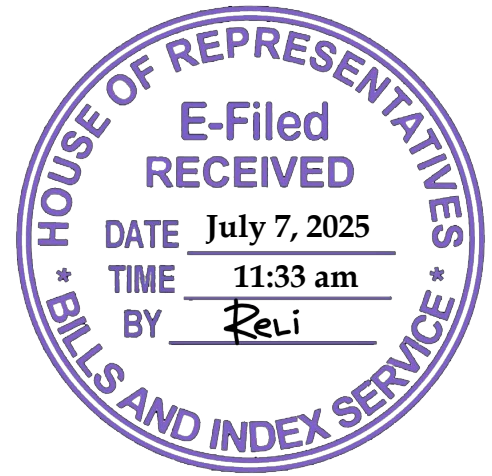


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
20TH CONGRESS
First Regular Session



House Bill No. **1418**

Introduced by: **REP. JOEL R. CHUA**

Explanatory Note

This Bill seeks to regulate Special Disbursing Officers of the Government, and impose appropriate penalties for misuse and misappropriation of funds. During the 19th Congress, a similar Bill was filed by this Representation as a product of the hearings conducted by the Committee on Good Government and Public Accountability. Unfortunately, due to lack of material time, the said measure remained in the House Committee level.

This Bill is the same as what was submitted during the 19th Congress. As such, my explanation stated in the original is herein reiterated:

Special Disbursing Officers (SDOs) are appointed and are not initially accountable officers. Appointed by the Head of Agency (HoA), SDOs are usually selected based on trust and confidence. SDOs are then empowered to disburse funds through cash advances (CAs). While there are guidelines for cash advances provided in Commission on Audit (COA) Circular No. 97-002 for regular fund and COA-DILG-DBM-GCG-DND Joint Circular No. 2015-01 on confidential/intelligence fund, there are gaps in the guidelines.

Without a law to buttress protection of the taxpayer money, these guidelines made it susceptible for HoAs and SDOs to abuse fund disbursement by the millions and billions without proper liquidation with impunity. These abuses committed by SDOs and HoAs were evident in the course of the hearings of the Committee on Good Government and Public Accountability during the 19th Congress.

While there is a necessity for confidential and intelligence funds for the effective implementation of law enforcement mandates, it is high time that standards be put in place to truly hold these SDOs accountable.

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


REP. JOEL R. CHUA
3rd District of Manila

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AN ACT
REGULATING SPECIAL DISBURSING OFFICERS AND IMPOSING PENALTIES FOR
MISUSE AND MISAPPROPRIATION OF FUNDS

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

Section 1. Short Title. - This Act shall be known as the "Special Disbursing Officers Accountability Act".

Section 2. Declaration of State Policies. - The state recognizes the need for the allocation and use of confidential/intelligence funds in certain government agencies with mandates that are directly related to national security, law enforcement, and intelligence operations, and other related critical functions requiring discretion, as well as use of regular funds in government operations through cash advances of special disbursing officers. It is the policy of the state that the use of such funds must be subject to stringent oversight, accountability, and transparency to ensure that they are not misused, misappropriated, or diverted for unauthorized purposes. Further, it is the policy of the state to prevent intentional and negligent dissipation of funds disbursed to special disbursing officers appointed by and acting under the direction of Heads of Agencies.

Section 3. Scope. – This Act covers all special disbursing officers, handling both regular and confidential/intelligence funds, as defined in this bill.

Section 4. Special Disbursing Officer. - The Special Disbursing Officer (SDO) refers to the Head of Agency (HoA) or a regular employee designated as such by the HoA, to be in-charge of making disbursement of the amount received. The SDO shall be accountable to the amount received for disbursement.

Section 5. Qualifications of an SDO. - The SDO, designated as such by the HoA, shall be a permanent official or employee of the agency of at least SG 24, possess an educational

background related to accounting, auditing or finance, with an approved fidelity bond equivalent to the SDO's accountability.

Section 6. Limit on Accountability. – The SDO shall have an approved fidelity bond in an amount equivalent to their cash accountability and whose net worth can cover at least fifty per centum (50%) to one hundred per centum (100%) of their cash accountability.

The SDO shall comply with the rules and regulations on the entitlement, release, use, reporting and audit of regular and confidential/intelligence funds, provided the same are not contrary to the provisions of this Act.

Section 7. Non-delegability. – The SDO designated as such by the HoA shall not make further delegation of disbursing the funds to which the SDO is accountable.

The funds disbursed to the SDO must be liquidated by the same SDO accountable therefor. The SDO shall ensure proper liquidation of the funds and that the purpose for which the fund was originally intended had been attained.

In the case of confidential/intelligence funds, the SDO shall ensure and certify that the funds have been used in relation to the mandate of the agency directly related to national security, peace and order, or intelligence gathering for the effective implementation of its law enforcement mandate.

Activities related to national security and peace and order includes purchase of information necessary for the formulation and implementation of program, activities and projects relevant to the national security and peace and order, payment of rewards, aid and/or capability development for personnel of law enforcement agencies, and volunteers/partners and other activities, crime prevention and law enforcement activities, and programs for anti-illegal drug, illegal gambling, counter-insurgency and/or counter-terrorism, illegal logging, illegal mining, illegal fishing, smuggling and human trafficking.

Section 8. Prima facie evidence of misappropriation. - There shall be prima facie evidence of misuse and misappropriation of the funds if:

- (i) There is disbursement of funds allocated to a government agency, unit or instrumentality the mandate of which is not directly related to national security or peace and order;
- (ii) The SDO fails to fully liquidate the funds at the end of each year;
- (iii) The SDO disburses the funds to another person who shall make further disbursement of funds;

- (iv) There is disbursement of funds for activities not directly related to national security, peace and order, or intelligence gathering for effective implementation of its law enforcement mandate; or
- (v) Failure to personally comply with the documentary requirements of liquidation.

Section 9. Liability of the SDO. – The SDO and the HoA shall be jointly and severally liable in case of failure to render accounts, misappropriation, or misuse of the funds whether through negligence or intentionally.

Section 10. Penalties. – Without prejudice to the filing of criminal, civil and administrative cases, the penalty of perpetual disqualification from office shall be imposed upon the SDO for violation of any of the provisions of this act, including loss of benefits.

Section 11. Prescription of Crimes. The offenses punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover properties unlawfully misappropriated by the SDO and HoA shall not be barred by prescription, laches, or estoppel.

Section 12. Implementing rules and regulations. – The Commission on Audit, Bureau of Treasury, Department of Interior and Local Government, Governance Commission for Government-owned or -controlled Corporations, Department of Budget and Management, and the Department of National Defense shall review and revise their existing circulars and joint circulars in accordance with this Act and shall produce Implementing Rules and Regulations within 90 calendar days from publication of this Act.

Section 13. Separability of Provisions. – If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 14. Repealing Clause. – All laws, decrees, orders, rules, and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

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

Approved,