

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. 5105



Introduced by **GABRIELA Women's Party Representatives**
EMMI A. DE JESUS and LUZVIMINDA C. ILAGAN

EXPLANATORY NOTE

The Philippines was the first ASEAN country to ratify the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1981. The CEDAW forming part of the law of the land has advanced amendments to or repeal of Philippine laws that reverberate patriarchal culture in relation to employment, education, family relations, and penal sanctions, among others.

Although slow in coming, in 2009, the Magna Carta of Women was also finally enacted into law. Under this law, the State as the duty bearer is under obligation to respect, protect and fulfil human rights of women and to eliminate all forms of discrimination against women, especially poor and marginalized women. This further reinforces the State's commitments under the CEDAW.

As a signatory to the CEDAW and with the Magna Carta of Women in place, the State has committed to eliminate all forms of discrimination against women in both the public and private spheres, to promote equality between women and men and to advance women's human rights. The State is mandated to fulfil these duties or commitments through law, policy, regulatory instruments, administrative guidelines, and other appropriate measures.

As part of its aforementioned commitments under the CEDAW as echoed under the Magna Carta of Women, the State is, thus, mandated to identify existing discriminatory laws and policies and to take measures so that they are changed, amended or completely repealed. In this regard, of particular application are Articles 15 and 16 of the CEDAW.

Article 15 states that "State Parties shall accord women equality with men before the law" while Article 16 ensures equal legal capacities for women on civil matters including entry to contracts and property ownership, acquisition, management, administration enjoyment and disposition.

In light of the foregoing, the portion in Articles 96 and 124 of the Family Code which gives preference to the husband's decision over that of the wife in case of disagreement on the administration and enjoyment of the conjugal or community property should be removed. Amendments are, thus, necessary in order to preserve the heart of these articles – which is to give joint administration of conjugal or community property to both the wife and the husband. By so doing, preferential treatment of the husband's decision over that of the wife in case of disagreement will not only be removed, harmony between them will also be encouraged. More significantly, conjugal or community properties will also be preserved and safeguarded from unilateral and reckless decisions that are often resorted to when conflict occurs between wife and husband.

Your support of this bill is, therefore, earnestly solicited.


REP. EMMI DE JESUS
Gabriela Women's Party


REP. LUZ ILAGAN
Gabriela Women's Party

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**AN ACT AMENDING ARTICLES 96 AND 124 OF THE FAMILY CODE OF THE
PHILIPPINES**

Section 1. Section 4, Article 96 of the Family Code of the Philippines is hereby amended as follows:

Section 4. Ownership, Administrative, Enjoyment and Disposition of the Community Property

Art. 96. The administration and enjoyment of the community property shall belong to both spouses jointly. ~~In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.~~

However, in the event that one spouse is incapacitated or otherwise unable to participate in the administration of the common properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. ~~In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (206a)~~

Section 2. Section 5, Article 124 of the Family Code is hereby amended as follows:

Section 5. Administration of the Conjugal Partnership Property

Art. 124. The administration and enjoyment of the conjugal partnership shall belong to both spouses jointly. ~~In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.~~

However, in the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. ~~In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (165a)~~

Section 3. Separability Clause – If any provision of this Act is found unconstitutional or invalid, the other provisions not affected by such declaration shall remain in full force and effect.

Section 4. Repealing Clause – Any law, decree, ordinance or administrative order not consistent with any provision of this Act is hereby declared amended, repealed or modified accordingly.

Section 5. Effectivity Clause – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in to (2) newspapers of general circulation.

Approved,