



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
Second Regular Session

HOUSE BILL NO. 9331



Introduced by **Representative Sharon S. Garin**

EXPLANATORY NOTE

The 1987 Constitution provides that private property shall not be taken for public use without just compensation.

It has been consistently held by the Supreme Court in many cases that “just compensation” is the full and fair equivalent of the loss of the property taken from its owner. Compensation should be real, substantial, full and ample. In addition, the concept of “just compensation” means not only the correct determination of the amount due to the property owners but also payment to him of the amount due within a reasonable time from the taking of the property.

This vital concern of the property owner, however, should be balanced with the duty and obligation of the Government to complete its infrastructure projects at the soonest possible time, whether undertaken on its own or in partnership with the private sector. As we are all aware, infrastructure projects are hampered due to delays in acquiring right-of-way sites.

Republic Act (RA) No. 10752 was enacted in 2016 to address most of the right-of-way concerns with the objective of timely completion/implementation of government's infrastructure projects. Nevertheless, such law needs to be updated as there are other right-of-way acquisition difficulties that are being encountered both by the Government and property owners which results in slow progress in ROW acquisition.

This bill proposes, among others, the following:

1. The use of the current market value of the property or the current zonal value, whichever is higher, both under a negotiated sale or expropriation proceedings;
2. Clarify that all taxes and fees arising from the acquisition, with the exception of real property taxes, shall be for the account of the Government;
3. Payment in full of the acquired property subject to the execution of the deed of sale, submission of all the necessary documents, and transfer of possession of the property to the Government;
4. Provide procedure and requirements for acquiring untitled lands;
5. Direct the inclusion in the Implementing Rules and Regulation of the procedure to be followed in case the property to be acquired is subject to any lien or encumbrance; and
6. Provide compensation to public utility companies in case of relocation of utilities.

As ROW acquisition is crucial for timely completion of infrastructure projects, there is a need to amend RA 10752 to help the Government acquire project site within the shortest possible time and at the same time ensure that property owners receive just compensation in exchange for their properties.

In view thereof, the passage of this bill is earnestly requested.

A stylized, handwritten signature in black ink, consisting of a large, flowing 'S' that loops around and ends with a horizontal stroke.

SHARON S. GARIN
Party List, AAMBIS-OWA



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 9331

Introduced by **Representative Sharon S. Garin**

**AN ACT AMENDING, AMONG OTHERS, SECTIONS 4 AND 5 OF
REPUBLIC ACT NO. 10752 OTHERWISE KNOWN AS
“THE RIGHT-OF-WAY ACT”**

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

Section 1. Section 5 of the Republic Act No. 10752 is hereby further amended to
read as follows:

“SEC. 5. *Rules on Negotiated Sale* – The implementing agency may offer
to acquire, through negotiate sale, the right-of-way site or location for a national
government infrastructure project, under the following rules:

(a) The implementing agency shall offer to the property owner concerned,
as compensation price, the sum of:

(1) The current market value of the land **OR ITS ZONAL
VALUATION OF THE BUREAU OF INTERNAL
REVENUE (BIR) ISSUED NOT MORE THAN THREE (3)
YEARS PRIOR TO THE SALE, WHICHEVER IS HIGHER,**

(2) x x x

x x x

If the property owner does not accept the price offer **WITHIN THE PERIOD PRESCRIBED UNDER THIS SECTION 5**, the implementing agency shall initiate expropriation proceedings pursuant to Section 6 hereof.

The property owner is given thirty (30) days **FROM THE TIME A FORMAL OFFER IS GIVEN BY THE RELEVANT IMPLEMENTING AGENCY AND THE OFFER IS RECEIVED BY THE PROPERTY OWNERS**, to decide whether or not to accept the offer as payment for his property. x x x

x x x

- (c) With regard to the taxes and fees relative to the transfer of title of the property to the Republic of the Philippines through negotiated sale, [the implementing agency shall pay, for the account of the seller,] the capital gains tax, [as well as the] documentary stamp tax, transfer tax and registration fees[,] **SHALL BE FOR THE ACCOUNT OF THE IMPLEMENTING AGENCY** while the **PROPERTY** owner shall pay any unpaid real property tax **AS OF THE DATE OF THE EXECUTION OF THE DEED OF ABSOLUTE SALE. THE PROPERTY OWNER SHALL NOT BE HELD LIABLE FOR THE CAPITAL GAINS TAX DUE ON THE SALE OF THE PROPERTY PURSUANT TO THIS SECTION 5.**

x x x

- (e) **SIMULTANEOUS WITH THE EXECUTION OF THE DEED OF ABSOLUTE SALE BY T**[T]he property owner and the implementing agency, [shall execute a deed of absolute sale: Provided, That] the property owner **SHALL DELIVER** [has submitted] **to the implementing agency THE ORIGINALS OF the FOLLOWING DOCUMENTS PERTAINING TO THE PROPERTY: (1) THE OWNER'S DUPLICATE OF THE ORIGINAL CERTIFICATE OF TITLE OR Transfer Certificate of Title, AS THE CASE MAY BE, (2) THE Tax Declaration, (3) THE Real Property Tax CLEARANCE Certificate, and (4) SUCH** other documents necessary to transfer the title to the Republic of the Philippines. The implementing agency shall cause the **ISSUANCE OF A NEW** [annotation of the deed of absolute sale on the] Transfer Certificate of Title **IN ITS NAME; PROVIDED, THAT, IN CASE OF UNTITLED LANDS SUBJECT OF ACQUISITION THROUGH NEGOTIATED SALE, THE PROPERTY OWNER SHALL BE COMPENSATED FOR THE VALUE OF THE LAND EQUIVALENT TO THE SUM UNDER SUBPARAGRAPHS (A)(1) TO (A)(3) OF THIS SECTION UPON**

**SUBMISSION BY THE PROPERTY OWNERS OF THE
FOLLOWING:**

- (1) TAX DECLARATION SHOWING THE PROPERTY OWNER AND HIS PREDECESSORS' OPEN AND CONTINUOUS POSSESSION OF THE PROPERTY FOR AT LEAST TEN (10) YEARS;**
- (2) AFFIDAVIT OF TWO (2) DISINTERESTED PERSONS WHO ARE RESIDING IN THE BARANGAY OR CITY OR MUNICIPALITY WHERE THE LAND IS LOCATED, ATTESTING TO THE TRUTH OF THE FACTS THAT THE PROPERTY OWNER HAS, EITHER BY HIMSELF OR THROUGH HIS PREDECESSOR-IN-INTEREST, ACTUALLY OCCUPIED AND CONTINUOUSLY POSSESSED THE LAND FOR AT LEAST FIVE (5) YEARS, UNDER A BONA FIDE CLAIM OF ACQUISITION OF OWNERSHIP;**
- (3) REAL PROPERTY TAX CERTIFICATE;**
- (4) CERTIFICATION FROM THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES THAT THE LAND IS ALIENABLE AND DISPOSABLE;**
- (5) TECHNICAL DESCRIPTION AND MAP BASED ON AN ACTUAL SURVEY CONDUCTED BY A LICENSED GEODETIC ENGINEER AND APPROVED BY THE DENR; AND**
- (6) OTHER DOCUMENTS THAT WILL SHOW PROOF OF OWNERSHIP.**

(f) Upon the execution of a deed of sale AND PROVIDED POSSESSION OF THE PROPERTY, INCLUDING ANY IMPROVEMENTS THEREON CAN ALREADY BE TRANSFERRED TO [,] the implementing agency, THE IMPLEMENTING AGENCY shall pay the property owner:

(1) [Fifty]ONE HUNDRED percent ([5]100%) of the negotiated price of the affected land, LESS [exclusive of] ANY REAL PROPERTY taxes remitted to the LGU concerned under subparagraph (d) herein; and

(2) [Seventy] ONE HUNDRED percent ([7]100%) of the negotiated price of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under subparagraph (d) herein.

(g) IN THE EVENT THAT ONLY A PORTION OF A REAL PROPERTY IS NEEDED AS RIGHT-OF-WAY SITE OR

105 LOCATION FOR ANY NATIONAL GOVERNMENT
106 INFRASTRUCTURE, THE PROVISIONS OF SECTION 5
107 SUBPARAGRAPHS (A) TO (F) SHALL LIKEWISE APPLY
108 *MUTATIS MUTANDIS* TO SUCH PORTION BEING
109 ACQUIRED. THE IMPLEMENTING AGENCY SHALL BE
110 RESPONSIBLE FOR THE SUBDIVISION OR PARTITION OF
111 THE PROPERTY AND SHALL CAUSE THE IMMEDIATE
112 ISSUANCE OF A NEW TITLE FOR THE REMAINING
113 PORTION OF THE PROPERTY NOT ACQUIRED IN THE
114 NAME OF THE PROPERTY OWNER.

115 (h) [The implementing agency shall, at the times stated hereunder, pay the property
116 owner the remaining fifty percent (50%) of the negotiated price of the affected
117 land, and thirty percent (30%) of the affected structures, improvements, crops
118 and trees, exclusive of unpaid taxes remitted to the LGU concerned under
119 subparagraph (d) herein: Provided, That the land is already completely cleared
120 of structures, improvements, crops and trees.

121 (1) At the time of the transfer of title in the name of the Republic of the
122 Philippines, in cases where the land is wholly affected; or

123 (2) At the time of the annotation of a deed of sale on the title, in cases where
124 the land is partially affected.]

125 The provisions of subparagraph (a) herein shall also apply to outstanding claims
126 for right-of-way payments, except that the amount to be offered shall be the
127 price at the time of taking of the property, including legal interest until fully
128 paid.

129 (i) **IN CASE THE REAL PROPERTY OR ANY PORTION THEREOF TO**
130 **BE ACQUIRED UNDER SECTION 5 OR SECTION 6 IS SUBJECT TO**
131 **ANY LIEN, ENCUMBRANCE OR CHARGE, THE RIGHTS OF ANY**
132 **THIRD PARTY CREATED OR ESTABLISHED PURSUANT TO OR**
133 **UNDER P.D. 1529, AS AMENDED, SHALL BE RESPECTED BY THE**
134 **IMPLEMENTING AGENCY. FOR THIS PURPOSE, THE**
135 **IMPLEMENTING RULES AND REGULATIONS SHALL PROVIDE**
136 **FOR THE PROCEDURE TO BE FOLLOWED BY ALL THE PARTIES**
137 **TO BE ABLE TO PROCEED WITH THE ACQUISITION WITHOUT**
138 **VIOLATING THE RIGHTS OF ALL PARTIES UNDER THIS ACT**
139 **AND UNDER PD 1529, AS AMENDED.**

140 (j) **PUBLIC UTILITIES AFFECTED BY THE ACQUISITION FOR RIGHT-**
141 **OF-WAY SITE OR LOCATION UNDER SECTION 5 OR SECTION 6**
142 **HEREOF, SHALL BE ENTITLED TO COMPENSATION IN THE**
143 **EVENT OF RELOCATION OF ELECTRIC, WATER AND**
144 **COMMUNICATION FACILITIES.**

Section 2. Section 6 of the Republic Act No. 10752 is hereby further amended to read as follows:

“SEC. 6. *Guidelines for Expropriation Proceedings* – Whenever it is necessary to acquire real property for the right-of-way site or location for any national government infrastructure through expropriation, the appropriate implementing agency, x x x :

(a) x x x

(1) **CURRENT MARKET** [One hundred percent (100%) of the] value of the land [based on] or the current relevant zonal valuation of the [Bureau of Internal Revenue (] BIR[)] issued not more than three (3) years prior to the filing of the expropriation complaint subject to subparagraph (c) of this section;

(2) The replacement cost at current market value of the improvements and structures; [as determined by:

(i) The implementing agency;

(ii) A government financial institution with adequate experience in property appraisal; and

(iii) An independent property appraiser accredited by the BSP.]

(3) The current market value of crops and trees located within the property.

THE CURRENT MARKET VALUE OF THE LAND, THE IMPROVEMENTS AND STRUCTURES, AND THE CROPS AND TREES SHALL BE as determined by a government financial institution or an independent property appraiser to be selected as indicated in subparagraph (a) of Section 5 hereof.

x x x

The court shall release the amount to the owner upon presentation of sufficient proofs of ownership **SUCH AS THE TRANSFER CERTIFICATE OF TITLE, TAX DECLARATION SHOWING THE PROPERTY OWNER AND HIS PREDECESSOR’S OPEN AND CONTINUOUS POSSESSION OF THE PROPERTY FOR AT LEAST TEN (10) YEARS, REAL PROPERTY TAX CERTIFICATE, AND OTHER DOCUMENTS SHOWING PROOF OF OWNERSHIP.**

(b) x x x

179 (c) x x x

180 **Section 3.** Section 10 of the Republic Act No. 10752 is hereby further amended to read
181 as follows:

182 “SEC. 10. *Guidelines for Expropriation Proceedings – Appropriations for*
183 *Acquisition of Right-Of-Way Site or Location for National Government*
184 *Infrastructure Projects in Advance of Project Implementation.* – The government
185 shall provide adequate appropriations that will allow the concerned implementing
186 agencies to acquire the required right-of-way site or location for national
187 government infrastructure projects in advance of project implementation. x x x

188 (a) x x x

189 (b) x x x

190 (c) x x x

191 (d) Related expenses of the implementing agency, including capital gains
192 tax in the case of negotiated sale under Section 5 hereof documentary
193 stamp tax, transfer tax and registration fees for the transfer of titles,
194 **RELOCATION OF UTILITIES**, and other relevant administrative
195 expenses for right-of-way management.

196
197 **Section 4.** *Implementing Rules and Regulations (IRR)* - The Committee for the
198 issuance of Implementing Rules and Regulations as stated in Section 13 of RA No. 10752
199 is hereby directed to amend the IRR within thirty (30) days upon the effectivity hereof
200 to incorporate the changes stated in this Act.

201
202 **Section 5.** Separability Clause – The provisions of this Act are hereby declared to be
203 separable and if any clause, sentence, provision or section of this Act or its application thereof to
204 any person or circumstance should, for any reason, be held invalid or unconstitutional, such
205 invalidity or unconstitutionality shall not affect the other provisions or application of this Act
206 which can be given force and effect.

207
208 **Section 6.** Repealing Clause - All laws, decrees, executive orders, issuances, rules and
209 regulations, or parts thereof insofar as they are inconsistent with the provisions of this Act are
210 hereby repealed, amended or modified accordingly.

211
212 **Section 7.** Effectivity - This Act shall take effect fifteen (15) days after its complete
213 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

214
215 Approved,