

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session
House Bill No. **3061**



Introduced by: Congressman **BIENVENIDO M. ABANTE, JR.**

AN ACT
AMENDING EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE
FAMILY CODE OF THE PHILIPPINES, ON PROPERTY RELATIONS BETWEEN
HUSBAND AND WIFE, AND SUPPORT, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

It is a declared Policy that the State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution (*Sec. 12, Art. II, Constitution*).

One of the property regimes that may cover the property relations between husband and wife is the System of Absolute Community under Chapter 3, Title IV of Executive Order No. 209 (*otherwise known as the Family Code of the Philippines*).

Under EO 209, the —

1. Absolute community of property commences at the precise moment that the marriage is celebrated [*Art. 88*];
2. No waiver of rights, interests, shares, and effects of the absolute community of property during the marriage can be made except in case of judicial separation of property [*Art. 89*];
3. Property already owned by the spouses at the time of marriage is included in the community property [*Art. 91*];
4. The support of illegitimate children shall be governed by the provisions of the Code on Support [*Art. 94*];
5. The absolute community of property is liable for antenuptial debts, support of illegitimate children, liabilities incurred by either spouse by reason of a crime or a quasi-delict in case of absence or insufficiency of the exclusive property of the debtor-spouse [*Art. 94(9)*], and for expenses of litigation

between the spouses unless the suit is found to be groundless [Art. 94(10)];

6. Either spouse may, without the consent of the other, make moderate donations from the community property for charity or on occasions of family rejoicing or family distress [Art. 98];
7. Even where a spouse commits the crime of adultery or concubinage, or commits a crime against the other, the absolute community regime is not dissolved or terminated [Art. 99];
8. The separation, in fact, between the husband and wife shall not affect the regime of absolute community [Art. 100];
9. Upon dissolution of the absolute community regime, the net assets shall be divided equally between the husband and wife [Art. 102] and
10. For the support of legitimate ascendants; descendants; whether legitimate or illegitimate; and brothers and sisters, whether legitimately or illegitimately related, only the separate property of the person obliged to give support shall be answerable provided that in case the obligor has no separate property, the absolute community or the conjugal partnership, if financially capable, shall advance the support, which shall be deducted from the share of the spouse obliged upon the liquidation of the absolute community or of the conjugal partnership [Art. 197].

Under the foregoing provisions of EO 209, a spouse is given a legal opportunity to squander property brought into the marriage by the other spouse, including those that he/she acquired from the labor, sweat, or generosity of his/her parents or forefathers. This is so because such property forms part of the absolute community –

- a] the administration and enjoyment of which belong to both spouses jointly, even if the other spouse has committed a crime against the other or against their common children, and even if the other spouse turns out infidel; and
- b] which is liable for antenuptial debts, support of illegitimate children, and even liabilities incurred by either spouse by reason of a crime or a quasi-delict

In the olden days, it was a cherished principle and practice to keep and preserve family property within the family (Ruth Chapters 2 & 3, KJV).

A spouse should be protected from such an unjust and unfair situation and from a 'marriage by convenience' that makes a mockery of the sanctity of marriage, which is the foundation of the family. The family is a basic social institution that society cherishes, and the first institution that God himself established.

In the light of the foregoing there is a need to amend the law.



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

SECTION 1. *Declaration of Policy.* — It is the Policy of the State to give full meaning to the Constitutional declaration that the State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution, and that such protection should extend to the property relations of husband and wife.

SEC. 2. Art. 91 of EO 209 is hereby amended to read as follows:

Art. 91 — Unless otherwise provided in this Chapter or in the marriage settlements, the community property shall consist of all the property owned by the spouses **AFTER THE CELEBRATION OF THE MARRIAGE.**

SEC. 3. Art. 92(3) of EO 209 is hereby amended to read as follows:

Art. 92: The following shall be excluded from the community property:

- (1) xxx;
- (2) xxx;
- (3) Property acquired before the marriage by either spouse, **INCLUDING THOSE ACQUIRED DURING THE SUBSISTENCE OF THE MARRIAGE BY INHERITANCE OR DONATION FROM THEIR PARENTS OR SIBLINGS.**

SEC. 4. Art. 93 of EO 209 is hereby amended to read as follows:

Art. 93 – Property acquired during the marriage is presumed to belong to the community, unless it is proved that it is one of those excluded therefrom **OF ACQUIRED BY A SPOUSE WHOLLY THROUGH HIS OR HER EFFORT, PERSONAL MEANS OR LABOR.**

SEC. 5. Art. 94 (9) of EO 209 is hereby deleted and Art. 94 (1) and (10) are hereby amended, so that Art. 94 should read as follows:

Art. 94. The absolute community of property shall be liable for:

1. The support of the spouses and their common children;
2. xxx;
3. xxx;
4. xxx;
5. xxx;
6. xxx;
7. xxx;
8. xxx;
9. Expenses of litigation between the spouses, unless the suit is found to be groundless, **OR IF THE LITIGATION IS BY REASON OF A CRIME COMMITTED BY ONE AGAINST THE OTHER OR AGAINST THEIR COMMON CHILDREN.** If the community property is insufficient to cover the foregoing liabilities, the spouses shall be solidarily liable for the unpaid balance with their separate properties.

SEC. 6. Art. 96 of EO 209 is hereby amended to read as follows:

Art. 96. The administration and enjoyment of the community property shall belong to both spouses jointly, **EXCEPT THAT THE SPOUSE WHO HAS LEFT THE CONJUGAL HOME, HAS REFUSED TO LIVE THEREIN, HAS ABANDONED THE OTHER WITHOUT JUST CAUSE, OR HAS FAILED TO COMPLY WITH HIS/HER OBLIGATIONS TO THE FAMILY SHALL NOT BE ENTITLED TO SUCH ADMINISTRATION AND ENJOYMENT.** In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for a proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

SEC. 7. Art. 98 of EO 209 is hereby amended to read as follows:

Art. 98. Neither spouse may donate any community property without the consent of the other. However, either spouse may, without the consent of the other, make moderate donations from the community property for charity.

SEC. 8. Art. 99 of EO 209 is hereby amended adding two (2) additional grounds for the termination of the absolute community, so that the said Article shall read as follows:

Art. 99 — The absolute community terminates:

- (1) xxx;
- (2) xxx;
- (3) xxx;
- (4) xxx;
- (5) **WHEN ONE SPOUSE COMMITS A CRIME AGAINST THE OTHER SPOUSE OR AGAINST THEIR COMMON CHILDREN, OR**
- (6) **WHEN ONE SPOUSE LEAVES THE CONJUGAL HOME, REFUSES TO LIVE THEREIN, HAS ABANDONED THE OTHER WITHOUT JUST CAUSE, OR HAS FAILED TO COMPLY WITH HIS/HER OBLIGATIONS TO THE FAMILY.**

SEC. 9. Art. 100 of EO 209 is hereby amended by adding one (1) paragraph, so that the same shall read as follows:

Art. 100 — The separation in fact between husband and wife shall not affect the regime of absolute community except that:

- (1) xxx;
- (2) xxx;
- (3) xxx;
- (4) **WHEN ONE SPOUSE LEAVES THE CONJUGAL HOME, REFUSES TO LIVE THEREIN, HAS ABANDONED THE OTHER WITHOUT JUST CAUSE, OR HAS FAILED TO COMPLY WITH HIS OR HER OBLIGATIONS TO THE FAMILY, THE REGIME OF ABSOLUTE COMMUNITY SHALL BE DEEMED DISSOLVED.**

SEC. 10. Art. 197 of EO 209 is hereby amended to read as follows:

Art. 197. For the support of legitimate ascendants, descendants, whether legitimate or illegitimate, and brothers and sisters, whether legitimately or illegitimately related, only the separate property of the person obliged to give support shall be answerable.

SEC. 11. *Separability Clause.* — If for any reason any section or provision of this Act, or any portion thereof, or the application of such section, provision, or portion thereof to any person, group, or circumstance is declared invalid or unconstitutional, the remaining provisions of this Act shall not be affected by such declaration and shall remain in force and effect.

SEC. 12. *Repealing Clause.* — All laws, presidential decrees, executive orders, rules, and regulations inconsistent with any provisions of this Act shall be deemed repealed, amended, or modified accordingly.

SEC. 13. — *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,