

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

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S E N A T E

S. No. 362

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*Introduced by Senator S. R. Osmeña III*

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#### EXPLANATORY NOTE

Infrastructure development is one of the major legs on which our country's economic development stands. The government allocates a substantial proportion of its resources in public works projects. The huge expenditures on public works are often vulnerable to acts of dishonesty and anomalies such as substandard work and materials.

PD 1759 was signed in 1981, to prevent the construction of public facilities that are below specifications as to materials, quantity and quality of work. This law also imposes sanctions on violations of its provisions.

This bill seeks to strengthen PD No. 1759 by increasing the penal sanctions on the violations of the law from a minimum imprisonment of twelve years to a minimum imprisonment of twenty years. It also defines the premature deterioration of public works structures as a prima facie evidence of violation of the provisions of this law.

The decline in tax revenues as a result of the recent economic downturn imposes extreme pressure on the government's expenditure program. Hence it becomes even more important that measures are taken to assure quality and minimize costs in the construction of infrastructure facilities.

In view of the foregoing, early passage of this bill is earnestly requested.

*S. Osmeña III*

**SERGIO OSMEÑA III**  
Senator

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AN ACT  
INCREASING THE PENALTIES IMPOSED AGAINST CONTRACTORS AND  
SUBCONTRACTORS WHO VIOLATE ANY MATERIAL PROVISION OF  
CONTRACTS INVOLVING PUBLIC WORKS PROJECTS OF THE GOVERNMENT,  
AND PUBLIC OFFICIALS WHO ALLOW SUCH VIOLATIONS, AMENDING FOR  
THIS PURPOSE PRESIDENTIAL DECREE NO. 1759

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

1 SECTION 1. Section 1 of Presidential Decree No. 1759, is hereby  
2 amended to read as follows:

3 "Section 1. – Any provisions of law to the contrary notwithstanding,  
4 contractors and sub-contractors who violate any material provision[s] of  
5 contracts involving public works projects, either as to materials, quality  
6 and quantity of work, resulting [to the] IN prejudice [of the] TO THE  
7 government, shall suffer the penalty of IMPRISONMENT RANGING from  
8 [twelve (12) TWENTY (20) years to life [imprisonment], A FINE  
9 RANGING FROM FIFTY PERCENT (50%) TO TWO HUNDRED PERCENT  
10 (200%) OF THE AMOUNT OF THE CONTRACT, [at the discretion of the  
11 Court,] and shall, in addition, suffer [perpetual disqualification from  
12 participating in any government contracts.] IPSO FACTO REVOCATION  
13 OF THEIR CONTRACTOR'S LICENSES INCLUDING THE  
14 PROFESSIONAL LICENSES OF EXECUTIVES IN CHARGE OF THE  
15 DESIGN AND CONSTRUCTION OF THE PROJECT.

1 The offending contractor or sub-contractor shall further be liable for the  
2 cost of reconstructing such public works project in accordance with the  
3 specifications agreed upon.

4 IN case of corporations, partnerships or associations, the  
5 President, General Manager or any responsible chief executive  
6 officer/officers shall be liable.

7 ANY PROPRIETORSHIP, CORPORAITON, PARTNERSHIP,  
8 ASSOCIATION, OR BUSINESS ORGANIZATION WHOSE  
9 PROPRIETOR, STOCKHOLDER, PARTNER, MEMBER OR OFFICER  
10 IS RELATED WITHIN THE FOURTH DEGREE OF CONSANGUINITY  
11 OR AFFINITY TO THE PERSON CONVICTED OF VIOLATION OF ANY  
12 OF THE ACTS PUNISHABLE UNDER THIS ACT IS PROHIBITED  
13 FROM PARTICIPATING IN SAID GOVERNMENT CONTRACT.

14 THE PREMATURE DETERIORATION OF ANY PUBLIC WORKS  
15 PROJECT SHALL CONSTITUTE *PRIMA FACIE* EVIDENCE OF  
16 VIOLATION OF THE ACTS PUNISHABLE UDNER THE FIRST  
17 PARAGRAPH OF THIS SECTION. THE SECRETARY OF THE  
18 DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS IS HEREBY  
19 MANDATED TO PROMULGATE THE NECESSARY IMPLEMENTING  
20 RULES AND REGULATIONS TO EFFECTIVELY CARRY OUT THE  
21 INTENT OF THE PROVISIONS OF THIS OF PARAGRAPH.”

22 SEC. 2. – Section 2 is amended to read as follows:

23 “Any public official who, by reason of the duties of his office, shall  
24 consent, or though abandonment or negligence, permit the contractor of  
25 subcontractor to commit [the violations mentioned in Section 1 hereof,]  
26 ANY OF THE ACTS PUNISHABLE UNDER THIS ACT shall suffer the  
27 penalty of IMPRISONMENT RANGING from [twelve (12)] TWENTY (20)  
28 years to life [imprisonment], A FINE EQUIVALENT TO THIRTY

1 PERCENT (30%) OF THE AMOUNT OF THE CONTRACT and  
2 perpetual disqualification [to] FROM holding any public office.

3 ANY PROPRIETORSHIP, CORPORATION, PARTNERSHIP,  
4 ASSOCIATION, OR BUSINESS ORGANIZATION WHOSE  
5 PROPRIETOR, STOCKHOLDER, PARTNER, MEMBER OR OFFICER  
6 IS RELATED WITHIN THE FOURTH DEGREE OF CONSANGUINITY  
7 OR AFFINITY TO THE PUBLIC OFFICER IN CHARGE OF OR  
8 ASSOCIATED IN ANY MANNER WITH THE PROJECT BEING  
9 UNDERTAKEN IS PROHIBITED FROM PARTICIPATING IN SAID  
10 GOVERNMENT CONTRACT.”

11 SEC. 3. – Any provisions of law, degree, executive order or any issuance  
12 inconsistent herewith are hereby repealed and/or modified accordingly.

13 SEC. 4. – This Act shall take effect fifteen (15) days following completion  
14 of its publication in at least two (2) newspaper of general circulation

15 Approved,