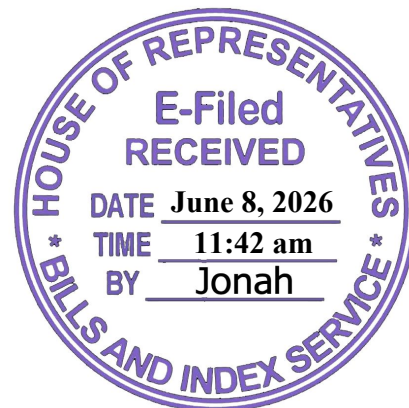


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 9821



Introduced by: **REPRESENTATIVE ERIC L. OLIVAREZ**

EXPLANATORY NOTE

Part of the objectives of enacting Republic Act No. 7279 or the Urban Development and Housing Act of 1992 (UDHA) was the provision of secure, safe, adequate, decent, and affordable housing for the urban poor, especially for informal settler families (ISFs). Although the UDHA intended to limit the displacement of the urban poor and provide safeguards in cases of resettlement, experiences of ISFs over the years show a distortion in the implementation of the existing framework to circumvent the requirements under the law.

In 2008, the United Nations Committee on Economic, Social, and Cultural Rights (UN CESCR) expressed its deep concern for the large-scale forced evictions of urban families:

“The Committee regrets that most of its previous recommendations relating to the prevention of illegal forced evictions (E/C.12/1995/7, paras. 31 and 32) have not been acted upon by the State party, and remains deeply concerned about the large-scale forced eviction of urban families carried out for the purpose of urban renewal and beautification, which has reportedly affected over 1.2 million people in the period between 1995 and 2008. It is also concerned about the lack of effective consultation of, and legal redress for, persons affected by forced evictions, and the inadequate measures to provide sufficient compensation or adequate relocation sites to families who have been forcibly removed from their properties.”¹

Eight years later, the UN CESCR urged the Philippines to amend the UDHA and adopt a legal framework “to be followed in the case of evictions in line with international standards[.]”²

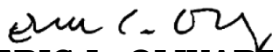
Over three decades have passed since the enactment of the UDHA, yet

there is still no legal framework for housing and resettlement that adequately addresses the needs of ISFs and the urban poor that is consistent with our constitutional mandates and core international instruments.

The proposed bill seeks to address the gaps in the UDHA by: a) strictly prohibiting unjust evictions of ISFs and demolitions of the structures they live in; b) imposing additional requirements before, during, and after any eviction or demolition of ISFs, such as social preparation, adequate resettlement, spaces for children to play and interact in relocation sites, and adequate and genuine consultation; and c) designating the Presidential Commission for the Urban Poor (PCUP) as the central coordinating body and clearing house for evictions and demolitions.

The ISFs and the urban poor have experienced many of the worst injustices in our country. At the center of these injustices are children who are forcibly displaced from their homes and suffer abusive and inhumane practices in the conduct of eviction and demolition. No less than Section 10 of Article III of the Constitution mandates that “[u]rban or rural poor dwellers shall not be evicted nor their dwelling demolished, except in accordance with law and in a just and humane manner.”

In light of the foregoing, the immediate passage of this measure is earnestly sought.


ERIC L. OLIVAREZ

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Introduced by: **REPRESENTATIVE ERIC L. OLIVAREZ**

**“AN ACT
PRESCRIBING A JUST AND HUMANE CODE OF CONDUCT FOR
THE RESETTLEMENT OF UNDERPRIVILEGED AND HOMELESS
CITIZENS, PROVIDING PENALTIES FOR VIOLATION THEREOF,
AND APPROPRIATING FUNDS THEREFOR”**

*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 “Just and Humane Resettlement Act.”

SECTION 2. Declaration of Policy. – Pursuant to Section 9, Article XIII of the Constitution, the State shall ensure that underprivileged and homeless citizens have access to adequate, safe, secure, habitable, sustainable, resilient and affordable housing.

Pursuant to Section 10, Article XIII and Section 10, Article II of the Constitution, the State shall neither evict nor demolish informal settler families, except in accordance with law and in a just and humane manner, and shall promote social justice in all phases of national development.

The State shall, by law and for the common good, undertake, in cooperation with the private sector, a continuing program of housing and urban development which shall make available at affordable cost, decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas.

In addition, the State shall encourage on-site development in the implementation of housing programs and shall promote the creation of new settlements and development of sustainable urban renewal programs while guaranteeing the preservation of agricultural lands necessary for food security.

The State shall encourage more effective people's participation in the urban development process through a mechanism of adequate and genuine consultation in all stages of the relocation and resettlement process with the affected communities, which should include a space for children, women and other marginalized groups.

SECTION 3. Definition of Terms. – As used in this Act, the following terms are defined as follows:

(a) *Adequate and Genuine Consultation* refers to the constitutionally mandated process whereby the public, on their own or through people's organizations, is provided with an opportunity to be heard and to participate in the decision-making process on matters involving the protection and promotion of its legitimate collective interest, which shall include the following:

- i. Effective dissemination and full access to the public, of relevant information, plans and documents, including but not limited to land records, housing budgets, the proposed plan or project, alternative housing options, technical studies, and comprehensive resettlement plans.
- ii. Reasonable time, which shall not be less than thirty (30) calendar days, for the public to review, comment and object to the plans and studies.
- iii. Provision by the government or non-government organizations of legal, technical, and other appropriate advice to affected persons, households, and/or organizations on their rights and option.
- iv. Separate sessions of open and public consultations with affected households in general and affected subsectors in particular, including but not limited to women, children, youth, senior citizens, persons with disabilities (PWDs), workers, farmers, fisherfolk, and lesbians, gays, bisexuals, and transgender persons (LGBT).
- v. Public hearings that provide affected informal settler families (ISFs) and their advocates with opportunities to challenge the eviction decision or present alternative proposals and to articulate their demands and development priorities.
- vi. The conclusion of any mediation, arbitration, or adjudication proceedings by an independent body vested with constitutional authority such as a court of law, when

appropriate and availed of, in case no agreement is reached on the proposals of the parties concerned.

(b) *Danger Area* refers to areas which, when occupied for residential purposes, actually pose a danger to the life and safety and property of either the concerned residents or of the general community. The danger is due to an unavoidable source of probable harm to human life or well-being.

(c) *Demolition* refers to the dismantling by the local government unit (LGU), or any legally authorized agency of government, of all structures within the premises subject for clearing.

(d) *Eviction* refers to the removal of persons and their belongings from a subject building, structure, or area, or both, in accordance with law.

(e) *High Risk Area* refers to an area which poses a high level of threat to the public welfare and safety that cannot be addressed through scientific, physical and engineering methods and, thereby, is unsuitable for settlement and permanent structures.

(f) *Informal Settler Families* (ISFs) refers to individuals or households living in any of the following places:

- (i) Lots, buildings, dwelling units, or other structures without the consent of the property owner;
- (ii) Danger areas;
- (iii) Areas for government infrastructure projects;
- (iv) Protected or forest areas, except for indigenous peoples;
- (v) Areas for priority development as declared under Proclamation No. 1967, series of 1980, if applicable;
- (vi) Government or public lands or facilities not intended for human habitation; or
- (vii) Any other place, after being displaced due to natural or man-made hazards.

(g) *People's Plan* refers to the plan formulated and initiated by the beneficiary associations, with the assistance of the concerned government agencies, in cooperation with the Presidential Commission for the Urban Poor (PCUP), with or without the support of civil society organizations (CSOs), which shall contain a site development plan that conforms to standards of adequate housing and to the comprehensive land use plan of the LGU under whose jurisdiction the project site is proposed to be located, including architecture and engineering house design, community health, sanitation and security plans, as well as nonphysical development components such as self-help development,

capability building, and a system of allocation of socialized housing units. The formulation and the resulting plan should promote and protect the welfare of women, children, persons with disabilities, and senior citizens.

(h) *Social Preparation* refers to the series of activities designed to prepare the affected ISFs to cope with the changes brought about by government infrastructure or development projects and to encourage them to actively participate and prepare their societal, community and personal responsibilities in their quest for tenurial security, human development and basic services, employment and livelihood and other government programs for the ISFs.

SECTION 4. Coverage. – This Act shall apply in all cases of demolition or eviction, whether undertaken by the government or private individuals or entities, and whether ordered by the courts or otherwise.

SECTION 5. Policy on Eviction and Demolition. – As a general rule, any eviction of ISFs or demolition of the structures they live in, or any appurtenance thereto shall be prohibited.

SECTION 6. Exceptions. – Eviction of ISFs or demolition of the structures they live in, or any appurtenance thereto shall be allowed only in the following exceptional cases:

(a) When ISFs occupy a danger area, such as esteros, railroad tracks, garbage dumps, riverbanks, shorelines, waterways, and other public places such as sidewalks, roads, parks, and playgrounds, or a high risk area which poses a high level of threat to public welfare and safety that cannot be addressed through or remedied by scientific, physical and engineering methods and, thereby, is unsuitable for settlement and permanent structures: Provided, that an area can only be declared as a danger area or high risk area through an appropriate technical study, adequate and genuine public consultation with the affected persons or entities, and certification by the appropriate government agency. It shall be the duty of the province and the city or municipality, after one hundred twenty (120) days from the effectivity of this Act, to conduct the technical studies and public consultations necessary to identify all danger and high risk areas within their respective jurisdictions.

(b) When government infrastructure projects with available funding are about to be implemented: Provided, that evictions or displacements of population due to any development project or business venture involving the government should be avoided or minimized: Provided, further, that if eviction is unavoidable under the

circumstances, the government shall conduct a comprehensive and holistic impact assessment, before the project is implemented, to determine whether the project will serve the public interest and to explore alternatives and strategies to minimize harm and further violation of human rights of the affected communities, particularly children, women and other marginalized groups: Provided, finally, that the agency which seeks to implement the eviction or demolition shall establish the budget pertaining to it upon its application to the PCUP for an eviction or demolition certificate of compliance; and

(c) When there is a court order for eviction and demolition: Provided, however, that no execution of eviction or demolition order shall proceed and be carried out during the pendency of an appeal, notwithstanding the failure to file a supersedeas bond to stay the execution of the order if the appellant is an underprivileged and homeless citizen.

SECTION 7. Mandatory Requirements Before, During, and After the Conduct of Eviction or Demolition. – No eviction or demolition involving ISFs shall be executed without full compliance with the following mandatory requirements to uphold human dignity and prevent any violation of human rights:

(a) Before Eviction or Demolition –

(i) Conduct of social preparation activities related to asset reform, human development and basic services, employment and livelihood, and other programs of the government for both the affected underprivileged and homeless citizens and the affected families of the place where the former will be relocated. Provided, that, separate social preparation activities for children of both communities on matters relating to the promotion and protection of their right to development, survival, protection and participation shall be conducted;

(ii) Notice upon the affected persons or entities at least thirty (30) days prior to the date of eviction or demolition;

(iii) Adequate and genuine consultations on the matter of resettlement with the duly designated representatives of the families to be resettled and the affected communities in the areas where they are to be relocated: Provided, that a consultation in the form of an inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be convened by the national government agency or LGU authorized to evict or demolish and the same shall be complied with under the

following conditions:

- 1) The local Philippine National Police (PNP) personnel, whose function is to provide law enforcement and civil disturbance control but not to participate in the physical dismantling of any structure, shall actively participate in the consultation process and their role shall be clearly set forth;
- 2) The following agencies shall be represented during the inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens:
 - A. Department of the Interior and Local Government (DILG);
 - B. Department of Social Welfare and Development (DSWD);
 - C. Department of Education (DepEd);
 - D. Department of Public Works and Highways (DPWH);
 - E. Department of Human Settlements and Urban Development (DHSUD);
 - F. National Housing Authority (NHA);
 - G. Department of Health (DOH);
 - H. PCUP;
 - I. Commission on Human Rights (CHR);
 - J. Philippine Commission on Women (PCW);
 - K. Council for the Welfare of Children (CWC);
 - L. Appropriate Key Shelter Agencies;
 - M. Representatives from non-government organizations and/or people's organizations working for the interest of the ISFs; and
 - N. The concerned LGUs.

If the conference is convened by the LGU, the PCW and CWC shall be replaced by the Local GAD Focal Point System and the Local Council for the Protection of Children representatives, respectively, of the concerned LGUs.

- 3) The inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be presided by the PCUP, which may call on the assistance of other agencies whenever necessary;
- 4) A plan for eviction or demolition shall be formulated during the inter-agency pre-eviction or pre-demolition conference, setting forth therein clear procedures that will be implemented during the eviction or demolition to prevent any human rights violation;

5) The details of the inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be documented or recorded, and a summary of the points of the agreements arrived at as well as the disagreements shall be considered and given weight by the inter-agency body in coming up with a decision on matters relating to the conduct of eviction or demolition: Provided, that copies of the documentation and summary shall be provided to all the stakeholders present three (3) days after the pre-eviction or pre-demolition conference;

6) The inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens shall be conducted after seven (7) days from service of notice of eviction or demolition upon the affected persons and entities; and

7) Any request for PNP assistance shall be accompanied by a certification from the PCUP that an inter-agency pre-eviction or pre-demolition conference with the affected underprivileged and homeless citizens was conducted.

(iv) Submission to the Barangay Officials, before any eviction or demolition, of the following:

- 1) Certificate of Compliance secured from the PCUP;
- 2) Names of all personnel, staff, and crew taking part in the eviction or demolition activity, including private security, and the names of the PNP personnel assigned to maintain law and order;
- 3) Notice of the date of demolition which shall be at least five (5) calendar days from such notice; and
- 4) List of officers of the agencies forming part of the inter-agency body convened to extend support and assistance.

(b) During Eviction and Demolition –

- (i) Reading of the plan of eviction or demolition agreed upon during the inter-agency pre-eviction or pre-demolition conference;
- (ii) Presence of local government officials or their representatives during eviction or demolition;
- (iii) Proper identification of all persons taking part in the demolition;
- (iv) Execution of eviction or demolition only during regular office hours from Mondays to Fridays and during good weather,

- unless the affected families consent otherwise;
- (v) no use of heavy equipment for demolition except for structures that are permanent and made of concrete materials;
- (vi) Proper uniforms for members of the PNP who shall occupy the first line of law enforcement and observe proper disturbance control procedures: Provided, that the PNP, in coordination with the DSWD, shall ensure the safety and security of the affected children, pregnant and lactating mothers, senior citizens, persons with disabilities and other groups or marginalized sectors in the areas of eviction or demolition;
- (vii) Observance of a minimum standard of conduct based on rules of engagement that apply maximum tolerance in order to prevent the outbreak of violence or the escalation thereof: Provided, that any legal use of force must respect the principles of necessity and proportionality: Provided, further, that the child protection policy in the conduct of eviction or demolition shall be implemented;
- (viii) Measures to protect the evictees from threats or harassment from the government or private persons or entities, including gender-based violence: Provided, that legal assistance to any complaining party shall be available; and
- (ix) Transparency in all stages of the eviction or demolition process, allowing the media to cover the whole event.

(c) After Eviction or Demolition –

- (i) Adequate housing and relocation, whether temporary or permanent: Provided, that in cases of eviction and demolition pursuant to a court order involving underprivileged and homeless citizens, relocation shall be undertaken by the LGU concerned and the National Housing Authority with the assistance of other government agencies within forty-five (45) calendar days from the service of notice of final judgement by the court, after which period the said order shall be executed: Provided, however, that should relocation not be possible within the said period, financial assistance in the amount equivalent to the prevailing and applicable minimum daily wage for non-agricultural workers, multiplied by sixty (60) days, shall be extended to the affected families by the LGU concerned: Provided, further, that the financial assistance shall not replace the requirement of adequate relocation; and
- (ii) Immediately after the eviction, all relief measures, medical facilities, psychosocial services, documentation of evictees to

prevent displacement or family separation and similar assistance shall be put in place by the LGUs concerned in partnership with relevant government agencies.

Observance of the above requirements shall be mandatory in all cases involving the eviction and demolition of underprivileged and homeless citizens and ISFs, regardless of whether or not their dwellings or residential structures were constructed before or after the effectivity of this Act.

The DILG and the DHSUD shall jointly promulgate the necessary rules and regulations to carry out this section.

SECTION 8. Prohibition on Fencing After a Disaster or Calamity. – It shall be prohibited for any person to secure or build a perimeter fence on an area or property inhabited by underprivileged and homeless citizens after the same is razed to the ground by a fire or ruined by a natural calamity: Provided, that the fencing of the property shall be allowed if the person causing the fencing can show a duly-signed court order allowing the same.

SECTION 9. PCUP as Central Coordinating Body for Eviction, Demolition, and Resettlement. – The PCUP is hereby designated as the Central Coordinating Body for the conduct of eviction and demolition activities involving underprivileged and homeless citizens.

SECTION 10. Functions of the Central Coordinating Body. – The PCUP shall exercise the following functions as the Central Coordinating Body:

- (a) Monitor all evictions and demolitions, whether extrajudicial or court-ordered, involving underprivileged and homeless citizens;
- (b) Require a government agency or LGU proposing to undertake the eviction or demolition activities to secure first from the PCUP Central Office, in the case of national projects, or from its regional office in case of local projects, the checklist and guidelines for the national and local projects, respectively, on eviction or demolition prior to the actual implementation thereof and, subsequently, to submit to the PCUP the completed checklist, attested to under oath by the proponent, indicating that:
 - (i) Adequate and genuine consultation with the affected families have already been undertaken;
 - (ii) Adequate resettlement site and relocation facilities are available; and
 - (iii) The pre-relocation requirements have been complied with;

(c) Review the basis for application for the conduct of eviction of underprivileged and homeless citizens or the demolition of their dwellings or appurtenances thereto in a danger area or high-risk area, or in an area where a government infrastructure project with available funding is about to be implemented;

(d) Based on the completed checklist, subject to further verification and the review of the basis for application for eviction or demolition in the immediately preceding sub-paragraph, issue a demolition and eviction certificate of compliance to the national government or LGU proposing the eviction or demolition involving underprivileged and homeless citizens;

(e) Initiate, in coordination with relevant government agencies, the formulation of rules of engagement in the implementation of eviction or demolition based on maximum tolerance and on the principles of necessity and proportionality;

(f) Establish a separate protection mechanism for children through the formulation of a child protection policy in the conduct of eviction and demolition: Provided, that the child protection policy shall be developed in partnership with the DSWD, CHR and CWC and in consultation with stakeholders including children;

(g) Investigate *motu proprio* or upon complaint by any party any violation of the provisions of Sections 6 and 7 hereof or the rules and regulations issued to implement them;

(h) File *motu proprio* or by way of assistance to any aggrieved party, the appropriate criminal, civil, or administrative case against any person or persons found to have violated the provisions of Sections 6 and 7 of the Act or the rules and regulations issued to implement them;

(i) Recommend to the President appropriate measures for the implementation and enforcement of this Act and the rules and regulations issued to implement it, including possible administrative sanctions against national or local government officials who violate the same;

(j) Require assistance and necessary information from any government agency in the discharge of its functions under this Act;

(k) Publicize matters covered by its investigation of violations of the provisions of Sections 6 and 7 of this Act or the rules and regulations issued to implement them, when circumstances so warrant and with

due prudence: Provided, however, that the PCUP shall, under the rules and regulations that shall hereafter be promulgated, determine what cases may be made public: Provided, further, that any public report or press release from the PCUP shall be balanced, fair and true;

(l) Administer oaths, issue subpoenas duces tecum, and take the testimonies of witnesses in the course of its investigation;

(m) Adopt its own operational guidelines and rules of procedures, as well as rules and regulations not otherwise inconsistent with existing laws, rules and regulations, to effectively carry out its mandate; and

(n) Perform such other functions as may hereafter be provided by law. The PCUP shall designate additional personnel to carry out its mandate under this Act.

SECTION 11. Penalty for Violation. – The penalty of not less than six (6) months but not more than six (6) years of imprisonment, or a fine of not less than Twenty-Five Thousand Pesos (₱25,000.00) but not more than One Hundred Thousand Pesos (₱100,000.00), or both, at the discretion of the court, shall be imposed on any person who violates Sections 6 or 7 of this Act. If the offender is a corporation, partnership, association, government-owned or controlled corporation, or other juridical entity, the penalty shall be imposed on the officer or officers of said corporation, partnership, association, government-owned or controlled corporation, or juridical entity who caused the violation.

SECTION 12. Appropriations. – The amount necessary to carry out the purpose of this Act shall be included in the annual budget of implementing agencies in the General Appropriations Act of the year following its enactment into law and every year thereafter.

SECTION 13. Implementing Rules and Regulations. – Within one hundred twenty (120) days from the effectivity of this Act, the DHSUD, DILG, and PCUP shall, in consultation with non-government organizations, people's organizations, ISFs and their organizations, and the relevant private sector organizations, jointly promulgate the rules and regulations implementing the provisions of this Act.

SECTION 14. Separability Clause. – If any provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

SECTION 15. Repealing Clause. – All laws, executive orders, presidential decrees, proclamations, rules, regulations, issuances, and enactments or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Approved.