

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

FIFTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 5838



Introduced By: **REP. SALVIO B. FORTUNO**

EXPLANATORY NOTE

The raging controversy generated by the issuance of a Temporary Restraining Order (TRO) issued by the Supreme Court directing the Impeachment Court to temporarily cease and desist from compelling the PS Bank to submit documents pertaining to the foreign currency deposits of impeached Chief Justice Renato C. Corona urgently calls for a need to revisit the law on the matter – Republic Act No. 6426 otherwise known as the Foreign Currency Deposit Act of the Philippines to avoid a collision course between the two (2) separate branches of government. The Impeachment Court voting 13-10 decided to uphold and respect the ruling of the Supreme Court.

The original law enacted by Congress on April 4, 1972 contains provisions, aside from the short title and effectivity clause, which pertain only to authority to deposit foreign currencies (Sec. 2), authority of banks to accept foreign currency deposits (Sec. 3) and foreign currency cover requirements. This law was amended by Presidential Decree No. 1035 on September 30, 1976 to expand the authority of certain depository banks and again on November 21, 1977 by virtue of Presidential Decree No. 1246, which contains the controversial provision on confidentiality of foreign currency deposits and also the prohibition to exempt such deposits from attachment, garnishment or any other order or process from any court, legislative, government agency or any administrative body.

It is interesting to note however that no less than the Supreme Court, in allowing the garnishment of the foreign currency deposit of the accused foreign national, notwithstanding the express prohibition in the law, in the case of *Salvacion vs. Central Bank of the Philippines* (G.R. No. 94723, Aug. 21, 1997), ruled, thus:

“It is worth noting that R.A. 6426 was enacted at a time when the country’s economy was in shambles; when foreign investments were minimal and presumably, this was the reason why said statute was enacted. But the realities of the present times show that the country has recovered economically; even if not, the questioned law still denies those entitled to due process of law for being unreasonable and oppressive. The intention of the questioned law may be good when enacted. The law failed to anticipate the iniquitous effects producing outright injustice and inequality such as the case before us.” xxx “It is evident from the above Whereas Clauses that the Offshore Banking System and the Foreign Currency Deposit System were designed to draw deposits from foreign lenders and investors. It is these depositors that are induced by two laws (PD 1034 and PD 1035) and given protection and incentives by them.”

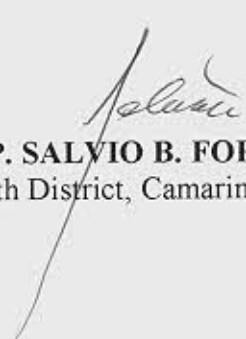
Obviously, the foreign currency deposits made by the accused in the case and similarly by Chief Justice Corona is not the kind of deposit encourage by PDs 1034 and 1035.

Notwithstanding this ruling of the Supreme Court setting aside the absolute confidentiality of foreign currency deposits, legal experts believed that depositors can rightly invoke R.A. 6426 as amended, in view of its crystal clear text that only upon written permission of the depositor can any person, legislative, government agency or administrative bodies examine, inquire or look into his foreign currency deposit.

This bill therefore seeks to further amend the Foreign Currency Deposit Act as amended, by allowing the Impeachment Court, courts of competent jurisdiction and the Ombudsman to allow them to examine, inquire or look into the foreign currency deposits made by public officials and employees. It also seeks to delete a proviso which states that said deposits shall be exempt from attachment or garnishment but shall be limited only to the Impeachment Court, courts of competent jurisdiction or the Ombudsman. This will make the provision of the law clear and will leave no room for interpretation.

If this questioned law will remain untouched, it provides a safe haven for crooks in the government service and criminals since they could escape liabilities for their wrongful acts by merely converting their money to a foreign currency and depositing it in a foreign currency deposit account with an authorized bank.

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



REP. SALVIO B. FORTUNO
Fifth District, Camarines Sur

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Introduced By: REP. SALVIO B. FORTUNO

AN ACT
AUTHORIZING THE IMPEACHMENT COURT, REGULAR COURTS AND
THE OMBUDSMAN TO EXAMINE, INQUIRE OR LOOK INTO THE FOREIGN
CURRENCY DEPOSITS OF PUBLIC OFFICIALS AND EMPLOYEES,
AMENDING FOR THE PURPOSE SECTION 8 OF REPUBLIC ACT NO. 6426
AS AMENDED, OTHERWISE KNOWN AS THE FOREIGN CURRENCY
DEPOSIT ACT OF THE PHILIPPINES

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

SECTION 1. Section 8 of Republic Act No. 6426 as amended, otherwise known as the Foreign Currency Deposit Act of the Philippines is hereby amended to read as follows:

“Section 8. Secrecy of Foreign Currency Deposits. – All foreign currency deposits authorized under this Act, as amended by Presidential Decree No. 1035, as well as foreign currency deposits authorized under Presidential Decree No. 1034, are hereby declared as and considered of an absolute confidential nature and except, upon written permission of the depositor, OR UPON WRITTEN ORDER OF THE IMPEACHMENT COURT, COURTS OF COMPETENT JURISDICTION OR THE OMBUDSMAN, WHEN THE DEPOSITOR IS A PUBLIC OFFICIAL OR EMPLOYEE, OR WHEN THE DEPOSIT IS THE SUBJECT MATTER OF A LITIGATION, in no instance shall foreign currency deposits be examined, inquired or looked into by any person, government official, bureau or office whether judicial or administrative or legislative, or any other entity whether public or private. [: Provided, however, That said deposits shall be exempt from attachment, garnishment, or any other order or process of any court, legislative, government agency or any administrative body whatsoever.]”

SEC. 2. All laws, decrees, executive orders, circulars, rules and regulations which are inconsistent with this Act are hereby amended, repealed or modified accordingly.

SEC. 3. This Act shall take effect after its complete publication in any newspaper of general circulation.

Approved,