

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5424**



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

EXPLANATORY NOTE

Proclamation No. 50, issued on 08 December 1986, launched a program for the disposition of non-performing assets of government financial institutions and government corporations that have been found unnecessary and inappropriate for the public sector to maintain. It created the Committee on Privatization (COP) and the Asset Privatization Trust (APT). These were replaced, however, by the Privatization Council (PrC) and the Privatization and Management Office (PMO) by virtue of Executive Order No. 323 issued on 06 December 2001.

Considering that there are still a number of government assets to be subsequently divested to the private sector, a specialized corporate body should therefore be organized.

This bill seeks to create the Government Asset Management Authority (GAMA), which shall pursue a coordinated and efficient program for the disposition and liquidation of non-relevant and non-performing government assets, including surrendered assets of the Presidential Commission on Good Government (PCGG). Consequently, it proposes to abolish the PC, PMO and the Board of Liquidators, and their respective properties, assets and liabilities, fund, and personnel immediately transferred to the GAMA.

The GAMA shall remit to the National Treasury any and all proceeds from the sale and disposition of government assets, in which 60% shall go to the special account of the Agrarian Reform Fund and 40% to the General Fund.

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


GARY C. ALEJANO

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AN ACT
CREATING THE GOVERNMENT ASSET MANAGEMENT AUTHORITY, DEFINING
ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES

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

1 **SECTION 1. Short Title.** - This Act shall be known as the "Government Asset
2 Management Act of 2017."
3

4 **SEC. 2. Declaration of Policy.** - It is hereby declared policy of the State to promote an
5 orderly, coordinated, and efficient program for the prompt disposition and liquidation of non-
6 relevant and non-performing assets of government agencies and government owned or controlled
7 corporations, including surrendered assets and idle properties which have been found
8 unnecessary or inappropriate for the government sector to maintain.
9

10 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms shall mean:
11

12 A) "Disposition" which shall also be known as "Privatization," refers to the transfer of
13 government corporations, activities, or assets of government or its agencies to private
14 ownership. It could also include sale of shares of stock, sale of physical assets,
15 leasing, concession, joint venture schemes, management or maintenance contracts, or
16 securitization.
17

18 B) "Assets" refer to: (1) receivables and other obligations due to the Government or its
19 agencies under credit, lease, indemnity, and other agreements together with all
20 collateral security and other rights (including but not limited to rights in relations to
21 shares of stock in corporation such as voting rights as well as right to appoint
22 directors of a corporation or otherwise engage in the management thereof granted to
23 the Government or its agencies by contract or operation of law to secure or enforce
24 the right of the payment of such obligation; (2) real and personal property of any kind
25 owned or held by the Government, including shares of stock in corporation, obtained
26 by the Government or its agencies, whether directly or indirectly, through foreclosure
27 or other means, in settlement of such obligations and surrendered assets within the
28 purview of Executive Order Nos. 1 and 2, series of 1986; (3) shares of stocks and
29 other investments held by the Government or its agencies; (4) government
30 corporations whether as parent or subsidiary corporations; and (5) such other items as
31 may be identified by law.
32

33 C) "Surrendered Assets" refer to any asset, property, business enterprise, or material
34 possession of persons ceded to the National Government by virtue of compromise
35 agreements entered into by the Presidential Commission on Good Government
36 (PCGG) pursuant to Executive Order Nos. 1 and 2, series of 1986. It shall also

1 include such similar assets that may be surrendered to the National Government in the
2 future.

3
4 D) "Idle Properties" refer to all real properties such as land, buildings, and other
5 improvements located in the Philippines and abroad owned by the National
6 Government through its departments, bureaus, offices, or agencies which have not
7 been substantially developed, improved, or cultivated for a period of more than five
8 (5) years as of the effectivity of this Act or thereafter.

9
10 E) "Board" refers to the Governing Board of the Government Asset Management
11 Authority constituted under this Act.

12
13 F) "Government-owned or Controlled Corporation (GOCC)" refers to a corporation
14 which is created by special law or incorporated and organized under the Corporation
15 Code and in which the government, directly or indirectly, has ownership of the
16 majority control and which is explicitly intended under that law and government
17 policy for ultimate transfer to private ownership under certain specified conditions
18 shall be considered a GOCC, until it is transferred to private ownership and control:
19 *Provided, however,* That an acquired asset corporation which is either (1) under
20 private ownership, the voting or outstanding shares of which (i) were conveyed to the
21 government or to a government agency, instrumentality or corporation in satisfaction
22 of debts whether by foreclosure or otherwise, or (ii) were duly acquired by
23 government through final judgment in a sequestration proceeding; or (2) a subsidiary
24 of a government corporation organized exclusively to own and manage, or lease, or
25 operate specific physical assets acquired by a government financial institution in
26 satisfaction of debts incurred therewith, and which in any case by law or by
27 enunciated policy is required to be disposed of to private ownership within a specified
28 period of time shall not be considered as GOCC or government corporation.

29
30 **SEC. 4. Creation of the Government Asset Management Authority.** - For the purpose of
31 carrying out the above-stated policy, there is hereby created a body corporate to be known as the
32 "Government Asset Management Authority," hereinafter referred to as the "Authority," which
33 shall have its principal office in Metropolitan Manila. The Authority may establish such branches
34 and offices as it may deem necessary for the attainment of the objectives of this Act. The
35 Authority shall be attached to the Department of Finance.

36
37 **SEC. 5. Powers and Functions.** - The Authority, in addition to the regular powers and
38 functions provided under the Corporation Code of the Philippines, shall have the following
39 powers and functions:

40
41 A) To develop and implement a comprehensive plan in identifying non-relevant and non-
42 performing assets of government agencies and government owned or controlled
43 corporations, government corporations whether parent or subsidiary, surrendered
44 assets, and idle properties for privatization;

45
46 B) To establish guidelines for the conversion, rehabilitation, and disposition of
47 government assets and corporations;

48
49 C) To approve or disapprove, on behalf of the National Government, the sale or
50 disposition of government assets;

51
52 D) To exercise on behalf of the National Government rights of ownership and/or
53 administration with respect to such assets, including the right to vote, whether directly
54 or through duly authorized nominees, shares of stocks held in the name of the
55 National Government;

- 1 E) To enter into contracts, acquire, purchase, hold, lease, transfer, and dispose of
2 property of any kind or nature necessary to carry out the purpose of this Act;
3
4 F) To establish, operate, manage, control, and supervise all activities connected with the
5 efficient management and disposition of government assets and corporations;
6
7 G) To receive and hold by request, donation, or by any gratuitous title and to manage or
8 administer or dispose any asset, grant, or property, real or personal, from foreign or
9 domestic sources, subject to such limitations as are provided in existing laws and
10 regulations;
11
12 H) To investigate and file cases in relation to conservation, rehabilitation, disposition,
13 and liquidation of non-relevant and non-performing assets of the government;
14
15 I) To undertake the conservation, rehabilitation, and disposition of non-relevant or
16 nonperforming government assets: *Provided*, That the budget for each rehabilitation
17 project shall be subject to prior approval of the Board;
18
19 J) To seek and secure the assistance of any office, agency, or instrumentality of the
20 government;
21
22 K) To issue such regulations as may be necessary for the proper use by private parties of
23 any or all of the Authority's properties and to impose fees or tolls for the use of such
24 properties;
25
26 L) To issue necessary guidelines to all government agencies to govern activities on the
27 disposal of government corporate assets;
28
29 M) To consult, deputize, or request the assistance of appropriate government agencies or
30 instrumentalities for the purpose of enforcing this Act and its implementing rules and
31 regulations, as well as the orders and decisions of the Authority;
32
33 N) To adopt, prescribe, and promulgate such rules and regulations as may be necessary
34 for the proper implementation of this Act;
35
36 O) To exercise the right of eminent domain as may be necessary for the purposes for
37 which the Authority is created; and
38
39 P) To do any and all acts and things and to exercise all powers which may be necessary
40 or convenient to the accomplishment or furtherance of its purposes and objectives, or
41 which a natural person can do and exercise and which may now be or hereafter be
42 authorized by law.

43
44 **SEC. 6. Governing Board.** - The affairs and business of the Authority shall be directed
45 and its properties managed and preserved by a Governing Board, hereinafter referred to as the
46 "Board", which shall be composed of the Secretary of the Department of Finance as the ex-
47 officio Chairman, and the following as members:

- 48
49 A) the Secretary of the Department of Justice;
50
51 B) the Director General of the National Economic and Development Authority;
52
53 C) the Secretary of the Department of Trade and Industry;
54
55 D) the Secretary of the Department of Budget and Management; and
56

- 1 E) two (2) representatives from the private sector to be appointed by the President of the
2 Philippines for a term of three (3) years: *Provided*, That the person appointed shall be
3 of good moral character, of unquestionable integrity, of known probity and
4 patriotism, and with experience of at least ten (10) years in business or finance:
5 *Provided, further*, That in the event of a vacancy, the successor appointed to fill the
6 same shall serve only the unexpired portion of the term of the member he succeeds to.
7

8 **SEC. 7. Meetings.** - The Board shall meet as frequently as is necessary to discharge its
9 responsibilities: *Provided*, That it shall meet at least once every month. The presence of a
10 majority of the members present at a meeting at which a quorum exists shall be adequate for any
11 decision by the Board. Whenever any member of the Board is unable to attend a particular
12 meeting, he may designate any of his immediate subordinate with the rank of undersecretary or
13 its equivalent to attend in his stead.
14

15 **SEC. 8. Per Diems.** - The members of the Board shall be entitled to receive per diem for
16 every meeting actually attended at rates to be approved by the President of the Philippines upon
17 the recommendation of the Department of Budget and Management.
18

19 **SEC. 9. Powers and Functions of the Board.** - The Board shall have the following
20 powers and functions:
21

- 22 A) To adopt the by-laws of the Authority and to revise the same as may be expedient;
23
24 B) To direct the management, operations, and administration of the Authority;
25
26 C) To approve the annual budget to cover the operations of the Authority based on
27 the following: (1) fees and charges imposed by the Authority; (2) payment for the
28 utilization of the projects of the Authority; and (3) annual appropriations and
29 other funds which Congress may approve for the Authority;
30
31 D) To formulate, revise, or adjust periodically all policies, plans and programs, and
32 to promulgate the necessary rules and regulations to carry out the purposes and
33 objectives of this Act;
34
35 E) To create the organizational structure and staffing pattern necessary for the
36 efficient management, operation, and administration of the Authority, subject to
37 the Civil Service laws, rules and regulations;
38
39 F) To fix the compensation, emoluments and allowances of the officers and
40 employees of the Authority, subject to existing laws, rules and regulations; and
41
42 G) To perform such other functions as may be necessary and proper for the effective
43 enforcement of this Act and to accomplish the purposes for which the Authority
44 was organized.
45

46 **SEC. 10. Administrator.** - The Authority shall have an Administrator to be appointed by
47 the President of the Philippines for a term of five (5) years unless sooner removed for cause. He
48 shall be a person of good moral character, of unquestionable integrity, of known probity and
49 patriotism, and with expertise and experience of at least ten (10) years in professional
50 management with a strong background in the legal profession, business, or finance. He shall
51 receive such compensation, allowances, and other emoluments as may be approved by the
52 President of the Philippines upon the recommendation of the Board.
53

54 **SEC. 11. Powers and Duties of the Administrator.** - The Administrator shall have the
55 following powers, duties, and responsibilities:
56

- 1 A) To submit to the Board, through the Chairman, policies and measures which, in
2 his judgment, are necessary to carry out the purposes and provisions of this Act;
3
4 B) To implement and execute the policies and measure approved by the Board;
5
6 C) To prepare the budget of the Authority for approval by the Board;
7
8 D) To appoint all employees of the Authority, except the heads of departments and
9 divisions whose appointments shall be made by the Board upon his
10 recommendation, and to remove, dismiss or otherwise discipline for cause such
11 employees in accordance with the Civil Service laws, rules, and regulations;
12
13 E) To represent the Authority in all dealings with other offices, agencies, and
14 instrumentalities of the Government and with all persons and entities, public or
15 private, domestic or foreign; and
16
17 F) To exercise such other powers as may be granted to him by the Board.
18

19 **SEC. 12. Legal Counsel.** - The Office of the Government Corporate Counsel shall be the
20 General Counsel of the Authority.
21

22 **SEC. 13. Utilization of Proceeds from Sale of Assets.** - Any or all proceeds from the sale
23 or any disposition of assets net of fees, related liabilities, and other reimbursable expenses related
24 to custodianship, marketing, selling, and disposition of assets of the Authority as defined in the
25 implementing rules and regulations to be issued by the Department of Finance pursuant to
26 Section 24 hereof, shall be remitted immediately to the National Treasury in the following
27 proportion: sixty percent (60%) to the special account to the Agrarian Reform Fund and forty
28 percent (40%) to the general fund. Provided, That in the case of proceeds from sale of transferred
29 assets recorded in the books of the Bureau of the Treasury, the check shall be made payable in
30 the name of the Treasurer of the Philippines and shall be remitted immediately to the National
31 Treasury in the same proportion as mentioned above.
32

33 With respect to the sale or other disposition of government owned or controlled
34 corporations, all government owned or controlled corporations except for the Government
35 Service Insurance System and the Social Security System, shall remit to the National Treasury at
36 least fifty percent (50%) of the net proceeds derived from the sale or disposition of assets. For
37 this purpose, net proceeds shall mean gross proceeds less related liabilities and selling expenses.
38

39 The preceding paragraphs, however, shall not apply to assets surrendered to or otherwise
40 recovered by Presidential Commission on Good Government. Any and all proceeds from the sale
41 or disposition of assets recovered by the PCGG shall be remitted to the National Treasury in a
42 special account for Agrarian Reform in accordance with the Comprehensive Agrarian Reform
43 Law: *Provided*, That recoveries relating to the coconut levy shall be deposited in a special
44 account in trust for coconut farmers.
45

46 **SEC. 14. Exemption from Taxes, Fees and Other Charges.** - The Authority, as well as
47 the corporations and assets held by it, shall be exempt from all taxes, fees, charges, imposts, and
48 assessments arising from or occasioned by the passing of title over such corporations or assets
49 from the government institutions to the Authority and/or from the Authority to a private
50 acquirer or buyer imposed by the National Government or any subdivision thereof including
51 but not limited to stock transfer taxes, capital gains tax, documentary stamps, registration fees
52 and the like: *Provided*, That in case the said government institutions acquired the said assets by
53 foreclosure, non-payment of similar taxes, fees, charges, imposts, and assessments shall not be a
54 bar to the consolidation of title in the foreclosing institutions and the subsequent passing of title
55 to the Authority or the corporations held by the Authority.
56

1 **SEC. 15. Publication.** - The sale or disposition of assets shall be published in at least
2 three (3) newspapers of general circulation for three (3) consecutive days: *Provided*, That the last
3 publication shall occur at least ten (10) days prior to the scheduled bidding or date of negotiation.
4

5 **SEC. 16. Restraining Order.** - No court or administrative agency in the Philippines,
6 except the Court of Appeals, shall issue any restraining order or writ of preliminary injunction
7 against the Authority in connection with the acquisition, sale, or disposition of assets in
8 accordance with this Act, nor shall such order or writ be issued against the purchaser of assets
9 sold or disposed of by the Authority to prevent such purchaser from taking possession of such
10 assets.
11

12 **SEC. 17. Public Accountability.** - To ensure public accountability, the Authority shall be
13 subject to the audit of the Commission on Audit and shall comply with all accounting and
14 auditing rules and regulations and those which it may hereafter promulgate of its constitutional
15 mandate.
16

17 **SEC. 18. Merit System.** - All officials and employees of the Authority shall be selected
18 and appointed on the basis of merit and fitness. The recruitment, transfer, promotion, and
19 dismissal of all its employees including temporary personnel shall be in accordance with Civil
20 Service law, rules, and regulations.
21

22 **SEC. 19. Transitory Provisions.** - The Privatization Council, the Privatization and
23 Management Office, and the Board of Liquidators are hereby abolished, and their powers and
24 functions, including their applicable funds and appropriations, records, equipment, facilities,
25 rights, other assets, and personnel shall thereafter immediately be transferred to the Authority.
26 All contracts and liabilities, if any, are hereby also transferred to and assumed by the Authority
27 and shall be acted upon in accordance with the Auditing and shall be acted upon in accordance
28 with the Auditing Code and other pertinent laws, rules, and regulations: *Provided*, That the
29 officers and employees of said agencies who will be needed for the continuity of the programs
30 shall continue in a holdover capacity until such time as the new officers and employees of the
31 Authority shall have been duly appointed pursuant to the provisions of this Act.
32

33 The management and disposition of surrendered assets as well as assets already recovered
34 by final judgment of the Presidential Commission on Good Government are hereby transferred to
35 the Authority.
36

37 Upon approval of this Act, the Commission on Audit shall undertake an examination of
38 all assets and liabilities remaining with the Privatization Council, the Privatization and
39 Management Office, and the Board of Liquidators. The Commission on Audit shall complete
40 such examination within one hundred eighty (180) days from the effectivity of this Act.
41

42 Lawsuits initiated by the Privatization Council, the Privatization and Management Office,
43 the Board of Liquidators, and the Presidential Commission on Good Government in so far as
44 surrendered assets are concerned, which are still pending before appropriate courts upon the
45 abolition of the said agencies, shall be pursued by the Office of the Government Corporate
46 Counsel until their proper termination in the name of or on behalf of the Government.
47

48 **SEC. 20. Structure and Staffing Pattern.** - Within thirty (30) days from the effectivity of
49 this Act, the Board of Directors, pursuant to Section 9(e) hereof shall create the organizational
50 structure and staffing pattern of the Authority, subject to the approval by the Department of
51 Budget and Management within ninety (90) days from submission thereof.
52

53 **SEC. 21. Separation and Retirement Benefits.** - The personnel of the herein abolished
54 agencies who are not absorbed in the new staffing pattern of the Authority shall be deemed
55 separated from the service and shall receive separation benefits in accordance with existing laws.
56 Those who are eligible and/or opt to retire shall be entitled to receive such benefits as authorized
57 under existing laws, rules, and regulations.

1
2 **SEC. 22. Appropriations.** - The amount necessary for the initial implementation of this
3 Act shall be taken from the existing appropriations under the current year's General
4 Appropriations Act of Privatization Council, the Privatization and Management Office, and the
5 approved budget of the Board of Liquidators for the current year by the Office of the President.
6 Thereafter, such sums as may be necessary for the continued operation of the Authority shall be
7 included in the annual General Appropriations Act.
8

9 **SEC. 23. Congressional Review.** - Every three (3) years after the effectivity of this Act.
10 Congress shall conduct a systematic evaluation of the Authority to determine whether or not its
11 performance, impact or accomplishment with respect to its mandates merits its continued
12 existence. Such evaluation shall be undertaken by the Committee on Government Corporations
13 and Public Enterprises of the Senate and the Committee on Government Enterprises and
14 Privatization of the House of Representatives which have legislative jurisdiction over the
15 Authority.
16

17 **SEC. 24. Implementing Rules and Regulations.** - Within sixty (60) days from the
18 approval of this Act, the Authority, with the Department of Finance, shall promulgate the
19 necessary rules and regulations for the efficient implementation of this Act: *Provided*, That the
20 rules and regulations shall be published in two (2) newspapers of general circulation.
21

22 **SEC. 25. Separability Clause.** - If for any reason, any provision of this Act or the
23 application thereof to any person or circumstances, is held invalid or unconstitutional, the
24 remaining provisions not affected thereby shall continue to be in full force and effect.
25

26 **SEC. 26. Repealing Clause.** - Executive Order No. 372 (s. 1950), Executive Order No.
27 323 (s. 2000), Republic Act No. 8758, Executive Order No. 12 (s. 1998), Republic Act No. 7886,
28 Republic Act No. 7661, Executive Order No. 37 (s. 1992), Executive Order No. 11 (s. 1992),
29 Republic Act No. 7181, Administrative Order No. 14 (s. 1987), Proclamation No. 50, and
30 Proclamation 50-A are hereby repealed. All other laws, decrees, orders, proclamations, rules and
31 regulations, or parts thereof, inconsistent with or contrary to the provision of this Act or its
32 purposes are hereby repealed, amended or modified accordingly.
33

34 **SEC.27. Effectivity.** - This Act shall take effect fifteen (15) days after its publication in
35 the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,