

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

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. 5518



Introduced by Magdalo Party-List Representatives
Hon. Francisco Ashley L. Acedillo and Hon. Gary C. Alejano

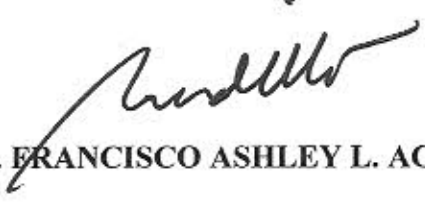
EXPLANATORY NOTE

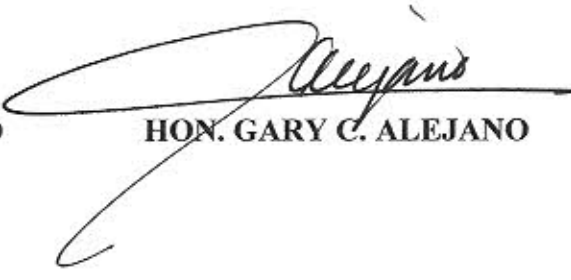
In a report released by the World Economic Forum (WEF) in 2014, the Philippines notched seven places higher in the WEF's Global Competitiveness Index for 2014-2015. In the report, the Philippines ranked 52nd out of 144 economies this year, up from the 59th spot among 148 countries in 2013. However, also according to the WEF Global Competitiveness Report, the Philippines ranked 91st out of 144 countries in terms of the overall quality of infrastructure, way behind our neighbors Malaysia (25th), Thailand (48th), and Indonesia (56th).

The persistence of bottlenecks in the infrastructure sector, as well as the problem with the acquisition of the Right-of-Way (ROW) in implementing infrastructure projects are seen as one of the reasons for weak investor outlook in the country leading to losses in much needed investments. Some ROW problems take time to resolve, while others weren't resolved at all putting imperil the timely implementation of projects that could provide socio-economic development.

In view of the foregoing, this proposed measure seeks to provide a solution to hasten the implementation of infrastructure projects by providing procedures in this proposed measure to speed up the acquisition of ROW without sacrificing transparency and accountability.

In view of the foregoing, immediate approval of this bill is earnestly requested.


HON. FRANCISCO ASHLEY L. ACEDILLO


HON. GARY C. ALEJANO

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AN ACT
TO ENABLE GOVERNMENT INFRASTRUCTURE PROJECTS AND PUBLIC-PRIVATE PARTNERSHIP (PPP) PROJECTS BY AMENDING REPUBLIC ACT NO. 8974, OTHERWISE KNOWN AS AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF WAY, SITES, OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE, APPROPRIATING 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. Declaration of Policy.** - Article III, Section 9 of the Constitution states
2 that private property shall not be taken for public use without compensation. Towards this end,
3 the State shall ensure that owners of real property acquired for national government
4 infrastructure projects are promptly paid just compensation, while providing for the expeditious
5 acquisition of the required right-of-way for the projects.

6
7 **SEC. 2. National Government Projects.** - The term "national government projects" shall
8 refer to all national government infrastructure and its public service facilities, engineering works
9 and service contracts, including projects undertaken by government-owned and -controlled
10 corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No.
11 7718, otherwise known as Build-Operate-and-Transfer Law, and other related and necessary
12 activities such as site acquisition, supply and/or installation of equipment and materials,
13 implementation, construction, completion, operation, maintenance, improvement, repair and
14 rehabilitation, regardless of the source of funding, subject to the provisions of the local
15 government code, local government units (LGUs) may also adopt the provisions of this act for
16 use in the acquisition of right-of-way for local government infrastructure projects.

17
18 **SEC. 3. Modes of Acquiring Real Property.** - The government may acquire real property
19 needed as right-of-way, site or location for any government infrastructure project through
20 donation, negotiated sale, expropriation or any other mode of acquisition as provided by law.
21 Pursuant to the objectives in Section 1 hereof, expropriation shall be considered as a preferential

1 mode of acquiring real property needed as a right-of-way, site or location for any government
2 infrastructure project.

3 In cases of lands granted thru Commonwealth Act 141 and its amendments, the
4 Implementing Agency shall:

5 (a) Follow the other modes of acquisition under Section 3 if landowner is not original
6 patent holder and not a holder thru gratuitous title; or

7 (b) Follow the provisions under Commonwealth Act 141 regarding acquisition of right-
8 of-way on patent lands, if the landowner is the original patent holder or his acquisition of said
9 land from the original patent holder is through gratuitous title.

10
11 The implementing agency shall utilize donation or similar mode of acquisition if the
12 landowner is a government-owned or controlled corporation.

13
14 **SEC. 4. Rules on Negotiated Sale.** - the implementing agency may offer to acquire,
15 through negotiated sale, the right-of-way, site or location for a national government
16 infrastructure project, under the following rules:

17 a) The Implementing Agency shall make an offer only once to the property owner
18 concerned, as compensation price, the sum of:

19 i. The current market value of the land, as determined, pursuant to Section 6 hereof by:
20 (a) the implementing agency, (b) the provincial, city or municipal assessor's office,
21 (c) a government financing institution with adequate experience in property appraisal
22 or (d) an independent property appraiser accredited by the Bangko Sentral ng
23 Pilipinas (BSP) or a professional association of appraisers recognized by BSP to be
24 procured as mentioned in Section 4(a). All relevant agencies and/ or associations
25 shall, within 60 days from the approval of this act, prepare an appraisal and/ or
26 accreditation program in accordance with the provisions of this Act;

27 ii. The replacement cost of structures and improvements therein as determined by
28 Section 5(a)(ii); and

29 iii. The current market value of crops and trees therein. To determine the said price offer,
30 the implementing agency may engage services of a Government Financing Institution
31 with adequate experience in property appraisal, or an independent property appraiser
32 accredited by the Bangko Sentral ng Pilipinas (BSP) or professional association of
33 appraisers recognized by BSP to be procured by the Implementing Agency under the
34 provisions of Republic Act No. 9184 and its implementing rules and regulations
35 pertaining to consulting services if the property owner does not accept this price offer,
36 the Implementing Agency shall initiate expropriation proceedings pursuant to section
37 5, hereof.

1 The property owner is given thirty (30) days within which he shall decide whether
2 to accept the offer as payment for his property or not. Upon refusal of the property owner
3 of such offer or if he fails and/or refuses to submit documents necessary for payment, the
4 implementing agency shall immediately initiate an expropriation proceeding as provided
5 in Section 5 herein.

6
7 b) The above provision pertaining to Section 4(a)(ii) shall also apply to all owners of
8 structures and improvements who do not have legally recognized rights to the land and who meet
9 all of the following criteria:

- 10 i. Must be a Filipino citizen.
11 ii. Must not own any real property or any other housing facility, whether in an urban or
12 rural area.
13 iii. Must not be a professional squatter or a member of a squatting syndicate, as defined
14 in Republic Act no. 7279, otherwise known as the Urban Development and Housing
15 Act, as amended.

16
17 With regard to the taxes and fees relative to the transfer of title of the property to
18 the republic through negotiated sale, the implementing agency shall pay, for the account
19 of the seller, the capital gains tax, as well as the documentary stamp tax, transfer tax and
20 registration fees while owner shall pay unpaid real property tax.

21
22 The implementing agency shall remit to the local government unit the amount
23 corresponding to any unpaid real property tax, subject to deduction of this amount from
24 the total negotiated price, provided, however, that the said amount is not more than the
25 negotiated price;

26
27 c) If requested by the property owner, the implementing agency shall remit to the
28 LGU concerned the amount corresponding to any unpaid real property tax, subject to the
29 deduction of this amount from the total negotiated price.

30 d) The property owner and the Implementing Agency shall execute a deed of
31 absolute sale, provided that the property owner has submitted to the implementing agency the
32 transfer certificate of title, tax declaration, real property tax certificate, and other documents
33 necessary to transfer the title to the Republic, the Implementing Agency shall cause the
34 annotation of the deed of absolute sale on the transfer certificate of title.

35 e) Upon execution of Deed of Sale, the Implementing Agency shall pay the property
36 owner:

- 37 i. Fifty percent (50%) of the negotiated price of the affected land, exclusive of taxes
38 remitted to the LGU concerned under Section 4(d) above; and

- 1 ii. Seventy percent (70%) of negotiated price of affected structures, improvements, crops
2 and trees, exclusive of real property tax in no. 5 above.

3
4 f) The Implementing Agency shall, at the times stated below, pay the property
5 owner the remaining fifty percent (50%) of the negotiated price of the affected land, and thirty
6 percent (30%) of the affected structures, improvements, crops and trees, exclusive of unpaid
7 taxes remitted to the LGU concerned under Section 4(d) above, provided that the land is already
8 completely cleared of structures/ improvements, crops and trees:

- 9
10 i. At the time of the transfer of title in the name of republic, in cases where the land is
11 wholly affected or;
12 ii. At the time of the annotation of a deed of sale on the title, in cases where the land is
13 partially affected.

14
15 The provisions of Section 4(a) shall also apply to outstanding claims for right-of-
16 way payments, except that the amount to be offered shall be the price at the time of
17 taking of the property, including legal interest until fully paid.

18
19 **SEC. 5. Guidelines for Expropriation Proceedings.** - Whenever it is necessary to
20 acquire real property for the right-of-way, site or location for any national government
21 infrastructure through expropriation, the appropriating implementing agency, through the Office
22 of the Solicitor General, the Office of the Government Corporate Counsel, or their deputized
23 government or private legal counsel, shall immediately initiate the expropriation proceedings
24 and/ or enforcement of lien proceedings for lands covered by free or homestead patents pursuant
25 to Commonwealth Act 141 before the proper court under the following guidelines:

26 a) Upon the filing of the complaint or at any time thereafter, and after due notice to
27 the defendant, the implementing agency shall immediately deposit to the court in favor of the
28 owner the amount equivalent to the sum of:

- 29 i. One hundred percent (100%) of the value of the land based on the current relevant
30 zonal valuation of the Bureau of Internal Revenue (BIR), issued not more than three
31 (3) years prior to the filing of the expropriation complaint subject to Section 5(c)
32 below;
33 ii. The replacement cost of structures and improvements therein as determined pursuant
34 to Section 4(a)(ii); and,
35 iii. The current market value of crops and trees located within the property as determined
36 by a government financial institution or an independent property appraiser to be
37 selected as mentioned in Section 4(a).

1 For utility posts, pipes, wires and the like placed by utility companies with
2 government franchises, the costs of relocating them shall not be included in the cost
3 determined herein.
4

5 If, within seven (7) days after the deposit to the court of the amount equivalent to the sum
6 of Section 5(a)(i) to 5(a)(iii), the court has not issued to the implementing agency a Writ of
7 Possession for the affected property, then the counsel of the implementing agency shall
8 immediately seek from the court the issuance of the Writ of Possession ex parte. No hearing shall
9 be required in the issuance of such Writ of Possession. The court shall issue the Writ of
10 Possession within fifteen (15) days from the filing of the complaint.
11

12 In the enforcement of lien proceedings, the court shall immediately issue a Writ of
13 Possession similar to that granted in expropriation cases.
14

15 The court shall release the said amount to the owner upon presentation of sufficient
16 proofs of ownership.

17 b) In case the owner cannot be found, unknown, or deceased in cases where the
18 estate has not been settled, after exerting due diligence, or there are conflicting claims over the
19 ownership of the property and improvements and/or structures thereon, the implementing agency
20 shall deposit the amount equivalent to the sum of Sections 5(a)(i) to 5(a)(iii) above to the court
21 for the benefit of the person to be adjudged in the same proceedings as entitled thereto.
22

23 If, within seven (7) working days after the deposit to the court of the amount equivalent
24 to the sum of sections 5(a)(i) to 5(a)(iii), the court has not issued to the implementing agency a
25 Writ of Possession for the affected property, then the counsel of the implementing agency shall
26 immediately seek with the court the issuance of the Writ of Possession.
27

28 The court shall release the said amount to the person adjudged in the same expropriation
29 proceeding as entitled thereto.
30

31 c) In provinces, cities, municipalities and other areas where there is no land
32 classification, the city/municipal assessor is hereby mandated within the period of sixty (60) days
33 from date of filing of expropriation case, to come up with the required land classification and the
34 corresponding declaration of real property and improvement for said area. In provinces, cities,
35 municipalities and other areas where there is no zonal valuation, and/ or where the zonal
36 valuation is more than three years, the BIR is hereby mandated within the period of sixty (60)
37 days from the date of filing of the expropriation case, to come up with a zonal valuation for said
38 area, based on the land classification done by the city or municipal assessor.

1 d) With reference to section 5(a)(i), in case the completion of a government
2 infrastructure is of utmost urgency and importance, and there is no land classification or no
3 existing zonal valuation of the area concerned and/or the zonal valuation is more than three
4 years, the implementing agency shall use the EIR zonal value and land classification of similar
5 lands within the adjacent vicinity, as the basis for the valuation.

6
7 e) In any of the cases in Section 5(a), (b), (c), and (d) above upon its receipt of the
8 Writ of Possession issued by the court, the implementing agency may take possession of the
9 property and start the implementation of the project.

10
11 f) In the event that the owner of the property contests the implementing agency's
12 proffered value, the court shall determine the just compensation to be paid the owner within sixty
13 (60) days from the date of filing of the expropriation case when the decision of the court
14 becomes final and executory, the Implementing Agency shall pay the owner the difference
15 between the amount already paid and the just compensation as determined by the court.

16
17 g) With regard to the taxes and fees relative to the transfer of title of the property to
18 the republic through expropriation proceedings, the implementing agency shall pay the
19 documentary stamp tax, transfer tax and registration fees, while the owner shall pay the capital
20 gains tax and any unpaid real property tax.

21
22 **SEC. 6. Standards for the Assessment of the Value of the property subject to**
23 ***Negotiated Sale and expropriation.*** - In order to facilitate the determination of just
24 compensation, the court may consider, among other well-established factors, the following
25 relevant standards:

- 26 a) The classification and use for which the property is suited;
27 b) The developmental costs for improving the land;
28 c) The value declared by the owners;
29 d) The current selling price of similar lands in the vicinity;
30 e) The reasonable disturbance compensation for the removal and/or demolition of
31 certain improvement on the land and for the value of improvements thereon;
32 f) This size, shape or location, tax declaration and zonal valuation of the land;
33 g) The price of the land as manifested in the ocular findings, oral as well as
34 documentary evidence presented; and
35 h) Such facts and events as to enable the affected property owners to have sufficient
36 funds to acquire similarly-situated lands of approximate areas as those required from them by the
37 government, and thereby rehabilitate themselves as early as possible.

1 **SEC. 7. *Ecological and Environmental Concerns.*** - In cases involving the acquisition of
2 right-of-way, site or location for any national government infrastructure project, the
3 implementing agency shall take into account the ecological and environmental impact of the
4 project. Before any national government project could be undertaken, the agency shall consider
5 environmental laws, land use ordinances, and all pertinent provisions of Republic Act No. 7160,
6 as amended, otherwise known as the Local Government Code of 1991.

7
8 **SEC. 8. *Relocation of Informal Settlers.*** - The government, through the Housing and
9 Urban Development Coordinating Council (HUDCC) and the National Housing Authority
10 (NHA), in coordination with the LGU and implementing agencies concerned, shall establish and
11 develop resettlement site for informal settlers, including the provision of adequate basic services
12 and community facilities, in anticipation of informal settlers that have to be removed from the
13 right-of-way or site of future infrastructure projects, pursuant to the provisions of Republic Act
14 No. 7279. Whenever applicable, the implementing agency and/or concerned LGUs shall fund,
15 provide and administer the payment of financial assistance and/or resettlement sites.

16
17 In case the expropriated land is occupied by informal settlers who are unable or refuse to
18 demolish their structures and other improvements therein despite the Writ of Possession issued
19 by the court under Section 5, the court shall issue the necessary Writ of Demolition for the
20 purpose of dismantling any and all structures found within the subject property. The
21 implementing agency shall take into account and observe diligently the procedure provided for in
22 Sections 28 and 29 of Republic Act No. 7279.

23
24 **SEC. 9. *Appropriations for Acquisitions of Right-of-Way, Site or Location for National***
25 ***Government Infrastructure Projects in Advance of Project Implementation.*** - The Government
26 shall provide adequate appropriations that will allow the concerned implementing agencies to
27 acquire the required right-of-way, site or location for any national government infrastructure
28 project in advance of project implementation. These appropriations shall cover the funds needed
29 to cover the following expenses for activities directly related to right-of-way acquisition for the
30 projects as provided in this act;

- 31 a) Cost of parcellary surveys and appraisal of properties affected by the projects;
32 b) Cost of development and implementation of resettlement projects covered by this
33 act, including planning, social preparation, and other activities under the resettlement action
34 plan; and,
35 c) Related expenses of the Implementing Agency, including capital gains tax in the
36 case of negotiated sale under Section 4, documentary stamp tax, transfer tax and registration fees
37 for the transfer of titles, and other relevant administrative expenses for right-of-way
38 management.

1 In Public-Private Partnership (PPP) projects, the modalities of which are defined in
2 Republic Act 7718, the Implementing Agency may, as part of the contract terms and conditions
3 require the project proponent to (a) advance the funds covering the cost of the right-of-way
4 which shall be reimbursed later by the Implementing Agency or (b) finance the right of way cost
5 which shall be recovered partly or fully by the proponent from the tolls, fees, or tariffs to be
6 charged to the users of the completed project.

7
8 **SEC. 10. *Entry into Private Lands for Subsurface or Subterranean Works.*** - Whenever
9 necessary for a government infrastructure and development project to construct or install
10 underground works like railroads or tunnels in the subsurface or subterranean portion of lands
11 owned, occupied or leased by other persons, the government or any of its authorized
12 representatives may not be prevented from entering into the subsurface or subterranean portions
13 of such private lands by the surface owners or occupants if such entry is made more than fifteen
14 (15) meters from the surface.

15
16 **SEC. 11. *Regulation of Developments within Declared Right-of-way.*** - Upon the
17 approval of an infrastructure project by the head of the implementing agency concerned, with
18 funding authorized in the general appropriations act and with defined right-of-way, no National
19 Government Agency or LGU shall, within two years from date of notice of taking, allow any
20 development or construction, or issue any building, construction development or business permit,
21 which is contrary to the approved plans and purposes of the project, within the said right-of-way,
22 unless explicitly authorized by the head of the Implementing Agency for justifiable reasons.

23
24 **SEC.12. *Sanctions.*** - Violation of this act shall subject the government official or
25 employee concerned to appropriate administrative, civil and/or criminal sanctions, including
26 suspension and/or dismissal from the government service and forfeiture benefits.

27
28 **SEC. 13. *Rules and Regulations.*** - A committee composed of the Secretary of the
29 Department of Public Works and Highways as Chairperson, and Secretaries of the Department of
30 Transportation and Communications, the Department of Energy, the Department of Justice, the
31 Department of Budget and Management, the National Economic and Development Authority,
32 the Chairman of the Housing and Urban Development Coordinating Council, and other
33 concerned entities as determined by the committee as members, shall prepare, in consultation
34 with key stakeholders the necessary rules and regulations for the proper implementation of this
35 act within sixty (60) days from its approval.

1 **SEC. 14. *Transitory Clause.*** - The provisions of this act shall apply to all right-of-way
2 transactions, except ongoing transactions which, as of the effectivity of this act, have already
3 reached a written agreement as to the price between the implementing agency and the property
4 owner.

5
6 **SEC. 15. *Separability Clause.*** - If any provision of this Act is declared unconstitutional
7 or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force
8 and effect.

9
10 **SEC. 16. *Repealing Clause.*** - All laws, decrees, executive orders, proclamations, rules
11 and regulations and other issuances or parts thereof which are inconsistent with the provisions of
12 this Act are hereby repealed or modified accordingly.

13
14 **SEC. 17. *Effectivity Clause.*** - This act shall take effect after fifteen (15) days from its
15 publication in at least two (2) newspaper of general circulation.

Approved,