

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

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SENATE

S. No. 490

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

Section 21, Article XII of the 1987 Constitution states : "Foreign loans may only be incurred in accordance with law and the regulations of the monetary authority..."

The Constitution further provides in Section 20, Article VII that "The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board subject to such limitations as may be provided by law..."

The limitations on foreign borrowings is critical in view of the automatic appropriations for debt service in the national budget. This means that once a debt is incurred, servicing such debt takes priority over other competing applications of the government's financial resources, including infrastructure, education, public services, and other social development programs.

In order to ensure that the social and economic benefits from foreign loans incurred justify their precedence over other social and economic programs, this bill provides for the following:

- 1) A debt ceiling of equivalent to five percent (5%) of the country's Gross National Product (GNP)
- 2) The concurrence of Congress will be required if the debt ceiling is to be exceeded;
- 3) Foreign loans shall be contracted or guaranteed solely to finance economic and social infrastructure programs in line with the national development program, to be contracted only by the President in behalf of the Republic of the Philippines, and with the prior concurrence of the of the Monetary Board;
- 4) Bilateral Agreements involving official assistance such as grants and commodity credit arrangements or indebtedness which the President is authorized to enter into shall not be valid and effective unless concurred in by at least 2/3 of the members of the Senate pursuant to Section 21, Article VII of the Constitution.

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

S. Osmeña III
SERGIO OSMEÑA III
Senator

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AN ACT
PROVIDING FOR A CEILING ON ALL PUBLIC DEBTS OF THE
REPUBLIC OF THE PHILIPPINES AND FOR OTHER PURPOSES

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

1 SECTION 1. **Title** . - This Act shall be known as the "**Public Debt**
2 **Ceiling Act of 2004.**"

3 SECTION 2. **Definition of Terms.** -

4 a) Public Debt - all debts incurred by the National Government as
5 well as GOCC which include foreign borrowings, assumed
6 liabilities (foreign and domestic), bonds, treasury bills and like
7 instruments.

8 b) Emergency Loan - loan which is incurred to meet an existing
9 emergency which directly affects the public interest. The
10 existence of an emergency shall be determined by the President
11 upon the advice of the Secretary of Finance.

12 c) Government-owned and Controlled Corporations or GOCCs -
13 are those directly chartered under special laws.

14 d) Vital Undertakings - refers to economic and social infrastructure
15 and programs.

1 SECTION 3. ***Purpose of Contracting and Guaranteeing Foreign***

2 ***Loans.*** - Foreign loans shall be contracted or guaranteed solely to
3 finance VITAL UNDERTAKINGS in line with the national development
4 program

5 SECTION 4. ***Who may Contract or Guarantee.*** - Only the
6 President with the prior concurrence of the Monetary Board may contract
7 or guarantee both foreign and domestic debts on behalf of the Republic of
8 the Philippines.

9 SECTION 5. ***Debt Ceiling.*** - A ceiling is hereby imposed on the
10 TOTAL PUBLIC DEBT of the Philippines to the amount equivalent of five
11 percent (5%) of the previous year's Gross National Product (GNP) which
12 may not be exceeded at anytime except with the concurrence of Congress.

13 SECTION 6. ***Exclusions to the Ceilings.*** - The President of the
14 Philippines, upon recommendation of the Monetary Board, whenever
15 required pursuant to a general rescheduling, restructuring or re-financing
16 of the external debt of the Philippines by foreign creditors, may exclude
17 specific categories of external debt from the limits set by Section 2 of this
18 Act.

19 SECTION 7 . ***Bilateral Agreements.*** - Bilateral Agreements
20 involving official assistance such as grants and commodity credit
21 arrangements or indebtedness which the President is authorized to enter
22 into and conclude under Republic Act No. 4860, as amended, shall not
23 be valid and effective unless concurred in by at least two-thirds of all the
24 Members of the Senate.

25 SECTION 8. ***Reportorial Requirement.*** - The Bangko Sentral ng
26 Pilipinas shall, within thirty (30) days from the end of every quarter of the
27 calendar year, submit to the Congress a complete report of its decisions on
28 applications for loans to be contracted or guaranteed by the Government or

1 government owned and controlled corporations which would have the
2 effect of increasing the foreign debt.

3 Information as to the terms and conditions of foreign loans obtained
4 or guaranteed by the Government shall be made available for inspection
5 subject to reasonable rules and regulation prescribed by the *Bangko*
6 *Sentral ng Pilipinas*.

7 SECTION 9. **Implementing Rules and Regulations.** - The
8 Monetary Board of the *Bangko Sentral ng Pilipinas* shall formulate and
9 implement the necessary guidelines pursuant to this Act.

10 SECTION 10. **Penalties.** Any violation of the provisions of this Act
11 shall, in addition to other penalties imposed by law, subject the public
12 officials or persons responsible for such violation to an imprisonment of not
13 less than twelve (12) years or a fine of not less than Five Hundred
14 Thousand Pesos (₱500,000.00).

15 SECTION 11. **Repealing Clause** - The following laws, decrees
16 and executive order shall henceforth considered repealed:

17 1) Presidential Decree No. 1961 - An Act authorizing the
18 President of the Philippines on behalf of the President of the
19 Republic of the Philippines, and authorizing the Central Bank of
20 the Philippines, to enter into Foreign Currency Loan, Deposit
21 and Guarantee Agreements and Arrangements in support of
22 the National Economic Recovery Program, and for other
23 purposes;

24 2) Presidential Decree No. 1977 - Amending Presidential Decree
25 No. 1961.

26 3) Presidential Decree No., 1685 - Amending Presidential Decree
27 Numbered Thirteen Hundred Nine Authorizing the Central Bank
28 of the Philippines to engage in special borrowing and lending
29 operations;

1 4) Presidential Decree No. 1938 – further amending Presidential
2 Decree numbered Thirteen hundred nine, as amended by
3 Presidential Decree numbered sixteen hundred and eighty five
4 authorizing the Central Bank of the Philippines to engage in
5 special borrowing and lending operations; all laws, decrees,
6 orders, rules and regulations or parts thereof inconsistent with
7 this Act are hereby repealed or amended accordingly.

8 5) Executive Order No. 218 – extending the applicability of
9 Presidential Decree No. 1962 as amended, to the 1987-1992
10 Philippine Financing Package and the Foreign Currency Loans,
11 Credits and Indebtedness Made, Guaranteed and Insured by
12 Foreign Governments and their agencies maturing on or after
13 January 1, 1987 through December 31, 1992, subject to
14 limitations; and

15 6) Republic Act No. 254 - an act authorizing the Secretary of
16 Finance to borrow to meet public expenditures authorized by
17 law, and for other purposes, as amended.

18 All laws, decrees, orders, proclamations, rules and regulations or
19 parts thereof which are inconsistent with any of the provisions of this Act
20 are hereby repealed or modified accordingly.

21 SECTION 12. **Separability Clause.** - If any provision of this Act or
22 the application thereof is held invalid or unconstitutional, the validity of
23 other provisions shall continue to be in full force and effect.

24 SECTION 13. **Effectivity Clause** - This Act shall take effect fifteen
25 (15) days following its complete publication in at least two (2) national
26 newspapers of general circulation.

27 Approved,