

9 APR 13 1995

SENATE
S.B. No. 3150

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Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

Republic Act No. 1405 was enacted for the purpose of giving life to the governmental policy of encouraging people to deposit their money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country¹. But contrary to the law's intention, the same has been consistently invoked and effectively used as a shield against inquiries in cases not included in the exceptions in Section 2 thereof. In fact, the same has been raised by the Anti-Money Laundering Council in the Senate investigations during the 14th Congress regarding the "Fertilizer Fund Scam" involving the accounts of former Undersecretary Jocelyn Bolante.

Conversely, the 1987 Constitution provides:

"Section 1. Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."

That a "public office is a public trust" was succinctly embodied in the aforementioned Constitutional provision, underlining the necessity for a return to the old concepts and values of public office. No less than Justice Isagani Cruz, distinguished jurist and poet, was of the view that the framers of the Constitution probably believed, at the risk of involving themselves in a cliché, that there was a necessity to perpetuate this reminder of the nature of the mandate reposed in all public officers by the sovereign people².

Since the reason behind R.A. No. 1405, as embodied therein, is for the economic benefit of the public, the fact that the same law is being utilized as a roadblock in inquiries and investigations against those who are suspected of being involved, or having been involved, in activities that work to the economic prejudice of the public is contrary to its *ratio legis*. Instead of being a tool to facilitate the economic development of the country, the same is being used as protective veil against investigations involving public funds that should rightfully be accounted for and should redound to the public's benefit, or those exacted from illegal sources. As a result of which, the law's functions are being subverted, resulting to economic damage, albeit indirectly, to the country and its citizens for whom such gain is intended.

¹ Republic Act 1405, Sec. 1

² Cruz, Philippine Political Law (2002)

While this law provides rights to private individuals that should and must remain protected, what is more paramount is the right of the public to the economic benefits that should justly be derived from their taxes, thus the principle that private rights must yield to the public's general welfare.

But the issue is not the determination whether the law, as it stands now, is boon or bane. On the contrary, attention must be on the principle that the law should neither be dormant nor stagnant. Rather, the law must be dynamic and adaptable to the changing times and evolution of society to give life to its legislative intent and fulfil the purpose for which the same has been enacted. It is for this reason that this bill seeks to amend R.A. 1405 to give life to the reason behind this law as a tool to facilitate economic activity and growth for the country and to curb the practice of invoking the same in investigations involving public officials accused of misusing public funds or those coming from illegal sources.

Immediate passage of this bill is therefore earnestly sought.



RAMON FONG REVILLA, JR.

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SENATE
S.B. No. 3150

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Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT AMENDING SECTION 2 OF R.A. 1405 ALSO KNOWN AS AN ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS WITH ANY BANKING INSTITUTION AND PROVIDING PENALTY THEREFOR

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

SECTION 1. Section 2 of Republic Act 1405, otherwise known as An Act Prohibiting Disclosure of or Inquiry Into, Deposits with any Banking Institution and Providing Penalty Therefor, is hereby amended to read as follows:

Section 2. - All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, **OR IN CASES WHEN THE PUBLIC OFFICER OR EMPLOYEE HAVE BEEN CHARGED BEFORE THE COURTS WITH ANY VIOLATION OF SECTION 3 (b) AND (c) OF REPUBLIC ACT 3019 ALSO KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT OR WHEN ACCOUNTS HAVE BEEN FROZEN OR PROSECUTED UNDER REPUBLIC ACT 9160, AS AMENDED BY REPUBLIC ACT 9194, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT, AND REPUBLIC ACT 6426, OTHERWISE KNOWN AS THE FOREIGN CURRENCY DEPOSIT ACT,** or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.

SEC. 2. Repealing Clause. - All laws, decrees, executive orders, letters of instructions, rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 3. Effectivity. - This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,