

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



Senate
Office of the Secretary

'13 SEP 18 P4:06

SENATE
S. No. 1717

RECEIVED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Civil Code, Article 1723, declares the liability for damages in any structure by reason of defects in its construction or use of inferior materials. The limited coverage of this provision allows the engineer, architect or contractor to avoid liability arising from non-observance of plans and specifications or the use of materials of inferior quality.

This bill seeks to expand its coverage with the following proposed amendments:

First, unlike the present provision, which includes only buildings as subject matter, this bill covers all kinds of infrastructure projects.

Second, the liability for damages shall arise not only in case the structure should collapse, but also where the infrastructure undertaking should require major repairs by reason of defective construction.

Thirdly, this bill proposes to hold the contractors directly responsible for defective construction undertaken by sub-contractors. The sub-contractors shall merely assume subsidiary liability. This is to encourage contractors to be more cautious in their selection of subcontractors.

This bill is a product of the public hearings conducted by the Committee on Constitutional Amendments, Revision of Codes and Laws during the Tenth Congress.

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Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT AMENDING REPUBLIC ACT NO. 386,
2 OTHERWISE KNOWN AS THE "CIVIL CODE OF THE PHILIPPINES," ARTICLE 1723,
3 ON THE LIABILITY OF ENGINEERS, ARCHITECTS OR CONTRACTORS ARISING
4 FROM NON-OBSERVANCE OF PLANS AND SPECIFICATIONS OR
5 THE USE OF MATERIALS OF INFERIOR QUALITY

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

6 SECTION 1. Republic Act No. 386, otherwise known as the "Civil Code of the
7 Philippines," Article 1723, is hereby amended to read as follows:

8 "Art. 1723. The engineer or architect who drew up the plans and
9 specifications for **ANY INFRASTRUCTURE PROJECT, WHETHER**
10 **UNDERTAKEN BY THE GOVERNMENT OR PRIVATE INDIVIDUAL**
11 **OR ENTITY,** [building] is liable for damages if within fifteen (15) years from
12 the completion of the structure, the same should collapse **OR SHOULD**
13 **REQUIRE MAJOR REPAIRS** by reason of a defect in those plans and
14 specifications, or due to the defects in the ground. The contractor **AND THE**
15 **SUBCONTRACTOR HIRED BY THE FORMER ARE** [is] likewise
16 responsible for damages if the **STRUCTURE** [edifice] falls **OR REQUIRES**
17 **MAJOR REPAIRS,** within the same period, on account of defects in the
18 construction or the use of materials of inferior quality furnished by him, due to
19 any violation of the terms of the contract. If the engineer or architect supervises
20 the construction, he shall be solidarily liable with the contractor and the
21 **SUBCONTRACTOR.**

22 **IN CASE THE CONSTRUCTION OF ANY INFRASTRUCTURE**
23 **PROJECT OR ANY PART THEREOF IS UNDERTAKEN BY A**

1 **SUBCONTRACTOR HIRED BY THE CONTRACTOR, THE LATTER**
2 **SHALL BE DIRECTLY RESPONSIBLE AND THE FORMER**
3 **SUBSIDIARILY RESPONSIBLE IF UPON COMPLETION THEREOF OR**
4 **WHILE UNDER CONSTRUCTION, THE STRUCTURE FALLS OR**
5 **REQUIRES MAJOR REPAIR WITHIN THE SAME PERIOD AND FOR**
6 **THE SAME CAUSE ABOVESTATED.**

7 Acceptance of the building, after completion, does not imply waiver of
8 any of the causes of action by reason of any defect mentioned in the preceding
9 paragraph.

10 The action must be brought within ten (10) years following the collapse of
11 the building.”

12 SECTION 2. *Repealing Clause.* – Any law, presidential decree or issuance, executive
13 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
14 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

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

Approved,