

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5046



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

EXPLANATORY NOTE

This bill proposes to enhance the provisions of Republic Act No. 1379 otherwise known as "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 Proceeding Therefor."

With the development of information devices and technology, criminal activities became complex and sophisticated. In similar manner, criminals have employed means to spirit away and conceal the proceeds of their criminal acts beyond the reach of the State.

The Office of the Ombudsman, as the principal agency tasked to recover illegally acquired assets, has to step up in running after the ill-gotten wealth of any public officer or employee. Thus, the need to expand the powers of the office and provide for definition of illegally acquired assets as well as the presumptions on the illegality of the acquisition of properties.

Foregoing considered, passage of the law is earnestly sought.

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5046

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

AN ACT

STRENGTHENING THE FORFEITURE POWERS OF THE STATE, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS "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 PROCEEDING THEREFOR"

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

1 Section 1. Section 1 (b) of R.A. No. 1379 is hereby amended to read as follows:

2 (B) "LEGALLY ACQUIRED PROPERTY" MEANS ANY REAL
3 OR PERSONAL PROPERTY, MONEY, OR SECURITIES WHICH
4 THE PUBLIC OFFICER OR EMPLOYEE HAS ACQUIRED FROM
5 THE PROCEEDS OF HIS SALARY, BENEFITS AND/OR OTHER
6 EMOLUMENTS, AND/OR FROM OTHER LAWFUL INCOME SUCH
7 AS, BUT NOT LIMITED TO, BUSINESS INTERESTS. IT SHALL
8 ALSO INCLUDE REAL OR PERSONAL PROPERTY, MONEY OR
9 SECURITIES WHICH THE PUBLIC OFFICER OR EMPLOYEE HAS,
10 AT ANY TIME, ACQUIRED BY INHERITANCE, OR BY DONATION
11 BEFORE HIS BECOMING A PUBLIC OFFICER OR EMPLOYEE, OR
12 ANY PROPERTY ALREADY PERTAINING TO HIM WHEN HE
13 QUALIFIED FOR PUBLIC OFFICE OR EMPLOYMENT, AND THE
14 INCOME FROM SAID PROPERTIES.

15 Sec. 2. Insert new Section 1 (C) to R.A. No. 1379 to read as follows:

16
17 (C) "ILLEGALLY ACQUIRED PROPERTY" SHALL REFER TO
18 THE PROPERTY NOT FALLING UNDER PARAGRAPH B OF THIS
19 SECTION. IT ALSO INCLUDES:

1 a. PROPERTY UNLAWFULLY ACQUIRED BY THE
2 RESPONDENT, BUT ITS OWNERSHIP IS CONCEALED BY ITS
3 BEING RECORDED IN THE NAME OF, OR HELD BY, THE
4 RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS,
5 RELATIVES, OR ANYH OTHER PERSON EXCEPT IN THE
6 FOLLOWING INSTANCES:

- 7 1. WHEN THE RESPONDENT'S SPOUSE,
8 ASCENDANTS, DESCENDANTS, OR ANY OTHER
9 PERSON CAN PROVE THAT HE ACQUIRED SAID
10 PROPERTY FROM THE PROCEEDS OF HIS SALARY,
11 BENEFITS AND/OR EMOLUMENTS, OR FROM THE
12 PROCEEDS OF HIS BUSINESS INTERESTS;
13
14 2. WHEN THE REpondent's SPOUSE, ASCENDANTS,
15 DESCENDANTS, OR ANY OTHER PERSON CAN
16 PROVE THAT THE PROPERTY WAS RECEIVED
17 THROUGH DONATION OR INHERITANCE FROM
18 OTHER PERSONS OTHER THAN RESPONDENT.

19 b. PROPERTY UNLAWFULLY ACQUIRED BY THE
20 RESPONDEHNT, BUT TRANSFERRED BY HIM TO ANOTHER
21 PERSON OR PERSONS.

22 c. PROPERTY DONATED TO THE RESPONDENT
23 DURING HIS INCUMBENCY, UNLESS HE CAN PROVE THAT THE
24 DONATION IS LAWFUL.
25

26 Sec. 3. Section 2 of R.A. No. 1379 is hereby amended to read as follows:
27

28 "SEC. 2. *Filing of petition.* – Whenever any public officer or
29 employee has acquired during his incumbency an amount of property
30 which is manifestly out of proportion to his salary as such public officer
31 or employee and to his other lawful income and the income from
32 [legitimately] LEGALLY acquired property, said property shall be
33 presumed *prima facie* to have been unlawfully acquired. The [Solicitor
34 General] OFFICE OF THE OMBUDSMAN, MOTU PROPIO OR upon
35 VERIFIED complaint by any [taxpayer to the city or provincial fiscal
36 who] PERSON shall conduct [a previous inquiry] A FACT-FINDING
37 INVESTIGATION [similar to preliminary investigations in criminal
38 cases] TO DETERMINE IF [and shall certify to the Solicitor General
39 that there is reasonable ground to believe] THERE EXISTS *PRIMA*
40 *FACIE* EVIDENCE THAT A PROPERTY HAS BEEN UNLAWFULLY
41 ACQUIRED [that there has been committed a violation of this Act and
42 the respondent is probably guilty thereof] IT [,] shall file, in the name
43 and on behalf of the Republic of the Philippines, [in the Court of First
44 Instance of the city or province] WITH THE SANDIGANBAYAN OR
45 THE APPROPRIATE REGIONAL TRIAL COURT where said public
46 officer or employee resides or holds office, a petition for a writ
47 commanding said officer or employee to show cause why the property

1 aforesaid, or any part thereof, should not be declared property of the
2 State: *Provided*, That no such petition shall be filed [~~within one year~~
3 ~~before any general election or within three months before any special~~
4 ~~election]~~ AGAINST A PUBLIC OFFICER OR EMPLOYEE WITHIN
5 THE ELECTION PERIOD".

6 The resignation, dismissal or separation of the officer or
7 employee from his office or employment in the Government or in the
8 Government-owned or controlled corporation shall not be a bar to the
9 filing of the petition. [~~Provided, however, That the right to file such~~
10 ~~petition shall prescribe after four years from the date of resignation,~~
11 ~~dismissal or separation or expiration of the term of the officer or~~
12 ~~employee concerned, except as to those who have ceased to hold~~
13 ~~office within ten years prior to the approval of this Act, in which case~~
14 ~~the proceedings shall prescribe after four years from the approval~~
15 ~~hereof.]~~

16 Sec. 4. Insert new Sections 2-A and 2-B to R.A. No. 1379 to read as follows:

17 SEC. 2-A. *PRIMA FACIE PRESUMPTIONS.* –

18 (1) WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS
19 ACQUIRED DURING HIS INCUMBENCY PROPERTY OR
20 PROPERTIES WHICH ARE MANIFESTLY OUT OF PROPORTION
21 TO HIS SALARY, AS SUCH PUBLIC OFFICER OR EMPLOYEE, AND
22 TO HIS OTHER LAWFUL INCOME, AND THE INCOME FROM
23 OTHER LEGALLY ACQUIRED PROPERTY/PROPERTIES, SAID
24 PROPERTY SHALL BE PRESUMED *PRIMA FACIE* TO HAVE BEEN
25 UNLAWFULLY ACQUIRED.

26 (2) FAILURE OF A PUBLIC OFFICER OR EMPLOYEE TO
27 FILE A STATEMENT OF ASSETS, LIABILITIES AND NETWORTH
28 WITHIN THE PERIOD PRESCRIBED BY LAW FROM DATE OF
29 ASSUMPTION TO OFFICE SHALL BE *PRIMA FACIE* EVIDENCE
30 THAT SAID PUBLIC OFFICER OR EMPLOYEE HAS NOT
31 PROPERTY, ASSET OR BUSINESS INTEREST TO DECLARE AT
32 THE BEGINNING OF HIS PUBLIC SERVICE.

33 (3) FAILURE OF A PUBLIC OFFICER TO FILE A
34 STATEMENT OF ASSETS, LIABILITIES AND NETWORTH FOR ANY
35 PARTICULAR YEAR AFTER ASSUMPTION TO OFFICE SHALL BE
36 *PRIMA FACIE* EVIDENCE THAT THE PUBLIC OFFICER OR
37 EMPLOYEE HAS NO OTHER INFORMATION TO DECLARE
38 OUTSIDE OF HIS DECLARATION IN HIS PRIOR SUBMISSIONS,
39 WITHOUT PREJUDICE TO ANY LIABILITIES THAT MAY HAVE
40 BEEN INCURRED UNDER EXISTING LAWS.

41 SEC. 2-B. *ADVERSE CLAIM PRIOR TO FILING OF*
42 *PETITION.* – WHEN, DURING OR AFTER THE FACT-FINDING
43 INVESTIGATION OF THE OFFICE OF THE OMBUDSMAN, IT

1 APPEARS THAT THERE IS REASONABLE GROUND TO BELIEVE
2 THAT A PUBLIC OFFICER OR EMPLOYEE HAS UNLAWFULLY
3 ACQUIRED PROPERTY, THE SAID OFFICE, ON BEHALF OF THE
4 REPUBLIC OF THE PHILIPPINES, MAY FILE AN ADVERSE CLAIM
5 IN THE PROPER REGISTRY OF DEEDS, OR THE APPROPRIATE
6 PUBLIC REGISTRY, SETTING FORTH A DESCRIPTION OF THE
7 PROPERTY/IES COVERED BY THE FACT-FINDING
8 INVESTIGATION, AND THE CLAIM OF RIGHT OR INTEREST OF
9 THE STATE THEREIN AS POSSIBLE SUBJECTS OF FORFEITURE.

10 Sec. 5. Section 4 of R.A. No. 1379 is hereby amended to read as follows:

11 "SEC. 4. *Period TO [for-the] answer PETITION.* – The
12 respondent shall have a period of fifteen days FROM NOTICE
13 within which to [present] FILE his answer."

14 Sec. 6. Insert new Section 5-A to R.A. No. 1379 to read as follows:

15 SEC. 5-A. *AUTHORITY TO SELL PENDING FORFEITURE*
16 *PROCEEDING.* – IN CASE THERE IS DANGER OF DEPRECIATION
17 TO THE VALUE OF THE PERSONAL PROPERTY OR SPOILAGE IN
18 CASE OF PERISHABLE PROPERTIES, UPON MOTION FILED BY
19 THE OFFICE OF THE OMBUDSMAN BEFORE THE PROPER
20 COURT, THE PERSONAL PROPERTY SUBJECT OF FORFEITURE
21 MAY BE SOLD AT PUBLIC AUCTION PENDING THE RESOLUTION
22 OF THE FORFEITURE PROCEEDING. THE PROCEEDS OF THE
23 SALE AT PUBLIC AUCTION SHALL BE HELD IN TRUST BY THE
24 OFFICE OF THE OMBUDSMAN UNTIL THE FORFEITURE
25 PROCEEDING IS FINALLY RESOLVED.

26 Sec. 7. Section 6 of R.A. No. 1379 is hereby amended to read as follows:

27 "SEC. 6. *Judgment.* – If the respondent is unable to show to the
28 satisfaction of the court that he has lawfully acquired the property in
29 question, then the court shall declare such property[;] forfeited in favor
30 of the State, and by virtue of such judgment the property aforesaid
31 shall become property of the State. *Provided,* THAT IF ANY
32 PROPERTY DECLARED FORFEITED IN FAVOR OF THE STATE
33 HAD BEEN LOST, DESTROYED OR HAD DEPRECIATED IN VALUE,
34 THE COURT MAY INCLUDE A DISPOSITION IN THE JUDGMENT,
35 OR ISSUE SUCH SUPPLEMENTA JUDGMENTS AS MAY BE
36 NECESSARY, TO FORFEIT SUCH FUNDS OR PROPERTIES
37 OWNED BY THE RESPONDENT AS MAY BE SUFFICIENT TO
38 SATISFY THE STATE'S CLAIM, PROVIDED, FURTHER, [That no
39 judgment shall be rendered within six months before any general
40 election or within three months before any special election. The Court
41 may, in addition, refer this case to the corresponding Executive
42 Department for administrative or criminal action, or both.] THAT
43 THIRTY-FIVE PERCENT (35%) OF THE VALUE OF SUCH
44 PROPERTY FORFEITED IN A FINAL AND EXECUTORY ORDER OF

1 THE COURT SHALL BE EARMARKED AS ADDITIONAL FUNDING
2 FOR THE OFFICE OF THE OMBUDSMAN; PROVIDED, FURTHER,
3 THAT IF THE PROPERTY IS NOT IN CASH, IT SHALL BE SOLD AT
4 PUBLIC AUCTION AND THE PROCEEDS THEREOF, AFTER
5 DEDUCTING THE ALLOCATED THIRTY-FIVE PERCENT (35%) FOR
6 THE OFFICE OF THE OMBUDSMAN, SHALL ACCRUE TO THE
7 GENERAL FUND.

8 Sec. 8. Section 7 of R.A. No. 1379 is hereby amended to read as follows:

9 "SEC. 7. *Appeal.* – The parties may appeal from the judgment
10 of the [Court of First Instance as] PROPER COURT FORFEITING THE
11 PROPERTY/PROPERTIES IN BEHALF OF THE STATE IN THE
12 MANNER provided in the Rules of Court for appeals in civil cases."

13 Sec. 9. Section 9 of R.A. No. 1379 is hereby amended to read as follows:

14 "SEC. 9. *Immunity.* – The [Solicitor General] OMBUDSMAN
15 may grant immunity from criminal prosecution to any person who
16 testified to the unlawful manner in which the respondent has acquired
17 any of the property in question in cases where such testimony is
18 necessary to prove violations of this Act."

19 Sec. 10. Section 12 of R.A. No. 1379 is hereby amended to read as follows:

20 "SEC. 12. *Penalties.* Any public officer or employee who shall,
21 after the effective date of this Act, transfer or convey any unlawfully
22 acquired property shall be ~~[repressed]~~ PENALIZED with imprisonment
23 for a term ~~[not exceeding five years]~~ OF NOT LESS THAN ONE YEAR
24 AND ONE DAY BUT NOT MORE THAN SIX YEARS, or a fine not
25 exceeding ~~[ten thousand pesos]~~ TWICE THE AMOUNT OF THE
26 PROPERTY TRANSFERRED OR CONVEYED, or both such
27 imprisonment and fine, PERPETUAL DISQUALIFICATION FROM
28 PUBLIC OFFICE, AND CONFISCATION OR FORFEITURE IN
29 FAVOR OF THE GOVERNMENT OF ANY PROHIBITED INTEREST.
30 ~~[The same repression shall be imposed upon any person who shall~~
31 ~~knowingly accept such transfer or conveyance.]~~

32 THE SAME PENALTIES SHALL BE IMPOSED UPON ANY
33 PERSON WHO SHALL KNOWINGLY ACCEPT SUCH UNLAWFUL
34 TRANSFER OR CONVEYANCE, ANY SUCH CONVEYANCE SHALL
35 BE VOID AB INITIO."

36 Sec. 10. *Separability clause.* If for any reason, any section or provision of this Act is
37 declared to be unconstitutional or invalid the other sections or provisions hereof
38 which are not affected thereby shall continue to be in full force and effect.

39 Sec. 11. *Repealing clause.* All laws, decrees, orders or rules and regulations and
40 other issuances which are inconsistent with the provisions of this Act are hereby
41 repealed, amended or modified accordingly.

1 Sec. 12. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in
2 the *Official Gazette* or in a newspaper of general circulation.

3 Approved,