

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

15th Congress
First Regular Session

HOUSE BILL NO. 3436

Introduced by the Hon. Joel Roy R. Duavit

EXPLANATORY NOTE

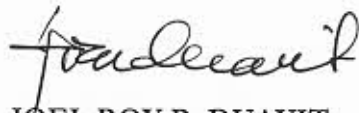
It is a constitutional principle that all lands of the public domain, waters, minerals, coal petroleum and other mineral oils, all forces of potential energy forests and timber and other natural resources are owned by the State. With the exception of agricultural land all other natural resources shall not be alienated. It is further laid down in the Constitution that "Acts which circumvent or negate these provisions shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law."

Numerous statutes and rulings are to the effect that canals, *esteros*, creeks and similar waterways are of public dominion and as such may not be acquired by prescription and therefore not registrable. Public waterways are not subject to appropriation, sale, lease or otherwise be contracted, being outside the commerce of men. The inclusion and property of public dominion in a certificate does not confer title to the registrant. However, despite these well-settled rules of law, encroachment, titling and/or registration of these waterways is prevalent especially in urban and adjoining areas.

Land in urban areas has become so scarce that even small spaces of about 60 square meters have become invaluable. Urban center have become so crowded that every available space are being encroached upon and titled to the extent that even canals, streams, *esteros* are being filled up and built over, regardless of the fact that these are properties of the state, is inalienable and acquisition thereof is fraudulent. To make the situation worse, those who commit these acts do so with impunity. Furthermore, the blocking and filling up of these waterways or natural drainages has resulted or added to the flooding, pollution, destruction of roads and other infrastructure, and prevent normal development and use of the area.

Enactment of this bill will not only deter titling, encroachment and registration of waterways, but it will also serve as a response to the non-self executory provision in the Constitution that alienation of properties of the public domain are inimical to national interest and may be subject to sanctions.

In view of the foregoing, passage of this bill is earnestly sought.


JOEL ROY R. DUAVIT

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

FIFTEENTH CONGRESS
First Regular Session
HOUSE BILL NO. 3436

Introduced by
Representative Joel Roy R. Duavit

AN ACT
PENALIZING THE TITLING, APPROPRIATION, ENCROACHMENT, AND
REGISTRATION OF CREEKS, ESTEROS, STREAMS, CANALS, RIVER BANKS AND
OTHER PUBLIC WATERWAYS AND FOR OTHER PURPOSES

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

CHAPTER I
GENERAL PROVISIONS

SECTION 1. Declaration of Policy. – It is the principle of the State that all lands of the public domain, waters, minerals, and other natural resources belong to it and that acts committed to circumvent or negate this principle shall be considered inimical to the national interest and subject to criminal and civil sanctions.

SECTION 2. Purpose of this Act. – It is the purpose of this Act to prevent or curtail the prevalent anomalous acts of titling, appropriation, encroachment, and/or registration of *esteros*, creeks, canals, streams, and other public waterways consistent with public order and in furtherance of national interest.

SECTION 3. Definition of Terms. – As used in the Act,

- a. “*Person*” refers to any natural or judicial person, except in cases where the crime is committed by a juridical person, the president, manager, or head thereof shall be made liable;
- b. “*Public Officer*” refers to any person holding an office in the Government of the Republic of the Philippines;
- c. “*Registration and/or Titling*” refers to the act of acquiring a certificate of ownership and/or recording with the Register of Deeds ownership and/or use of property;
- d. “*Encroachment*” refers to the act of entering into, invasion of, intrusion on, or infringement of a property not otherwise owned by the entrant;

e. "*Appropriation*" refers to the act of acquiring through any mode of acquisition of ownership or contract, title and/or use of property;

f. "*Public waterways*" refers to all streams, canals, creeks, *esteros*, and other similar natural drainages or water channels.

SECTION 4. Penalties for Private Persons. – The penalty of imprisonment of not less than six (6) months and one (1) day to six (6) years or fine of not less than P5,000.00 or both shall be imposed on any person who:

1. appropriates and/or encroaches upon any creek, canal, *estero*, stream, and other similar public waterways;
2. registers or otherwise acquires a title thereto.

SECTION 5. Penalties for Public Officers. – If the titling, appropriation, encroachment, or registration of such waterway is caused by a public officer or acquired with his assistance, such public officer shall be liable for imprisonment of not less than six (6) years and one (1) day and not more than twelve (12) years.

SECTION 6. Suspension and Loss of Benefits. – Any public officer against whom a criminal prosecution under a valid information covered in this Act in whatever stage of execution and mode of participation is pending in Court shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement and gratuity benefits under any law. In case of acquittal, he shall be entitled to reinstatement and to the salaries and other benefits that he failed to receive during his suspension.

SECTION 7. Prescription of the Crime. – The crime punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover ownership of waterways unlawfully titled and/or acquired shall not be barred by estoppel, prescription, or laches.

SECTION 8. Separability Clause. – If any provision of this Act or the application thereof to any person or circumstances is declared unconstitutional, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SECTION 9. Effectivity. – This Act shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,