

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
FIRST REGULAR SESSION)

'04 JUN 30 P12:56

SENATE

RECEIVED BY: 

S.B. NO. 55

Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

EXPLANATORY NOTE

The Civil Code of the Philippines (Republic Act No. 386 as amended) provides for two modes of testamentary disposition by the decedent: by notarized will and/or by holographic will. However, in light of technological advances, these two modes are now insufficient for the testator's purposes.

Due to the invention and development of video recording devices, it is now more convenient and practicable for the testator to use these devices for the disposition of his estate because through these devices, his identity and his intent, through his own words, are established with absolute verity. In effect, they facilitate the determination of probate cases.

Hence, a third mode of testamentary disposition is proposed: by video tape or other similar visual recording device, to make the law on succession more responsive and up-to-date on the use of such technological advances.

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


LUISA "LOI" P. EJERCITO ESTRADA
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
FIRST REGULAR SESSION)

04 JUN 30 P12:56

SENATE

RECEIVED BY: 

S.B. NO. 05

Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

AN ACT
AMENDING THE NEW CIVIL CODE OF THE PHILIPPINES (REPUBLIC ACT NO. 386 AS AMENDED) ARTICLES 804, 805, 810 AND 811, PROVIDING FOR THE USE OF VIDEO TAPES OR OTHER SIMILAR VISUAL RECORDING DEVICE FOR TESTAMENTARY DISPOSITION OF THE ESTATE OF THE DECEDENT.

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

Section 1. Article 804 of R.A. No. 386 as amended, otherwise known as the Civil Code of the Philippines is hereby amended to read as follows:

“Article 804. Every will must be in writing **OR CONTAINED IN A VIDEO TAPE OR ANY OTHER SIMILAR VISUAL RECORDING DEVICE** and executed in a language or dialect known to the testator.”

Sec. 2. The first paragraph of Article 805 of the same law is hereby amended to read as follows:

“Art. 805. Every will, other than a holographic will **AND A WILL CONTAINED IN A VIDEO TAPE OR ANY OTHER SIMILAR VISUAL RECORDING DEVICE**, must be subscribed at the end thereof by the testator himself or by the testator’s name written by some other person in his presence, and by his express direction, and attested and subscribed by three or more credible witnesses in the presence of the testator and of one another. xxx”

Sec. 3. Article 810 of the same law is hereby amended to read as follows:

“Art. 810. A person may execute a holographic will which must be entirely written, dated and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of the Philippines, and need not be witnessed.

A PERSON MAY ALSO EXECUTE A WILL WITH THE USE OF VIDEO EQUIPMENT OR OTHER SIMILAR VISUAL RECORDING INSTRUMENTS WHICH WILL INDICATE WITHOUT DOUBT, THE IDENTITY OF THE TESTATOR WHO MUST STATE THE DATE OF THE RECORDING OF SUCH WILL. THE DATE, AS STATED BY THE TESTATOR, SHALL BE THE DATE WHICH WILL DETERMINE THE EXECUTION OF SUCH WILL, AND NOT THE DATE AS REFLECTED IN THE RECORDING. SUCH WILL IS SUBJECT TO NO FORM, AND MAY BE MADE IN OR OUT OF THE PHILIPPINES, AND NEED NOT BE WITNESSED.”

Sec. 4. Article 811 of the same law shall be amended to read as follows:

“Art. 811. In the probate of a holographic will, it shall be necessary that at least one witness who knows the handwriting and signature of the testator explicitly declare that the will and the signature are in the handwriting of the testator. If the will is contested, at least three of such witnesses shall be required.

IN THE PROBATE OF A WILL IN VIDEO TAPE OR OTHER SIMILAR VISUAL RECORDING DEVICE, IT SHALL BE NECESSARY THAT AT LEAST ONE WITNESS WHO KNOWS THE IDENTITY OF THE TESTATOR ESTABLISH HIS IDENTITY WITH CERTAINTY. IF THE WILL IS CONTESTED,

AT LEAST THREE OF SUCH WITNESSES SHALL BE REQUIRED.

In the absence of any competent witness referred to in the preceding **PARAGRAPHS**, and if the court deems it necessary, expert testimony may be resorted to.”

Sec. 5. **Separability Clause.** – If any section or sections of this Act shall be declared unconstitutional or invalid, it shall not invalidate the other sections hereof.

Sec. 6. **Repealing Clause.** – Articles 804, 805, 810 and 811 of the Civil Code of the Philippines (Republic Act No. 386 as amended) and all other laws, decrees, orders, proclamations, rules and regulations or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Sec. 7. **Effectivity.** – This Act shall take effect fifteen days after publication in at least two newspapers of general circulation.

Approved,