

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



Senate  
Office of the Secretary

13 SEP -5 P5 30

SENATE  
S. No. 1560

RECEIVED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Civil Code, Article 737, states that "the donor's capacity shall be determined as of the time of the making of the donation." The term "making" must be interpreted to mean "perfection" of the donation; otherwise if "making" means "giving," Article 737 would in some cases be inconsistent with Article 734, which states that "the donation is perfected from the moment the donor knows of the acceptance by the donee."

An example of the perceived inconsistency is: An insane donor donates on January 1. Donee accepts on January 5. Donor regains sanity on January 7. Donor learns of donee's acceptance on January 8, at a time when he is sane (capacitated). In this case, if we interpret "making" as "giving," the donation would be voidable because of the donor's incapacity at the time he "gave" his property to the donee. On the other hand, if we consider "making" as "perfection," the donation would be valid because at the time of "making" (perfection), both parties had full capacity.

To avoid this contradiction, the language of Article 737 must be changed to make it clear and consistent with other provisions of the Civil Code on Donations.\*

*mir*  
*Miriam Defensor Santiago*  
MIRIAM DEFENSOR SANTIAGO

\* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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



Senate  
Office of the Secretary

13 SEP -5 P5:30

SENATE  
S. No. 1560

RECEIVED BY: ji

Introduced by Senator Miriam Defensor Santiago

AN ACT

AMENDING ARTICLE 737 OF THE CIVIL CODE OF THE PHILIPPINES,  
TO MAKE IT CONSISTENT WITH THE OTHER PROVISIONS ON DONATIONS

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

SECTION 1. Article 737 of the Civil Code of the Philippines is hereby amended to read  
as follows:

“Article 737. [The donor’s capacity shall be determined as of the time of  
the making of the donation] **BOTH THE DONOR AND THE DONEE MUST  
BE CAPACITATED AT THE TIME THE DONATION IS PERFECTED.**”

SECTION 2. *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 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its  
publication in at least two (2) newspapers of general circulation.

Approved,