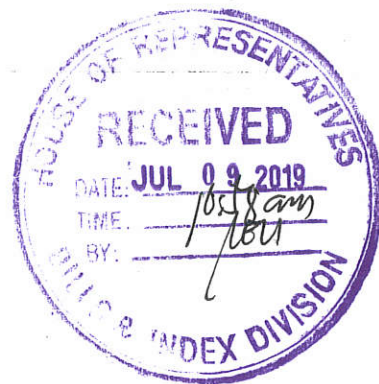


REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 1656



Introduced by **MAGDALO Party-List Representative**
HON. MANUEL DG. CABOCHAN III

EXPLANATORY NOTE

Proclamation No. 50, issued on 08 December 1986, launched a program for the disposition of non-performing assets of government financial institutions and government corporations that have been found unnecessary and inappropriate for the public sector to maintain. It created the Committee on Privatization (COP) and the Asset Privatization Trust (APT). These were replaced, however, by the Privatization Council (PrC) and the Privatization and Management Office (PMO) by virtue of Executive Order No. 323 issued on 06 December 2001. Considering that there are still a number of government assets to be subsequently divested to the private sector, a specialized corporate body should therefore be organized.

This bill seeks to create the Government Asset Management Authority (GAMA), which shall pursue a coordinated and efficient program for the disposition and liquidation of non-relevant and non-performing government assets, including surrendered assets of the Presidential Commission on Good Government (PCGG). Consequently, it proposes to abolish the PC, PMO and the Board of Liquidators, and their respective properties, assets and liabilities, fund, and personnel immediately transferred to the GAMA.

The GAMA shall remit to the National Treasury any and all proceeds from the sale and disposition of government assets, in which 60% shall go to the special account of the Agrarian Reform Fund and 40% to the General Fund.

In view of the foregoing, the immediate approval of this bill is earnestly sought.


MANUEL DG. CABOCHAN III
Representative
Magdalo Para sa Pilipino Party-List

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House Bill No. _____

Introduced by **MAGDALO Party-List Representative**
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AN ACT

**CREATING THE GOVERNMENT ASSET MANAGEMENT AUTHORITY,
DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES**

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "Government Asset
2 Management Act."

3
4 **SEC. 2. *Declaration of Policy.*** - It is hereby declared policy of the State to promote
5 an orderly, coordinated, and efficient program for the prompt disposition and liquidation of
6 non-relevant and non-performing assets of government agencies and government owned or
7 controlled corporations, including surrendered assets and idle properties which have been
8 found unnecessary or inappropriate for the government sector to maintain.

9
10 **SEC. 3. *Definition of Terms.*** - As used in this Act, the following terms shall mean:

11
12 A) "Disposition" which shall also be known as "Privatization," refers to the transfer
13 of government corporations, activities, or assets of government or its agencies to
14 private ownership. It could also include sale of shares of stock, sale of physical
15 assets, leasing, concession, joint venture schemes, management or maintenance
16 contracts, or securitization.

17
18 B) "Assets" refer to: (1) receivables and other obligations due to the Government or
19 its agencies under credit, lease, indemnity, and other agreements together with all
20 collateral security and other rights (including but not limited to rights in relations
21 to shares of stock in corporation such as voting rights as well as right to appoint
22 directors of a corporation or otherwise engage in the management thereof granted
23 to the Government or its agencies by contract or operation of law to secure or
24 enforce the right of the payment of such obligation; (2) real and personal property
25 of any kind owned or held by the Government, including shares of stock in
26 corporation, obtained by the Government or its agencies, whether directly or
27 indirectly, through foreclosure or other means, in settlement of such obligations
28 and surrendered assets within the purview of Executive Order Nos. 1 and 2, series
29 of 1986; (3) shares of stocks and other investments held by the Government or its

1 agencies; (4) government corporations whether as parent or subsidiary
2 corporations; and (5) such other items as may be identified by law.

3
4 C) "Surrendered Assets" refer to any asset, property, business enterprise, or material
5 possession of persons ceded to the National Government by virtue of compromise
6 agreements entered into by the Presidential Commission on Good Government
7 (PCGG) pursuant to Executive Order Nos. 1 and 2, series of 1986. It shall also
8 include such similar assets that may be surrendered to the National Government in
9 the future.

10
11 D) "Idle Properties" refer to all real properties such as land, buildings, and other
12 improvements located in the Philippines and abroad owned by the National
13 Government through its departments, bureaus, offices, or agencies which have not
14 been substantially developed, improved, or cultivated for a period of more than
15 five (5) years as of the effectivity of this Act or thereafter.

16
17 E) "Board" refers to the Governing Board of the Government Asset Management
18 Authority constituted under this Act.

19
20 F) "Government-owned or Controlled Corporation (GOCC)" refers to a corporation
21 which is created by special law or incorporated and organized under the
22 Corporation Code and in which the government, directly or indirectly, has
23 ownership of the majority control and which is explicitly intended under that law
24 and government policy for ultimate transfer to private ownership under certain
25 specified conditions shall be considered a GOCC, until it is transferred to private
26 ownership and control: *Provided, however,* That an acquired asset corporation
27 which is either (1) under private ownership, the voting or outstanding shares of
28 which (i) were conveyed to the government or to a government agency,
29 instrumentality or corporation in satisfaction of debts whether by foreclosure or
30 otherwise, or (ii) were duly acquired by government through final judgment in a
31 sequestration proceeding; or (2) a subsidiary of a government corporation
32 organized exclusively to own and manage, or lease, or operate specific physical
33 assets acquired by a government financial institution in satisfaction of debts
34 incurred therewith, and which in any case by law or by enunciated policy is
35 required to be disposed of to private ownership within a specified period of time
36 shall not be considered as GOCC or government corporation.

37
38 **SEC. 4. *Creation of the Government Asset Management Authority.*** - For the
39 purpose of carrying out the above-stated policy, there is hereby created a body corporate to be
40 known as the "Government Asset Management Authority," hereinafter referred to as the
41 "Authority," which shall have its principal office in Metropolitan Manila. The Authority may
42 establish such branches and offices as it may deem necessary for the attainment of the
43 objectives of this Act. The Authority shall be attached to the Department of Finance.

44
45 **SEC. 5. *Powers and Functions.*** - The Authority, in addition to the regular powers
46 and functions provided under the Corporation Code of the Philippines, shall have the
47 following powers and functions:

48
49 A) To develop and implement a comprehensive plan in identifying non-relevant and
50 non-performing assets of government agencies and government owned or

- 1 controlled corporations, government corporations whether parent or subsidiary,
2 surrendered assets, and idle properties for privatization;
3
4 B) To establish guidelines for the conversion, rehabilitation, and disposition of
5 government assets and corporations;
6
7 C) To approve or disapprove, on behalf of the National Government, the sale or
8 disposition of government assets;
9
10 D) To exercise on behalf of the National Government rights of ownership and/or
11 administration with respect to such assets, including the right to vote, whether
12 directly or through duly authorized nominees, shares of stocks held in the name of
13 the National Government;
14
15 E) To enter into contracts, acquire, purchase, hold, lease, transfer, and dispose of
16 property of any kind or nature necessary to carry out the purpose of this Act;
17
18 F) To establish, operate, manage, control, and supervise all activities connected with
19 the efficient management and disposition of government assets and corporations;
20
21 G) To receive and hold by request, donation, or by any gratuitous title and to manage
22 or administer or dispose any asset, grant, or property, real or personal, from
23 foreign or domestic sources, subject to such limitations as are provided in existing
24 laws and regulations;
25
26 H) To investigate and file cases in relation to conservation, rehabilitation, disposition,
27 and liquidation of non-relevant and non-performing assets of the government;
28
29 I) To undertake the conservation, rehabilitation, and disposition of non-relevant or
30 nonperforming government assets: *Provided*, That the budget for each
31 rehabilitation project shall be subject to prior approval of the Board;
32
33 J) To seek and secure the assistance of any office, agency, or instrumentality of the
34 government;
35
36 K) To issue such regulations as may be necessary for the proper use by private parties
37 of any or all of the Authority's properties and to impose fees or tolls for the use of
38 such properties;
39
40 L) To issue necessary guidelines to all government agencies to govern activities on
41 the disposal of government corporate assets;
42
43 M) To consult, deputize, or request the assistance of appropriate government agencies
44 or instrumentalities for the purpose of enforcing this Act and its implementing
45 rules and regulations, as well as the orders and decisions of the Authority;
46
47 N) To adopt, prescribe, and promulgate such rules and regulations as may be
48 necessary for the proper implementation of this Act;
49

1 O) To exercise the right of eminent domain as may be necessary for the purposes for
2 which the Authority is created; and
3

4 P) To do any and all acts and things and to exercise all powers which may be
5 necessary or convenient to the accomplishment or furtherance of its purposes and
6 objectives, or which a natural person can do and exercise and which may now be
7 or hereafter be authorized by law.
8

9 **SEC. 6. Governing Board.** - The affairs and business of the Authority shall be
10 directed and its properties managed and preserved by a Governing Board, hereinafter referred
11 to as the "Board", which shall be composed of the Secretary of the Department of Finance as
12 the ex-officio Chairman, and the following as members:
13

14 A) the Secretary of the Department of Justice;
15

16 B) the Director General of the National Economic and Development Authority;
17

18 C) the Secretary of the Department of Trade and Industry;
19

20 D) the Secretary of the Department of Budget and Management; and
21

22 E) two (2) representatives from the private sector to be appointed by the President of
23 the Philippines for a term of three (3) years: *Provided*, That the person appointed
24 shall be of good moral character, of unquestionable integrity, of known probity
25 and patriotism, and with experience of at least ten (10) years in business or
26 finance: *Provided, further*, That in the event of a vacancy, the successor appointed
27 to fill the same shall serve only the unexpired portion of the term of the member
28 he succeeds to.
29

30 **SEC. 7. Meetings.** - The Board shall meet as frequently as is necessary to discharge
31 its responsibilities: *Provided*, That it shall meet at least once every month. The presence of a
32 majority of the members present at a meeting at which a quorum exists shall be adequate for
33 any decision by the Board. Whenever any member of the Board is unable to attend a
34 particular meeting, he may designate any of his immediate subordinate with the rank of
35 undersecretary or its equivalent to attend in his stead.
36

37 **SEC. 8. Per Diems.** - The members of the Board shall be entitled to receive per diem
38 for every meeting actually attended at rates to be approved by the President of the Philippines
39 upon the recommendation of the Department of Budget and Management.
40

41 **SEC. 9. Powers and Functions of the Board.** - The Board shall have the following
42 powers and functions:
43

44 A) To adopt the by-laws of the Authority and to revise the same as may be
45 expedient;
46

47 B) To direct the management, operations, and administration of the Authority;
48

49 C) To approve the annual budget to cover the operations of the Authority based
50 on the following: (1) fees and charges imposed by the Authority; (2) payment

1 for the utilization of the projects of the Authority; and (3) annual
2 appropriations and other funds which Congress may approve for the
3 Authority;
4

5 D) To formulate, revise, or adjust periodically all policies, plans and programs,
6 and to promulgate the necessary rules and regulations to carry out the purposes
7 and objectives of this Act;
8

9 E) To create the organizational structure and staffing pattern necessary for the
10 efficient management, operation, and administration of the Authority, subject
11 to the Civil Service laws, rules and regulations;
12

13 F) To fix the compensation, emoluments and allowances of the officers and
14 employees of the Authority, subject to existing laws, rules and regulations;
15 and
16

17 G) To perform such other functions as may be necessary and proper for the
18 effective enforcement of this Act and to accomplish the purposes for which the
19 Authority was organized.
20

21 **SEC. 10. Administrator.** - The Authority shall have an Administrator to be appointed
22 by the President of the Philippines for a term of five (5) years unless sooner removed for
23 cause. He shall be a person of good moral character, of unquestionable integrity, of known
24 probity and patriotism, and with expertise and experience of at least ten (10) years in
25 professional management with a strong background in the legal profession, business, or
26 finance. He shall receive such compensation, allowances, and other emoluments as may be
27 approved by the President of the Philippines upon the recommendation of the Board.
28

29 **SEC. 11. Powers and Duties of the Administrator.** - The Administrator shall have the
30 following powers, duties, and responsibilities:
31

32 A) To submit to the Board, through the Chairman, policies and measures which,
33 in his judgment, are necessary to carry out the purposes and provisions of this
34 Act;
35

36 B) To implement and execute the policies and measure approved by the Board;
37

38 C) To prepare the budget of the Authority for approval by the Board;
39

40 D) To appoint all employees of the Authority, except the heads of departments
41 and divisions whose appointments shall be made by the Board upon his
42 recommendation, and to remove, dismiss or otherwise discipline for cause
43 such employees in accordance with the Civil Service laws, rules, and
44 regulations;
45

46 E) To represent the Authority in all dealings with other offices, agencies, and
47 instrumentalities of the Government and with all persons and entities, public
48 or private, domestic or foreign; and
49

50 F) To exercise such other powers as may be granted to him by the Board.

1
2 **SEC. 12. *Legal Counsel.*** - The Office of the Government Corporate Counsel shall be
3 the General Counsel of the Authority.
4

5 **SEC. 13. *Utilization of Proceeds from Sale of Assets.*** - Any or all proceeds from the
6 sale or any disposition of assets net of fees, related liabilities, and other reimbursable
7 expenses related to custodianship, marketing, selling, and disposition of assets of the
8 Authority as defined in the implementing rules and regulations to be issued by the
9 Department of Finance pursuant to Section 24 hereof, shall be remitted immediately to the
10 National Treasury in the following proportion: sixty percent (60%) to the special account to
11 the Agrarian Reform Fund and forty percent (40%) to the general fund. Provided, That in the
12 case of proceeds from sale of transferred assets recorded in the books of the Bureau of the
13 Treasury, the check shall be made payable in the name of the Treasurer of the Philippines and
14 shall be remitted immediately to the National Treasury in the same proportion as mentioned
15 above.
16

17 With respect to the sale or other disposition of government owned or controlled
18 corporations, all government owned or controlled corporations except for the Government
19 Service Insurance System and the Social Security System, shall remit to the National
20 Treasury at least fifty percent (50%) of the net proceeds derived from the sale or disposition
21 of assets. For this purpose, net proceeds shall mean gross proceeds less related liabilities and
22 selling expenses.
23

24 The preceding paragraphs, however, shall not apply to assets surrendered to or
25 otherwise recovered by Presidential Commission on Good Government. Any and all proceeds
26 from the sale or disposition of assets recovered by the PCGG shall be remitted to the National
27 Treasury in a special account for Agrarian Reform in accordance with the Comprehensive
28 Agrarian Reform Law: *Provided*, That recoveries relating to the coconut levy shall be
29 deposited in a special account in trust for coconut farmers.
30

31 **SEC. 14. *Exemption from Taxes, Fees and Other Charges.*** - The Authority, as well
32 as the corporations and assets held by it, shall be exempt from all taxes, fees, charges,
33 imposts, and assessments arising from or occasioned by the passing of title over such
34 corporations or assets from the government institutions to the Authority and/or from the
35 Authority to a private acquirer or buyer imposed by the National Government or any
36 subdivision thereof including but not limited to stock transfer taxes, capital gains tax,
37 documentary stamps, registration fees and the like: *Provided*, That in case the said
38 government institutions acquired the said assets by foreclosure, non-payment of similar taxes,
39 fees, charges, imposts, and assessments shall not be a bar to the consolidation of title in the
40 foreclosing institutions and the subsequent passing of title to the Authority or the
41 corporations held by the Authority.
42

43 **SEC. 15. *Publication.*** - The sale or disposition of assets shall be published in at least
44 three (3) newspapers of general circulation for three (3) consecutive days: *Provided*, That the
45 last publication shall occur at least ten (10) days prior to the scheduled bidding or date of
46 negotiation.
47

48 **SEC. 16. *Restraining Order.*** - No court or administrative agency in the Philippines,
49 except the Court of Appeals, shall issue any restraining order or writ of preliminary
50 injunction against the Authority in connection with the acquisition, sale, or disposition of

1 assets in accordance with this Act, nor shall such order or writ be issued against the purchaser
2 of assets sold or disposed of by the Authority to prevent such purchaser from taking
3 possession of such assets.
4

5 **SEC. 17. Public Accountability.** - To ensure public accountability, the Authority shall
6 be subject to the audit of the Commission on Audit and shall comply with all accounting and
7 auditing rules and regulations and those which it may hereafter promulgate of its
8 constitutional mandate.
9

10 **SEC. 18. Merit System.** - All officials and employees of the Authority shall be
11 selected and appointed on the basis of merit and fitness. The recruitment, transfer, promotion,
12 and dismissal of all its employees including temporary personnel shall be in accordance with
13 Civil Service law, rules, and regulations.
14

15 **SEC. 19. Transitory Provisions.** - The Privatization Council, the Privatization and
16 Management Office, and the Board of Liquidators are hereby abolished, and their powers and
17 functions, including their applicable funds and appropriations, records, equipment, facilities,
18 rights, other assets, and personnel shall thereafter immediately be transferred to the
19 Authority. All contracts and liabilities, if any, are hereby also transferred to and assumed by
20 the Authority and shall be acted upon in accordance with the Auditing and shall be acted
21 upon in accordance with the Auditing Code and other pertinent laws, rules, and regulations:
22 *Provided*, That the officers and employees of said agencies who will be needed for the
23 continuity of the programs shall continue in a holdover capacity until such time as the new
24 officers and employees of the Authority shall have been duly appointed pursuant to the
25 provisions of this Act.
26

27 The management and disposition of surrendered assets as well as assets already
28 recovered by final judgment of the Presidential Commission on Good Government are hereby
29 transferred to the Authority.
30

31 Upon approval of this Act, the Commission on Audit shall undertake an examination
32 of all assets and liabilities remaining with the Privatization Council, the Privatization and
33 Management Office, and the Board of Liquidators. The Commission on Audit shall complete
34 such examination within one hundred eighty (180) days from the effectivity of this Act.
35

36 Lawsuits initiated by the Privatization Council, the Privatization and Management
37 Office, the Board of Liquidators, and the Presidential Commission on Good Government in
38 so far as surrendered assets are concerned, which are still pending before appropriate courts
39 upon the abolition of the said agencies, shall be pursued by the Office of the Government
40 Corporate Counsel until their proper termination in the name of or on behalf of the
41 Government.
42

43 **SEC. 20. Structure and Staffing Pattern.** - Within thirty (30) days from the
44 effectivity of this Act, the Board of Directors, pursuant to Section 9(e) hereof shall create the
45 organizational structure and staffing pattern of the Authority, subject to the approval by the
46 Department of Budget and Management within ninety (90) days from submission thereof.
47

48 **SEC. 21. Separation and Retirement Benefits.** - The personnel of the herein
49 abolished agencies who are not absorbed in the new staffing pattern of the Authority shall be
50 deemed separated from the service and shall receive separation benefits in accordance with

1 existing laws. Those who are eligible and/or opt to retire shall be entitled to receive such
2 benefits as authorized under existing laws, rules, and regulations.
3

4 **SEC. 22. Appropriations.** - The amount necessary for the initial implementation of
5 this Act shall be taken from the existing appropriations under the current year's General
6 Appropriations Act of Privatization Council, the Privatization and Management Office, and
7 the approved budget of the Board of Liquidators for the current year by the Office of the
8 President. Thereafter, such sums as may be necessary for the continued operation of the
9 Authority shall be included in the annual General Appropriations Act.
10

11 **SEC. 23. Congressional Review.** - Every three (3) years after the effectivity of this
12 Act. Congress shall conduct a systematic evaluation of the Authority to determine whether or
13 not its performance, impact or accomplishment with respect to its mandates merits its
14 continued existence. Such evaluation shall be undertaken by the Committee on Government
15 Corporations and Public Enterprises of the Senate and the Committee on Government
16 Enterprises and Privatization of the House of Representatives which have legislative
17 jurisdiction over the Authority.
18

19 **SEC. 24. Implementing Rules and Regulations.** - Within sixty (60) days from the
20 approval of this Act, the Authority, with the Department of Finance, shall promulgate the
21 necessary rules and regulations for the efficient implementation of this Act: *Provided*, That
22 the rules and regulations shall be published in two (2) newspapers of general circulation.
23

24 **SEC. 25. Separability Clause.** - If for any reason, any provision of this Act or the
25 application thereof to any person or circumstances, is held invalid or unconstitutional, the
26 remaining provisions not affected thereby shall continue to be in full force and effect.
27

28 **SEC. 26. Repealing Clause.** - Executive Order No. 372 (s. 1950), Executive Order
29 No. 323 (s. 2000), Republic Act No. 8758, Executive Order No. 12 (s. 1998), Republic Act
30 No. 7886, Republic Act No. 7661, Executive Order No. 37 (s. 1992), Executive Order No. 11
31 (s. 1992), Republic Act No. 7181, Administrative Order No. 14 (s. 1987), Proclamation No.
32 50, and Proclamation 50-A are hereby repealed. All other laws, decrees, orders,
33 proclamations, rules and regulations, or parts thereof, inconsistent with or contrary to the
34 provision of this Act or its purposes are hereby repealed, amended or modified accordingly.
35

36 **SEC. 27. Effectivity.** - This Act shall take effect fifteen (15) days after its publication
37 in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,