.* - The Office of the
4 Ombudsman, in coordination with concerned agencies, shall promulgate such
5 Rules and Regulations as maybe necessary to implement the intent and
6 purposes of this Act. Said Rules and Regulations shall be published in two (2)
7 newspapers of general circulation.
8

9 Sec. 29. *Appropriations.* - The amount of One Hundred Million Pesos
10 (Php100,000,000.00) is hereby authorized to be appropriated out of any funds
11 in the National Treasury not otherwise appropriated to carry into effect the
12 purposes of this Act.
13

14 Other funding schemes or sources, subject to the limitation, shall be
15 allowed in furtherance hereof.
16

17 Sec. 30. *Repealing Clause.* - All laws, decrees, executive issuances,
18 rules and regulations inconsistent with this Act are hereby repealed or modified
19 accordingly.
20

21 Sec. 31. *Separability Clause.* - The declaration of unconstitutionality or
22 invalidity of any provision of this Act shall not affect the other provisions
23 hereof.
24

25 Sec. 32. *Effectivity Date.* - This Act shall take effect after fifteen (15)
26 days following its publication in two (2) newspapers of general circulation.
27

28 Approved,
29