

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 8216



Introduced by HON. ALAN "ALDU" R. DUJALI

EXPLANATORY NOTE

Section 9, Article III of the Constitution declares that “private property shall not be taken for public use without just compensation.” Towards this end, the Right-of-Way Act of 2015 was enacted to ensure the speedy acquisition of right-of-way sites or locations for the construction of infrastructure projects. Section 5 (c) of the aforementioned law states that: “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, while the owner shall pay any unpaid real property tax.”

While just compensation is rightfully practiced and relevant taxes except real property tax (RPT) are covered on the seller’s behalf in right-of-way acquisitions, the bill’s intent is to give right-of-way site owners the option to apply for tax credits on RPT as an additional mode of payment. The objectives of the bill’s amendment to the Right-of-Way Act, are to address the project delays brought about by right-of-way settlement issues, and to bolster the administration’s “Build, Better, More” infrastructure development program.

There are precedents with respect to tax credits as a mode of payment for just compensation. Section 18 (3), Chapter IV of the Comprehensive Agrarian Reform Law of 1988 states that just compensation shall be paid on one of the following modes, at the option of the landowner namely: “tax credits which can be used against any tax liability.”

In addition, a Supreme Court decision with G.R. No. 78742 dated July 14, 1989, Association of Small Landowners In The Philippines vs. Honorable Secretary of Agrarian Reform, states that: “Accepting the theory that payment of the just compensation is not always required to be made fully in money, we find further that the proportion of cash payment to the other things of value constituting the total payment, as determined on the basis of the areas of the lands expropriated,

is not unduly oppressive upon the landowner.” Moreover, “the other modes, which are likewise available to the landowner at his option, are also not unreasonable because payment is made in shares of stock, LBP bonds, other properties or assets, tax credits, and other things of value equivalent to the amount of just compensation.”

At some right-of-way acquisitions, there have been some levels of resistance from landowners due to the delays in the government’s settlement of payment for their properties. Hence, the inclusion of tax credits as a mode of payment for right-of-way acquisitions is expected to address settlement delays and therefore hasten the implementation of infrastructure projects.

In view of the foregoing and in the interest of fostering infrastructure development, approval of this bill is earnestly sought.



HON. ALAN "ALDU" R. DUJALI
Representative
2nd District, Davao Del Norte

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Introduced by HON. ALAN "ALDU" R. DUJALI

**“AN ACT PROVIDING TAX CREDITS AS AN ADDITIONAL MODE
OF PAYMENT FOR THE ACQUISITION OF RIGHT-OF-WAY,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 10752,
OTHERWISE KNOWN AS “THE RIGHT-OF-WAY ACT”**

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

SECTION 1. *Short Title.* Tax Credits as Payment for Right-of-Way Act.

SEC. 2. A new section designated as Section 5-H of the Right-of-Way Act, as amended, is hereby added, to read as follows:

(H) THE PROPERTY OWNER SHALL HAVE AN OPTION TO AVAIL OF TAX CREDITS ON REAL PROPERTY TAX AS A MODE OF PAYMENT. THE TAX CREDITS SHALL BE DOCUMENTED AS A TAX CREDIT CERTIFICATE (TCC) WITH THE BUREAU OF INTERNAL REVENUE (BIR) WHICH SHALL BE IMPLEMENTED UNDER THE FOLLOWING GUIDELINES:

- (1) THE TCC MAY BE MADE AS A PARTIAL OR FULL MODE OF PAYMENT AT THE PROPERTY OWNER’S DISCRETION;**
- (2) THE TCC MAY BE USED AGAINST ANY OTHER TAX LIABILITY OF THE PROPERTY OWNER;**
- (3) THE TCC MAY BE TRANSFERRED THROUGH A SALE BY THE PROPERTY OWNER TO A THIRD-PARTY INDIVIDUAL OR ENTITY, WHO MAY USE THE TCC AGAINST ANY OTHER TAX LIABILITY.**

SEC. 3. *Implementing Rules and Regulations.* The committee as defined in Section 13 of the Right-of-Way Act shall promulgate the rules and regulations for the effective enforcement of the provisions of this Act.

SEC. 4. *Transitory Clause.* – The provisions of this Act shall apply to all right-of-way transactions, except ongoing transactions which, as of the effectivity of this Act, have been concluded satisfactorily by the parties concerned and who have signed a written agreement as to the price to be paid to the property owner.

SEC. 5. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to be in full force and effect.

SEC. 6. *Repealing Clause.* — All laws, decrees, executive orders, rules and regulations, and other issuances, or part or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 7. *Effectivity Clause.* — This Act shall take effect after five (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation whichever date comes earlier.

Approved,