

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 5842

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

EXPLANATORY NOTE

Asset forfeiture is an acknowledged potent tool for recovering the proceeds and instrumentalities of corruption. Recovery of properties acquired through illegal activities deters public officials from indulging in corrupt and primitive accumulation of wealth. In cognizance of the aforementioned significance of assets forfeiture, Republic Act No. 1379 which provides for a legal framework for the seizure and forfeiture of illicit assets was passed into law. Nonetheless, there is an urgent need to expedite asset seizure thereby maximizing its efficacy.

This measure seeks to strengthen RA 1379 by (1) granting greater authority and power to the Office of the Ombudsman to combat corruption through the exercise of forfeiture of assets illegally acquired by public officials; and (2) providing for a more timely mechanism on the same. Moreover, this measure seeks to increase the penalties against erring public officials. Further, this measure seeks to put forward the following amendments to RA 1379:

1. SEC. 3. PRESUMPTION: Failure of a public officer or employee to file a Statement of Assets and Liabilities and Net Worth pursuant to Section 8 of R.A. 6713 within thirty days from date of assumption to office shall be prima facie evidence that said public officer or employee has no property, asset or business interest to declare at the beginning of his/her service.
2. SEC. 4. PRIMA FACIE UNLAWFULLY ACQUIRED PROPERTY: Whenever any public office or employee has acquired during his incumbency, amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property sources, said property shall be presumed prima facie to have been unlawfully acquired.
3. SEC. 5. FREEZE ORDER: When it appears upon the filing of the complaint provided for under section 2 of this Act that an unlawfully acquired property or properties exist as defined under Section 4 herein, the Ombudsman may, *motu proprio* or upon motion

of the complainant, issue a freeze order on the aforesaid property or properties which will be valid for not more than three (3) months.

It is hoped that finally, with its passage, justice will be swiftly served against public officials who have stolen State funds and undermined public trust.

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



MANUEL DG. CABOCHAN III

Representative

Magdalo Para Sa Pilipino Party-List

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AN ACT

STRENGTHENING THE FORFEITURE POWERS OF THE STATE, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS "AN ACT DECLARING FORFEITURE IN FAVOR OF THE STATE ANY PROPERTY FOUND TO HAVE BEEN UNLAWFULLY ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR THE PROCEEDINGS THEREFOR"

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

SECTION 1. Section 2 of R.A. No. 1379 is hereby amended to read as follows:

"SEC. 2. Filing of petition. – [Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed prima facie to have been unlawfully acquired.] The [Solicitor General] **OFFICE OF THE OMBUDSMAN, MOTU PROPRIO** OR upon **VERIFIED** complaint by any [taxpayer to the city or provincial fiscal who] **PERSON** shall conduct an [previous] inquiry similar to preliminary investigations in criminal cases **TO DETERMINE IF** [and shall certify to the Solicitor General that] there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof. **IT** shall file, in the name and on behalf of the Republic of the Philippines, [in the Court of First Instance of the city or province] **WITH THE SANDIGANBAYAN OR THE APPROPRIATE REGIONAL TRIAL COURT** where said public officer or employee resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: *Provided, That no such petition shall be filed AGAINST A*

1 **CANDIDATE** within **THE ELECTION PERIOD FOR WHICH HE/SHE**
2 **IS SEEKING ELECTORAL OFFICE** [one year before any general election
3 or within three months before any special election.]
4

5 The resignation, dismissal or separation of the officer or employee from his
6 office or employment in the Government or in the Government owned or
7 controlled corporation shall not be a bar to the filing of the petition [*Provided,*
8 *however,* That the right to file such petition shall prescribe after four years from
9 the date of the resignation, dismissal or separation or expiration of the term of
10 the office or employee concerned, except as to those who have ceased to hold
11 office within ten years prior to the approval of this Act, in which case the
12 proceedings shall prescribe after four years from the approval hereof]."
13

14 **SEC 2.** Insert new Sections 3, 4, and 5 to RA. No. 1379, to read as follows:
15

16 **"SEC. 3. PRESUMPTION. - FAILURE OF A PUBLIC OFFICER OR**
17 **EMPLOYEE TO FILE A STATEMENT OF ASSETS AND LIABILITIES**
18 **AND NETWORTH PURSUANT TO SECTION 8 OF RA. 6713 WITHIN**
19 **THIRTY DAYS FROM DATE OF ASSUMPTION TO OFFICE SHALL**
20 **BE PRIMA FACIE EVIDENCE THAT SAID PUBLIC OFFICER OR**
21 **EMPLOYEE HAS NO PROPERTY, ASSET OR BUSINESS INTEREST**
22 **TO DECLARE AT THE BEGINNING OF HIS/HER PUBLIC SERVICE.**
23

24 **SEC. 4. PRIMA FACIE UNLAWFULLY ACQUIRED PROPERTY. -**
25 **WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS**
26 **ACQUIRED DURING HIS INCUMBENCY AMOUNT OF PROPERTY**
27 **WHICH IS MANIFESTLY OUT OF PROPORTION TO HIS SALARY**
28 **AS SUCH PUBLIC OFFICER OR EMPLOYEE AND TO HIS OTHER**
29 **LAWFUL INCOME AND THE INCOME FROM**
30 **LEGITIMATELY ACQUIRED PROPERTY SOURCES, SAID**
31 **PROPERTY SHALL BE PRESUMED PRIMA FACIE TO HAVE BEEN**
32 **UNLAWFULLY ACQUIRED.**
33

34 **SEC. 5. FREEZE ORDER. - WHEN IT APPEARS UPON THE FILING**
35 **OF THE COMPLAINT PROVIDED FOR UNDER SECTION 2 OF THIS**
36 **ACT THAT AN UNLAWFULLY ACQUIRED PROPERTY OR**
37 **PROPERTIES EXIST AS DEFINED IN SECTION 4 HEREIN, THE**
38 **OMBUDSMAN MAY, MOTU PROPRIO OR UPON MOTION OF THE**
39 **COMPLAINANT, ISSUE A FREEZE ORDER ON THE AFORESAID**
40 **PROPERTY OR PROPERTIES WHICH WILL BE VALID FOR NOT**
41 **MORE THAN SIX (6) MONTHS."**
42

43 **SEC 3.** Section 3 of R.A. No. 1379 is hereby renumbered to Section 6.
44

1 **SEC. 4.** Section 4 of R.A. No. 1379 is hereby amended to read as follows:

2
3 "SEC. [4] 7. Period **TO** [for the] answer **PETITION**. - The respondent
4 shall have a period of fifteen days **FROM NOTICE** within which to present
5 his answer. "

6
7 **SEC. 5.** Section 5 of R.A. No. 1379 is hereby renumbered to Section 8.

8
9 **SEC. 6.** Section 6 of R.A. No. 1379 is hereby amended to read as follows:

10
11 "SEC. [6] 9. *Judgment*. - If the respondent is unable to show to the satisfaction
12 of the court that he has lawfully acquired the property in question, then the court
13 shall declare such property, forfeited in favor of the State, and by virtue of such
14 judgment the property aforesaid shall become property of the State: *Provided*,
15 That no judgment shall be rendered within six months before any general
16 election or within three months before any special election. [The Court may, in
17 addition, refer this case to the corresponding Executive Department for
18 administrative or criminal action, or both.]"

19
20 **SEC. 7.** Section 7 of R.A. No. 1379 is hereby amended to read as follows:

21
22 "SEC. [7]10. Appeal. - The parties may appeal from the judgment of the
23 **SANDIGANBAYAN OR THE REGIONAL TRIAL COURT** [Court
24 of First Instance] as provided in the Rules of Court for appeals in civil
25 cases."

26
27 **SEC. 8.** Section 9 of R.A. No. 1379 is hereby amended to read as follows:

28
29 "SEC. [9] **12. Immunity**. The [Solicitor General] **OMBUDSMAN** may
30 grant immunity from criminal prosecution to any person who testifies to
31 the unlawful manner in which the respondent has acquired any of the
32 property in question in cases where such testimony is necessary to prove
33 violations of this Act."

34
35 **SEC. 9.** Section 10 of R.A. 1379 is hereby amended to read as follows:

36
37 "SEC. [10] **13. Effect of record of title**. - The fact that any real property
38 has been recorded in the Registry of Property or office of the Register
39 of Deeds in the name of the respondent or of any person mentioned in
40 paragraphs (1) and (2) of subsection (b) of section one hereof shall not
41 prevent the rendering of the judgment referred to in section **EIGHT** [six]
42 of this Act."

43
44 **SEC. 10.** Section 11 of R.A. 1379 is hereby renumbered to Section 14.

1
2 **SEC. 11.** Section 12 of R.A. 1379 is hereby amended to read as follows:
3

4 "SEC. [12] **15. Penalties.** - Any public officer or employee who shall,
5 after the effective date of this Act, transfer or convey any unlawfully
6 acquired property shall be [repressed] **PENALIZED** with imprisonment
7 for a term **OF** not **LESS THAN SIX** [exceeding five] years **AND ONE**
8 **DAY BUT NOT MORE THAN FIFTEEN YEARS**, [or a fine not
9 exceeding ten thousand pesos, or both such imprisonment and fine]
10 **PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE,**
11 **AND CONFISCATION OR "FORFEITURE IN FAVOR OF THE**
12 **GOVERNMENT OF ANY PROHIBITED INTEREST.** [The same
13 repression shall be imposed upon any person who shall knowingly
14 accept such transfer or conveyance.]
15

16 **THE SAME PENALTIES SHALL BE IMPOSED UPON**
17 **ANY PERSON WHO SHALL KNOWINGLY ACCEPT SUCH**
18 **UNLAWFUL TRANSFER OR CONVEYANCE. ANY SUCH**
19 **CONVEYANCE SHALL BE VOID *AB INITIO*. "**
20

21 **SEC. 12. Rules and Regulation.** - The Ombudsman shall issue within ninety (90) days
22 after the approval of this Act, the necessary rules and regulation relating to the administrative
23 aspects of the provisions of this Act.
24

25 **SEC. 13. Separability Clause.** - If for any reason, any section or provision of this Act
26 is declared to be unconstitutional or invalid, the other sections or provisions hereof which are
27 not affected thereby shall continue to be in full force and effect.
28

29 **SEC. 14. Repealing Clause.** - All laws, decrees, orders or rules and regulations, and
30 other issuances which are inconsistent with the provisions of this Act are hereby repealed,
31 amended or modified accordingly.
32

33 **SEC. 15. Effectivity.** - This Act shall take effect fifteen (15) days after its publication
34 in two (2) national newspapers of general circulation.

Approved,