

THIRTEENTH CONGRESS OF THE REPUBLIC '04) JUN 30 P1:34
OF THE PHILIPPINES
FIRST REGULAR SESSION

SENATE RECEIVED BY: 

S.B. NO. 142

Introduced by Senator LUISA "LOI" P. EJERCITO ESTRADA

EXPLANATORY NOTE

This bill seeks to amend certain provisions of Executive Order No. 209, otherwise known as the Family Code of the Philippines, as amended, specifically Articles 155 and 157 found on Title V, Chapter 2, entitled "The Family Home."

Article 155 provides that the Family home shall be exempt from execution, forced sale, or attachment, except in four (4) instances. Amendments are proposed to cover two (2) of the four (4) exemptions, namely: for the nonpayment of taxes, and for debts incurred prior to the constitution of the family home. First, it is proposed that the words REAL ESTATE be added to qualify what type of tax is excepted. The purpose of this amendments is to avoid any misinterpretation as to the true intent of the law, as it is a basic tenet that provisions granting exemptions are strictly construed against the person invoking the exemption and those which impose tax obligations are liberally construed in favor of the taxing authority.

Second, it is also proposed that the family home should remain exempt even for the payment of debts incurred prior to the constitution of the family home. There is no compelling reason to hold otherwise, as it cannot be said that such debts redounded to the benefit of the beneficiaries of the family home.

Another amendment introduced is that, in the event that an execution, forced sale or attachment on the home may be made, the family home remains to be exempt, if the proceeds of such sale is still insufficient to cover the entire judgment credit. The reason for this amendment is to prevent a situation wherein a family not only loses the family home but also is still in debt.

Finally, considering the present purchasing power of the peso, the value of the real property, and the high cost of constructing adequate shelter, the bill also proposes to increase the value attached to the family home to conform it with present day economic realities, if only to give full meaning to the spirit of the law.

Upon these premises, approval of this bill is earnestly requested.


LUISA "LOI" P. EJERCITO ESTRADA
Senator

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**AN ACT
AMENDING ARTICLES 155 AND 157 OF EXECUTIVE ORDER NO.
209, AS AMENDED, OTHERWISE KNOWN AS THE FAMILY CODE OF
THE PHILIPPINES, SO AS TO STRENGTHEN THE PROVISIONS OF
THE LAW GOVERNING THE FAMILY HOME**

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

Section 1. Article 155 of Executive Order No. 209, as amended, is
hereby amended to read as follows:

"The family home shall be exempt from execution, forced sale
or attachment except:

- (1) For nonpayment of REAL ESTATE taxes;
- [(2) For nonpayment of debts incurred prior to the
constitution of the family home;]
- (2) [(3)] For debts secured by mortgages on the premises
before or after such constitution; and
- (3) [(4)] For debts due to laborers, mechanics, architects,
builders, material men and others who have rendered
service or furnished material for the construction of the
building.

HOWEVER, IN NO INSTANCE SHALL THE FAMILY HOME
BE SUBJECT TO EXECUTION, FORCED SALE, OR

ATTACHMENT, IF THE VALUE OBTAINABLE AFTER SUCH SALE IS NOT SUFFICIENT TO COVER THE ENTIRE JUDGEMENT CREDIT: PROVIDED, THAT THE COURT SHALL BEFORE ISSUING THE ORDER, ENSURE THAT THE EXECUTION, FORCED SALE OR ATTACHMENT OF THE FAMILY HOME IS DONE AS A LAST RESORT, OR THAT THE DEBTOR HAS NO OTHER PROPERTIES AVAILABLE TO SATISFY THE JUDGEMENT CREDIT.

Section 2. Article 157 of Executive Order No. 209, as amended, is hereby amended to read as follows:

“The Actual value of the family home shall not exceed, at the time of its constitution, the amount of [three hundred thousand] ONE MILLION pesos in urban areas, and [two] FIVE hundred thousand pesos in rural areas, or such amounts as may hereafter be fixed by law.

In any event, if the value of the currency changes after the adoption of this Code, the value favorable for the constitution of a family home shall be the basis of evaluation.

For purposes of this Article, urban areas are deemed to include chartered cities and municipalities whose annual income at least equals that legally required for chartered cities. All others are deemed to be rural areas.

Section 3. This Act shall be given retroactive effect insofar as it does not impair or prejudice vested or acquired rights.

Section 4. All laws, presidential decrees, executive orders and issuances inconsistent with this Act are hereby modified or repealed accordingly.

Section 5. This Act shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,

GVL/tmd/SB 967FEB1bills/