

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

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1287



Introduced by Representative Roman T. Romulo
Lone District of Pasig City

EXPLANATORY NOTE

This proposed bill seeks to correct the practice of government officials and employees of disregarding the requirement of laws and regulations of liquidating promptly cash advances granted to them in the pursuit of official business. The existing laws on the matter of cash advances are as follows:

Under the Revised Penal Code:

Art. 218. Failure of accountable officer to render accounts. – Any public officer, whether in the service or separated there from by resignation or any other cause, who is required by law or regulation to render account to the Commission on Audit or to a provincial auditor and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by prison correctional in its minimum period, or by a fine ranging from 200 pesos to 6,000 pesos or both.

Art. 219. Failure of a responsible public officer to render accounts before leaving the country. – Any public officer who unlawfully leaves the Philippines without securing a certificate from the Commission on Audit showing that his accounts have been finally settled, shall be punished by *arresto mayor*, or a fine ranging from 200 to 1,000 pesos, or both.

Under Presidential Decree No. 1445:

Section 89. Limitations on cash advance. – No cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

Section 128. Penal provisions. – Any violation of the provisions of Section 67, 68, 89, 106, and 108 of this Code or any regulation issued by the Commission implementing these sections, shall be punished by a fine not exceeding one thousand pesos or by imprisonment not exceeding six (6) months, or both such fine and imprisonment in the discretion of the court.

Under the Government Accounting and Auditing and Auditing Manual, Volume 1 (Implementing Rules issued by the Commission on Audit)

Section 179. Liquidation of cash advances. – Cash advances shall be liquidated in accordance with the following guidelines pertaining to the officials concerned:

- a. The accountable officer shall liquidate his cash advance within the prescribed periods as follows:
 1. For salaries, wages, etc. – within 5 days after each 15th day/end of the month pay period.
 2. For petty operating expenses and field operating expenses – within 20 days after end of the year; subject to replenishments during the year.
 3. For foreign travel – within 60 days after return to the Philippines. Failure of the accountable officer to liquidate his cash advance within the prescribed period shall constitute a valid cause for the withholding of his salary or appropriate administrative action.
- b. When a cash advance is no longer needed or has not been used for a period of two (2) months, it must be returned to or deposited immediately, with the collecting officer.
- c. All cash advance shall be fully liquidated at the end of each year. Except for petty cash fund, the Accountable Officer shall refund any unexpended balance to the Cashier/Collecting Officer who shall issue the necessary official receipt.
- d. At the start of an ensuing year, a new cash advance may be granted provided the previous cash advance has been settled or a proper accounting made thereof.

Section 183. Responsibility of the agency head. – It shall be the responsibility of the Agency to ensure the proper granting, utilization and liquidation of all cash advances in accordance with these rules and regulations.

Despite these strict provisions, the total unliquidated cash advances for the national Government for FY 2005 has reached Pesos 4.8 Billion, per COA's published Annual Financial Report. As a result of such gross disregard of the laws and regulations involving the settlement of cash advances, the financial statement of the government is not fairly presented in that there are accounts the amounts of which are not presenting correct figures. This inaccuracy affects the data gathered by the readers of the financial statements particularly the policy and decision makers in the government.

In view of the foregoing, to make the failure to liquidate cash advances a felonious act, an amendment to the provision of Article 217 of the Revised Penal Code is proposed. The said Article provides:

"Art. 217. Malversation of public funds or property. – Presumption of malversation. – Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

1. The penalty of prision correccional in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.
2. The penalty of prision mayor in its minimum and medium periods, if the amount involved is more than 200 pesos but not exceed 6,000 pesos.

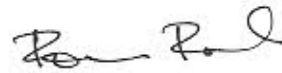
3. The penalty of prision mayor in its maximum period to reclusion temporal in its minimum period, if the amount involved is more than 6,000 pesos but is less than 12,000 pesos.
4. The penalty of reclusion temporal in its medium and maximum periods, if the amount involved is more than 12,000 pesos but less than 22,000 pesos. If the amount exceeds the latter, the penalty shall be reclusion temporal in its maximum period to reclusion perpetual.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of an officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall prima facie evidence that he has put such missing funds or property to personal uses. (As amended by RA No. 1060, approved June 12, 1954)."

Under the proposal, the failure of an accountable officer to liquidate his cash advance within the time frames specified therein shall be *prima facie* proof of malversation of such fund.

For these reasons, the passage of this bill is earnestly sought.



HON. ROMAN T. ROMULO

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**"AN ACT TO AMEND ARTICLE 217 OF THE REVISED PENAL CODE MAKING THE
FAILURE TO LIQUIDATE CASH ADVANCES WITHIN THE PERIOD PROVIDED
THEREIN PRIMA FACIE PROOF OF MALVERSATION"**

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

Section 1. Section thirteen of Article 217 of the Revised Penal Code is hereby
amended to add another paragraph to read as follows:

"In addition, the failure of a public officer or employee, who was previously
granted a cash advance, to liquidate the same after the purpose for which it was given
has been served within the following periods shall be prima facie proof of malversation
or misappropriation of the fund received, to wit:

1. Salaries, wages, etc. – within 5 days after each 15th day/end the month pay
period.
2. For petty operating expenses and field operating expenses – within 20 days
after the end of the year.
3. For special operations, and operating expenses or purchases of supplies,
materials and the like in an amount exceeding P100,000 – 20 days after the
completion of the operation or the delivery and acceptance of the supplies,
materials and the like.
4. For local travel – within 15 days upon return to his official station.
5. For foreign travel – within 60 days upon his return to the Philippines.
6. Others – within 6 months after the purpose for which the cash advance had
been granted, had been served."

Section 2. This Act shall take effect fifteen days after its publication.