

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
FIRST REGULAR SESSION



COMMITTEE REPORT NO. 433

Submitted by the Committee on Justice on 15 DEC 2010

Re: House Bill No. **3916**

Recommending its approval in substitution of House Bill No. 3691

Sponsors: Representatives Niel C. Tupas, Jr., Lorenzo R. Tañada III, Joseph Emilio A. Abaya, Raul A. Daza, Henedina R. Abad, Rodolfo C. Fariñas and Reynaldo V. Umali

Mr. Speaker:

The Committee on Justice to which was referred House Bill No. 3691, introduced by Representative Niel C. Tupas, Jr., Lorenzo R. Tañada III, Joseph Emilio A. Abaya, Raul A. Daza, Henedina R. Abad, entitled:

"AN ACT

AMENDING SECTIONS 24 AND 27 OF REPUBLIC ACT NO 6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989", TO DEFINE THE "PREVENTIVE SUSPENSION" AUTHORITY OF THE OFFICE OF THE OMBUDSMAN OR HIS DEPUTY OVER ELECTIVE AND APPOINTIVE OFFICIALS, AND THE EFFECTIVITY OF THE DECISIONS OF THE OFFICE OF THE OMBUDSMAN"

has considered the same and recommends that the attached House Bill No. **3916** entitled:

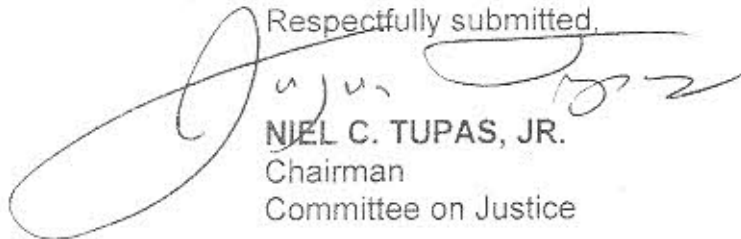
"AN ACT

AMENDING SECTIONS 24 AND 27 OF REPUBLIC ACT NO 6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989", TO DEFINE THE "PREVENTIVE SUSPENSION" AUTHORITY OF THE OMBUDSMAN AND HIS DEPUTY OVER ELECTIVE AND APPOINTIVE

OFFICIALS, AND THE EFFECTIVITY OF THE DECISIONS OF THE
OFFICE OF THE OMBUDSMAN"

be approved in substitution of House Bill No. 3691 with Representatives Niel C. Tupas, Jr., Lorenzo R. Tañada III, Joseph Emilio A. Abaya, Raul A. Daza, Henedina R. Abad, Rodolfo C. Fariñas and Reynaldo V. Umali as authors thereof.

Respectfully submitted,



NIEL C. TUPAS, JR.
Chairman
Committee on Justice

The Honorable
The Speaker
House of Representatives
Quezon City

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

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3916

Introduced by Representatives Niel C. Tupas, Jr., Lorenzo R. Tañada III, Joseph Emilio A. Abaya, Raul A. Daza, Henedina R. Abad, Rodolfo C. Fariñas and Reynaldo V. Umali

"AN ACT
AMENDING SECTIONS 24 AND 27 OF REPUBLIC ACT NO 6770,
OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989", TO
DEFINE THE "PREVENTIVE SUSPENSION" AUTHORITY OF THE
OMBUDSMAN AND HIS DEPUTY OVER ELECTIVE AND APPOINTIVE
OFFICIALS, AND THE EFFECTIVITY OF THE DECISIONS OF THE
OFFICE OF THE OMBUDSMAN"

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

1 SECTION 1. - Section 24, paragraph 1 of Republic Act No. 6770 is hereby
2 amended as follows:

3
4 "Sec.24. *Preventive Suspension* – The Ombudsman
5 or his Deputy, AFTER GIVING THE RESPONDENT THE
6 OPPORTUNITY TO FILE RESPONSIVE PLEADING, may,
7 PENDING THE INVESTIGATION, preventively suspend any
8 officer or employee under his authority WHO CURRENTLY
9 HOLDS THE SAME POSITION BY VIRTUE OF WHICH THE
10 ACT SUBJECT OF AN INVESTIGATION AROSE, [pending
11 an investigation], if in his judgment, the evidence of guilt is
12 strong; THERE IS A GREAT PROBABILITY THAT THE
13 CONTINUANCE IN OFFICE OF THE RESPONDENT COULD

1 INFLUENCE THE WITNESS OR POSE A THREAT TO THE
2 SAFETY AND INTEGRITY OF THE RECORDS AND OTHER
3 EVIDENCE; and (a) the charge against such officer or
4 employee involves dishonesty, oppression or grave
5 misconduct or neglect in the performance of duty; OR (b) the
6 charges would warrant removal from the service [or (c) the
7 respondent's continued stay in office may prejudice the case
8 filed against him]."

9
10 "The preventive suspension shall continue until the
11 case is terminated by the Office of the Ombudsman but not
12 more than [six (6)] THREE (3) months, without pay, except
13 when the delay in the disposition of the case by the Office of
14 the Ombudsman is due to the fault, negligence or petition of
15 the respondent, in which case the period of such delay shall
16 not be counted in computing the period of suspension herein
17 provided.

18
19 THE OFFICE OF THE OMBUDSMAN SHALL
20 RESOLVE THE CASE NOT LATER THAN SIX (6) MONTHS
21 FROM THE DATE THE SAME IS SUBMITTED FOR
22 RESOLUTION"
23

24
25 SEC.2. Section 27 of Republic Act No. 6770 is hereby amended as
26 follows:
27

28 "Section 27. [Effectivity and] *Finality of Decisions* - (1) All
29 provisional orders of the Office of the Ombudsman are
30 immediately effective and executory.
31

32 A motion for reconsideration of any order, directive or
33 decision of the Ombudsman must be filed within five (5) days

1 after receipt of written notice and shall be entertained only on
2 any of the following grounds:

3
4 (1). New evidence has been discovered which
5 materially affects the order, directive or decision;

6
7 (2). Errors of law or irregularities have been
8 committed prejudicial to the interest of the movant. The motion
9 for reconsideration shall be resolved within three (3) days from
10 filing: Provided, That only one motion for reconsideration shall
11 be entertained.

12
13 Finding of facts by the Office of the Ombudsman
14 when supported by substantial evidence are conclusive. [Any]
15 [o]OrderS, directives, or decisions OF THE OFFICE OF THE
16 OMBUDSMAN IN ADMINISTRATIVE DISCIPLINARY CASES
17 imposing the penalty of public censure or reprimand or
18 suspension of not more than one (1) month's salary, shall be
19 final and unappealable.

20
21 IN ALL OTHER ADMINISTRATIVE DISCIPLINARY
22 CASES WHERE THE PENALTY IMPOSED IS OTHER THAN
23 PUBLIC CENSURE OR REPRIMAND OR SUSPENSION OF
24 NOT MORE THAN ONE (1) MONTH'S SALARY, THE
25 ORDER, DIRECTIVE, OR DECISION SHALL BECOME
26 FINAL ONLY AFTER THE LAPSE OF THE PERIOD TO
27 APPEAL IF NO APPEAL IS PERFECTED, OR AFTER THE
28 FINAL DENIAL OF THE APPEAL FROM THE SAID ORDER,
29 DIRECTIVE OR DECISION. A DECISION THAT HAS NOT
30 YET BECOME FINAL CANNOT BE EXECUTED OR
31 IMPLEMENTED PENDING APPEAL.

1 [In all administrative disciplinary cases, orders, directives
2 or decisions of the Office of the Ombudsman may be
3 appealed to the Supreme Court by filing a petition for certiorari
4 within ten (10) days from receipt of the written notice of order,
5 directive or decision or denial of the motion for reconsideration
6 in accordance with Rule 45 of the Rules of Court.]

7
8 [The above rules may be amended or modified by the
9 Office of the Ombudsman as the interest of justice may
10 require.]

11
12 SEC. 3. *Repealing Clause.*- All laws, presidential decrees, executive
13 orders, proclamation and/or administrative regulations which are inconsistent
14 with the provisions of this Act are hereby amended, modified superseded or
15 repealed accordingly.

16
17 SEC. 4. *Effectivity Clause.* - This Act shall take effect fifteen (15) days
18 from its publication in the Official Gazette or in at least two (2) newspapers of
19 general circulation.

20
21
22 Approved,
23

FACT SHEET

House Bill No. 3691

(Approved on committee level on November 24, 2010)

"AN ACT AMENDING SECTIONS 24 & 27 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989", TO DEFINE THE "PREVENTIVE SUSPENSION" AUTHORITY OF THE OFFICE OF THE OMBUDSMAN OR HIS DEPUTY OVER ELECTIVE AND APPOINTIVE OFFICIALS, AND THE EFFECTIVITY OF THE DECISIONS OF THE OFFICE OF THE OMBUDSMAN"

INTRODUCED BY: REPS. NIEL C. TUPAS, JR., LORENZO R. TANADA III, JOSEPH EMILIO A. ABAYA, RAUL A. DAZA, HENEDINA R. ABAD

*Committee Referral: COMMITTEE ON JUSTICE
Committee Chairperson: REP. NIEL C. TUPAS, JR.*

OBJECTIVES:

- To define more clearly the "preventive suspension" authority of the Ombudsman or his Deputy over elective and appointive officials, and the effectivity of the decisions of the Office of the Ombudsman
- To ensure the observance of due process of law in the execution of the preventive suspension orders of the Ombudsman or his Deputy
- To prevent damage that may be caused by an immediate execution of an adverse decision where an appeal could still be made to stall its execution.

KEY PROVISIONS:

- Defines the authority of the Ombudsman or his Deputy to issue a preventive suspension order as one that may be exercised under the following situations:
 - The respondent has been given the opportunity to file responsive pleading;
 - The respondent holds the same position as that when he was charged or investigated;
 - The evidence of guilt of the respondent is strong;
 - There is a great probability that the continuance in office of the respondent could influence the witness or pose a threat to the safety and integrity of the records and other evidence; and

- The charge against the respondent involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; or the charges would warrant removal from the service.
- Defines the "effectivity and finality" of decisions of the Ombudsman by setting the following parameters:
 - If the order, directive, or decision of the Ombudsman in administrative disciplinary cases imposes a penalty of public censure or reprimand or suspension of not more than one (1) month's salary, the same shall be final and appealable.
 - In all other administrative disciplinary cases where the penalty imposed is other than public censure or reprimand or suspension of not more than one (1) month's salary, the order, directive, or decision of the Ombudsman shall become final only after the lapse of the period to appeal if no appeal is perfected, or after the final denial of the appeal from the said order, directive or decision.
 - A decision that has not yet become final cannot be executed or implemented pending appeal.
 - The period of suspension shall be reduced from six (6) months to three (3) months.
- Gives the Office of the Ombudsman a period of six (6) months within which to resolve the case to reckon from the date the case is submitted for decision.

RELATED LAWS:

Sections 24 & 27, R.A. No. 6770 or the "Ombudsman Act of 1989"