

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS

Second Regular Session

House Bill No. 5254



Introduced by Hon. Delphine Gan Lee

EXPLANATORY NOTE

The intellectual property generated by Government-funded research represents a great opportunity to return social and economic value to taxpayers in return for public investment in research. The public interest in research outcomes needs to be protected both by the Government and by the beneficiaries of such awards, including research bodies that are the grant recipients. The application and utilization of the results of research grants can play a significant role in the development of new consumer and industrial products, of new industrial processes, and in the enhancement of the productivity and competitiveness of business involved in the production of existing products.

It is believed that the Government needs to manage its intellectual property effectively so that it is best utilized for the benefit of the Government, the taxpayers, and the private sector. It is submitted that agency and public authority policies should be appropriately formed and upheld in practice to ensure all participants in research and in commercialization of research discoveries understand their obligations and responsibilities.

This bill seeks to create an Intellectual Property Asset Management Advisory Council to recommend to the President how the Government should treat Government-owned intellectual property created under Government contracts, grants, and agreements in order to maximize their social and economic value to taxpayers.


HON. DELPHINE GAN LEE
Representative, AGRI Party-List

House Bill No. 5254

AN ACT
CREATING THE INTELLECTUAL PROPERTY
ASSET MANAGEMENT COUNCIL

(A) “Patentable inventions” means inventions that fall within the scope of patentable subject matter under the Intellectual Property Code of the Philippines, but are not yet the subject of an issued patent.

1 (B) "Patented inventions" means those rights reflected in subsisting patents issued by
2 Philippine Government, as well as the governments of those countries who are signatories to
3 treaties regarding intellectual property which have ratified by the Philippines.

4 (C) "Government-owned intellectual property rights" means any and all intellectual
5 property that is owned by the government, including all trademarks and service marks,
6 collective marks and certification marks, all copyrights, all trade secrets, all patentable
7 inventions, and all patented inventions.

8 (D) "President" means the President of the Republic of the Philippines.

9 SECTION 4. *The Intellectual Property Asset Management Advisory Council.* –

10 There is hereby created the Intellectual Property Asset Management Advisory Council to
11 develop recommendations to the President on how the Government should treat Government-
12 owned intellectual property created under Government contracts, grants, and agreements.

13 The Council shall consist of ten (10) members to be appointed as follows:

14 (A) One (1) shall be the Secretary of Trade and Industry, who shall also be the
15 Chairperson of the Council.

16 (B) One (1) shall be the Secretary of Science and Technology.

17 (C) One (1) shall be the Chairman of the National Economic Development Authority;

18 (D) Two (2) shall be a representative of State colleges and universities.

19 (E) Two (2) shall be a representative of private colleges and universities.

20 (F) Three (3) shall be representative of the private sector.

21 The representatives educational and private sector shall be individuals with
22 outstanding knowledge and leadership in one of the following fields: high-risk venture
23 investments in new scientific or technological businesses or new scientific or technological
24 product development; professional and business services with more than ten years of
25 experience in the licensing of intellectual property; patent, trademark, copyright, and trade

1 secrets law of the Governments; international patent law including patent cooperation
2 treaties; or university technology transfer and commercialization.

3 SECTION 5. *Terms of Office.* – All members of the advisory Council shall serve
4 for a term of two (2) years or until such time as the Council has completed its
5 recommendations to the President.

6 Notwithstanding any inconsistent provision of any general, special or local law,
7 ordinance, resolution or charter, no officer, member or employee of the Government or of
8 any public corporation shall forfeit his or her office or employment by reason of his or her
9 acceptance of appointment as a Member of the Advisory Council, nor shall service on the
10 Council be deemed incompatible or in conflict with such office or employment.

11 SECTION 6. *Provision for Actual and Necessary Expenses.* – The members of the
12 advisory council shall receive no compensation for their services, but shall be reimbursed for
13 the actual and necessary expenses incurred by them in the performance of their duties under
14 this Act.

15 SECTION 7. *Meetings.* – The Advisory Council shall meet regularly and at least
16 four times per year. Special meetings may be called by the Chairperson of the Council and
17 shall be called by him or her at the request of any of its members.

18 SECTION 8. *Recommendations to and Reports for the President.* –

19 (A) The advisory council shall submit its recommendations in writing to the
20 President within six (6) months after the first meeting of all ten members. The Council's
21 recommendations shall include, but not be limited to, the following:

- 22 (1) Whether all, none, or some of the rights arising out of the creation of
23 intellectual property should be dedicated to the public domain.

1 (2) The manner why which the Government should maximize the protection of
2 intellectual property that it owns.

3 (3) The manner by which Government employees and officials should be
4 made aware of the obligations, restrictions, requirements, and
5 opportunities regarding the protection and management of Government-
6 owned intellectual property.

7 (4) The manner by which Government employees and officials should be
8 informed on disclosure and whether a uniform system of disclosure should
9 be developed and implemented.

10 (5) The actions that are being taken by Government agencies, authorities,
11 boards, and commissions to manage Government-owned intellectual
12 property.

13 (6) The manner by which ownership rights should be determined when
14 intellectual property is created by Government employees in the course of
15 their Government employment.

16 (B) The Council shall also submit reports to the President providing guidance on
17 how to:

18 (1) Promote the utilization of intellectual property arising from Government-
19 supported contracts, grants, and agreements.

20 (2) Encourage maximum participation of small-business firms in licensing
21 Government-owned intellectual property.

22 (3) Promote collaboration between commercial concerns and Government
23 entities in commercializing Government-owned intellectual property.

24 (4) Ensure that there are mechanisms in place that allow the Government to
25 obtain certain minimal rights in Government-supported intellectual
26 property to meet the needs of the Government and protect the public

1 against nonuse or unreasonable use of such intellectual property.

2 SECTION 9. *Separability Clause.* – If any provision or part hereof, is held invalid or
3 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
4 valid and subsisting.

5 SECTION 10. *Repealing Clause.* – Any law, presidential decree or issuance,
6 executive order, letter of instruction, administrative order, rule or regulation contrary to, or
7 inconsistent with the provisions of this Act is hereby repealed, modified or amended
8 accordingly.

9 SECTION 11. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after
10 its publication in at least two (2) newspapers of general circulation.

11 Approved,