

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session
House Bill No. **5442**



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

AN ACT
PROMOTING TRANSPARENCY AND ACCOUNTABILITY IN
STRENGTHENING THE PHILIPPINE CONTRACTORS ACCREDITATION
BOARD, FURTHER AMENDING REPUBLIC ACT NO. 4566 AS AMENDED
AND AMENDING PRESIDENTIAL DECREE NO. 1746 AND REPUBLIC ACT
NO. 11711

EXPLANATORY NOTE

The Constitution expressly recognizes that the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy (*Sec. 5, Art. II*), mandates the State to maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption (*Sec. 27, Art. II*), and categorically declares that public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism, and lead modest lives (*Sec. 1, Art. XI*);

But despite these Constitutional declarations, graft and corrupt practices, and malversation of public funds, dishonesty and corruption continue to rock the government. These serious problem continues to erode the trust and confidence of the people in our government and leaders, and puts doubt as to whether or not our country indeed is sincere in instilling honesty and integrity in public service, especially if those involved are high officials of the government who publicly swore before God and the Filipino people that they will uphold and defend our Constitution which mandate them to be accountable at all times to the people.

With what is being revealed now in the legislative investigations as well as on-the-spot inspection of government funded flood control projects that necessarily involves the Philippine Contractors Accreditation Board (PCAB) it has now come to light that corruption continues to thrive at the expense of and resulting in unbearable loss and agony of our countrymen and wastage of billions of pesos of government funds because of the apparent connivance if not blatant conspiracy between or among government officials, employees and private persons or entities, particularly contractors. Thus, the sufferings of our people find basis in, and we should be reminded of, what the Holy Writ says: "When the righteous are in authority, the

people rejoice: but when the wicked beareth rule, the people mourn' (*Proverbs 29:2, KJV*). Similarly, with all these corrupt practices being committed, our nation is not blessed because they have made money sourced from government funds earmarked for infrastructure for the general welfare their god. The same Holy Writ says: "Blessed is the nation whose God is the LORD; and the people whom he hath chosen for his own inheritance" (*Psalms 33:12, KJV*).

With all these revelations in these legislative hearings, it has become clear that we have not known and learned that "The love of money is the root of all evil, which while some coveted after, they have erred from the faith, and pierced themselves with many sorrows" (*1 Timothy 6:10, KJV*); there is nothing covered that shall not be revealed; neither hid, that shall not be known" (*Mt. 10:26; Luke 12:2, KJV*); "God shall bring every work into judgment, with every secret thing, whether it be good, or whether it be evil" (*Ecclesiastes 12:14, KJV*); "and that "We shall all appear before the judgment seat of Christ that every one may receive the things done in his body according to that he hath done whether it be good or bad" (*2 Cor. 5:10, KJV*). Without casting any political color, our President deserves recognition for exposing these "ghosts" and sub-standard flood control projects undertaken by the DPWH. Without such exposure, it is not impossible that the people will never know the depth and magnitude of corruption in both the government and the private sector, and they will continue to drown in floods that are supposed to be prevented by these projects. How true and relevant in our times as the Holy Writ which says: "His watchmen are blind: they are ignorant, they are all **dumb dogs**, they cannot bark; sleeping, lying down, loving slumber" (*Isaiah 56:10, KJV*), " Yea, they are **greedy dogs** which can never have enough, and they are shepherds that cannot understand: they all look their own way, every one for his gain, from his quarter" (*Isaiah 56:11, KJV, bold for emphasis*).

As the PCAB is the government authority charged with the application, processing and granting of contractors' license, it is imperative that the pertinent laws should be amended to serve their ultimate purpose and desired ends and ensure that members of thereof are not involved in the granting or renewal of contractors' license for their personal monetary gain specially in the light of revelations in these legislative investigations where it appears that some members of the Board, have either construction companies or have interest therein that are involved in anomalous construction of government-funded projects.

In light of the foregoing, it is earnestly requested that the passage of this bill be given priority.



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

SECTION 1. Section 4 of Presidential Decree No. 1746, as amended, is hereby further amended by adding paragraph (c) to read as follows:

“SECTION 4. The Philippine Contractors Accreditation Board. There is hereby created a Philippine Contractors Accreditation Board under the jurisdiction and supervision of the Authority. The Philippine Contractors Licensing Board is hereby abolished, and all its funds and records are hereby transferred to the Philippine Contractors Accreditation Board.

- (a) **Composition.** The Board shall be composed of a Chairman and two (2) members to be appointed by the President upon recommendation of the Authority. The present Board of the Philippine Contractors Licensing Board shall continue to hold office as the Board of the Philippine Contractors Accreditation Board until their respective successors have been duly appointed.
- (b) **Functions.** The Philippine Contractors Accreditation Board shall perform the present functions of the Philippine Contractors Licensing Board until such time as its other functions, powers, and duties are issued by the Authority.
- (c) **QUALIFICATIONS.. THE CHAIRMAN AND MEMBERS OF THE BOARD SHALL BE OF RECOGNIZED STANDING IN HIS BRANCH OF THE CONTRACTING BUSINESS FOR TEN (10) YEARS OR MORE, A FILIPINO CITIZEN AND RESIDENT OF**

THE PHILIPPINES FOR AT LEAST TEN (10) YEARS IMMEDIATELY PRIOR TO HIS APPOINTMENT, AT LEAST THIRTY-FIVE YEARS OF AGE AND OF GOOD MORAL CHARACTER, AND HAS NO FINANCIAL INTEREST OR HIS RELATIVE WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY, IN ANY CONSTRUCTION COMPANY OR ENTITY UNDERTAKING THE CONSTRUCTION, REPAIR OR RENOVATION OF ANY GOVERNMENT PROJECT.

SEC. 2. Section 19 of Republic Act No. 4566, as amended, is hereby further amended to read as follows:

SECTION 19. *Examinations required.* In accordance with the rules and regulations promulgated by it, the Board **SHALL** investigate, classify, and qualify applicants for contractors' licenses by written **AND** oral examination.

SEC 3. Section 20 of Republic Act No. 4566, as amended, is hereby further amended to read as follows:

SECTION 20. *Qualifications of applicants for contractors' licenses.* The Board shall require an applicant to show at least FIVE years of experience in the construction industry, **SUBMIT CLEARANCE FROM APPROPRIATE AGENCIES OF THE GOVERNMENT THAT HE HAS NOT BEEN INVOLVED IN OR UNDER INVESTIGATION FOR ANY ANOMALOUS GOVERNMENT PROJECTS**, and **PROVE SUFFICIENT** knowledge of the building, safety, health and lien laws of the Republic of the Philippines and the rudimentary administrative principles of the contracting business as the Board deems necessary for the safety of the contracting business of the public.

For the purpose of this section, a partnership, corporation, or any other organization may qualify through its responsible managing officer appearing personally before the Board who shall prove that he is a bona fide responsible officer of such firm and that he exercises or is in a position to exercise authority over the contracting business of his principal or employer in the following manner: (1) to make technical and administrative decisions; and, (2) to hire, superintend, promote, transfer, lay off, discipline or discharge employees.

SEC. 4. Section 23 of Republic Act No. 4566, as amended, is hereby further amended to read as follows:

SECTION 23. *Issuance of Licenses.* Upon the payment of the corresponding fee and filing of the application, **SUBMISSION OF A CLEARANCE FROM APPROPRIATE AGENCIES OF THE GOVERNMENT THAT HE HAS NOT BEEN INVOLVED IN OR UNDER INVESTIGATION FOR ANY ANOMALOUS GOVERNMENT PROJECTS**, and after examination and investigation as may be required, the Board shall issue a

license to the applicant permitting him to engage in business as a contractor under the terms of this Act for one (1) year from the date of issuance.

SEC. 5. Section 25 of Republic Act No. 4566, as amended, is hereby further amended to read as follows:

SECTION 25. *No examination required.* Contractors actively engaged in the construction industry at the effectivity of this Act and licensed as such for the last five years, may, upon application **AND SUBMISSION OF A CLEARANCE FROM APPROPRIATE AGENCIES OF THE GOVERNMENT THAT they have not been INVOLVED IN OR UNDER INVESTIGATION FOR ANY ANOMALOUS GOVERNMENT PROJECTS**, be issued a license without the necessity of examination.

SEC. 6. Section 28 of Republic Act No. 4566, as amended, is hereby further amended adding paragraphs (h) and (i) to read as follows:

Section 28. *Causes for disciplinary action.* The following shall constitute causes for disciplinary action:

- (a) Willful and deliberate abandonment **OR DELAY** without lawful and/or just excuse of any construction project or operation engaged in or undertaken by the licensee as a contractor;
- (b) Willful material and substantial departure from or disregard of plans and/or specifications in any material respect, and prejudicial to another without consent of the owner or the person entitled to have the particular construction project or operation completed in accordance with such plans and/or specifications or their duly authorized representations;
- (c) Willful misrepresentation of a material and substantial fact by an applicant in obtaining a license;
- (d) Aiding or abetting an unlicensed person to evade the provisions of this Act, or knowingly combining or conspiring with an unlicensed person, or allowing one's license to be used by an unlicensed person, or acting as agent or partner, or associate, or otherwise of an unlicensed person with the intent to evade the provisions of this Act.
- (e) Failure to comply the provisions of this Act;
- (f) The doing of any willful or fraudulent act by the licensee as a consequence of which another is injured or damaged;

- (g) The participation by a licensee in the performance by any partnership, corporation, firm, or association of which he is a responsible managing partner, employee or officer, of any act or omission constituting a cause for disciplinary action under this Act;
- (h) **ALLOWING TO BE A PARTY, DIRECTLY OR INDIRECTLY, TO A FRAUDULENT CONSTRUCTION, REPAIR, OR RENOVATION, SUCH AS BUT NOT LIMITED TO GHOST OR SUBSTANDARD CONSTRUCTION OF ANY GOVERNMENT PROJECT, OR ABETTING THE SAME OR CONSPIRING THERETO; and**
- (i) **USING THE LICENSE OF ANOTHER, OR ALLOWING HIS LICENSE TO BE USED BY ANOTHER, WITH OR WITHOUT CONSIDERATION, IN BIDDING FOR OR CONSTRUCTING, REPARING, OR RENOVATING ANY GOVERNMENT-FUNDED PROJECT.**

SEC 7. Section 35 of Republic Act No. 11711 is hereby amended, adding paragraphs (e), (f), and (g) to read as follows:

Section 35. *Prohibited Acts AND PENALTIES.* The following are prohibited under this Act:

- (a) Any contractor who, for a price, commission, fee or wage, submits or attempts to submit a bid to construct, or constructs or undertakes to constructs, or assumes charge in a supervisory capacity of a construction work within the purview of this Act, without first securing a license to engage in the business of contracting in the Philippines shall be penalized with a fine of not less than **FIVE HUNDRED THOUSAND PESOS (P500,000.00)** but not more than **ONE MILLION PESOS (P1,000,000.00)** plus the equivalent of **ONE HALF** of one percent (1%) of the project cost. Furthermore, the **LICENSE OF THE** offending party shall be **REVOKED, AND HE SHALL BE DISQUALIFIED FROM SECURING A NEW LICENSE.**
- (b) The same fine under the preceding subsection shall be imposed upon two (2) or more licensees **WITH THE SAME OWNERS OR STOCKHOLDERS OR PARNTERS HOLDING SUBSTANTIAL INTEREST OR HOLDING A KEY POSITION THEREIN**, each of whom has been issued a license to engage separately in the capacity of a contractor but shall submit a bid **FOR, OR UNDERTAKE THE CONSTRUCTION, REPAIR OR RENOVATION OF, THE SAME GOVERNMENT PROJECT** or otherwise act in the capacity of a contractor without securing an additional license for acting in the capacity of such a joint venture or combination in accordance with

the provisions of this Act. The licenses of the offending parties shall be automatically revoked, and they shall be **DISQUALIFIED AND** prohibited from obtaining a NEW contractor's license.

- (c) It shall be unlawful for any person who is a managing partner, officer, or employee of a licensed partnership, corporation, firm, association, or other organization to individually engage in the contracting business or individually act in the capacity of a contractor within this jurisdiction without having a license in good standing to so engage or act. Anyone found to be in violation of this provision shall be penalized with a fine of not less than **ONE MILLION PESOS (P1,000,000.00)** but not more than **ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00)** plus the equivalent of **ONE HALF** of one percent (1%) of the project cost. Furthermore, the **LICENSE OF THE** offending party shall be **REVOKED, AND THE LICENSEE SHALL BE DISQUALIFIED AND** prohibited from **SECURING A NEW** contractor's license.
- (d) Any person who shall present or file **OR USE** the license **OR** certificate of another, give false evidence of any kind to the Board, or to any member thereof, in obtaining a certificate or license, impersonate another, or use an expired or revoked certificate or license shall be penalized with a fine of not less than **ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00)** but not more than **THREE MILLION PESOS (P3,000,000.00)** and imprisonment of not less than **TWO (2)** years but not more than six (6) years. The penalties provided in this section are without prejudice to any liability for the violation of any of the provisions of The Revised Penal Code, as amended, or other special laws. **THE LICENSE OF THE OFFENDER SHALL BE REVOKED AND HE SHALL BE DISQUALIFIED FROM SECURING OR BEING GRANTED A NEW LICENSE;**
- (e) **ANY CONTRACTOR WHO SHALL ALLOW HIS LICENSE, WITH OR WOTHOUT ANY CONSIDERATION, TO BE USED BY ANOTHER IN ORDER TO BID FOR OR UNDETAKE THE CONSTRUCTION REPAIR OR RENOVATION OF ANY GOVERNMENT PROJECT SHALL SUFFER A FINE OF NOT LESS THAN TWO MILLION FIVE HUNDRED THOUSAND PESOS (2,500,000.00) NOR MORE THAN FOUR MILLION PESOS (P4,000,000.00) AND HIS LICENSE SHALL BE REVOKED AND HE SHALL BE DISQUALIFIED FROM APPLYING FOR OR BEING GRANTED A NEW LICENSE;**
- (f) **CONTRACTORS WITH THE SAME OWNERS OR STOCKHOLDERS OR PARNTERS HOLDING SUBSTANTIAL INTEREST OR HOLDING A KEY POSITION THEREIN, WHO**

SHALL BID FOR, OR UNDERTAKE THE CONSTRUCTION REPAIR OR RENOVATION OF THE SAME GOVERNMENT PROJECT SHALL SUFFER A FINE OF NOT LESS THAN FOUR MILLION PESOS (P4,000,000.00) NOR MORE THAN FIVE MILLION PESSOS (P5,000,000.00) AND THEIR LICENSES SHALL BE REVOKED AND THEY SHALL BE DISQUALIFIED FROM APPLYING FOR OR BEING GRANTED A NEW LICENSE;

(g) ANY MEMBER OF THE BOARD WHO OR HIS RELATIVE WITHIN THE FOURTH CIVIL DEGREE OF CONSANGUINITY OR AFFINITY HAS ANY FINANCIAL INTEREST IN ANY CONTRACTOR OR CONRTUCTION COMPANY THAT HAS SUBMITTED A BID FOR OR HAS UNDERTAKEN THE CONSTRUCTION, REPAIR OR RENOVATION OF ANY GOVERNMENT PROJECT SHALL SUFFER A FINE OF NOT LESS THAN TWO MILLION PESOS (P2,000,000.00) NOR MORE THAN THREE MILLION PESSOS (P3,000,000.00) WITHOUT PREJUDICE TO HIS LIABILITY UNDER EXISTING LAWS. PROVIDED THAT THE LICENSE OF SUCH CONTRACTOR OR CONSTRUCTION COMPANY SHALL BE REVOKED AND THAT HE SHALL BE DISQUALIFIED FROM APPLYING FOR OR FROM BEING GRANTED A NEW LICENSE;

SEC. 8. Section 40 of Republic Act No. 4566, as amended by Section 5 of Republic Act No. 11711 is hereby further amended by adding another paragraph to read as follows:

Section 38. Renewal. A license issued pursuant to the provisions of this Act shall be valid for one (1) year from the date of its issuance. The renewal fee shall be Five thousand pesos (P5,000.00), pursuant to Section 37 of this Act”.

In case the contractor has been in operation in good standing for twenty-five (25) years or more, it may renew its license every three (3) years. If it has been in operation in good standing for ten (10) years but not more than twenty-five (25) years, it may renew its license every two (2) years. If it has been in operation in good standing for less than ten (10) years, it shall renew its license every year.

Applications and all other requirements for license renewal may be filed with the Board or its designated agencies, either in person or online, not earlier than ninety (90) days but not later than thirty (30) days before the expiration of the license.

THE LICENSE OF A LICENSEE WHO HAS BEEN INVOLVED IN ANY ANOMALOUS GOVERNMENT PROJECTS, SUCH AS GHOST OR SUBSTANDARD CONSTRUCTIONS, HAS VIOLATED ANY PROVISION OF THIS ACT, OR HAS A PENDING CRIMINAL OR ADMINISTRATIVE

CASE, OR IS UNDER INVESTIGATION IN CONNECTION WITH A PROJECT UNDERTAKEN, SHALL NOT BE RENEWED.

SEC. 9. Section 41 of Republic Act No. 4566, as amended, is hereby further amended to read as follows:

SECTION 41. Non-renewal of licenses. No license which has been under suspension for more than a year immediately preceding the filing of an application for renewal shall be renewed. **LIKewise, THE LICENSE OF A LICENSEE WHO HAS BEEN INVOLVED IN ANY ANOMALOUS GOVERNMENT PROJECTS, SUCH AS GHOST OR SUBSTANDARD CONSTRUCTIONS, HAS VIOLATED ANY PROVISION OF THIS ACT, OR HAS A PENDING CRIMINAL OR ADMINISTRATIVE CASE, OR IS UNDER INVESTIGATION IN CONNECTION WITH A PROJECT UNDERTAKEN, SHALL NOT BE RENEWED.**

SEC. 10. *Separability Clause.* – If any provision or part of this Act is declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 11. *Repealing Clause.* – All laws, executive orders, decrees and other issuances that are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,