

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

Sixteenth Congress
Second Regular Session

House Bill No. 5170



Introduced by AKBAYAN Representatives
Ibarra "Barry" M. Gutierrez III and Walden F. Bello

EXPLANATORY NOTE

Act No. 3815 or *The Revised Penal Code of the Philippines* was enacted in 1932 replacing the old *Penal Code* which was, in turn, based on the 1870 *Codigo Penal de Espana*. Theft was rewritten in the *Revised Penal Code* and is defined as an act "committed by any person who, with intent to gain but without violence against, or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent."

The penalty for the crime of theft is generally dependent on the corresponding value of the personal property stolen. For example, and according to Article 309 of the *Revised Penal Code*, when the value of the thing stolen exceeds 102,000 pesos the imposable penalty is imprisonment for twenty (20) years.

Other offenses which punish unlawful taking are defined in the *Revised Penal Code* (for example, robbery) and by other special penal laws (for example, plunder). A comparison of the imposable penalties for theft and for crimes of similar but graver nature would show that those for theft are heavier. Take the case of plunder, which is defined in Section 2 of Republic Act No. 7080 as:


"Section 2. *Definition of the crime of plunder; penalties.*—Any public officer who, by himself or in connivance with members of his family, relative by affinity or consanguinity, business

associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt criminal acts as described in Section 1 (d) hereof in the aggregate amount or total value of at least fifty million pesos shall be guilty of the crime of plunder and shall be punished by *reclusion perpetua* to death
xxx”

Therefore, while a private individual who commits unlawful taking of property amounting to 102,000 pesos will have to endure twenty (20) years of imprisonment, a public official, who is given greater responsibility to uphold the laws of the land, will only be liable for plunder if the total value of public funds unlawfully taken amounts to 50,000,000 million pesos.

There is a need to adjust the penalties for theft to rationalize its penalty in relation to crimes of similar nature, and to ensure that imposable penalties are fair and just. Moreover, having been set more than eighty years ago, the scale of penalties provided in Article 309 of the *Revised Penal Code* for theft must be revised to attune to changing times.

In view of the foregoing, immediate approval of this measure is, therefore, earnestly sought.



IBARRA "BARRY" M. GUTIERREZ III



WALDEN F. BELLO

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AN ACT
AMENDING ARTICLES 309 AND 310 OF ACT NO. 3815, AS AMENDED,
OTHERWISE KNOWN AS THE "REVISED PENAL CODE OF THE
PHILIPPINES"

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

SECTION 1. Amendatory provisions.—

(a) Article 309 of Act No. 3815, as amended, otherwise known as the *Revised Penal Code* is hereby amended to read as follows:

"Article 309. Penalties.—Any person guilty of theft shall be punished by:

1. The penalty of ~~*prision mayor*~~ *prision correccional* in its minimum and medium periods, if the value of the thing stolen is ~~more than 12,000 pesos~~ does not exceed 22,000 ~~500,000~~ pesos; but if the value of the thing stolen exceeds ~~the latter amount~~ 500,000 pesos, the penalty shall be the medium and maximum periods of ~~the one prescribed in this paragraph~~ *prision correccional*, ~~and one year for each additional ten thousand pesos, but the total of penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the provisions of this Code,~~ the penalty shall be termed ~~*prision mayor* or *reclusion temporal*~~, as the case may be.

2. ~~The penalty of *prision correccional* in its medium and maximum, if the value of the thing stolen is more than 6,000 pesos but does not exceed 12,000 pesos.~~
3. ~~The penalty of *prision correccional* in its minimum and medium periods, if the value of the property stolen is more than 200 pesos but does not exceed 6,000 pesos.~~
4. ~~*Arresto mayor* in its medium period to *prision correccional* in its minimum period, if the value of the property stolen is over 50 pesos but does not exceed 200 pesos.~~
5. ~~*Arresto mayor* to its full extent, if such value is over 5 pesos but does not exceed 50 pesos.~~
6. ~~*Arresto mayor* in its minimum and medium periods, if such value does not exceed 5 pesos.~~
7. ~~*Arresto menor* or a fine not exceeding 200 pesos, if the theft is committed under the circumstances enumerated in paragraph 3 of the next preceding article and the value of the thing stolen does not exceed 5 pesos. If such value exceeds said amount, the provision of any of the five preceding subdivisions shall be made applicable.~~
8. ~~*Arresto menor* in its minimum period or a fine not exceeding 50 pesos when the value of the thing stolen is not over 5 pesos, and the offender shall have acted under the impulse of hunger, poverty, or the difficulty of earning a livelihood for the support of himself or his family."~~

(b) Article 310 of Act No. 3815, as amended, otherwise known as the *Revised Penal Code* is hereby amended to read as follows:

"Section 310. Qualified theft.—The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance shall be punished by the penalty of *prision correccional* in its maximum period and *prision mayor* in its minimum period, if the value of the thing stolen does not exceed 500,000 pesos; but if the value of the thing stolen exceeds the latter amount, the penalty shall be *prision mayor* in its minimum and medium periods."

SECTION 2. Retroactive effect.—Pursuant to Section 22 of the 1987 *Philippine Constitution* prohibiting the enactment of *ex-post facto* laws or bills of attainder and to Article

1 22 of the *Revised Penal Code*, the provisions of this Act shall have retroactive effect insofar
2 as they are favorable to the person charged or convicted under Articles 309 and 310 of the
3 *Revised Penal Code*, who is not a habitual criminal, as defined in Rule 5 of Article 62 of the
4 said *Code*, even if at the time of the publication of this Act a final sentence has been
5 pronounced and the convict is serving the same.

6
7 **SECTION 3. *Separability clause*.**—If any part, section or provision of this Act is held
8 invalid or unconstitutional, other provisions not affected thereby shall remain in full force
9 and effect.

10
11 **SECTION 4. *Repealing clause*.**—All laws, decrees, orders, rules and regulations or
12 other issuances, particularly that in the *Revised Penal Code*, which are inconsistent with the
13 provisions of this Act, are hereby repealed, amended, or modified accordingly. Articles 309
14 and 310 of the *Revised Penal Code* are amended accordingly.

15
16 **SECTION 5. *Effectivity*.**—This Act shall take effect fifteen (15) days after the
17 completion of its publication in the *Official Gazette* or in two (2) newspapers of general
18 circulation.

Approved,