

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3045

Introduced by Rep. V. Dennis M. Socrates

EXPLANATORY NOTE

Batas Pambansa Bilang 22 (BP 22), also known as the "Bouncing Checks Law", penalizes –

"(a)ny person who makes or draws and issues any check to apply on account or for value, knowing at the time of issue that he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, which check is subsequently dishonored by the drawee bank for insufficiency of funds or credit or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment",

with

"imprisonment of not less than thirty days but not more than one (1) year or by a fine of not less than but not more than double the amount of the check which fine shall in no case exceed Two Hundred Thousand Pesos, or both such fine and imprisonment at the discretion of the court.

"The same penalty shall be imposed upon any person who, having sufficient funds in or credit with the drawee bank when he makes or draws and issues a check, shall fail to keep sufficient funds or to maintain a credit to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank."

The issue had been raised that BP 22, on its face, runs counter to the Constitutional guarantee and protection of persons against being "imprisoned for debt" (Art. III, Sec. 20). While the Supreme Court upheld the (presumed) validity of BP 22 (*Lozano v. Martinez*, G.R. No. L-63419 December 18, 1986), the holding relied on a distinction between the "act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment", which BP 22 punishes, and "the non-payment of an obligation", which it supposedly does not. But such distinction can be characterized, in practice, as "hair-splitting": The overwhelming majority of (if not all) criminal prosecutions for violation of BP 22 involve *postdated* checks issued precisely as evidence of indebtedness, *secured collaterally*, because of BP 22, *by the personal liberty of the debtor* who is also the drawer of the check.

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This is precisely what the Bill of Rights seeks to prevent, since the liberty of the human person is above, beyond, and transcends commerce; and to place commercial value thereon tramples upon human dignity.

BP 22 has so far not been declared unconstitutional perhaps because of lack of opportunity to revisit the issue or out of respect for the legislative branch. Still, the Supreme Court has seen fit "to lay down a rule of preference" in favor of "fine" rather than "imprisonment" (A.M. No. 00-11-01-SC [February 13, 2001]), apparently to lessen the draconian aspect of the law.

Indeed, the creditor would not be rendered un-protected by a repeal of BP 22: he would still have recourse to a prosecution for Estafa under the Revised Penal Code—should there have been real fraud involved—or, at least, a civil action for collection of the sum of money owed, both of which remedies currently co-exist with a prosecution for BP 22.

From an economic-policy perspective, BP 22 may have served, indeed, to facilitate the extension of credit and may have been beneficial for the common good at the time it was approved. On the other hand, the passing of more than thirty (30) years (since 1979) would show that this ease of borrowing has resulted in a very lax and careless attitude on the part of credit-givers, resulting in bad debts that now swamp our Municipal Trial Courts with "collection cases" masquerading as criminal prosecutions for violation of BP 22, which make neither creditor nor debtor nor the State happy. Repeal of BP 22 would result in a significant reduction in the number of cases that clog our courts and that burden our already overburdened prosecutors and judges.

In view of the foregoing, it is submitted that repeal of BP 22 would be a step forward for our legal system.



V. DENNIS M. SOCRATES
Representative, Second District of Palawan

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AN ACT REPEALING BATAS PAMBANSA BILANG. 22, ALSO KNOWN
AS THE "BOUNCING CHECKS LAW"

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

SECTION 1. Batas Pambansa Bilang 22 (BP 22), also known as the
"Bouncing Checks Law", entitled, "An Act Penalizing the Making or Drawing
and Issuance of a Check Without Sufficient Funds or Credit and For Other
Purposes", is hereby repealed.

SECTION 2. Upon the effectivity of this Act, all criminal cases pending
in court for violation of BP 22 shall be deemed dismissed by operation of law,
without prejudice to the accompanying civil action.

SECTION 3. All other laws or parts thereof contrary to or inconsistent
with this Act are hereby repealed or amended accordingly.

SECTION 4. This Act shall take effect fifteen (15) days from its
publication in at least two (2) national newspapers of general circulation.

Approved,

