

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5045



Introduced by Representative **MARLYN L. PRIMICIAS-AGABAS**

EXPLANATORY NOTE

This bill proposes the establishment of "Public Assets Management Corporation," principally tasked to ensure efficient managements of assets seized or forfeited in favor of the government.

At present, Republic Act No. 1379 or the "An Act Declaring Forfeiture In Favor Of The State Any Property Found To Have Been Unlawfully Acquired By Any Public Officer Or Employee And Providing For The Proceedings Therefor," provides for the process of forfeiture in cases of unlawfully acquired properties of public officers or employees. However, there seems to be no main agency that will handle management of recovered assets by the State. In result, absent proper management to preserve and administer, the value of assets may diminish resulting to the disadvantage of the State.

With the establishment of the Public Assets Management Corporation, it is aimed that the interest of the State be well preserved and protected and that the illegally acquired assets be brought back to the State for maximum use and utilization.

Passage of the law is therefore earnestly sought.

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HOUSE BILL NO. **5045**

Introduced by REPRESENTATIVE MARLYN L. PRIMICIAS-AGABAS

AN ACT
ESTABLISHING THE PUBLIC ASSETS MANAGEMENT CORPORATION OF THE
PHILIPPINES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

1 **SECTION 1.** *Short Title.* – This Act shall be known as the Charter of the Public
2 Assets Management Corporation of the Philippines.

3 **SEC. 2.** *Declaration of Policy.* – It is hereby declared the policy of the State to
4 ensure the efficient, economical, systematic, transparent and optimal preservation,
5 administration, management, liquidation and disposition of all assets seized or forfeited in
6 favor of the government in the course or as a consequence of criminal, administrative and
7 civil actions.

8 **SEC. 3.** *Creation of the Public Assets Management Corporation of the Philippines.* –
9 There is hereby created an independent central public assets management authority, which
10 shall be a government-owned body corporate attached to the Department of Finance (DOF)
11 to be known as the Public Assets Management Corporation of the Philippines (the
12 Corporation). It shall have the primary responsibility and objective of administering the
13 country's asset management regime, ensuring the proper and prudent disposition of all
14 assets seized or forfeited in favor of the State.

15 **SEC. 4.** *Corporate Governance.* – The Corporation shall be governed by a Board of
16 Directors composed of the following:

- 17 (a) The Secretary of Finance, as ex-officio Chair;
18 (b) The Secretary of Budget and Management as ex-officio Vice Chair;
19 (c) Three (3) members with backgrounds in banking and financial services, insurance,
20 real estate, property appraisal, engineering and other technical fields, to be
21 appointed by the President of the Philippines and to serve for a term of five (5) years;
22 and

- (d) Two (2) members with backgrounds in general business or other similar areas, to be appointed by the President of the Philippines and to serve for a term of five (5) years.

The operations and management of the Corporation shall be conducted by an Executive Committee composed of the following:

- (a) A President;
- (b) An Executive Vice President;
- (c) A Senior Vice President for Operations;
- (d) A Senior Vice President for Finance³;
- (e) A General Counsel and Corporate Secretary; and
- (f) Three (3) Vice Presidents in charge of Asset Management, Asset Valuation and Asset Liquidation/Disposition; all of whom shall be appointed by the Chair upon endorsement by the Board of Directors.

SEC. 5. Corporate Powers. – The Corporation shall have the following corporate powers:

- (a) Accept and take title to, custody over and possession of such assets and other properties seized and/or forfeited by law enforcement, judicial and other governmental entities in favor of the State in the course of criminal, civil, administrative, anti-corruption, anti-money laundering or similar proceedings, subject to the following rules:

- 1. *Assets seized by administrative agencies.* In cases of administrative forfeiture, the forfeiting agency has the option of either:

- 1.1 disposing of forfeited assets in accordance with the authority inherent in their law enforcement mandates and pursuant to their established systems and procedures, or

- 1.2 turning over the same to the Corporation, especially in cases where the optimal management or disposition of assets require technical expertise and competence;

- 2. *Assets forfeited in favor of the State.* In cases where assets have been forfeited in favor of the State by virtue of a final and executory order of a court, the Corporation shall automatically take custody over the same for proper administration and/or disposition; and

- 3. *Assets seized and subject of ongoing litigation.* In cases where assets are seized in connection with an ongoing criminal or forfeiture litigation, said assets shall be considered in *custodia legis* and may be placed under the physical custody of the Corporation the agency which seized the same, or such other person or office as the court may designate, in which case, the designated custodian is deemed constituted as an agent of the court.

1 3.1. Prior to an official designation of a custodian by the court, seized assets are
2 deemed *ipso jure* under the accountability and fiduciary responsibility of the
3 agency which seized the same, or the agency with the duty to take possession
4 thereof in accordance with existing laws and rules.

5 3.2. Upon motion by any interested party, including the Corporation, the court
6 shall conduct a summary hearing, to be concluded within twenty (20) days from
7 the filing of such motion, to determine whether seized assets should be sold or
8 disposed of, if doing so would best serve the interests of justice. The court must
9 render a ruling on the motion no later than ten (10) days from the conclusion of
10 the summary hearing.

11 3.3. In the event that the seized assets are liable to progressive wasting,
12 dissipation, devaluation, depreciation or deterioration, or cannot reasonably be
13 conserved in a cost-efficient manner, the court shall order a disposition *pendente*
14 *lite* unless it is established by competent evidence during the summary hearing
15 that such disposition will cause undue injury or will adversely affect the
16 substantive rights of the parties or any third party, *provided*, that an order of the
17 court to sell or dispose of seized assets *pendente lite* shall not affect the trial of
18 the case or be construed as an adjudication of the merits of the parties' claims
19 and defenses.

20 3.4. The proceeds of the sale of seized assets disposed of *pendente lite* shall be
21 kept in a separate account and turned over to the custody of the court for
22 eventual release to the prevailing party or to whoever may be adjudged as
23 lawfully entitled thereto.

24 (b) Enter into contracts and/or execute any deed or act in furtherance of its mandate to
25 efficiently, economically and prudently manage, administer, preserve, apprise,
26 liquidate and/or dispose of assets under its custody;

27 (c) Execute and deliver, on behalf of the Government, the deeds of sale, contracts and
28 other instruments as may be necessary or appropriate to convey title to such assets;

29 (d) Sell or dispose of seized or forfeited assets, subject to the rules provided in
30 paragraph (a) of this Section, without need of securing prior clearances from other
31 governmental entities, *provided*, that all such transactions shall be subject to
32 subsequent review under existing audit rules and regulations, and shall be guided by
33 principles of fairness, prudence, accountability and transparency;

34 (e) Construct, own, lease, operate and maintain various forms of properties as well as
35 infrastructure facilities;

36 (f) Receive donations, grants, bequests and assistance of all kinds from local and
37 foreign governments and private sectors and utilize the same;

38 (g) Hire and retain such personnel complement as may be necessary for the execution
39 of its mandate; engage external services as the exigencies of particular cases may

1 require, including, but not limited to, technical consultants, accountants, auditors,
2 counsels, appraisers, risk managers, curators, conservationists and others;

3 (h) Adopt, amend, or change its by-laws; to adopt, alter and use a seal; to sue; and to
4 exercise the general powers of a corporation mentioned in the Corporation Code of
5 the Philippines, insofar as such powers are not inconsistent or incompatible with the
6 provisions of this Charter; and

7 (i) Conduct any such act, consistent with law, for the preservation of any seized or
8 forfeited asset, consistent with the professional and economic management of the
9 same.

10
11 **SEC. 6. *Personnel.*** – The Board of Directors shall provide for an organization and
12 staff of officers and employees of the Corporation and, upon recommendation of the
13 President fix their remunerations and other emoluments. All positions in the Corporation,
14 including consultancies, shall be governed by the compensation, position classification
15 system and qualification standards approved by the Board of Directors based on a
16 comprehensive job analysis of actual duties and responsibilities. The compensation plan
17 shall be comparable to the prevailing compensation plans in the private sector and shall be
18 subject to periodic review by the Board of Directors once every two (2) years, without
19 prejudice to yearly merit reviews or increases based on the Corporation's productivity and
20 profitability. The Corporation shall, therefore, be exempt from existing laws, rules and
21 regulations on compensation, position classification and qualification standards. The
22 Corporation shall, however, endeavor to make its system conform as possible to the
23 principles under the Compensation and Position Classification Act of 1989.

24 No officer or employee of the Corporation subject to Civil Service Law shall be
25 dismissed except for cause as provided by law.

26 **SEC. 7. *Proceeds of Operations.*** – Proceeds derived from the management or
27 disposition of seized or forfeited assets shall be remitted by the Corporation to the National
28 Treasury or to the proper governmental office or agency as may be required by law,
29 *provided*, the Corporation shall be entitled to deduct therefrom the following: (1) actual
30 expenses incurred in the conservation, administration and disposition of said assets, and (2)
31 an amount equivalent to ten percent (10%) of the net proceeds as management fees.
32 Management fees may be adjusted based on relevant industry and market standards and
33 considerations, *provided*, that any adjustment must be subject to a detailed study and
34 approved by the Board of Directors. All earnings retained by the Corporation shall be
35 properly and prudently administered with a view to preserving its viability.

36 **SEC. 8. *Reimbursements for Expenses.*** – The Corporation shall be entitled to
37 reimbursement of actual and necessary costs for the maintenance, preservation and
38 conservation of seized assets in the event that a court of law adjudicates the same against
39 the State, *provided*, such costs shall be reimbursed by the prevailing party in an amount to
40 be equitably fixed by the court, *provided further*, the Corporation shall render periodic reports
41 to the proper courts regarding the status of assets under its custody and the costs incurred
42 for their maintenance, preservation and conservation, the same to be considered by the said

1 courts for purposes of fixing the amount of reimbursement due the Corporation at the
2 conclusion of trial.

3 **SEC. 9. *Relations with Forfeiting Agencies.*** – The Corporation may enter into
4 Memoranda of Agreement with relevant forfeiting agencies to define their respective roles,
5 functions and financial responsibilities relative to the management, administration, liquidation
6 and disposition of seized or forfeited assets, and the transfer and payment of the proceeds
7 of disposition.

8 **SEC. 10. *Immunity from Suit.*** – The Corporation shall not be subject to criminal, civil
9 or administrative suits in connection with any act done or omitted by it in the regular exercise
10 of its functions and powers, provided, it acts in good faith and in consonance with the State
11 policy herein set forth.

12
13 **SEC. 11. *Third Party Claims.*** – Any and all third party claims arising from any seized
14 or forfeited asset under the Corporation's custody shall be directed, to and resolved by, such
15 agency, tribunal or court hearing the case.

16 **SEC. 12. *Capitalization and Initial Funding.*** – The capital of the Corporation shall be
17 five hundred million pesos (PhP 500,000,000.00), to be fully subscribed by the Government
18 of the Republic of the Philippines, one hundred million pesos (PhP 100,000,000.00) of which
19 shall be fully paid for by the Government within three (3) years upon the effectivity of this
20 Charter and the balance to be paid for within a period of three (3) years thereafter, in such
21 manner and form as the Government, through the Secretary of Finance and Secretary of
22 Budget and Management, may thereafter determine. The initial funding for the operations of
23 the Corporation for the first year following the effectivity of this Charter shall be advanced by
24 the DOF. Thereafter, the capitalization of the Corporation shall be paid for by the
25 Government by way of appropriations from Congress.

26 **SEC. 13. *By-Laws and Rules.*** – The Corporation shall adopt its by-laws, rules of
27 procedure and other regulatory issuances within ninety (90) days from the effectivity of this
28 Charter, and as often thereafter as exigencies may require.

29 **SEC. 14. *Transitory Provision.*** – Upon the enactment of this Charter, the
30 Privatization and Management Office (PMO) shall wind up its affairs and be dissolved
31 pursuant to applicable laws and rules. The existing staff of the PMO, however, shall be
32 absorbed by the Corporation and converted *ipso jure* as its core unit, *provided*, all PMO
33 officers and employees who transition into the Corporation's staff shall not suffer any
34 diminution of benefits or disturbance of tenure, *provided further*, all PMO officers and
35 employees who choose not to be part of the Corporation shall be entitled to separation
36 benefits as provided by law. For the purpose of this Section, the Corporation shall not be
37 regarded as a continuation of the corporate personality of the PMO.

38 **SEC. 15. *Separability Clause.*** – If any provision of this Charter shall be declared
39 unconstitutional, any other provision not affected thereby shall remain in full force and effect.

40 **SEC. 16. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations or
41 parts thereof inconsistent with this Charter are hereby repealed or modified accordingly.

1 **SEC. 17. Effectivity.** – This Charter shall take effect within fifteen (15) days after its
2 publication in at least two (2) newspapers of general circulation

3 Approved.