

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

8035
House Bill No. _____



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

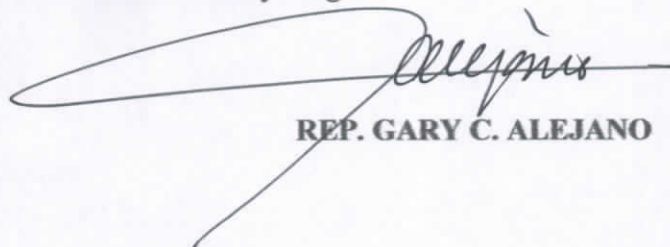
EXPLANATORY NOTE

Under this proposed measure, which shall be known as the RICO Act, Government shall provide for extended criminal penalties and a civil cause of action for acts performed as part of ongoing criminal organization. This Act shall primarily focus on racketeering and shall make it possible for leaders of syndicates to be tried for the crimes which they ordered others to do or assisted them in doing.

This piece of legislation is crucial given the enduring prevalence of organized crime syndicates in the country, who misdeeds have caused much destruction and grief. This law shall aid our law enforcement agencies and most importantly, the Judiciary who has been witness to a great number of arrests and charges against alleged kidnap-for-ransom groups, as well as gambling and drug syndicates, only to end up being acquitted for lack of corroborating evidences.

Furthermore, the passage of this bill shall be the high point of the countless Congressional investigations on organized crime and other such illegal activities, since it will warrant the government to sequester assets acquired illegally from people involved in such dealings.

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


REP. GARY C. ALEJANO

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Introduced by **MAGDALO Party-List Representative**
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1 **AN ACT**
2 **CURTAILING THE ILLEGAL ACTIVITIES OF RACKETEERS AND POWERFUL**
3 **SYNDICATES IN THE PHILIPPINES**
4

5 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
6 *assembled,*
7

8 **SECTION 1. Short Title.**—This Act shall be known as the Racketeer-Influenced and
9 Corrupt Organizations (RICO) Act.
10

11 **SEC. 2. Declaration of Policy.**—It is hereby declared the policy of the State to promote and
12 maintain a sound economy anchored on legitimate business enterprises and transactions and fueled
13 by honest capital derived from legitimate and lawful sources and activities. It is likewise the policy
14 of the State to curb organized crime, sophisticated crimes, and the laundering of the proceeds of
15 these crimes into legitimate business and activities by depriving the criminals the opportunity to
16 enjoy the proceeds of their wrongdoings.
17

18 **SEC. 3. Liberal Construction.**—The Provisions of this Act shall be liberally construed to
19 effectuate the policy declared under this Act. However, the constitutional rights of any person
20 accused under this Act shall not be impaired.
21

22 **SEC. 4. Definitions**—For the purposes of this Act:
23

24 a) **Person** is an individual, association, partnership, corporation, entity or any group of
25 individuals, associations, corporations or entities.
26

27 b) **Enterprise** is any legitimate business or establishment formed as corporation,
28 partnership, single proprietorship, formal or informal association, or as a group of individuals
29 whether possessed of juridical personality or not.
30

31 c) **Racketeering activity** whether by an organized conspiracy or by an individual, is any
32 attempt or act involving all of the following crimes of kidnapping, for the purpose of ransom;
33 murder for money; arson; robbery; illegal possession of firearms, and explosives for purposes of
34 gunrunning, whether syndicated or not; bribery; other graft and corrupt practices; syndicated illegal
35 gambling; organized syndicated carnapping; piracy; hijacking; illegal logging; illegal mining;
36 illegal recruitment; smuggling; illegal fishing; fencing, as a result of theft or robbery; importation,

1 manufacture, sale, administration, delivery, distribution and transportation of prohibited drugs and
2 maintenance of a drug den; large-scale swindling; syndicated film piracy; electronic and computer
3 software piracy and/or fraud; counterfeiting; violation of intellectual property rights; monopolies
4 and combination in restraint of trade; syndicated land grabbing and falsification of land titles,
5 whether private or public land; securities fraud, bank frauds; and sexual exploitation of children as
6 defined under existing and similar general and special laws and other acts of similar nature where
7 the objective is to raise money or generate funds.

8
9 d) **Pattern** of racketeering activity requires at least two (2) predicate acts of racketeering
10 activity, one of which occurred after the effectivity of this Act and the other occurring either within
11 ten (10) years before the one occurring after the effectivity of this Act or within ten years after the
12 one occurring after the effectivity of this Act.

13
14 e) **Racketeering Investigator** is an attorney or investigator so designated by the Secretary
15 of Justice or the Solicitor General to serve as racketeer document custodian and charged with the
16 duty of enforcing or carrying into effect the provisions of this Act.

17
18 f) **Dummy** is a person secretly acting for another who is apparently representing his own
19 interests; tool of another.

20
21 g) **Sequestration** means taking into custody or placing under the State's control or
22 possession any asset, fund, or other property, as well as records, papers and documents in order to
23 prevent their concealment, destruction, impairment, or dissipation pending the determination
24 whether the said asset, fund or property is ill-gotten or a result of any illegal activities punished
25 under this Act.

26
27 **SEC. 5. Prohibited Activities.**—It shall be unlawful for any person to:

28
29 a) Knowingly participate, either directly or indirectly with or in an enterprise conducting a
30 pattern of racketeering activity;

31
32 b) Received any money or property derived directly or indirectly, from a pattern of
33 racketeering activity, or act as dummy of any person in order to hide or conceal money or property
34 acquired through racketeering activities as defined herein;

35
36 c) Use or invest directly or indirectly, any part of the money or property received or
37 derived, directly or indirectly, from a pattern of racketeering activity in any interest in or control of
38 any business enterprise.

39
40 d) Acquire or maintain through a pattern of racketeering activity, directly or indirectly, any
41 interest in or control of any business or enterprise.

42
43 e) Conspire in the conduct of any unlawful acts provided herein.

1 **SEC. 6. Penalties.**—Any person who commits any of the prohibited activities under Section
2 5 of this Act shall, upon conviction, be penalized by imprisonment of not less than ten (10) years
3 nor more than twenty (20) years and if found guilty of a racketeering activity for which the
4 maximum penalty includes life imprisonment, the penalty shall be life imprisonment, and a fine of
5 not less than One Hundred Thousand Pesos (P100,000.00) nor more than One Million Pesos
6 (1,000,000.00).

7
8 **SEC. 7. Forfeiture.**—In addition to penalties provided in Sec. 6 of this Act, any person
9 convicted of any prohibited activities provided under Section 5 hereof shall forfeit in favor of the
10 Philippine Government:

11
12 a) any interest acquired or maintained through racketeering activity or a pattern of
13 racketeering activity;

14
15 b) any interest in, security of, claim against, or property or contractual right of any kind
16 affording a source of influence over any enterprises which any person has established, operated,
17 controlled, conducted, or participated in the conduct of such unlawful acts; and

18
19 c) any property constituting, or derived from any proceeds which the person obtained
20 directly or indirectly, from racketeering activities.

21
22 All rights, titles and interest in property described in the preceding paragraph shall be vested
23 in the Philippine government upon the commission of the act giving rise to forfeiture under this
24 section. The manner of disposition thereof shall be in accordance with Section 14 of this Act.

25
26 **SEC. 8. Jurisdiction.**—Any of the regional trial courts of the place where any of the
27 racketeering activity has been committed including those with jurisdiction over heinous crimes,
28 shall have jurisdiction over cases filed under this Act and applications for forfeiture including
29 petitions for temporary restraining order or injunction under the next succeeding section regardless
30 of the location of any property subject to forfeiture or where the person resides or where the
31 enterprise is located.

32
33 **SEC. 9. Sequestration.**—All known properties of the defendant shall be subjected to
34 sequestration upon the filing of a criminal complaint against him.

35
36 **SEC. 10. Temporary Restraining Order.**—A temporary restraining order effective for sixty
37 (60) days may be issued upon application by the Secretary of Justice or the Solicitor General
38 without notice or opportunity for a hearing before, during or after the filing of the information
39 directing the defendant or any person acting on his behalf to desist from disposing and to preserve
40 the availability of the property for forfeiture, if the Philippine government demonstrates that there is
41 probable cause to believe that the property would be subject to forfeiture and that the provision of
42 notice will jeopardize the availability of the property for forfeiture.

43
44 **SEC. 11. Preliminary Injunction.**—Within sixty (60) days after the issuance of a temporary
45 restraining order, the court shall conduct a hearing with notice to all properties concerned. A writ of
46 preliminary injunction shall be issued if the court determines that:

1
2 a) There is a substantial probability that the Philippine government will prevail on the issue
3 of forfeiture and that failure to issue the writ will result in the property being destroyed, removed,
4 disposed of or otherwise made available for forfeiture; and
5

6 b) The need to preserve the availability of the property through the writ outweighs the
7 hardship on any party against whom it is directed.
8

9 **SEC. 12. Required Evidence.**—In the hearing for the prosecution of cases filed under this
10 Act, the sole testimony of a participant or conspirator, if credible, can be the basis for conviction of
11 the other defendants: provided that, for purposes of the hearing for the writ of preliminary
12 injunction, the court shall not be bound by the technical rules on evidence under the rules of the
13 court; provided further, that the evidence was taken without violating the constitutional rights of the
14 accused.
15

16 **SEC. 13. Judgment of Forfeiture.**—Upon conviction of person under this section, the court
17 shall enter a judgment of forfeiture of the property in favor of the Philippine government and shall
18 authorize the Secretary of Justice or the Solicitor General to seize all properties ordered forfeited:
19 provided that, the judgment of forfeiture in the original case shall be without prejudice to the right
20 of the government to initiate further forfeiture proceedings on properties of the accused which may
21 later on be discovered as part or the proceeds of the commission of the crime of racketeering.
22

23 **SEC. 14. Disposition of Forfeited Property.**—Following the seizure of the property, the
24 Secretary of Justice or the Solicitor General shall direct the disposition of the property by sale or
25 any other commercially feasible means pursuant to existing laws, rules and regulations on the sale
26 of government properties. Any property right or interest not exercisable by or transferable for value
27 to the Philippine government shall expire and shall not revert to the defendant, nor shall the
28 defendant or any person acting on his behalf be eligible to purchase forfeited property at any sale
29 held by the Philippine government.
30

31 **SEC. 15. Restitution of Property to Victims.**—The court entering the judgment of
32 conviction and forfeiture, upon finality of the decision, shall hear petitions by victims of
33 racketeering activity for restitution of property or compensation. The court may order portions of
34 the proceeds of the sale of forfeited property deposited with the National Treasury to be paid to
35 victims.
36

37 **SEC. 16. Rights of Third Parties.**—No party claiming an interest in the property subject to
38 forfeiture may:
39

40 a. Intervene in a trial or appeal of a criminal case involving forfeiture of such
41 property; or
42

43 b. Commence an action at law or equity nor may any court issue a restraining order
44 or injunction against the Philippine government concerning the validity of his alleged interest
45 in the property subject to forfeiture.
46

1 However, any person, other than the defendant asserting a legal interest property ordered
2 forfeited may, within thirty (30) days from publication by the Secretary of Justice or Solicitor
3 General of the judgment for forfeiture in two (2) national papers of general circulation in the
4 Philippines, petition the court for a hearing to adjudicate the validity of his alleged interest in the
5 property.
6

7 **SEC. 17. *Substitution of Other Properties.***—The court shall order the substitution and/or
8 forfeiture of any other property of the defendant equivalent to value of any property described in
9 Section 7, if any of the said properties:
10

- 11 a. Cannot be located upon the exercise of due diligence;
- 12 b. Has been transferred or sold to a third party who acquired the same in good faith;
- 13 c. Has been placed beyond the jurisdiction of the courts;
- 14 d. Has been substantially diminished in value; or
- 15 e. Has been commingled with other property, which cannot be divided without
16 difficulty.
17

18
19 **SEC. 18. *Civil Remedies.***—
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21

22 a. The Secretary of Justice or the Solicitor General may initiate civil action in any of
23 the regional trial courts of the place where any element of any racketeering activity has been
24 committed, which shall have jurisdiction to prevent or restrain unlawful acts provided under
25 Section 5 hereof, irrespective of where the person resides or is found or where the enterprise
26 or property is located by issuing appropriate orders, including but not limited to:
27

- 28 1. Ordering any person to divest himself of any interest, direct or indirect in
29 any enterprise;
- 30 2. Imposing reasonable restrictions on the future activities or investments of
31 any person including, but not limited to, prohibiting any person from
32 engaging in the same type of endeavor as the enterprise engaged in; or
33 3. Ordering the dissolution or reorganization of any enterprise, making
34 provision for the rights of innocent persons.
35

36 A final judgment rendered in favor of the Philippine government in any criminal proceeding
37 shall be an estoppel for the defendant from denying the essential allegations of the criminal offense
38 in any subsequent civil proceedings brought by the Philippine government.
39

40 b. Any person injured in his person, business or property or his heirs, by reason of
41 prohibited activities under Section 5 hereof, may sue therefor in the appropriate regional trial court
42 as provided in the preceding paragraph and may be entitled to recover threefold the damages he
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1 sustains and the cost of the suit, including a reasonable attorneys fees against all persons found
2 guilty under this Act.

3
4 **SEC. 19. Expedited Action.**—In any civil action instituted under the preceding Section, the
5 regional trial court shall expeditiously try and hear the case, giving it preference to the same over all
6 other civil cases.

7
8 **SEC. 20. Subpoena Duces Tecum.**—

9
10 a. Whenever the Secretary of Justice of the Solicitor General has reason to believe
11 that any person or enterprise may be in possession or control of any documentary materials
12 relevant to a racketeering investigation, he may, prior to the institution of a criminal or civil
13 proceedings, apply with the court for the issuance of a subpoena duces tecum thereon,
14 requiring such person to produce such materials for examination/
15

16 b. Any person who has duly served with subpoena duces tecum shall make available
17 for inspection, copying or reproduction to the custodian designated therein at any place
18 agreed upon and shall certify under oath that the copies are true reproductions of the original, which
19 certified copies shall be admissible in court as originals.

20
21 c. While in the possession of the custodian, no material so reproduced shall be
22 available for examination, without the consent of the person who produced such material, by
23 any individual other than the Secretary of Justice or Solicitor General.

24
25 **SEC. 21. Statue of Limitations.**—One of the predicate acts of racketeering must have been
26 committed within ten (10) years of the date of the information, otherwise violations of this Act shall
27 be deemed to have prescribe.

28
29 **SEC. 22. Consolidation of Cases.**—The trial for criminal liability for each predicate act of
30 racketeering activity shall be consolidated with the court hearing the RICO case.

31
32 **SEC. 23. Repealing Clause.**—All laws, decrees, orders, rules and regulations or parts
33 thereof inconsistent with this Act are hereby amended, repealed or modify accordingly.

34
35 **SEC. 24. Separability Clause.**—If for any reason, any part or provision of this Act shall be
36 held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby
37 shall continue to be in full force and effect.

38
39 **SEC. 25. Effectivity.**—This Act shall take effect fifteen (15) days after its complete
40 publication in at least two (2) national newspapers of general circulation.

Approved,