

'04 JUN 30 P1:32

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

RECEIVED BY: [Signature]

SENATE  
S.B. NO. 139

---

Introduced by Senator LUISA "LOI" P. EJERCITO ESTRADA

---

EXPLANATORY NOTE

The controversies which arose from the sale of the Stockton property in San Francisco and the proposed sale of the Roppongi property in Tokyo arose from the fact that there was no law governing their disposition. Hence, the need for a national policy legislation to regulate the disposition of real property acquired by the Government abroad for a public purpose, whether patrimonial in character or property forming part of the public dominion.

Article XIII, Section 1 (2) of the Constitution mandates that "the State shall regulate acquisition, ownership, use and disposition of property and its increments." Thus, of the national public domain, only public agricultural lands are alienable. All the others - mineral, forests and national parks - are beyond the commerce of man. This Constitutional provision is supplemented by our Civil Code that classifies state property of the public dominion into two divisions. First, those intended for public use such as roads, rivers and bridges, shores and banks, etc., and, second, those not devoted to public use." The decision to dispose such holdings including the requisite formula and mechanism to be followed in their disposition belongs exclusively to the State that owns them.

This bill seeks to reaffirm the legal principle that Congress is the constitutionally delegated repository of legislative power and that this power cannot be exercised by any other department or branch of the Government without a categorical empowerment to that effect, which, moreover, must be circumscribed in its exercise by the reasonably clear standards set by Congress for the guidance of its deputy - under the Latin maxim that now reads "*Potesta Delegata non delegari potest.*"

It should not require the force of logic to posit that real properties of the Government or any of its subdivision cannot be sold or disposed without the consent of the Government, more specifically Congress, which is the country's policy making body. Such consent may be given on a case-to-case basis, if there is no law embodying a general policy on the subject.

Our statute books do not reveal any law governing the disposition of government-owned properties which fact leaves the question of their disposition to general principles of law such as the nature of State properties in Roman and Common Law. The absence of course of a national policy has opened the door to the assertion of conflicting prerogatives based on legal fictions such as the power lodged in the board of a corporate entity. This is the reason why real properties of government corporations could be sold, without congressional consent. The fiction is that those properties belong to an autonomous corporate personality and no law had been violated in their disposition because there is none to violate. Such is the stark reality in the sale of the Stockton property. Therefore, government corporations can presently continue to dispose of government properties without the need to secure the approval of any authority save that of its own board.

This bill seeks to correct this anomaly by providing that Government properties abroad owned by the National Government or by any of its local subdivisions, including those owned by government corporations or any of its subsidiaries may be disposed with the consent of Congress on a case-to-case basis or pursuant to a general policy embodied in a law.

The need for congressional approval before government properties situated abroad can be sold will hopefully eliminate, if not lessen whatever controversy that may arise from said disposition. This has been confirmed in the recent decision of the Supreme Court in the case of Salvador H. Laurel vs. Ramon Garcia, et. Al. (GR 92013), and Dionision S. Ojeda vs. Executive Secretary Macaraig, et. Al. (GR No. 92047).

Based on the foregoing, early approval of this bill is earnestly requested.

  
**LUISA "LOI" A. EJERCITO ESTRADA**  
Senator

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

'04 JUN 30 P1:32

RECEIVED BY: \_\_\_\_\_

SENATE

S.B. NO. 139

---

Introduced by Senator LUISA "LOI" P. EJERCITO ESTRADA

---

**AN ACT**  
**REQUIRING CONGRESSIONAL APPROVAL IN THE DISPOSITION OF**  
**REAL PROPERTIES SITUATED ABROAD**

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

Section 1. **Statement of Policy.** – It is the policy of the State to preserve the real properties of the government situated abroad by regulating their disposition.

Government as used in this Act shall refer to the government entity through which the functions of government are exercised throughout the Philippines, including its various subdivisions, agencies or instrumentalities, and government-owned or controlled corporations and their subsidiaries.

Section 2. **Congressional Approval.** - All real properties situated abroad and held, in whatever capacity, by the government shall not be disposed of in any manner prior to Congressional approval in the form of a concurrent resolution.

Section 3. **Contents of Request for Congressional Approval.** -

The request for congressional approval shall contain detailed information about the real property to be disposed of, including but not limited to its nature, use, location, land area and market value. The request shall likewise contain the reason(s) for the sale and the proposed terms and conditions pertaining thereto.

Section 4. **Reportorial Requirement.** - The agency concerned, which disposed of the real property, shall submit a report on the sale within sixty (60) days from the sale to the President and both Houses of Congress.

Section 5. **Disclosure of Real Properties.** - All government agencies shall submit a summary report on all government real properties situated abroad to the office of the President and both Houses of Congress: *Provided*, That Congress may require the government agencies to submit a full report thereon.

Section 6. **Penalty.** - Any public official who violates any of the provisions of this Act or its implementing rules and regulations shall suffer the penalty or *prision mayor* in its minimum period with the accessory penalty of permanent special disqualification without prejudice to prosecution under Republic Act No. 3019 and other laws.

No public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him for any offense under this Act or its implementing rules.

Section 7. **Rules and Regulations.** – The Commission on Audit shall issue the implementing rules and regulations of this Act not later than forty-five (45) days from the date of its effectivity.

Section 8. **Supplementary Clause.** – The laws on public bidding shall supplement the provisions of this Act: *Provided*, That the bidding shall be held in the Philippines.

Section 9. **Separability Clause.** - If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

Section 10. **Repealing Clause.** - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

Section 11. **Effectivity Clause.** – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

*Approved,*