

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 1786



Introduced by **HON. MIGUEL LUIS R. VILLAFUERTE, HON. VINCENZO RENATO LUIGI R. VILLAFUERTE, HON. TSUYOSHI ANTHONY G. HORIBATA, AND HON. TERRY L. RIDON**

EXPLANATORY NOTE

This bill aims to promote transparent governance and institute anti-corruption mechanisms in the operation of banks and other financial institutions by amending Republic Act No. 1405 (R.A. No. 1405) otherwise known as the "Secrecy of Bank Deposits Law." It aims to exempt the Bangko Sentral ng Pilipinas (BSP) in the exercise of their supervisory powers to inquire or examine on the deposit of certain individuals or entities or corporations if there is a reasonable ground to believe that there is an existing fraud, serious irregularity or unlawful activity.

R.A. No. 1405 was enacted in 1955 to protect the currencies of Filipinos by declaring their deposits as confidential 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 the order of a competent court in cases of bribery or dereliction of duty of public officials. In 1981, former President Ferdinand E. Marcos signed Presidential Decree No. 1792 to amend R.A. No. 1405 giving the Monetary Board of the then Central Bank of the Philippines to examine banks for bank frauds or serious irregularities. In 1993, P.D. 1792 was expressly repealed by Republic Act No. 7653 (R.A. No. 7653) otherwise known as "*The New Central Bank Act.*"

R.A. No. 7653 established the BSP which replaced the Central Bank of the Philippines due to accumulated massive amount of debts and had a reputation of being heavily influenced by political pressures. Therefore, the law was enacted to reform and revitalize the Philippine Central Banking System.

With the advancement of technology, financial transactions became easier, faster, efficient, and accessible through mobile banking, agent banking, and fintech platforms. In fact, there are even banks who allow online deposits of their checks, which meant that depositing money into their bank accounts can now be accessible with just a few clicks of their mobile phones. This made money flow in the economy faster as well.

However, there are those who use the law to their advantage. They are aware that even if they deposit bank checks fraudulently, they are protected by the law with its provision on the bank's secrecy, especially on the specific provision stating that no one can examine a deposit without the depositor's consent.

Therefore, as the country's measure to fight corruption, this bill amends R.A. No. 1405 to give BSP the authority to investigate deposits even without the consent of the depositor

within their supervisory powers. This Act likewise guarantees that confidential details of the bank and any financial transactions made within their accounts shall remain confidential.

This is a re-filed bill from the 19th Congress, was approved on Third and Final Reading, and was transmitted to Senate. Thus, in light of the foregoing, the immediate passage of this bill is earnestly sought.



HON. MIGUEL LUIS R. VILLAFUERTE



HON. VINCENZO RENATO LUIGI R. VILLAFUERTE



HON. TSUYOSHI ANTHONY G. HORIBATA



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AN ACT PROMOTING TRANSPARENT GOVERNANCE AND INSTITUTING ANTI-CORRUPTION MECHANISMS IN THE OPERATION OF BANKS AND OTHER FINANCIAL INSTITUTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405, ENTITLED "AN ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS WITH ANY BANKING INSTITUTION AND PROVIDING PENALTY THEREFOR"

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, entitled: "*An Act Prohibiting Disclosure of or Inquiry Into, Deposits With Any Banking Institution And Providing Penalty Therefor*" is hereby amended to read, as follows:

"SECTION 2. All deposits 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 is the subject matter of the litigation, **OR IN CASES WHERE THE INQUIRY OR EXAMINATION IS MADE BY THE BANGKO SENTRAL NG PILIPINAS (BSP), IN THE EXERCISE OF ITS SUPERVISORY POWERS, ON THE DEPOSIT OF THE STOCKHOLDER, OWNER, DIRECTOR, TRUSTEE, OFFICER OR EMPLOYEE OF AN ENTITY THAT IS SUBJECT TO THE SUPERVISION OR REGULATORY POWER OF THE BSP, THE REPRESENTATIVE OR AGENT, THE RELATED PARTY, OR ANY OF THE CONSPIRATORS, OF THE PERSON INVOLVED: PROVIDED, THAT, UPON DETERMINATION BY THE MONETARY BOARD, THERE IS A REASONABLE GROUND TO BELIEVE THAT FRAUD, SERIOUS IRREGULARITY OR UNLAWFUL ACTIVITY HAS BEEN OR IS BEING COMMITTED BY THE ABOVEMENTIONED PERSONS, AND THAT IT IS NECESSARY TO LOOK INTO THE DEPOSIT TO ESTABLISH SUCH FRAUD, SERIOUS IRREGULARITY OR UNLAWFUL ACTIVITY. THE AUTHORITY OF THE BSP TO INQUIRE AND EXAMINE DEPOSITS SHALL ALSO APPLY IN THE COURSE OF ITS INVESTIGATION OF CLOSED BANKS.**

AS USED IN THIS ACT, DEPOSITS SHALL REFER TO MONEY OR ITS EQUIVALENT RECEIVED BY A BANK IN THE USUAL COURSE OF BUSINESS, AND FOR WHICH IT HAS GIVEN OR IS OBLIGED TO GIVE CREDIT TO A COMMERCIAL, CHECKING, SAVINGS, TIME OR THRIFT

ACCOUNT, EVIDENCED BY A PASSBOOK, CERTIFICATE OF DEPOSIT, OR OTHER EVIDENCE OF DEPOSIT, ISSUED IN ACCORDANCE WITH BSP RULES AND REGULATIONS AND OTHER APPLICABLE LAWS, AS WELL AS SUCH OTHER OBLIGATION OF A BANK THAT FORMS PART OF ITS DEPOSIT LIABILITIES PURSUANT TO BSP RULES AND REGULATIONS. THE RESULTS OF THE INQUIRY OR EXAMINATION CONDUCTED BY THE BSP SHALL BE FOR ITS EXCLUSIVE USE 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: *PROVIDED*, THAT THE SHARING OF THE RESULTS OF THE ABOVEMENTIONED INQUIRY OR EXAMINATION IS NECESSARY TO PREVENT OR PROSECUTE ANY OFFENSE OR CRIME. THE EXEMPTIONS UNDER THIS SECTION SHALL APPLY TO FOREIGN CURRENCY DEPOSITS IN BANKS OPERATING IN THE PHILIPPINES INCLUDING OFF-SHORE BRANCHES OF DOMESTIC BANKS: *PROVIDED*, THAT THESE EXEMPTIONS SHALL NOT APPLY TO NON-STOCK SAVINGS & LOAN ASSOCIATIONS (NSSLAS) THAT ARE CATERING ONLY TO THEIR MEMBERS."

SECTION 2. Section 3 of the same Act, is hereby amended to read as follows:

"SECTION 3. NO BANK OR FINANCIAL INSTITUTION, OR ANY OF ITS DIRECTORS, OFFICERS OR EMPLOYEES, SHALL BE SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION WITH, AND SHALL BE HELD FREE AND HARMLESS FROM LIABILITY FOR, ANY ACT DONE IN COMPLIANCE WITH AN ORDER FOR INQUIRY OR EXAMINATION OF DEPOSITS FROM THE *BSP*."

HOWEVER, it shall be unlawful for any official **OR** employee, of a banking institution **OR THE *BSP***, to disclose **ANY INFORMATION CONCERNING SAID DEPOSITS** to any person **AND UNDER SUCH CONDITIONS** other than those mentioned in Section ~~two~~ 2 hereof. **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."**

SECTION 3. Section 5 of the same Act, is hereby amended to read as follows:

"**SECTION 5.** Any violation of this law will subject **THE** offender upon conviction, to imprisonment of not **LESS THAN TWO (2) YEARS NOR** more than ~~five~~ **TEN (10) YEARS** or a fine of not **LESS THAN FIFTY THOUSAND PESOS (P50,000) NOR MORE THAN** ~~twenty thousand~~ **TWO MILLION PESOS (P2,000,000)**, or both, ~~in~~ **AT** the discretion of the court."

SECTION 4. *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.

SECTION 5. *Repealing Clause.*

- (a) Sections 2, 3 and 5 of Republic Act No. 1405 are hereby amended;
- (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, are hereby amended;

- (c) Section 33 of Republic Act No. 6848, also known as "The Charter of the Al-Amanah Islamic Investment Bank of the Philippines", is hereby amended;
- (d) Section 26(a)(2) of Republic Act No. 7353, also known as the "Rural Act of 1992" is hereby amended; and
- (e) Section 21(a)(2) of Republic Act No. 7906, also known as the "Thrift Banks Act of 1995" is hereby amended.

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.

SECTION 6. *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.

Approved,