



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 8634



Introduced by Representative Junie E. Cua
Lone District, Quirino

AN ACT
AMENDING REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS
“THE SECRECY OF BANK DEPOSITS LAW”

EXPLANATORY NOTE

Sixty-six (66) years ago, in 1955, Republic Act No. 1405 or the law prohibiting disclosure of or inquiry into, deposits with any banking institution, was enacted primarily to deter private hoarding, boost the economy, and enhance state protection of privacy rights. Thereafter, Rep. Act No. 1405 was amended by Presidential Decree (“PD”) No. 1792, which expanded the exceptions to the absolute confidentiality rule, including instances when the examination is made in the course of a special or general examination of a bank and is specifically authorized by the Monetary Board after being satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity has been or is being committed, and that it is necessary to look into the deposit to establish such fraud or irregularity. However, PD No. 1792 was later expressly repealed by Rep. Act No. 7653, otherwise known as “The New Central Bank Act,” effectively reinstating the version of Rep. Act No. 1405 prior to PD No. 1792.

However, decades after the enactment of Rep. Act No. 1405, the financial sector landscape has evolved such that transactions and financial products became more complex. Financial technology made transactions easier to execute at the shortest possible time and capital flowed freely into the Philippine economy. These innovations and ease of transactions enabled, necessitated and encouraged Filipinos to place their money in the banks, and spurred the economy to some extent. Somehow, the objectives of Rep. Act No. 1405 to deter private hoarding and boost the economy are achieved. However, with Rep. Act No. 1405, there are depositors who hide behind the cloak of deposit secrecy to perpetuate their ingenious ways of defrauding counterparties, regulators or the government.

Existing secrecy of bank deposit laws of the Philippines are more constraining for prudential supervision than similar laws in other jurisdictions.¹ A review of 49 countries assessed against the Basel Core Principles (BCP) since 2012² shows that only one other country – Lebanon³ – has similar limitations for prudential supervision as the Philippines.⁴ This limitation impedes transparent governance and anti-corruption mechanisms.

Other jurisdictions with strong bank secrecy arrangements have provided their prudential authority with unrestricted access to all bank records.⁵ In well-known international financial centres like Switzerland, Singapore and Hong Kong, the prudential supervisors have the power to access all bank records, including depositor information.⁶ This power is, however, combined with clear and strong professional secrecy arrangements.⁷

Hence, to address the unintended consequences of the secrecy of bank deposit laws, and heed the call of the global community for a more transparent financial system environment, RA No. 1405 should be amended, **which will be limited only within the very narrow confines of banking supervision**. This will effectively restore the authority of BSP to examine bank deposits under PD No. 1792.

One of the significant amendments proposed in the bill is the inclusion of the inquiry or examination made by BSP, **in the exercise of its supervisory powers**, as one of the exceptions to the prohibition to examine, inquire or look into deposits, provided that: (i) there is reasonable ground to believe that a fraud, serious irregularity or unlawful activity has been or is being committed by the stockholder, owner, director, trustee, officer or employee of an entity that is subject to the supervision or regulatory power of BSP, his representative or agent, or any individual in conspiracy with the aforementioned persons,; and (ii) it is necessary to look into the deposit to establish such fraud, irregularity or unlawful activity. It is also suggested that the authority of BSP to inquire or examine deposit shall apply in the course of its investigation of closed banks.

The results of such inquiry and examination shall be for the exclusive use of BSP and shall not be made available to any person or entity, whether public or private, except to the Securities and Exchange Commission, Philippine Deposit Insurance Corporation, Anti-Money Laundering Council, Department of Justice, and the courts.

The foregoing exemptions are recommended to also apply to foreign currency deposits in banks operating in the Philippines including off-shore branches of domestic banks.

¹ International Monetary Fund Financial Sector Assessment Program, Background Note (Draft), Bank Secrecy Impediments to Financial Sector Supervision. March 2020. p. 15.

² When the revised BCP framework was published.

³ According to the Lebanon Law on Banking Secrecy (1956), banks are subjected to bank secrecy. Bank managers and employees who by virtue of their position have access to bank books and operation may not disclose information on client names funds or personal matter to any party. Violation of the secrecy provision is punishable by three to twelve months imprisonment.

⁴ *Supra*, note 1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

In addition, the bill proposes to consider the use of the Act for persecution or harassment as one of the unlawful acts under the Act. It is believed that the amendment to Rep. Act No. 1405 should not be used to facilitate harassment or malicious prosecution. Such will prevent to a great extent the indiscriminate disclosure by any person who may have obtained any information on deposits, thereby adversely affecting the privacy of a depositor.

In view of these premises, the immediate passage of this bill is earnestly recommended.



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

SECTION 1. Section 2 of Republic Act No. 1405, otherwise known as “The Secrecy of Bank Deposits Law” is hereby amended to read, as follows:

“SECTION 2. All deposits, ~~of whatever nature~~ **AS DEFINED UNDER REPUBLIC ACT NO. 3591, AS AMENDED,** ~~with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities,~~ are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited ~~or invested~~ is the subject matter of the litigation, **OR IN CASES WHERE THE INQUIRY OR EXAMINATION IS MADE BY THE BANGKO SENTRAL NG PILIPINAS,** IN THE EXERCISE OF ITS SUPERVISORY POWERS, **PROVIDED THAT, UPON DETERMINATION BY THE MONETARY BOARD, THERE IS REASONABLE GROUND TO BELIEVE THAT A FRAUD, SERIOUS IRREGULARITY OR UNLAWFUL ACTIVITY HAS BEEN OR IS BEING COMMITTED BY THE STOCKHOLDER, OWNER, DIRECTOR, TRUSTEE, OFFICER OR EMPLOYEE OF AN ENTITY THAT IS SUBJECT**

TO THE SUPERVISION OR REGULATORY POWER OF THE *BANGKO SENTRAL NG PILIPINAS*, HIS REPRESENTATIVE OR AGENT, OR ANY INDIVIDUAL IN CONSPIRACY WITH THE AFOREMENTIONED PERSONS, AND THAT IT IS NECESSARY TO LOOK INTO THE DEPOSIT TO ESTABLISH SUCH FRAUD, IRREGULARITY OR UNLAWFUL ACTIVITY. THE AUTHORITY OF THE *BANGKO SENTRAL NG PILIPINAS* TO INQUIRE AND EXAMINE DEPOSITS SHALL ALSO APPLY IN THE COURSE OF ITS INVESTIGATION OF CLOSED BANKS.

THE RESULTS OF THE ABOVEMENTIONED INQUIRY OR EXAMINATION SHALL BE FOR THE EXCLUSIVE USE OF THE *BANGKO SENTRAL NG PILIPINAS* AND SHALL NOT BE MADE AVAILABLE TO ANY PERSON OR ENTITY, WHETHER PUBLIC OR PRIVATE, EXCEPT TO THE SECURITIES AND EXCHANGE COMMISSION, PHILIPPINE DEPOSIT INSURANCE CORPORATION, ANTI-MONEY LAUNDERING COUNCIL, DEPARTMENT OF JUSTICE, AND THE COURTS.

FURTHER, THE FOREGOING EXEMPTIONS SHALL APPLY TO FOREIGN CURRENCY DEPOSITS IN BANKS OPERATING IN THE PHILIPPINES INCLUDING OFF-SHORE BRANCHES OF DOMESTIC BANKS.”

SECTION 2. Section 3 of Republic Act No. 1405, is hereby amended to read as follows:

“SECTION 3. It shall be unlawful for any official, employee, of a banking institution OR THE *BANGKO SENTRAL NG PILIPINAS*, to disclose to any person other than those mentioned AND UNDER SUCH CONDITIONS PROVIDED in Section 2 hereof, information concerning said deposits. IT SHALL ALSO BE UNLAWFUL FOR ANY PERSON TO USE THIS ACT FOR PERSECUTION OR HARASSMENT OR AS AN INSTRUMENT TO HAMPER COMPETITION IN TRADE AND COMMERCE.”

SEC. 3. *Separability Clause.* If any provision or section of this Act is held to be unconstitutional or invalid, the other provisions or sections hereof, which are not affected thereby shall continue to be in full force and effect.

SEC. 4. *Repealing Clause.* The following are hereby repealed subject to the provisions of this Act:

- a. Sections 2, 3, 4 and 6 of Republic Act No. 1405, as amended, also known as the “Secrecy of Bank Deposits Act”;

- b. Sections 8 and 12-A of Republic Act No. 6426, as amended, also known as the “Foreign Currency Deposit Act of the Philippines,” with respect to foreign currency deposits;
- c. Section 6 Republic Act No. 8367, also known as the “Revised Non-Stock Savings and Loan Association act of 1997,” with respect to all deposits of whatever nature with a Non-Stock Savings and Loan Associations as provided under Republic Act No. 8367;
- d. Section 33 of Republic Act No. 6848, also known as the “Charter of the Al-Amanah Islamic Investment Bank of the Philippines,” with respect to banking transactions relating to all deposits of whatever nature as provided under Republic Act No. 6848;
- e. Section 26(a)(2) of Republic Act No. 7353, also known as the Rural Banks Act of 1992, as amended; and
- f. Section 21(a)(2) of Republic Act No. 7906, also known as the Thrift Banks Act of 1995.

All other Acts or parts of Acts, Special Charters, Executive Order, Rules and Regulations, which are inconsistent with the provisions of this Act, are hereby repealed.

SEC. 5. *Effectivity.* This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a newspaper of general circulation in the Philippines.