

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P4:32

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SENATE
s. No. 345

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Real estate industry is a key industry in the economy. Home building and real estate construction constitute a sizable proportion of the country's investments or capital formation, and provide a strong stimulus for economic booms. Given its strategic importance in the economy, any conditions of dis-equilibrium can also have far-reaching implications. Speculative bubbles, and the inevitable subsequent collapse can do as much damage to the economy as a fundamentally sound surge in investments can boost economic activity. Safeguarding the public welfare from fraud and the machinations of unlicensed and unscrupulous operators is therefore a matter of grave policy interest.

This bill, which was introduced by Senator Gonzales in the 10th Congress seeks to ensuring the integrity of transactions within the real estate industry through the creation of the Real Estate Commission, which will be tasked to perform the following functions:

- (a) to consolidate and enforce all rules and regulations governing the practice of the real estate profession in the Philippines and to centralize the licensing powers pertaining thereto;
- (b) to supervise and monitor all real estate transactions to make them conform to government rules and regulations;
- (c) to implement government policies relating to real estate;
- (d) to compile and consolidate all laws, rules and regulations related to real estate in all of its concepts into a cohesive Code and recommend its enactment by Congress; and
- (e) to undertake measures to stabilize real estate prices.

By consolidating jurisdictional responsibility and regulatory powers in the Commission, this bill will minimize the industry's exposure to unauthorized practitioners, improve tax collection and contribute to the sustainable growth and development of the industry.

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

A handwritten signature in black ink, appearing to read "S. Osmeña III".

SERGIO OSMEÑA III
Senator

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AN ACT
CREATING THE REAL ESTATE COMMISSION, PRESCRIBING ITS
DUTIES, POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

1 SECTION 1. **Title** - This Act shall be known as the "Real Estate
2 Commission Act."

3 SEC. 2. **Declaration of Policies** - It is hereby declared the policy of the
4 State to professionalize the activities of real estate practitioners in the Philippines
5 by placing their operation on a sound, credible, legitimate and efficient basis, in
6 order to better serve the needs of the general public, industry, commerce and
7 agriculture and which consequently shall be under the supervision and control
8 of a Commission with proper quasi-judicial and police powers to curtail and
9 prevent act or practices prejudicial to the public interest.

10 SEC. 3. **Definition of Terms** - As used in this Act, the following terms
11 shall mean:

12 (a) Real Estate - all lands, whether rural, urban, suburban as well as all
13 buildings and improvements permanently appended as attached thereto
14 including all rights and interests therein;

1 (b) Real Estate Development Projects – the development of land for
2 residential, commercial, industrial, agricultural, institutional or
3 recreational purposes, or any combination of such; or as tourist resorts,
4 reclamation, buildings or housing projects for individual or condominium
5 ownership, memorial parks, and others of a similar nature;

6 (c) Real Estate Salesman – any natural person who performs for and in
7 behalf of a real estate broker under whom he is licensed, any or all the
8 functions of a real estate broker, for or in expectation of a share in the
9 commission, fee, compensation, or other valuable considerations;

10 (d) Real Estate Broker - any person, natural or juridical, who on behalf of
11 another person and for or in expectation of a fee, commission,
12 compensation or other valuable consideration, shall perform any of the
13 following acts: offers, advertises, solicits, lists, promotes, mediates,
14 negotiates or effects a sale, purchase, exchange, mortgage, lease, joint
15 venture or other transactions in real estate or any interest herein;

16 (e) Real Estate Appraiser - a natural person who is a qualified real estate
17 broker and who, for and in expectation of a fee, compensation or other
18 valuable considerations, offers to render or renders services in
19 estimating and arriving at an opinion of or acts as an expert on real
20 estate values;

21 (f) Real Estate Consultant - a natural person who is likewise a qualified real
22 estate broker and who for and in expectation of a fee, compensation or
23 other valuable considerations, offers to render or renders professional
24 service, advice and sound judgment on matters involving the acquisition,
25 preservation, utilization or disposition of land and its present and future
26 sales, lease, exchange, mortgage or cession, such as subdivision,

1 condominium, market stalls, memorial parks and other real estate
2 development projects;

3 (g) Commission - the Real Estate Commission created by this Act;

4 (h) Real Estate Profession - acting, engaging or doing business as a real
5 estate salesman, real estate broker, real estate appraiser or real estate
6 consultant.

7 **SEC. 4. *The Real Estate Commission, Composition, Tenure and***
8 ***Compensation.*** - There is hereby created a Real Estate Commission which
9 shall be composed of a Chairman and two (2) members who shall be appointed
10 by the President, and the tenure of office of such members shall be five (5)
11 years, provided that the Chairman shall serve for five (5) years, and the
12 members for four (4) years and three (3) years, respectively.

13 **SEC. 5. *Powers and Functions of the Commission.*** - The
14 Commission shall exercise the following powers and functions:

15 (a) To provide comprehensive policy guidance for the promotion and
16 development of the Real Estate industry;

17 (b) To initiate, integrate and recommend such rules and regulations,
18 standards, guidelines and procedures as may be necessary for the
19 growth and effective enhancement of the real estate profession;

20 (c) Gather and compile statistical data required in the effective
21 implementation of this Act;

22 (d) Draw up recommendations to government agencies or departments
23 concerned for the purpose of rationalizing and coordinating real estate
24 transactions;

25 (e) To promulgate such rules and regulations as may be necessary to
26 implement effectively the provisions of this Act;

27 (f) To assess and fix the rate of reasonable regulatory license fees;

1 (g) To administer oath and affirmation and to issue *subpoena* and *subpoena*
2 *duces tecum* in connection with any investigation of which it has
3 jurisdiction under this Act;

4 (h) To appoint, discipline and/or remove subordinate officials or employees
5 and to determine the compensation of its technical staff or personnel,
6 provided that except as to its technical staff and such other position as the
7 Board may declare to be highly technical or primarily confidential, all
8 positions under the Board are subject to the provisions of the Civil Service
9 Law and Rules, but are exempt from the regulations of the Wage and
10 Position Classification office;

11 (i) After notice and hearing, revoke, cancel or suspend the exercise or
12 enjoyment of license and benefits granted under this Act;

13 (j) To monitor not only all advertisements by newspapers, audiovisual, radio,
14 television or by any other means that offers to sell or exchange real
15 estate and to provide every possible safeguard that only legitimate and
16 licensed practitioners shall be allowed to do, and in pursuance thereto it
17 shall exercise its judicial and police powers to finally and completely
18 eradicate the pernicious practices of unauthorized or "colorum" brokers
19 who have eroded the quality and credibility of the profession;

20 (k) To screen, supervise and issue permits to any accredited aggregation of
21 professionals in the industry; to accredit seminars for the purpose of
22 upgrading the quality and knowledge of the profession; and to conduct
23 examination as a pre-requisite in the practice of the profession;

24 (l) To require all transactions involving the sale or exchange of real estate to
25 be certified to by the parties before a duly licensed real estate broker that
26 they had fully complied with all the rules and regulations of the Housing

1 and Land Use Regulatory Board (HLURB) as well as all laws related to
2 the transactions and the applicable tax laws;

3 (m) To have an exclusive jurisdiction in determining and integrating all rules
4 and regulations with respect to the payment of government fees, dues or
5 any charges in relation to the privilege to practice the profession;

6 (n) To adopt a National Code of Ethics to be strictly observed by all licensed
7 Real Estate Brokers and Salesmen under them, Appraisers and
8 Consultants;

9 (o) To compile all laws, rules and regulations related to real estate in all of its
10 concepts into a comprehensive and cohesive Code and to recommend
11 the enactment by the Congress of the Philippines of such remedial laws
12 that will cure these laws which are antiquated or in conflict with any related
13 laws;

14 SEC. 6. **Real Estate Practice.** - Any single act or transaction embraced
15 within the definitions contained in Section 3 hereof, shall constitute as a
16 professional real estate services act, except when the same is performed by:

17 (a) Any natural or juridical person who directly performs by himself or itself
18 any of the above-mentioned acts with respect to his or its own property,
19 without the assistance of any licensed salesman, broker, appraiser or
20 consultant;

21 (b) Any receiver, trustee or assignee in insolvency proceedings;

22 (c) Any person acting pursuant to the order of any court of justice;

23 (d) Public officer in the performance of their official duties; and

24 (e) Officials and employees of banks, insurance companies, savings and
25 loan associations or other financial institutions with respect to the
26 foreclosure and eventual disposition of their acquired assets: Provide,
27 That all the exempt persons mentioned above shall comply with the

1 requirement of reporting their acts to the Commission within the
2 prescribed period.

3 **SEC. 7. License Requirement.** - No person may engage in the
4 practice of the real estate profession unless he has been duly licensed by the
5 Commission in accordance with this Act;

6 No partnership or corporation shall engage in the real estate practice or as
7 realty service practitioner unless duly authorized by the Commission and the
8 person or persons authorized to act as such for the partnership or corporation is
9 or are duly licensed brokers, appraisers, or consultants, as the case may be.

10 Real estate brokers, appraisers, or consultants under a branch office shall
11 be the responsibility of such branch office where they are employed.

12 **SEC. 8. Application for License.** - Any natural person who successfully
13 passed the examination required by this Act for real estate brokers, appraisers
14 or consultants, may apply for a license as real estate broker, appraiser, or
15 consultant on forms duly prescribed by the Commission;

16 Any qualified person may apply as a real estate broker, after passing the
17 required examination, upon the recommendation and undertaking of a licensed
18 real estate broker, appraiser, or consultant, who is his employer.

19 **SEC. 9. Qualifications.** - Any applicant for examination for license to
20 engage in the real estate profession shall, at the time of the filing of his
21 application, be:

22 (a) Filipino citizen;

23 (b) At least twenty-one (21) years old in the case of a salesman; twenty-four
24 (24) years old in the case of a broker; twenty-nine (29) years old in the
25 case of an appraiser; and thirty-four (34) years old in the case of a
26 consultant.

27 (c) Of good moral character; and

1 (d) A holder of an Associate College Degree or two years college work in the
2 case of the salesman; a college degree for a broker and who has been
3 duly licensed salesman for at least three (3) years; at least five (5) years
4 experience as a licensed broker for an appraiser; and at least ten (10)
5 years experience as a licensed broker, including five (5) years as a
6 licensed appraiser for a consultant.

7 SEC. 10. **Examination Before Admission to Practice.** - The
8 Commission shall conduct written examinations twice a year on such dates as
9 may be fixed by the Commission for real estate salesmen, brokers, appraisers
10 and consultants and the same shall include the following subjects and topics:

11 (a) Principle of land economics;

12 (b) Principles of Business Management, Salesmanship, Promotions, Ethics
13 and Accounting;

14 (c) Laws on property rights, land registration obligations and contracts,
15 agency, sales, transfer, exchange, mortgage and conveyancing;

16 (d) Basic principles of ecology, urban and rural land use planning,
17 development and management;

18 (e) Basic understanding of land maps, survey, building plans and
19 specifications, construction, operation and maintenance;

20 (f) Fundamental procedures and mechanics of listing, selling, leasing,
21 exchanging, and mortgaging different types of properties in the case of
22 brokers and appraisers, and rendition of advice on different types of real
23 estate problems, in case of consultants;

24 (g) And such other subjects as the Commission may deem proper and
25 necessary to include.

26 These examinations shall be conducted and supervised by an
27 Examination Committee composed of three (3) members, to be appointed by the

1 Commission: *Provided*, That one of the members shall be licensed real estate
2 consultant with not less than ten (10) years experience.

3 SEC. 11. ***Duration of License.*** - All licenses shall be valid for a period
4 one (1) year and renewable for another year, provided that such licenses are
5 still qualified for renewal under the provisions of this Act.

6 SEC. 12. ***Excluded from the Practice of the Profession.*** -
7 Immediately upon the effectivity of this Act, no person or entity other than
8 those specified in Section 4 hereof shall be allowed to practice the real estate
9 profession in the Philippines. Any person or entity found guilty of violating this
10 provision shall be subject to penalties provided in Section 25 hereof.

11 SEC. 13. ***Duties and Responsibilities of Licensed Salesmen,
12 Brokers, Appraisers and Consultants.*** - All licenses, in the practice of the
13 profession are required to:

14 (a) Undertake an accurate verification of all land titles, survey plans,
15 technical description, transferability of ownership or possession,
16 construction plans and specifications, zoning regulations, rules and
17 laws, appraisals, assessed values and actual market valuation, before
18 promoting or negotiating any transaction on any particular real estate
19 development projects;

20 (b) Promote the fairest agreement among and between the parties in any
21 real estate transactions;

22 (c) Authenticate every contract negotiated by him or for and in behalf of his
23 partnership or corporation, with his personal signature and
24 professional seal;

25 (d) Advise the parties of the amount of taxes, fees and other assessment
26 due the government in connection with said transaction;

1 (e) Keep a registry of all transactions consummated by him, on a registry
2 book to be made available by the Commission, specifying the nature of
3 the property, assessed value, actual consideration for the contract, and
4 nature of transaction, whether a sale, exchange, mortgage, cession,
5 joint venture or the like, and

6 (f) Submit semi-annual report of all his transactions to the Commission.

7 SEC. 14. **License Numbers.** - The Commission shall assign a
8 permanent license number for each registered broker, appraiser and consultant,
9 which number shall be indicated in their respective letterheads, dry seals
10 signboards, billboards, advertisements and other public announcements.
11 Every salesmen shall use the license number of the broker under whom he is
12 licensed while juridical persons shall utilize the license numbers of the qualified
13 natural person acting on their behalf.

14 SEC. 15. **Bonds.** - Before a license is issued, the applicant shall post
15 a bond for the performance of his professional rights and obligations under this
16 Act, in such amount as may be determined by the Commission.

17 SEC. 16. **Certification of Transaction.** - The parties to a real estate
18 transaction involving sale or exchange shall certify under oath that a real estate
19 broker has negotiated and mediated in the consumption, and that the
20 consideration and all material facts contained in the deed of conveyance are true
21 and correct: *Provided, however,* That in cities and provinces where there are
22 no licensed real estate brokers, or that the parties have directly negotiated and
23 consummated the transaction with each other without the mediation of a real
24 estate broker, the certification shall state that fact and shall be made under oath
25 before the Register of Deeds of the city or province where the real estate is
26 located.

1 No deed of conveyance in any real estate transaction mentioned herein
2 shall be accepted for registration by the Registry of Deeds unless the aforesaid
3 certification of the parties and the real estate brokers herein are presented and
4 filed accordingly.

5 SEC. 17. **Brokers' Registry Book.** - The real estate broker shall keep
6 and maintain a registry book where he shall record all real estate transactions in
7 which he has negotiated or mediated until its final consummation, or that are
8 referred to for purposes of certification prescribed in the preceding Section.

9 SEC. 18. **Grounds for Suspension and Revocation.** - The Real Estate
10 Commission may, motu proprio, or upon verified complaint in writing by any
11 person, investigate the activities of any real estate broker, salesman, appraiser
12 and consultant and after due notice and hearing, suspend or revoke the license
13 for such period as the Commission may deem proper, when the licensee is
14 found guilty of any of the following activities:

- 15 (a) Procuring license through fraud and deceit and making false, fraudulent
16 or deceitful statement of facts in his application for license;
- 17 (b) Making any false and deceitful promise directly or through prospectus,
18 advertisements, brochures or billboards which are likely to induce
19 decision in a transaction;
- 20 (c) Procuring or helping to procure consent to or effecting closing or
21 consummation of any real estate transaction or engagement of his service
22 by means of bribery or corruption, fraud, deceit, intimidation, violence
23 or immoral offerings;
- 24 (d) Inducing any real party to a real estate transaction to break his contract
25 for the purpose of substituting in lieu thereof a new contract with the
26 same or different principal where such substitution is likely to benefit or
27 enhance the interest of the licensee;

- 1 (e) Representing himself as a member of an accredited association of real
2 estate brokers, appraisers or consultants unless he is a member in good
3 standing of the respective association that had been granted a license
4 of recognition by the Commission upon compliance with a set of
5 standards to be so prescribed with special emphasis on the strict
6 adherence to the National Code of Ethics'
- 7 (f) Using a trade name, insignia or membership in any real estate
8 organization, profession or trade of which the licensee is not a member;
- 9 (g) Splitting or offering or agreeing to pay, split, or rebate any commission,
10 fee or valuable consideration, directly or indirectly with the principal
11 parties to the transaction or with any person who is not a duly licensed
12 real estate broker or real estate salesman licensed under him for
13 cooperating, assisting in or endorsing a transaction or engagement of
14 his services;
- 15 (h) Failure to account or remit within fifteen (15) days from receipt of
16 possession of any money belonging to his client, unless a different
17 period is expressly stated by a mutual agreement between the realty
18 service practitioner and his clients;
- 19 (i) Conviction of a crime for wrongful conversion of any person's funds or
20 property;
- 21 (j) Dishonesty in engaging in fraudulent representations in any prospectus,
22 advertisement, brochures or billboards or in any circular or other
23 literature that has been placed, put up or otherwise distributed concerning
24 any real estate transaction;
- 25 (k) Failure to treat as a separate trust account, or commingling by the
26 licensee, the money or other funds of his principal, patron, or client held
27 in trust by the licensee;

1 (l) Violation of any of the provision of this Act or any order of the Commission
2 of which the broker has notice.

3 SEC. 19. ***Procedure in the Suspension and/or Revocation of***
4 ***License.*** -

5 (a) The Commission shall *motu proprio* or upon verified complaint investigate
6 and decide matters involving the implementation and/or violation of the
7 provisions of this Act and such investigation shall be mandatory when
8 from the allegations of the complaints and the answer of the respondent,
9 including the supporting documents, the merit of the case cannot be
10 decided judiciously without conducting an investigation even if the
11 respondent does not request a formal investigation;

12 (b) The investigation shall be held not earlier than five (5) days and not later
13 than ten (10) days from the date of receipt of respondent's answer by
14 the Commission, and shall be terminated within thirty (30) days from
15 the date of receipt of respondent's answer by the Commission, unless
16 the period is extended by the Commission in extremely meritorious cases.
17 The decision shall be rendered by the Commission within thirty (30)
18 days from the termination of the investigation or submission of the report
19 of the investigation which report shall be submitted within fifteen (15)
20 days from the conclusion of the investigation;

21 (c) The direct evidence from the complainant and the respondent shall
22 consist of the sworn statement and documents submitted in support of the
23 complaint or answer, as the case may be, without prejudice to the
24 presentation of additional evidence deemed necessary but was
25 unavailable during the time of filing of the complaint or answer, upon
26 which the cross-examination by respondent and the complainant,

1 respectively, shall be based. Following the cross-examination, there may
2 be redirect and re-cross- examination;

3 (d) Either party may avail himself of the service of counsel and may require
4 the attendance of witnesses and the production of documentary evidence
5 in his favor through the compulsory process of *subpoena* or *subpoena*
6 *duces tecum*;

7 (e) The investigation shall be conducted only for the purpose of ascertaining
8 the truth and without necessarily adhering to technical rules applicable
9 in judicial proceedings.

10 SEC. 20. **Appeals.** -

11 (a) Appeals shall be made by the party adversely affected by the decision to
12 the Office of the President within fifteen (15) days from receipt of the
13 decision unless a petition for reconsideration is reasonably filed, which
14 petition shall be decided within fifteen (15) days. Notice of the appeal
15 shall be filed with the Commission which shall forward the records of the
16 case together with the notice of appeal to the Office of the President or
17 his duly authorized representative within fifteen (15) days from filing of
18 the notice of appeal, with its comment, if any. The notice of appeal shall
19 specifically state the date the decision was appealed from as well as the
20 date of receipt thereof. It shall also set forth clearly the grounds relied
21 upon in making the appeal from the decisions;

22 (b) A petition for reconsideration shall be based only on any of the following
23 grounds:

24 (1) new evidence has been discovered which materially affects the
25 decision rendered;

26 (2) the decision is not supported by the evidence on record; or

1 (3) errors of law or irregularities have been committed prejudicial to the
2 interest of the respondent.

3 *Provided,* That only one petition for reconsideration shall be
4 entertained.

5 SEC. 21. ***Preventive Suspension.*** - The Commission may preventively
6 suspend any license under this Act pending an investigation, in the charge
7 against any license involves misrepresentation, dishonesty or grave misconduct
8 or fraud and there are strong evidence to believe that the respondent is guilty
9 of the charges which would warrant the revocation of his license.

10 SEC. 22. ***Lifting of Preventive Suspension.*** - When the administrative
11 case with preventive suspension is not finally decided by the Commission within
12 the period of ninety (90) days after the date of suspension of the respondent, the
13 suspension shall be automatically lifted; *Provided,* That when the delay in the
14 disposition of the case is due to the fault, negligence or petition of the
15 respondent, the period of delay shall not be counted in computing the period of
16 suspension herein provided.

17 SEC. 23. ***Rules and Regulations.*** - The Commission shall promulgate
18 such rules and regulations as may be necessary or proper to carry out effectively
19 the provisions of this Act.

20 SEC. 24. ***Administrative Fines.*** - The Commission may prescribe and
21 impose fines not exceeding Ten Thousand Pesos (P10,000.00) for violation of
22 the provision of this Act or any rule or regulation thereof. Fines shall be payable
23 to the Commission and enforceable through writs of execution in accordance
24 with the Rules of Court.

25 SEC. 25. ***Penalties.*** - Any licensed person who is found guilty of
26 dishonesty or gross misconduct in any realty transaction handled by him or shall
27 willfully violate any provision of this Act or any rules or regulations thereof shall

1 be fined by not less than Fifty Thousand Pesos (P50,000.00) and/or
2 imprisonment of not more than two (2) years at the discretion of the court. If the
3 violator is a juridical entity, its president or highest officer is subject to the
4 penalties herein provided.

5 Any individual who practices the real estate profession without first
6 obtaining a license to practice or having secured a license, the same is not valid
7 at the time of this Act, shall after being found guilty be fined by not less than Fifty
8 Thousand Pesos (P50,000.00) and/or imprisonment of not more than two (2)
9 years at the discretion of the court without prejudice of imposing on such
10 individual separate penalties for violating any provision of this Act.

11 SEC. 26. **Appropriations.** - For its first year's operation the National
12 Treasury shall provide such sums as are necessary for the effective
13 implementation of this Act. Thereafter the Commission shall draw its fund from
14 the income receipts generated from its operation and such additional sums
15 necessary to cover its subsequent yearly budget shall be provided in the
16 General Appropriations Act.

17 SEC. 27. **Repealing Clause.** - All laws, decrees, rules and regulations,
18 or parts thereof, inconsistent with this Act are hereby repealed.

19 SEC. 28. **Effectivity.** - This Act shall take effect immediately upon its
20 approval.

21 Approved,