

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

EIGHTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 0416



INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

One not widely known yet very significant aspect of the criminal justice system is the forfeiture of ill-gotten wealth and the seizure of the proceeds and instruments of a crime. In many cases, despite securing the conviction of an accused, the State cannot claim a complete and meaningful victory because the convict had already spirited away or consumed the fruits of his/her wrongdoing. Indeed, the interest of the State lies not only in ensuring that those who perpetrate unlawful activities will be penalized accordingly. The State has an equally compelling interest in preventing criminals from profiting from the objects of their crime and recovering the said objects for the benefit of the offended parties and the public in general.

There currently exists a regime of asset forfeiture and seizure in our legal system. When the law is violated, proceeds and instruments of offenses can be seized and eventually forfeited in favor of the State in the course of criminal and/or administrative proceedings. Likewise, properties acquired by public officials above and beyond their legitimate income can be recovered by way of a civil action for forfeiture under Republic Act No. 1379.

However, this is only the front end of the system. Even if there are sufficient statutes for forfeiting assets, if the State is ill equipped to manage, preserve, and administer the same, it cannot fully maximize the benefits of these laws. It is therefore imperative that the State devise a mechanism to efficiently and economically manage or dispose of seized or forfeited assets so that their value can be optimized for the good of the public.

Under the present state of things, the management of assets under the custody of the government is unfortunately neither systematic nor rational. Asset management is considered a mere auxiliary function of various government agencies, deemed merely incidental to their mandates. Being a highly technical and highly specialized independent field, asset management should be handled by qualified professionals, not by law enforcers, prosecutors, or judges.

This bill seeks to fill this gap in the justice system by strengthening the back end of the criminal prosecution process – the management, preservation, liquidation, and disposition of ill-gotten wealth and of instruments and proceeds of crimes.

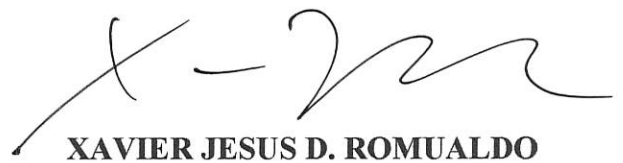
If enacted into law, this bill will establish the Public Assets Management Corporation of the Philippines (the "Corporation") – a centralized and specialized government corporation that will serve as custodian and administrator of seized or forfeited assets that are the subject of criminal, administrative, or civil actions. To preserve the value of seized assets, the Corporation will be given powers to sell or dispose of them with the authority of the court, even prior to a final order of forfeiture, when it is in the best interests of justice to do so. Agencies currently exercising

administrative forfeiture powers may likewise choose to turn over forfeited properties to the Corporation to produce better yields or returns.

The benefits of delegating the management of seized and forfeited assets to the Corporation are four-fold: (1) it creates an independent revenue stream for the government and facilitates the efficient, economical, transparent, centralized, and optimal liquidation or disposition of assets; (2) it eases the burdens of law enforcement agencies and the courts regarding the preservation and management of seized or forfeited assets, thereby allowing them to focus on their primary mandates and competencies; (3) it avoids conflicts of interests by taking the asset management function out of the formal justice process being handled by law enforcers, prosecutors, and judges; and (4) it professionalizes the management of seized or forfeited assets by letting independent and highly-qualified industry practitioners handle the technical aspects of asset preservation, valuation, liquidation, and disposition, on behalf of the public.

The pursuit of justice against criminals and the corrupt must be done in a holistic manner. The State should strengthen and bolster not only law enforcement, prosecution, and the courts but also asset forfeiture and management so that the commission of crimes will truly be high risk and low reward endeavors.

This is a refiled bill from last Congress and I earnestly request the support of the Members of Congress for the prompt and timely passage of this measure.



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**AN ACT
ESTABLISHING THE PUBLIC ASSETS MANAGEMENT CORPORATION OF THE
PHILIPPINES, PROVIDING 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 *Charter of the Public Assets*
2 *Management Corporation of the Philippines.*

3
4 SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to ensure the
5 efficient, economical, systematic, transparent, and optimal preservation, administration,
6 management, liquidation, and disposition of all assets seized or forfeited in favor of the
7 government, in the course or as a consequence of criminal, administrative, and civil actions.

8
9 SEC. 3. Creation of the Public Assets Management Corporation of the Philippines. –
10 There is hereby created an independent central public assets management authority, which shall
11 be a government-owned body corporate, to be known as the Public Assets Management
12 Corporation of the Philippines (the “Corporation”). It shall have the primary responsibility and
13 objective of administering the country’s asset management regime, ensuring the proper and
14 prudent disposition of all assets seized or forfeited in favor of the State. The Corporation shall be
15 attached to the Department of Finance for policy and program coordination.

1 SEC. 4. Mandate. – The Corporation shall accept and take title to, custody over, and
2 possession of such assets and other properties seized and forfeited by law enforcement, judicial,
3 and other governmental entities in favor of the State in the course of criminal, civil,
4 administrative, anti-corruption, anti-money laundering, or similar proceedings, subject to the
5 following rules:

6
7 (a) Assets seized by administrative agencies. – In cases of administrative forfeiture, the
8 forfeiting agency has the option of either:

9
10 1) disposing of forfeited assets in accordance with the authority inherent in their law
11 enforcement mandates and pursuant to their established systems and procedures; or

12
13 2) turning over the same to the Corporation, especially in cases where the optimal
14 management or disposition of assets require technical expertise and competence.

15
16 (b) Assets forfeited in favor of the State. – In cases where assets have been forfeited in favor
17 of the State by virtue of a final and executory order of a court, the Corporation shall
18 automatically take custody over the same for proper administration and disposition.

19
20 (c) Assets seized and subject of ongoing litigation. – In cases where assets are seized in
21 connection with an ongoing criminal or forfeiture litigation, said assets shall be
22 considered in custodia legis and may be placed under the physical custody of the
23 Corporation, the agency which seized the same, or such other person or office as the
24 court may designate, in which case, the designated custodian is deemed constituted as an
25 agent of the court.

26 1) Prior to an official designation of a custodian by the court, seized assets are deemed
27 ipso jure under the accountability and fiduciary responsibility of the agency which

1 seized the same or the agency with the duty to take possession thereof in accordance
2 with existing laws and rules.

3
4 2) Upon motion by any interested party, including the Corporation, the court shall
5 conduct a summary hearing, to be concluded within twenty (20) days from the filing
6 of such motion, to determine whether seized assets should be sold or disposed of, if
7 doing so would best serve the interests of justice. The court shall render a ruling on
8 the motion no later than ten (10) days from the conclusion of the summary hearing.

9
10 3) In the event that the seized assets are liable to progressive wasting, dissipation,
11 devaluation, depreciation or deterioration, or cannot reasonably be conserved in a
12 cost-efficient manner, the court shall order a disposition pendente lite, unless it is
13 established by competent evidence during the summary hearing that such disposition
14 will cause undue injury or will adversely affect the substantive rights of the parties or
15 any third party; provided, that an order of the court to sell or dispose of seized assets
16 pendente lite shall not affect the trial of the case or be construed as an adjudication of
17 the merits of the claims and defenses of the parties.

18
19 4) The proceeds of the sale of seized assets disposed of pendente lite shall be kept in a
20 separate account and turned over to the custody of the court, for eventual release to
21 the prevailing party or to whoever may be adjudged as lawfully entitled thereto.

22
23 SEC. 5. Corporate Powers. – The Corporation shall have the following powers:

24
25 (a) To succeed in its corporate name, to sue and be sued in such corporate name, subject to
26 Section 10 of this Act, and to adopt, use, and alter its corporate seal.

27 (b) To adopt, amend, or repeal its by-laws.

1 (c) To enter into contracts and execute any deed or act in furtherance of its mandate to
2 efficiently, economically, and prudently manage, administer, preserve, appraise,
3 liquidate, and dispose of assets under its custody.

4
5 (d) To execute and deliver, on behalf of the Government, the deeds of sale, contracts, and
6 other instruments, as may be necessary or appropriate to convey title to such assets.

7 (e) To sell or dispose of seized or forfeited assets, subject to the rules provided in Section 4
8 of this Act, without need of securing prior clearances from other governmental entities;
9 provided, that all such transactions shall be subject to subsequent review under existing
10 audit rules and regulations and shall be guided by principles of fairness, prudence,
11 accountability, and transparency.

12
13 (f) To construct, acquire, own, hold, operate, maintain, administer, and lease personal and
14 real properties, including buildings, machinery, equipment, other infrastructure, land and
15 improvements, property rights, and interests therein, and to encumber, mortgage, dispose,
16 sell, or alienate or otherwise dispose the same; provided, that no real property thus
17 acquired and any other real property shall be sold without the approval of the President of
18 the Philippines.

19
20 (g) To receive gifts, donations, grants, bequests, services, properties, whether personal or
21 real, and assistance of all kinds, from private and public sources, firms, institutions,
22 domestic and foreign governments, and international institutions, and utilize the same for
23 the purposes set forth in this Act.

24
25 (h) To hire and retain such personnel as may be necessary for the performance of its mandate
26 and engage external services as the exigencies of particular cases may require, such as

1 technical consultants, accountants, auditors, counsels, appraisers, risk managers, curators,
2 conservationists, and others.

- 3
- 4 (i) To conduct any such act, consistent with law, for the preservation of any seized or
5 forfeited asset, consistent with the professional and economic management of the same.
- 6

7 SEC. 6. Board of Directors. – (a) The powers and functions of the Corporation shall be
8 vested in and exercised by a Board of Directors (the “Board”), composed of the following:

9

10 1) The Secretary of Finance, as *ex officio* Chairperson (the “Chairperson”).

11

12 2) The President of the Corporation (the “President”), as *ex officio* Vice-Chairperson.

13

14 3) The Secretary of Budget and Management, as *ex officio* Member.

15

16 4) Two (2) Members who are at least thirty-five (35) years old, of good moral character,
17 unquestionable integrity, and known probity, and with recognized competence in banking
18 and finance, insurance, real estate, property appraisal, engineering, or other technical
19 fields, to be appointed by the President of the Philippines and to serve for a term of five
20 (5) years, without reappointment.

21

22 5) Two (2) Members who are at least thirty-five (35) years old, of good moral character,
23 unquestionable integrity, and known probity, and with recognized competence in
24 business administration and management or law, to be appointed by the President of the
25 Philippines and to serve for a term of five (5) years, without reappointment.

1 (b) The Board shall meet regularly once a month and may hold special meetings to consider
2 urgent matters upon call of the Chairperson or upon the initiative of four (4) Members. Internal
3 rules of procedure in the conduct of its meetings shall be as prescribed by the Board.
4

5 (c) The presence of at least four (4) Members of the Board shall constitute a quorum and the
6 majority vote of three (3) Members in a meeting where a quorum is present shall be necessary
7 for the adoption of any rule, regulation, order, resolution, decision, or other act of the Board in
8 the exercise of its functions.
9

10 (d) The Secretary of Finance and the Secretary of Budget and Management may each
11 designate a representative from his/her department, whose position shall not be lower than an
12 undersecretary, to attend meetings of the Board and to vote on behalf of their respective
13 principals. Whenever the Secretary of Finance or his/her representative is unable to attend a
14 meeting of the Board, the President of the Corporation shall act as Chairperson of the Board.

15 (e) The Members of the Board, who do not serve in an ex officio capacity, shall receive a *per*
16 *diem* for each Board meeting actually attended and shall be reimbursed for actual and reasonable
17 expenses incurred in the performance of their duties. The rates of such *per diems* and
18 reimbursements shall be fixed by the Chairperson, subject to the approval of the President of the
19 Philippines.
20

21 (f) The Board shall have the authority to:
22

- 23 1) Issue rules and regulations it considers necessary for the effective discharge of the
24 mandate, responsibilities, and exercise of the powers vested upon the Corporation.
25

- 1 2) Direct the management and administration of the Corporation, reorganize its
2 personnel, and issue such rules and regulations as it may deem necessary or
3 convenient for this purpose.
4
- 5 3) Determine the organizational structure, staffing pattern, and number of all personnel
6 of the Corporation, define their duties and responsibilities, and fix their compensation
7 and other emoluments.
8
- 9 4) Establish a human resource management system which shall govern the selection,
10 hiring, appointment, transfer, promotion, or dismissal of all employees. Such system
11 shall aim to establish professionalism and excellence at all levels of the Corporation
12 in accordance with sound principles of management.
13
- 14 5) On the recommendation of the President of the Corporation, appoint and remove
15 employees of the Corporation, subject to pertinent civil service laws; provided, that
16 the Board shall have exclusive and final authority to promote, transfer, assign, or
17 reassign employees of the Corporation and such actions are deemed made in the
18 interest of the service and not disciplinary; provided further, that the Board may
19 delegate such authority to the President of the Corporation under such rules and
20 regulations, as it may determine.
21
- 22 6) Discipline or dismiss the officers of the Corporation, subject to pertinent civil service
23 law and upon a majority vote of the Members of the Board who actually took part in
24 the investigation and deliberations on the matter.
25

1 7) Adopt the annual budget for and authorize such expenditures by the Corporation as
2 are in the interest of the effective administration and operation of the Corporation, in
3 accordance with applicable laws and regulations.

4
5 SEC. 7. Corporate Officers – (a) The President of the Corporation, who shall be appointed by
6 the President of the Philippines, shall be the chief executive officer of the Corporation. As such,
7 the President of the Corporation shall:

8
9 1) Prepare the agenda for the meetings of the Board and submit for the consideration of
10 the Board the policies and measures which he believes to be necessary to carry out
11 the mandate of the Corporation and provisions of this Act.

12
13 2) Implement and administer the policies and measures prescribed or adopted by the
14 Board.

15
16 3) Direct and supervise the operations and internal administration of the Corporation in
17 accordance with the policies, rules, and regulations established by the Board;
18 provided that the President may delegate certain of his administrative responsibilities
19 to other officers of the Corporation, subject to the by-laws of the Corporation and the
20 rules and regulations of the Board.

21
22 4) Represent the Corporation, upon prior authority of the Board, in all dealings with
23 other offices, agencies, and instrumentalities of the Government and with all other
24 persons or entities, public or private, whether domestic or foreign.

25
26 5) Authorize, with his/her signature, upon prior authority of the Board, contracts entered
27 into by and other acts of the Corporation.

1 6) Prepare and submit to the Board, for its consideration, the annual budget plan of the
2 Corporation not later than two (2) months before the commencement of the ensuing
3 fiscal year.

4
5 7) Undertake research, studies, investigations, and other activities and projects relative
6 to the mandate of the Corporation, and submit appropriate reports and
7 recommendations to the Board for its information and approval.

8
9 8) Exercise such other powers as may be vested in him by by-laws of the Corporation or
10 by the Board.

11
12 (b) The Executive Vice-President, Senior Vice-President for Operations, Senior Vice-
13 President for Finance, General Counsel and Corporate Secretary, Vice-President for Asset
14 Management, Vice-President for Asset Valuation, and Vice-President for Asset Liquidation and
15 Disposition, who shall all be appointed by the Board, shall have such duties, functions, and
16 powers as are provided by the by-laws of the Corporation or the Board.

17
18 SEC. 8. Personnel. – All positions in the Corporation, including consultancies, shall be
19 governed by the compensation structure, position classification system, and qualification
20 standards approved by the Board, based on a comprehensive job analysis of actual duties and
21 responsibilities.

22
23 The compensation plan shall be comparable to the prevailing compensation plans in the private
24 sector and shall be subject to periodic review by the Board once every two (2) years, without
25 prejudice to yearly merit reviews or increases based on the Corporation's productivity and
26 profitability. The Corporation shall, therefore, be exempt from existing laws, rules, and
27 regulations on compensation, position classification, and qualification standards. The

1 Corporation shall, however, endeavor to make its system conform as possible to the principles
2 under Republic Act No. 6758, otherwise known as the Compensation and Position Classification
3 Act of 1989.

4
5 SEC. 9. Relationship with Forfeiting Agencies. – The Corporation may enter into
6 memoranda of agreement with relevant forfeiting agencies to define their respective roles,
7 function,s and financial responsibilities relative to the management, administration, liquidation,
8 and disposition of seized or forfeited assets and the transfer and payment of the proceeds of
9 disposition.

10
11 SEC. 10. Immunity from Suit. – The Corporation shall not be subject to any suit in
12 connection with any act done or omitted by it in the regular exercise of its functions and powers;
13 provided, that it acts in good faith and pursuant to the state policy set forth in this Act.

14
15 SEC. 11. Third-Party Claims. – Any and all third party claims in connection with or
16 arising from any seized or forfeited asset under the Corporation's custody shall be directed to
17 and resolved by the agency, tribunal, or court having jurisdiction over the action or proceeding
18 covering the asset.

19
20 SEC. 12. Corporate By-Laws. – The Corporation shall adopt its by-laws within ninety
21 (90) days from the effectivity of this Act. The by-laws of the Corporation may be amended
22 through a resolution of the Board approved by a majority of all its Members.

23
24 SEC. 13. Principal Office. - The Corporation shall have its principal office in Metro
25 Manila, but the Board may establish and maintain branch, field, or satellite offices in such other
26 places, as may be needed for effective discharge of the mandate and functions of the
27 Corporation.

1 SEC. 14. Capitalization. – The capital of the Corporation shall be five hundred million
2 pesos (P500,000,000.00) to be fully subscribed by the Republic of the Philippines, one hundred
3 million pesos (P100,000,000.00) of which shall be fully paid for by the National Government
4 upon the effectivity of this Act and the balance to be paid for within a period of three (3) years
5 thereafter in such manner and form as the National Government, through the Secretary of
6 Finance and Secretary of Budget and Management, may thereafter determine.

7
8 SEC. 15. Proceeds of Operations. – Proceeds derived from the management or disposition of
9 seized or forfeited assets shall be remitted by the Corporation to the National Treasury or to the
10 proper government office or agency, as may be required by law; provided, that the Corporation
11 shall be entitled to deduct therefrom the following:

12
13 (a) actual expenses incurred in the conservation, administration, and disposition of said
14 assets; and

15
16 (b) management fees equivalent to ten percent (10%) of the net proceeds; provided, that the
17 amount of management fees may be adjusted based on relevant industry and market
18 standards and considerations; provided, that any adjustment must be subject to a detailed
19 study and approved by the Board.

20
21 SEC. 16. Reimbursements for Expenses. – The Corporation shall be entitled to
22 reimbursement of actual and necessary costs for the maintenance, preservation, and conservation
23 of seized assets, in the event that the court adjudicates the same against the State; provided, that
24 such costs shall be reimbursed by the prevailing party in an amount to be equitably fixed by the
25 court; provided further, that the Corporation shall render periodic reports to the proper courts
26 regarding the status of assets under its custody and the costs incurred for their maintenance,

1 preservation, and conservation, which shall be considered by the said courts for purposes of
2 fixing the amount of reimbursements due to the Corporation upon final judgment.

3
4 SEC. 17. Fiscal Autonomy. – All moneys earned by the Corporation from the collection of
5 management fees and the payment or reimbursement of expenses and costs for the maintenance,
6 conservation, administration, and disposition of seized or forfeited assets shall be used solely to
7 fund the operations of the Corporation and shall be properly and prudently administered with a
8 view to preserving the Corporation's viability.

9
10 SEC. 18. Annual Report. – The Corporation shall prepare and submit an annual report to the
11 President of the Philippines, the Senate, and the House of Representatives on its
12 accomplishments at the close of each fiscal year. The fiscal year of the Corporation shall begin
13 on January first and end on December thirty-first of each year.

14
15 SEC. 19. Exemption from the GOCC Governance Act of 2011. – The provisions of Republic
16 Act No. 10149, otherwise known as the GOCC Governance Act of 2011, except Section 19
17 (Fiduciary Duties of the Board and Officers), Section 20 (Trustee Relation to the Properties,
18 Interests and Monies of the GOCC), Section 21 (Care, Diligence and Skill in the Conduct of the
19 Business of the GOCC), and Section 24 (Restitution) thereof, shall not apply to the Corporation.

20
21 SEC. 20. Dissolution of the Privatization and Management Office. – Upon the effectivity of
22 this Act, the Privatization and Management Office ("PMO") shall wind up its affairs and be
23 dissolved pursuant to applicable laws. The existing staff of the PMO shall be absorbed by the
24 Corporation and become its core unit; provided, that PMO personnel absorbed by the
25 Corporation shall not suffer any diminution of benefits or disturbance of tenure; provided further,
26 that PMO personnel who choose not to be employed by the Corporation shall be deemed
27 separated from the service and shall be entitled to separation benefits, as provided by law;

1 provided finally, that the Corporation shall not be considered as a continuation of the legal
2 personality of the PMO.

3
4 SEC. 21. Separability Clause. – If any provision of this Act is declared invalid or
5 unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

6
7 SEC. 22. Repealing Clause. – All laws, decrees, executive orders and issuances,
8 proclamations, rules and regulations, and other issuances or parts thereof that are inconsistent
9 with the provisions of this Act are hereby repealed or modified accordingly.

10
11 SEC. 23. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at
12 least two newspapers of general circulation.

13
14 Approved,