

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 5840



Introduced by Reps. TEDDY A. CASIÑO and NERI JAVIER COLMENARES

EXPLANATORY NOTE

The 1987 Philippine Constitution expressly declares the primordial principle in public service: “Public office is a public trust. Public officers and employees must *at all times* be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives” (Section 1, Article XI).

In furtherance of this overarching and fundamental State-cherished policy and principle, the Congress specifically carved out an exception in Republic Act No. 1405, or the Secrecy of Bank Deposits Law:

“SECTION 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, **except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.**” [Emphasis supplied.]

The Constitutional principle was further reinforced in Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act, which ensures the transparency and accountability among public officials:

“Section 8. Dismissal due to unexplained wealth. If in accordance with the provisions of Republic Act Numbered One thousand three hundred seventy-nine, a **public official has been found to have acquired during his incumbency, whether in his name or in the name of other persons, an amount of property and/or money manifestly out of proportion to his salary and to his other lawful income, that fact shall be a ground for dismissal or removal.** Properties in the name of the spouse and unmarried children of such public official may be taken into

consideration, when their acquisition through legitimate means cannot be satisfactorily shown. **Bank deposits shall be taken into consideration in the enforcement of this section, notwithstanding any provision of law to the contrary.** [Emphasis supplied.]

The urgent and comprehensive application of the foregoing legislation was contained in black-letter law, with RA No. 2019 providing for effectivity upon approval, with the express note that **for purposes of unexplained wealth, applied to *all properties acquired by a public officer since he assumed into office.*** (Section 16, RA No. 3019). This further strengthens the admirable resolve of the Philippine Congress to consistently and retroactively reinforce the fundamental Constitutional principle.

However, the recent political exercise on the impeachment of Chief Justice Renato C. Corona catapults into the limelight the seeming differing treatments and applications of the laws between local and foreign currency deposits. A further introspection into this differential treatment reveals that there is no sufficient justification thereto.

The enactment of Presidential Decree No. 1246 which made “**absolute the protective cloak of confidentiality over foreign currency deposits**” to “encourage the inflow of foreign currency deposits into the banking institutions x x x thus directly **contributing to the economic development of the country;**” [Emphasis supplied; WHEREAS Clause] amended Section 8 of Republic Act No. 6426 or the Foreign Currency Deposits Act of the Philippines:

“**Section 8. Secrecy of foreign currency deposits.** – All foreign currency deposits authorized under this Act, as amended by PD No. 1035, as well as foreign currency deposits authorized under PD No. 1034, are hereby declared as and considered of an absolutely confidential nature and, except upon the written permission of the depositor, 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 foreign currency deposits shall be exempt from attachment, garnishment, or any other order or process of any court, legislative body, government agency or any administrative body whatsoever.

The foregoing restriction, made specifically applicable to foreign currency deposit accounts, however, does not provide any significant or marked change in policy vis-à-vis all other types of deposits, considering that Republic Act No. 1405, or the Secrecy of Bank Deposits Law, even with its other enumerated exceptions, has also been upholding the same policy:

“**Section 1.** It is hereby declared to be the policy of the Government to give encouragement to the people to deposit their money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans **to assist in the economic development of the country.**”

That foreign currency deposits should not be treated differently when it comes to ensuring that the State policy against the country being used as a site for proceeds of unlawful activity [Section 2 Republic Act No. 9160 of the Anti-Money Laundering Act of 2001] is further reinforced with the enactment of Republic Act No. 9194, amending Republic Act No. 9160, which provides that **any particular deposit** with any banking institution may be examined or inquired into [Section 8, RA No. 9194], effectively carving out another exception to the absolute cloak of confidentiality over foreign currency deposits.

As interpreted by no less than the Supreme Court of the Philippines in the landmark case of Philippine National Bank vs. Gancayco (GR No. 18343, 15 SCRA 91, 1965), the policy of the Anti-Graft and Corrupt Practices Law, in relation to the Secrecy of Bank Deposits Law, “expresses the notion that a **public office is a public trust and any person who enters upon its discharge does so with the full knowledge that his life, do far as relevant to his duty, is open to public scrutiny.**” There is no overriding State policy that could therefore take foreign currency deposits out of the ambit of the Constitutional principle and existing legislative policy.

Therefore, finding no significant reason to justify the foregoing differences in the restrictions between local and foreign currency deposits, coupled with the overarching and fundamental State-cherished principle that a public office is a public trust, the immediate passage and effectivity of the proposed bill is earnestly requested.

Approved,


TEDDY A. CASINO
Bayan Muna Party-list


NERI JAVIER COLMENARES
Bayan Muna Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
Second Regular Session

House Bill No. 5840

Introduced by Reps. TEDDY A. CASIÑO and NERI JAVIER COLMENARES

AN ACT PROVIDING FOR DISCLOSURE OF FOREIGN CURRENCY DEPOSITS
IN EXCEPTIONAL CIRCUMSTANCES

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

SECTION 1. Section 8 of Republic Act No. 6426, as amended, 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 PD No. 1035, as well as foreign currency deposits authorized under PD No. 1034, are hereby declared as and considered of an absolutely confidential nature and, except upon the written permission of the depositor, **or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.**

SECTION 2. All laws, decrees, orders, rules, and regulations or parts thereof inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SECTION 3. In accord with Republic Act 3019 or the Anti-Graft and Corrupt Practices Act, this Act shall take effect on its approval, but for the purpose of determining unexplained wealth, all property acquired by a public officer since he assumed office shall be taken into consideration.

Approved,