

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th CONGRESS
First Regular Session

HOUSE BILL NO. 418



Introduced by **REP. EVELINA G. ESCUDERO**

EXPLANATORY NOTE


Universally understood as the use of public office for personal gain or benefit, corruption may be committed by an official alone or with the involvement of a second party.¹ Corruption is a pervasive and universal malady afflicting countries all over the world. It is anathema to efforts of poverty alleviation and degrades the economic and socio-political structure of a country. Corruption is certainly a resilient impediment that goes against the tide of development of any country afflicted with it. Now more than ever, the issue of corruption plays a central role in politics as it is a difficulty that confronts every nation, whether developed, developing, or in transition.²

In all the existing anti-corruption laws in the country, it is Republic Act No. 6713 that is all encompassing in making it clear that corruption is not acceptable in society by providing ethical standards by which every public official and employee must comply, and by providing a system of rewards that would motivate public officials and employees to do well in the performance of their functions. But in the changing times, a legislative act passed upon in 1989, or more than twenty (20) years ago, would require updating to adopt to current situations in public administration, and to keep abreast with international agreements that the country has entered into, one of which is the United Nations Convention Against Corruption (UNCAC).³

An evaluation of the implementation of R.A. No. 6713 indicates specific areas of improvement, which include among others, the definition of "public official," provisions on the statement of assets, liabilities and net worth (SALN), system of rewards and incentives, and penalties imposed for violations of its provisions. With these areas identified, the herein proposed amendments specifically addresses the gap on the coverage of the law by broadening the definition of the term "public servant" and ensuring more transparency in government.

Finally, to be a more meaningful anti-corruption legislation, the amendments also include: 1) further institutionalization of the system of rewards and incentives; 2) provision on rewards and protection to anyone who blow the whistle against corrupt practices; 3) shifting the burden of proof; 4) increasing the prescribed penalties; and 5) establishing cooperation and collaboration with the public and civil society groups in the monitoring and implementation of the law.

In view of these reasons, approval of this bill is earnestly requested.


EVELINA G. ESCUDERO

¹ Myint, U., "Corruption: Causes, Consequences, and Cures," *Asia-Pacific Development Journal*, no. 2 (2000): 33-58.

² Klitgaard, Robert, "International Cooperation Against Corruption," *Finance and Development* (1998). <http://www.imf.org/external/pubs/ft/fandd/1998/03/klitgaard.pdf>

³ Ratified by the Philippine Senate on November 8, 2006.

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AN ACT
STRENGTHENING THE CODE OF CONDUCT AND ETHICAL STANDARDS FOR
PUBLIC SERVANTS

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

SECTION 1. Title. - **This Act shall be known as the "Enhanced Code of Conduct and Ethical Standards for Public Servants."**

SEC. 2. Declaration of Policies. - It is the policy of the State to promote a high standard of ethics in public service. **Public servants** shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.

SEC. 3. Definition of Terms. - As used in this Act, the term:

(a) "Conflict of interest" arises when a public servant is a member of a board, an officer, or a substantial stockholder of a private corporation or owner or has a substantial interest in a business, and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of servant duty.

(b) "Corruption" is understood as the use of public office for personal gains which include but is not limited to bribery, extortion, fraud, embezzlement, nepotism, cronyism, appropriations of public assets and properties for private use and influence peddling.

(c) "Divestment" is the transfer of title or disposal of interest in property by voluntarily, completely and actually depriving or dispossessing oneself of his right or title to it in favor of a person or persons other than his spouse and relatives as defined in this Act.

(d) "Family of public servants" means their spouses and children, or partners regardless of legal status.

(e) "Gift" refers to a thing or a right to dispose of gratuitously, or any act or liberality, in favor of another who accepts it, and shall include a simulated sale or an ostensibly onerous disposition thereof. It shall not include an unsolicited gift of nominal or insignificant value not given in anticipation of, or in exchange for, a favor from a public servant

(f) "Government" includes the National Government, the local governments, and all other instrumentalities, agencies or branches of the Republic of the Philippines including government-owned or controlled corporations, and their subsidiaries.

(g) "Honorary Capacity" shall mean holding a government position or office as an honor and without payment or compensation of any form.

(h) **"Lavish Lifestyle"** shall mean living in a manner characterized by extravagance and profusion

(i) "Loan" covers both simple loan and commodatum as well as guarantees, financing arrangements or accommodations intended to ensure its approval.

(j) "Person" includes natural and juridical persons unless the context indicates otherwise.

(k) **"Public Servant"** includes any person holding or performing a public function in the legislative, executive, administrative or judicial office in the government, regardless of status of employment or engagement, and whether or not they receive compensation, except foreign nationals designated as honorary consuls. **Provided that services rendered of those engaged by contract of service or job order shall not be considered government service.**

(l) "Receiving any gift" includes the act of accepting directly or indirectly, a gift from a person other than a member of his family or relative as defined in this Act, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is neither nominal nor insignificant, or the gift is given in anticipation of, or in exchange for, a favor.

(m) "Relatives" refers to any and all persons related to a public servant within the fourth civil degree of consanguinity or affinity, including bilas, inso and balae.

(n) **"Retaliation"** shall mean the dismissal, suspension, demotion or any other adverse action in terms or conditions of employment by an agency, board, public employer, head of department, appointing authority, or any superior against a public servant for disclosing any corrupt activity or any violation of or non-compliance with a law, rule, or regulation.

(o) "Substantial stockholder" means any person who owns, directly or indirectly, shares of stock sufficient to elect a director of a corporation. This term shall also apply to the parties to a voting trust.

SEC. 4. Norms of Conduct of Public Servants. -

(A) Every public servant shall observe the following as standards of personal conduct in the discharge and execution of servant duties:

(a) **Commitment to public interest.** - Public servants shall always uphold the public interest over and above personal interest. All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.

(b) **Professionalism.** - Public servants shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavour to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.

(c) **Justness and sincerity.** - Public servants shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.

(d) **Political neutrality.** - Public servants shall provide service to everyone without unfair discrimination and regardless of party affiliation or preference.

(e) **Responsiveness to the public.** - Public servants shall extend prompt, courteous, and adequate service to the public. Unless otherwise provided by law or when required by the public interest, public servants shall provide information of their policies and procedures in clear and understandable language, ensure openness of

information, public consultations and hearings whenever appropriate, encourage suggestions, simplify and systematize policy, rules and procedures, avoid red tape and develop an understanding and appreciation of the socio-economic conditions prevailing in the country, especially in the depressed rural and urban areas.

(f) Nationalism and patriotism. - Public servants shall at all times be loyal to the Republic and to the Filipino people, promote the use of locally produced goods, resources and technology and encourage appreciation and pride of country and people. They shall endeavour to maintain and defend Philippine sovereignty against foreign intrusion.

(g) Commitment to democracy. - Public servants shall commit themselves to the democratic way of life and values, maintain the principle of public accountability, and manifest by deeds the supremacy of civilian authority over the military. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.

(h) Simple living. - Public servants and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form.

(B) The Civil Service Commission shall adopt positive measures to promote (1) observance of these standards including the dissemination of information programs and workshops authorizing merit increases beyond regular progression steps, to a limited number of public servants recognized by their office colleagues to be outstanding in their observance of ethical standards; and (2) continuing research and experimentation on measures which provide positive motivation to public servants in raising the general level of observance of these standards.

SEC. 5. Duties of Public Servants. - In the performance of their duties, all public servants are under obligation to:

(a) Act promptly on letters and requests. - All public servants shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

(b) Submit annual performance reports. - All heads or other responsible officers of offices and agencies of the government and of government-owned or controlled corporations shall, within forty-five (45) working days from the end of the year, render a performance report of the agency or office or corporation concerned. Such report shall be open and available to the public within regular office hours.

(c) Process documents and papers expeditiously. - All servant papers and documents must be processed and completed within a reasonable time from the preparation thereof and must contain, as far as practicable, not more than three (3) signatories therein. In the absence of duly authorized signatories, the servant next-in-rank or officer in charge shall sign for and in their behalf.

(d) Act immediately on the public's personal transactions. - All public servants must attend to anyone who wants to avail himself of the services of their offices and must, at all times, act promptly and expeditiously.

(e) Make documents accessible to the public. - All public documents must be made accessible to, and readily available for inspection by, the public within reasonable working hours.

SEC. 6. Code of Conduct Committee (CCC). A multi-sectoral anti-corruption committee is hereby created composed of the following: Chairman of the Civil Service Commission (CSC) and the Ombudsman as the Committee Heads, Chairperson of the Commission on Audit, one representative from any recognized government employee association, and one Civil Society Organization representative to be appointed by the President, as members.

It shall be the task of the CCC to:

1. Develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
2. Establish and promote effective practices aimed at the prevention of corruption.
3. Evaluate periodically relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
4. To act as primary body that will collaborate with relevant international and regional organizations in promoting and developing anti-corruption policies and practices.
5. Promulgate rules and administer the system of incentives and rewards established in this Act.
6. Promulgate policies, rules and regulations and perform such other actions to carry out these functions.

SEC. 7. *System of Incentives and Rewards.* - A system of annual incentives and rewards is hereby established in order to motivate and inspire public servants to uphold the highest standards of ethics.

The following awards categories shall be conferred to public service exemplars with the corresponding rewards and incentives:

(a) Awards for Outstanding Work Performance

a.1 Presidential or Lingkod Bayan Award - the awardee/s shall receive a gold-gilded medallion and a plaque containing the citation of the President of the Republic of the Philippines, cash reward and other forms of rewards and incentives as may be determined by the Committee.

a.2 CSC or Pagasa Award - the awardee/s shall receive a gold-gilded medallion, a plaque containing the citation and signature of the Chairperson of the CSC provided under Section 6 (b) of the Omnibus Rules Implementing Book V of Executive Order No. 292, and a cash reward as may be determined by the Committee.

(b) Award for Exemplary and Ethical Behavior

b.1 Outstanding Public Servants Award or Dangal ng Bayan Award – the awardee/s shall receive a trophy , a cash reward and other forms of rewards and incentives provided for in the following paragraph of this Act.

The conferment of awards shall take into account, among other things, the following: the years of service and the quality and consistency of performance, the obscurity of the position, the level of salary, the unique and exemplary quality of a certain achievement, and the risks or temptations inherent in the work.

Other Incentives and rewards may also be given in the form of bonuses, citations, directorships in government-owned or controlled corporations, local and foreign scholarship grants, paid vacations and the like. Presidential Lingkod Bayan and Dangal ng Bayan awardees shall likewise be automatically promoted to the next higher position with the commensurate salary suitable to their qualifications. In case there is no next higher position or it is not vacant, said position shall be included in the budget of the office in the next General Appropriations Act.

SEC. 8. *Prohibited Acts and Transactions.* - In addition to acts and omissions of public servants now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public servant and are hereby declared to be unlawful:

- (a) Financial and material interest. - Public servants shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

(b) Outside employment and other activities related thereto. - Public servants during their incumbency shall not:

- (1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;
- (2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; or
- (3) Recommend any person to any position in a private enterprise which has a regular or pending servant transaction with their office.

These prohibitions shall continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of subparagraph (b) (2) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition shall likewise apply.

The prohibition on outside employment shall not apply to those working under job orders or contracts of service.

(c) Disclosure and/or misuse of confidential information. - Public servants shall not use or divulge, confidential or classified information servantly known to them by reason of their office and not made available to the public, either:

- (1) To further their private interests, or give undue advantage to anyone; or
- (2) To prejudice the public interest.

(d) Solicitation or acceptance of gifts. - Public servants shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their servant duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

As to gifts or grants from foreign governments, the Congress consents to:

- (i) The acceptance and retention by a public servant of a gift of nominal value tendered and received as a souvenir or mark of courtesy;
- (ii) The acceptance by a public servant of a gift in the nature of a scholarship or fellowship grant or medical treatment; or
- (iii) The acceptance by a public servant of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

The Ombudsman shall prescribe such regulations as may be necessary to carry out the purpose of this subsection, including pertinent reporting and disclosure requirements.

Nothing in this Act shall be construed to restrict or prohibit any educational, scientific or cultural exchange programs subject to national security requirements.

SEC. 9. Statements and Disclosure. - **Public servants** have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests.

Statements of Assets and Liabilities and Financial Disclosure. - All **public servants**, except those who serve in an honorary capacity, shall file under oath their Statement of Assets, Liabilities and

Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and children or partners, regardless of their legal status.

The SALN shall contain information on the following:

- (a) personal details including that of spouse and children;
- (b) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (c) personal property and acquisition cost;
- (d) all other assets such as, cash on hand or in banks, whether in local or foreign currency, stocks, bonds and investments, and the like;
- (e) liabilities, and;
- (f) all business interests and financial connections.

The SALN shall be filed with the Office of the Ombudsman:

- (a) within thirty (30) days after assumption of office;
- (b) on or before April 30, of every year thereafter; and
- (c) 30 days before the effectivity date of separation from the service.

The Ombudsman, CSC, and COA is hereby empowered to obtain, at any time, all documents as may show the declarant's assets, liabilities, net worth, and business interests and financial connections, commencing from the time the declarant was employed or engaged by the government, from all agencies, banks, and financial institutions, whether private or public.

Husband and wife who are both public servants may file the required statements jointly or separately.

(B) Identification and disclosure of relatives. - It shall be the duty of every public servant to identify and disclose, to the best of ones knowledge and information, relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

(C) Accessibility of documents. - (1) Any and all statements filed under this Act, shall be made available for inspection during working hours and subject only to reasonable conditions to be determined by the Code of Conduct Committee.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be disposed unless needed in an ongoing investigation.

In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the most accessible and convenient medium (e.g. website).

(D) Prohibited acts. - It shall be unlawful for any person to obtain or use any statement filed under this Act for:

- (a) any purpose contrary to morals or public policy; or
- (b) any commercial purpose other than by news and communications media for dissemination to the general public.

SEC. 10. Divestment. - A public servant shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty

(30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.

The same rule shall apply where the public servant is a partner in a partnership.

SEC. 11. *Review and Compliance Procedure in the Filing and Submission of the Statement of Assets, Liabilities and Net Worth and Disclosure of Financial and Business Interests.* –

- a. All public servants shall file under oath their Statement of Assets, Liabilities and Net Worth and Disclosure of Financial and Business Interests with their respective Chief/Head of Personnel/Administrative Division/Unit or Human Resource Management Office:
 - i. Within thirty (30) days after assumption of office;
 - ii. On or before April 30, of every year thereafter;
 - iii. Thirty (30) days before the effectivity date of separation from the service.
- b. All public servants are strictly required to fill in all applicable information and make a true and detailed statement in their Statement of Assets, Liabilities and Net Worth and Disclosure of Financial and Business Interests.
- c. Upon receiving their Statement of Assets, Liabilities and Net Worth and Disclosure of Financial and Business Interests, the Chief/Head of Personnel/Administrative Division/Unit or Human Resource Management Office shall forward the same to the Review and Compliance Committee.
- d. Each office/agency shall have a Review and Compliance Committee, which shall be composed of one (1) Chairman and two (2) members.
- e. The Review and Compliance Committee shall be designated and authorized by the head of agency to receive the Statement of Assets, Liabilities and Net Worth and Disclosure of Financial and Business Interests and to evaluate if the same has been submitted on time, complete and in proper form.
- f. The Review and Compliance Committee shall prepare a list of the following public servants, in alphabetical order, to the head of agency, copy furnished the Civil Service Commission (Office of the Ombudsman), on or before May 15 of every year:
 - i. Those who filed their SALNs with complete data;
 - ii. Those who filed their SALNs but with incomplete data; and
 - iii. Those who did not file their SALNs.
- g. Within five (5) days from receipt of the aforementioned lists, it shall be the ministerial duty of the head of agency to issue an order requiring those who have incomplete data in their SALNs to correct/supply the desired information and those who did not file/submit their SALNs to comply within a non-extendible period of thirty (30) days from receipt of said order.

Assets and/or properties acquired, donated or transferred in the name of the declarant for a particular year, but were not declared on one's SALN for that year, as the same came to one's knowledge only after such filing, correction and/or submission, must be declared or reflected in the declarant's next or succeeding SALN.

- h. Failure of public servant to correct/submit one's SALN in accordance with the procedure and within the given period pursuant to the directive in paragraph g hereof shall be a ground for disciplinary action and meted with the following penalties:
 - i. First Offense - Suspension of one (1) month and one (1) day to six (6) months
 - ii. Second Offense - Dismissal from the service

Public servants who fail to comply within the thirty (30) day period required under paragraph g hereof or who submit their SALNs beyond the said period shall be considered as not having filed their SALNs, and shall be made liable for the offense of Failure to File SALN with a penalty of suspension of one (1) month and one (1) day to six (6) months for the first offense, and dismissal from the service for the second offense.

Heads of agencies/offices who fail to comply with the provisions of Section 10 hereof, shall be liable for Simple Neglect of Duty, which shall be punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense, and dismissal from the service for the second offense.

- i. The Review and Compliance Committee shall transmit all original copies of the SALNs received on or before June 30 of every year to the Office of the Ombudsman.

A public servant is presumed to be engaged in corrupt activities or practices if he/she is living in a lavish lifestyle and/or there is gross disproportion of assets to income.

SEC. 12. *Reward and Protection to Whistleblower* - Any person who exposes wrongdoings or corruption against another public servant, agency, board or entity shall: 1) be protected from any retaliation; 2) be rewarded with a reasonable portion (maximum of 1/2) of the amount recovered in the exposed corrupt practice or activity. For this purpose, the identity of the whistleblower shall not be unreasonably disclosed.

To qualify for the protection, and reward, the whistleblower must provide truthful and sufficient information for the commencement of an inquiry or filing of a case before any court, body or tribunal.

Any person who is found guilty to have applied retaliation against a whistleblower public servant shall suffer a penalty of imprisonment of six years and one day to twelve years.

SEC. 13. *Penalties*. - (a) Any public servant, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine or suspension not exceeding one (1) year or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment **not exceeding twelve (12) years, or a fine to be fixed in the rules and regulations of this Act**, or both, and perpetual disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public servant, even if no criminal prosecution is instituted against him.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public servants, in violation of this Act, shall be subject to the same penal liabilities as the public servants and shall be tried jointly with them.

(d) The public servant concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (D) of this Act. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed twenty-five thousand pesos (P25,000). If another sanction hereunder or under any other law is heavier, the latter shall apply.

SEC. 14. *Promulgation of Rules and Regulations, Administration and Enforcement of this Act*. - The Civil Service Commission and the Ombudsman shall promulgate the rules and regulations necessary to carry out the provisions of this Act within one (1) year from date of promulgation. The CSC shall have the primary and exclusive jurisdiction and responsibility for the administration and enforcement of this Act. It shall transmit all cases for prosecution arising from violations of this Act to the proper authorities for appropriate action: Provided, however, that it may institute such administrative actions and disciplinary measures as may be warranted in accordance with law.

SEC. 15. *Appropriations*. - The sum necessary for the effective implementation of this Act shall be taken from the appropriations of the Civil Service Commission. Thereafter, such sum as may be needed for its continued implementation shall be included in the annual General Appropriations Act.

SEC. 16. *Separability Clause.* - If any provision of this Act or the application of such provision to any person or circumstance is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

SEC. 17. *Repealing Clause.* - All laws, decrees and orders or parts thereof inconsistent herewith, are deemed repealed or modified accordingly, unless the same provide for a heavier penalty.

SEC. 18. *Effectivity.* - This Act shall take effect after thirty (30) days following the completion of its publication in the *Servant Gazette* or in two (2) national newspapers of general circulation.

Approved,