

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5379**



Introduced by **MAGDALO Party-List Representative**
HON. GARY C. ALEJANO

EXPLANATORY NOTE

Article XI, Section 12 of the 1987 Constitution provides that the Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

Nonetheless, contrary to the above constitutional mandate, the Office of the Ombudsman has, in the past received flak for its lackluster performance insofar as conviction rates are concerned - scoring only a few convictions in its 25-year history. A 2006 study conducted by the Center for People Empowerment in Governance (CenPeg) in partnership with the Transparency International (TI) reports that the Office of the Ombudsman has suffered a backlog of cases, while many cases said to have been disposed were actually dismissed or archived. The lack of prosecutors is one of the reasons why cases have languished in the Office.

Thus, this bill seeks to authorize the Office of the Ombudsman to hire private lawyers to act as investigators and/or prosecutors to assist in the prosecution of cases filed before it. Waiting for a substantial increase in the budget appropriated for the Office to cover the ideal number of lawyers may take years. Unless and until the number of lawyers is beefed up, dramatic improvement in prompt and fair disposition of cases by the Office of the Ombudsman is highly unlikely.

In view of the foregoing, immediate passage of this bill is earnestly sought.


GARY C. ALEJANO

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AN ACT
AMENDING SECTION 31 OF REPUBLIC ACT NO. 6770, OTHERWISE KNOWN AS
THE "OMBUDSMAN ACT OF 1989", AS AMENDED ALLOWING PRIVATE
LAWYERS TO ACT AS PROSECUTORS ON BEHALF OF THE OMBUDSMAN

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

SECTION 1. Section 31 of Republic Act No. 6770 is hereby further amended to read as follows:

"SEC. 31. Designation of Investigators and Prosecutors. – The Ombudsman may utilize the personnel of his office and/or designate or deputize any fiscal, state prosecutor or lawyer in the government services to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases, **THE OMBUDSMAN MAY ALSO DESIGNATE PRIVATE LAWYERS TO ACT AS INVESTIGATORS AND/OR PROSECUTORS TO ASSIST IN THE PROSECUTION OF CASES DECIDED HEREUNDER.** Those designated and deputized to assist him herein provided shall be under his supervision and control.

The Ombudsman and his investigators and prosecutors, whether regular members of his staff or designated by him as herein provided, shall have authority to administer oaths, to issue *subpoena* and *subpoena duces tecum*, to summon and compel witnesses to appear and testify under oath before them and/or bring books, documents and other things under their control, and to secure the attendance or presence of any absent or recalcitrant witnesses through application before the Sandiganbayan or before any inferior court having jurisdiction of the place where the witnesses or evidence is found.

"THE OMBUDSMAN MAY DESIGNATE PRIVATE LAWYERS TO ASSIST HIM IN THE PROSECUTION OF CASES IN THE FOLLOWING INSTANCES:

(A) CASES INVOLVING FORMER PRESIDENTS OF THE PHILIPPINES, FORMER VICE PRESIDENTS OF THE PHILIPPINES, INCUMBENT AND FORMER MEMBERS OF THE CABINET AND INCUMBENT AND FORMER UNDERSECRETARIES APPOINTED IN THE EXECUTIVE BRANCH;

(B) CASES REQUIRING SPECIALIZED AND EXPERT KNOWLEDGE AND TRAINING OF THE LAW;

(C) CASES WHERE THE PRIVATE LAWYER DEPUTIZED BY THE OMBUDSMAN IS ALSO THE COMPLAINANT IN THE FILING OF THE ORIGINAL COMPLAINT LODGED WITH THE OMBUDSMAN. WHERE THE COMPLAINANT IS NOT A LAWYER, THE OMBUDSMAN MAY ALSO

1 DESIGNATE OR DEPUTIZE THE PRIVATE LAWYERIS HIRED AND
2 ENGAGED BY THE SAID COMPLAINANT.

3
4 SEC. 31- A. *DEFINITION OF PRIVATE LAWYERS.* – FOR PURPOSES OF
5 THIS ACT, THE TERM PRIVATE LAWYER SHALL MEAN OR BE
6 UNDERSTOOD AS FOLLOWS:

7
8 (A) (I) ANY PERSON LEARNED IN THE LAW AS AN ATTORNEY, COUNSEL,
9 OR A PERSON LICENSED TO PRACTICE LAW

10
11 (II) ANY PERSON WHO PROSECUTES OR DEFEND CAUSES IN COURTS OF
12 RECORD OR OTHER JUDICIAL TRIBUNAL, OR WHOSE BUSINESS IS TO
13 GIVE LEGAL ADVICE OR ASSISTANCE IN RELATION TO ANY CAUSE OR
14 MATTER; OR

15
16 (III) ANY LAWYER WHO IS NOT EMPLOYED IN ANY GOVERNMENT
17 AGENCY AND NOT PAID OUT OF PUBLIC FUNDS; AND

18
19 (B) WITH AT LEAST FIVE (5) YEARS OF ACTIVE LITIGATION PRACTICE
20 OR EXPERIENCE.

21
22 "SEC. 31-B. *NATURE OF SERVICES.* - THE SERVICES RENDERED BY
23 THE PRIVATE LAWYERS UNDER AND PURSUANT TO THIS ACT SHALL
24 BE PRO BONO AND ON A PURELY VOLUNTARY BASIS EXCEPT THAT
25 INCIDENTAL, NECESSARY AND OUT-OF-POCKET EXPENSES SHALL BE
26 CHARGED AGAINST THE ACCOUNT OF THE OFFICE OF THE
27 OMBUDSMAN.

28
29 "SEC. 31-C. *PROHIBITION ON APPEARANCE.* – PRIVATE LAWYER'S
30 DESIGNATED BY THE OMBUDSMAN UNDER AND PURSUANT TO THIS
31 ACT AND THE FIRMS TO WHICH THEY BELONG SHALL, IN CASES
32 WHERE ACTUAL OR POTENTIAL CONFLICT OF INTEREST ARISES, BE
33 BARRED FROM APPERARING AS COUNSEL OR AGENT OF THE
34 OMBUDSMAN, AND FROM TRANSACTING BUSINESS DIRECTLY OR
35 INDIRECTLY WITH THE SAID OFFICE, WHILE THEY ARE DEPUTIZED TO
36 ASSIST THE OMBUDSMAN."

37
38 SEC 2. *Separability Clause.* – If any provision of this Act is declared invalid or
39 unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in
40 force and effect.

41
42 SEC. 3. *Repealing Clause.* – All laws, decrees, ordinances, rules and regulations,
43 executive or administrative orders, and other presidential issuance inconsistent with this Act, are
44 hereby repealed, amended or modified accordingly.

45
46 SEC. 4. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete
47 publication in at least two (2) newspapers of general circulation.

Approved,