

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2994



Introduced by **HON. RONALD M. COSALAN** and **HON. JESULITO A. MANALO**

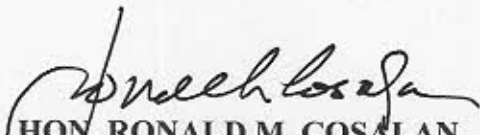
EXPLANATORY NOTE

National government infrastructure projects are crucial for public welfare and the country's development. They are investments in the nation's economy and future. Indeed, the delivery of basic services, the mobility of our communities, and the day-to-day operations of business on all levels depend on the existence of reliable infrastructure such as roads, bridges, classrooms, and public markets among others.

The acquisition of property needed for these projects, however, often entails a long and tedious process, which taxes both private land owners and the State. As the law stands, there are some more burdens imposed upon private land owners that discourage them from cooperating with the Government in the implementation of its infrastructure projects. Complications worsen when the registered land owner could not be located or identified. As a result, many important infrastructure projects are often delayed to the detriment of the general public.

To balance the interests of the State and of private land owners and ensure that the nation's infrastructure projects are completed efficiently, equitably, and with due consideration for private rights, there is an urgent need to amend Republic Act No. 8974, otherwise known as **An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects and For Other Purposes**. Hence, this bill, which addresses the above-mentioned matters.

Considering the crucial nature of government infrastructure to the public interest, the approval of this bill is earnestly urged.


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Representative
Lone District, Benguet Province (CAR)


HON. JESULITO A. MANALO
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HOUSE BILL NO. **2994**

Introduced by HON. RONALD M. COSALAN

**AN ACT AMENDING REPUBLIC ACT NO. 8974, OTHERWISE KNOWN
AS AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY,
SITE OR LOCATION FOR NATIONAL GOVERNMENT
INFRASTRUCTURE PROJECTS, APPROPRIATING
FUNDS THEREFOR AND FOR OTHER PURPOSES**

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

Section 1. Declaration of Policy. - While eminent domain is an inherent power of the State, Article III, Section 9 of the Constitution limits said power as it states that private property shall not be taken for public use without just compensation. Towards this end, the State shall ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation without compromising the expeditious acquisition of Right-of-Way. (a)

Section 2. National Government Projects. - The term "national government projects" shall refer to all national government infrastructure, engineering works and service contracts, including projects undertaken by government-owned and controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as Build-Operate-and-Transfer Law, and other related and necessary activities, such as site acquisition, supply and/or installation of equipment and materials, implementation, construction, completion operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding.

Section 3. Modes of Acquiring Real Property. - The government may acquire real property needed as right-of-way, site or location for any national government infrastructure project through donation, negotiated sale, expropriation or any other mode of acquisition as provided by law.

Financial assistance may also be given to owners of lands acquired under Commonwealth Act No. 141, as amended, for the area of portion subject to the reservation under Section 112 thereof in such amounts as may be determined by the implementing agency (IA)/instrumentality concerned, in consultation with the

Commission on Audit and the assessor's office concerned pursuant to Section 18 of Executive Order No. 1035. (a)

Section 4. *Guidelines on Negotiated Sale.* - The implementing agency may offer to acquire a property through a negotiated sale under the following guidelines:

- (a) The negotiated offer price, net of taxes relative to the transfer, for the land shall be equivalent to the average market value by Government Financial Institution/s (GFI).

The Implementing Agency shall offer the replacement cost, net of taxes relative to the transfer, for structures, trees, crops, and other improvements guided by the Rules to be prepared pursuant to Section 6, hereof.

With regards to the taxes relative to the transfer of title, the IA will pay the documentary stamp tax, transfer tax and registration fees while the property owner shall pay the capital gains tax and any unpaid real property tax.

The property owner may request for the IA to remit to the BIR the amount corresponding to the capital gains tax and/or any unpaid real property tax, subject to deduction from the amount of negotiated offer price, provided however, that the said amount is not more than the negotiated offer price.

- (b) The property owner and the implementing Agency shall execute a Deed of Absolute Sale. The property owner shall submit to the Implementing Agency the transfer certificate of title, tax declaration, real property tax certificate, and other documents necessary to transfer title prior to the execution of the Deed of Sale. The Implementing Agency shall cause the annotation of the Deed of Absolute Sale on the transfer certificate of title. Payment of 50% of the negotiated offer price, net of taxes relative to the transfer, for the land and all the improvements thereon shall made, subject however to the submittal of complete documents as enumerated above.
- (c) The implementing Agency shall pay the remaining 50% of the negotiated offer price, net of taxes, to the property owner after the transfer of title in the name of the Republic.
- (d) In case the owner rejects either or both of the above offers of the government for a negotiate purchase, the Implementing Agency may initiate expropriation proceedings pursuant to Section 5, hereof. (6a)

Section 5. *Guidelines for Expropriation Proceedings.* - Whenever it is necessary to acquire real property for the right-of-way, site or location for any national government infrastructure project through expropriation, the appropriate implementing agency, through the Office of the Solicitor General, the Office of the Government Corporate Counsel, or their deputized legal counsel, shall initiate the expropriation proceedings before the proper court under the following guidelines:

- (a) Upon the filing of the complaint or at anytime thereafter, and after due notice to the defendant, the implementing agency shall immediately pay the owner

of the property by depositing to the court the amount equivalent to the sum of (1) one hundred percent (100%) of the value of the property based on the current appropriate zonal valuation of the Bureau of Internal Revenue (BIR), issued not more than three years prior to the filing of the expropriation complaint; and (2) the value of the improvements and/or structures located within the property.

After the deposit of said amount, the court shall within seven (7) working days issue the writ of possession, pursuant to relevant provisions of Rule 67 of the Rules of Court. The court shall release the said amount to the owner upon presentation of sufficient proofs of ownership;

In case the owner of the property cannot be found, unknown, or deceased in cases where the estate has not been settled, after exerting due diligence, or there are conflicting claims over the ownership of the property and improvements and/or structures thereon, the amount equivalent to 100% of the BIR zonal value of the property and the value of the improvements and/or structures thereon shall be deposited with the court for the benefit of the person to be adjudged in the same proceeding as entitled thereto. Upon deposit of the said amount with the court, the Court shall within seven (7) working days issue a writ of possession.

- (b) In provinces, cities, municipalities and other areas where there is/are no land classification, no zonal valuation and/or the zonal valuation is more than three years, the City/Municipal Assessor and the BIR, as the case may be, is hereby mandated within the period of thirty (30) days from the date of request of the implementing agency, the expropriation case, to come up with a Declaration of Real Property and Improvement, and zonal valuation for the said area;
- (c) In case the completion of a government infrastructure project is of utmost urgency and importance, and where there is/are no land classification, no zonal valuation and/or the zonal valuation is more than three years, the implementing Agency shall use the BIR zonal Value and land classification of similar lands within the immediate vicinity. (4a)

Section 6. *Valuation of Improvements and/or Structures.* - The Department of Public Works and Highways and other implementing agencies concerned, in coordination with the local government units concerned in the acquisition of right-of-way, site or location for any national government infrastructure project, are hereby mandated to adopt within sixty (60) days upon approval of this Act, the necessary implementing rules and regulations for the equitable valuation of the improvements and/or structures on the land to be expropriated. (7)

Section 7. *Ecological and Environmental Concerns.* - In cases involving the acquisition of right-of-way, site or location for any national government infrastructure project, the implementing agency shall take into account the ecological and environmental impact of the project. Before any national government project could be undertaken, the agency shall consider environmental laws, land use ordinances, and all pertinent provisions of Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991.

Section 8. *Informal Settler Families Relocation.* – The government through the National Housing Authority, in coordination with the local government units and implementing agencies concerned, shall establish and develop Informal Settler Families (ISF) relocation sites, including the provision of adequate utilities and services, in anticipation of ISF that have to be removed from the right-of-way or site of future infrastructure projects. Whenever applicable, the concerned local government units shall provide and administer the relocation sites.

In case there is no ISF Relocation Site available and the completion of a government infrastructure project is of utmost urgency and importance, and if the affected ISFs are willing, the Implementing Agency may choose to provide the ISF financial assistance in lieu of relocation site pursuant to Section 28 of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992.

In case the expropriated land is occupied by ISF who refused the offer of financial assistance as provided above, the court shall issue the necessary “Writ of Demolition” for the purpose of dismantling any and all structures found within the subject property. The implementing agency shall take into account and observe diligently the procedure provided for in Section 28 of the Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992.

Funds for the relocation of the ISF, including but not limited to funds for the relocation site, shall come from appropriations for the purpose under the General Appropriations Act, as well as from appropriate infrastructure project funds for the implementing agency concerned. (9a)

Section 9. *Appropriations for Acquisitions of Right-of-Way, Site or Location for Any National Government Infrastructure Project in Advance of Project Implementation.* – The government shall provide adequate appropriations that will allow the concerned implementing agencies to acquire the required right-of-way, site or location for any national government infrastructure project.

In cases of Public Private Partnership and Build-Operate-and-Transfer projects, the project proponent may finance the costs, administrative or actual, necessary for the acquisition of ROW. (10a)

Section 10. *Sanctions.* – Violation of any provision of this Act shall subject the government official or employee concerned to appropriate administrative, civil and/or criminal sanctions, including suspension and/or dismissal from the government service and forfeiture benefits.

Section 11. *Rules and Regulations.* – Rules and Regulations. – A committee composed of the Secretary of the Department of Public Works and Highways as chairperson, the secretaries of the Department of Transportation and Communications, the Department of Justice, the Department of Budget and Management, the Solicitor General, the Commissioner of the Bureau of Internal Revenue, Administrator of the Land Registration Authority, Head of Bureau of Local Government Finance, Representatives from Government Financial Institutions, Representatives from the PPP Center, the Presidents of the leagues of provinces, cities and municipalities, Representatives from the Private Sector involved in

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PPP/BOT Projects as members shall prepare the necessary rules and regulations for the proper implementation of this Act within sixty (60) days from its approval. (12a)

Section 12. *Separability Clause.* - If any provisions of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected shall continue to be in full force and effect.

Section 13. *Repealing Clause.* - All laws, decrees, orders, rules, regulations, inconsistent with this Act are hereby repealed or amended accordingly.

Section 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,