

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 5395



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

EXPLANATORY NOTE

Infrastructure development plays a vital role in shaping our country's economy. Improved infrastructure in the country would help us attract more investors to invest in our country which would then lead to a more productive and prosperous economy. Annually, the government allocates a substantial portion of its monetary fund to public works projects. However, the huge amount of money earmarked for the same are often vulnerable to anomalous acts, such as substandard work and the use of substandard materials.

Presidential Decree 1759 was signed in 1981 to prevent construction of public facilities that are substandard, as well as the use of materials that have poor quality. PD 1759 also imposes sanctions on violations of its provisions.

This bill seeks to strengthen PD 1759 by increasing the penal sanctions on the violations of the provision of this law from a minimum imprisonment of twelve (12) years to twenty (20) years. It also includes the use of premature deterioration of public works structure as *prima facie* evidence in determining the violation of the provisions of this law.

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


GARY C. ALEJANO

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5395**

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

AN ACT
INCREASING THE PENALTIES IMPOSED AGAINST CONTRACTORS AND
SUBCONTRACTORS WHO VIOLATE ANY MATERIAL PROVISION OF
CONTRACTS INVOLVING PUBLIC WORKS PROJECTS OF THE GOVERNMENT,
AND PUBLIC OFFICIALS WHO ALLOW SUCH VIOLATIONS, AMENDING FOR
THIS PURPOSE PRESIDENTIAL DECREE NO. 1759

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

1 **SECTION 1.** Section 1 of Presidential Decree No. 1759, is hereby amended to read as
2 follows:

3 "Section 1. - Any provisions of the law contrary notwithstanding,
4 contractors and sub- contractors who violate any material provision[s] of
5 contracts involving public works projects, either as to materials, quality and
6 quantity of work, resulting [to the] IN prejudice [of the] **TO THE** government,
7 shall suffer the penalty of **IMPRISONMENT RANGING** from [twelve (12)]
8 **TWENTY (20)** years to life [imprisonment], **A FINE RANGING FROM**
9 **FIFTY PERCENT (50%) TO TWO HUNDRED PERCENT (200%) OF**
10 **THE AMOUNT OF THE CONTRACT,** [at the discretion of the Court,] and
11 shall, in addition, suffer [perpetual disqualification from participating in any
12 government contracts,] **IPSO FACTO REVOCATION OF THEIR**
13 **CONTRACTOR'S LICENSES INCLUDING THE PROFESSIONAL**
14 **LICENSES OF EXECUTIVES IN CHARGE OF THE DESIGN AND**
15 **CONSTRUCTION OF THE PROJECT.**

16
17 The offending contractor or sub-contractor shall further be liable for the
18 cost of reconstructing such public works project in accordance with the
19 specifications agreed upon.
20

21 In case of corporations, partnerships or associations, the President,
22 General Manager or any responsible chief executive officer/ officers shall be
23 liable, **ANY PROPRIETORSHIP, CORPORATION, PARTNERSHIP,**
24 **ASSOCIATION, OR BUSINESS ORGANIZATION WHOSE**
25 **PROPRIETOR, STOCKHOLDER, PARTNER, MEMBER OR OFFICER**
26 **IS RELATED WITHIN THE FOURTH DEGREE OF CONSANGUINITY**
27 **OR AFFINITY TO THE PERSON CONVICTED OF VIOLATION OF**
28 **ANY OF THE ACTS PUNISHABLE UNDER THIS ACT IS**
29 **PROHIBITED FROM PARTICIPATING IN SAID GOVERNMENT**
30 **CONTRACT THE PREMATURE DETERIORATION OF ANY PUBLIC**
31 **WORKS PROJECT SHALL CONSTITUTE PRIMA FACIE EVIDENCE**
32 **OF VIOLATION OF SHALL CONSTITUTE PRIMA FACIE EVIDENCE**
33 **OF VIOLATION OF THE ACTS PUNISHABLE UNDER THE FIRST**

1 PARAGRAPH OF THIS SECTION, THE SECRETARY OF THE
2 DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS IS HEREBY
3 MANDATED TO PROMULGATE THE NECESSARY
4 IMPLEMENTING RULES AND 10 REGULATIONS TO EFFECTIVELY
5 CARRY OUT THE INTENT OF THE 11 PROVISIONS OF THIS
6 PARAGRAPH."
7

8 SEC.2. Section 2 is amended to read as follows:
9

10 "Any public official who, by reason of the duties of his office, shall
11 consent, or through abandonment or negligence, permit the contractor or
12 subcontractor to commit [the violations mentioned in Section I hereof,] ANY
13 OF THE ACTS PUNISHABLE UNDER THIS ACT shall suffer the penalty
14 of IMPRISONMENT RANGING from [twelve (12)] TWENTY (20) years to
15 life [imprisonment], A FINE EQUIVALENT TO THIRTY PERCENT
16 (30%) OF THE AMOUNT OF THE CONTRACT and perpetual
17 disqualification [to] FROM holding any public office, ANY
18 PROPRIETORSHIP, CORPORATION, PARTNERSHIP,
19 ASSOCIATION, OR BUSINESS ORGANIZATION WHOSE
20 PROPRIETOR, STOCKHOLDER, PARTNER, MEMBER OR OFFICER
21 IS RELATED WITHIN THE FOURTH DEGREE OF CONSANGUINITY
22 OR AFFINITY TO THE PUBLIC OFFICER IN OF OR ASSOCIATED
23 IN ANY MANNER WITH THE PROJECT BEING UNDERTAKEN IS
24 PROHIBITED FROM PARTICIPATING IN SAID GOVERNMENT
25 CONTRACT."
26

27 SEC. 3. Any provisions of law, degree, executive order or any issuance inconsistent
28 herewith are hereby repealed and/or modified accordingly.
29

30 SEC. 4. This Act shall take effect fifteen (15) days following completion of its
31 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,