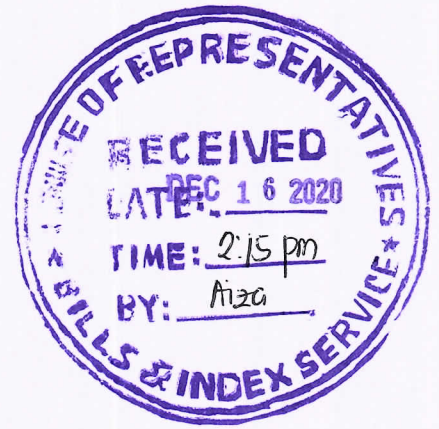


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8266



Introduced by Representatives HORACIO P. SUANSING, JR. and ESTRELLITA B. SUANSING

AN ACT

INCREASING THE VALUE OF MONEY AND THE PENALTIES FOR MALVERSATION OF PUBLIC FUNDS, AMENDING FOR THE PURPOSE ARTICLES 217, 218, 219, 220, 221, AND 222 OF ACT NO. 3815, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AS AMENDED, AND FOR OTHER PURPOSES

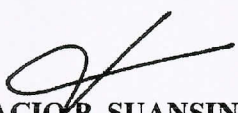
EXPLANATORY NOTE

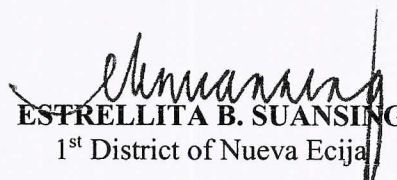
Republic Act No. 10951, otherwise known as "An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code", was approved on 29 August 2017. It served to modify, among others, misappropriated monetary values of Malversation of Public Funds or Property to reflect the prevailing value of our Philippine Peso accordingly. However, it failed to upgrade the corresponding penalties taking into account the gravity of such offenses.

Despite the voluminous developments concerning graft and corruption in recent decades which have obstructed progress in the country for multitudes of reasons, the statutes in place that governed the subject of Malversation of Public Funds or Property have barely exacted any considerable retribution against those guilty of such crimes. According to the World Financial Review, the Philippines has lost almost \$10 billion annually due to illicit financial flows, allowing the practice to "become a way of life in high places in government."¹ Indubitably, corruption undermines economic development and raises the cost of accessing financial markets such as obtaining favorable credit ratings, investments, and multi-lateral agreements, while resources are allocated to rent-seeking rather than productive activities.

In the effort to revisit the existing provisions of the Revised Penal Code pertaining to this subject, this measure endeavors to upgrade the corresponding penalties in accordance to what I believe are the commensurate punishments at this day and age.

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


HORACIO P. SUANSING, JR.
2nd District of Sultan Kudarat


ESTRELLITA B. SUANSING
1st District of Nueva Ecija

¹ World Financial Review, The Economic Costs of Corruption in Philippines, November 12, 2018, available at <https://bit.ly/3nM7pm3>

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SECTION 1. Article 217 of Act No. 3815, otherwise known as the Revised Penal Code, as amended, is hereby further amended to read as follows:

"ART. 217. *Malversation of public funds or property. - Presumption of malversation.* - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

"1. The penalty of *prision correccional* in its medium [and maximum period[s], if the amount involved in the misappropriation or malversation does not exceed [Forty thousand pesos (P40,000)] ONE HUNDRED THOUSAND PESOS (P100,000).

"2. The penalty of *prision mayor* in its minimum [and medium] period[s], if the amount involved is more than [Forty thousand pesos (P40,000)] ONE HUNDRED THOUSAND PESOS (P100,000) but does not exceed [One million two hundred thousand pesos (P1,200,000)] EIGHT HUNDRED THOUSAND PESOS (P800,000).

"3. The penalty of *prision mayor* in its MEDIUM [maximum] period to *reclusion temporal* in its minimum period, if the amount involved is more than [One million two hundred thousand pesos (P1,200,000)] EIGHT HUNDRED THOUSAND PESOS (P800,000) but does not exceed [Two million four hundred thousand pesos (P2,400,000)] TWO MILLION PESOS (P2,000,000).

"4. The penalty of *reclusion temporal*, in its medium and maximum periods, if the amount involved is more than [Two million four hundred thousand pesos (P2,400,000)] TWO MILLION PESOS (P2,000,000) but does not exceed [Four million four hundred thousand pesos (P4,400,000)] FOUR MILLION PESOS (P4,000,000).

"5. The penalty of *reclusion temporal* in its maximum period, if the amount involved is more than [Four million four hundred thousand pesos (P4,400,000)] FOUR MILLION PESOS (P4,000,000) but does not exceed [Eight million eight hundred thousand pesos (P8,800,000)] SIX MILLION PESOS (P6,000,000). If the amount exceeds the latter, the penalty shall be *reclusion perpetua*.

"In all cases, persons guilty of malversation shall, also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

"The failure of a public officer to have duly forthcoming any public funds or property with which he OR SHE is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he OR SHE has put such missing funds or property to personal uses."

SECTION 2. Article 218 of the same Code, is hereby amended to read as follows:

"ART. 218. *Failure of accountable officer to render accounts.* - Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the Commission on Audit, or to a provincial auditor and who fails to do so for a period of two (2) months after such accounts should be rendered, shall be punished by *prision correccional* in its minimum period, or by a fine ranging from [Forty thousand pesos (P40,000)] ONE HUNDRED THOUSAND PESOS (P100,000) to [One million two hundred thousand pesos (P1,200,000)] to FOUR HUNDRED THOUSAND PESOS (P400,000), or both."

SECTION 3. Article 219 of the same Code, is hereby amended to read as follows:

"ART. 219. *Failure of a responsible public officer to render accounts before leaving the country.* - Any public officer who unlawfully leaves or attempts to leave the Philippines without securing a certificate from the Commission on Audit showing that his OR HER accounts have been finally settled, shall be punished by [*arresto mayor*] *PRISION CORRECCIONAL* IN ITS MINIMUM PERIOD, or a fine ranging from [Forty thousand pesos (P40,000) to Two hundred thousand pesos (P200,000)] ONE HUNDRED THOUSAND PESOS (P100,000) to FOUR HUNDRED THOUSAND PESOS (P400,000), or both."

SECTION 4. Article 220 of the same Code is hereby amended to read as follows:

Art. 220. [Illegal use of public funds or property] **TECHNICAL MALVERSATION.** — Any public officer who shall apply any public funds or property under his OR HER administration to any public use other than for which such funds or property were appropriated by law or ordinance shall suffer the penalty of [prision correccional in its minimum period] *PRISION MAYOR* IN ITS MINIMUM AND MEDIUM PERIODS or a fine [ranging from one-half to the total value of the sum] **EQUIVALENT TO FIFTY PERCENT OF THE SUM OR VALUE OF THE PROPERTY** as applied, if by reason of such misapplication, any damage or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine **RANGING** from [5 to 50 per cent of the sum] **TO FIFTY PERCENT OF THE SUM OR VALUE OF THE PROPERTY** as applied.

SECTION 5. Article 221 of the same Code is hereby amended to read as follows:

"ART. 221. *Failure to make delivery of public funds or property.* — Any public officer under obligation to make payment from Government funds in his possession, who shall fail to make such payment, shall be punished by [*arresto mayor*] *PRISION MAYOR* IN ITS MINIMUM AND MEDIUM PERIODS and a fine from five (5) to twenty-five (25) percent of the sum which he failed to pay.

"This provision shall apply to any public officer who, being ordered by competent authority to deliver any property in his OR HER custody or under his OR HER administration, shall refuse to make such delivery.

"The fine shall be graduated in such ease by the value of the thing: *Provided*, That it shall not be less than Ten thousand pesos (P 10,000)."

SECTION 6. Article 222 of the same Code is hereby amended to read as follows:

Art. 222. [Officers] **PERSONS** included in the preceding provisions.— The provisions of this chapter shall apply to private individuals who, in any capacity [whatever] **WHATSOEVER**, have charge of any [insular, provincial, or municipal] **PUBLIC** funds, revenues, or property and to any administrator or depository of funds or property attached, seized, or deposited by public authority, even if such property belongs to a private individual.

SECTION 7. In case the penalty of imprisonment as adjusted under this Act is reduced to six (6) years or less, the accused whose case is pending appeal or the convict who is serving sentence shall have the right to apply for the benefits of Republic Act No. 10592: *Provided*, That if the penalty as reduced herein has already been fully served together with the adjustments for good behavior under Article 97 of the Revised Penal Code, the convict shall be released immediately or, if he is out on parole or under the Indeterminate Sentence Law, as amended, he shall be entitled to final release and discharge.

SECTION 8. All laws, decrees or executive orders and issuances and rules and regulations which are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modifies accordingly.

SECTION 9. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,