

17 DEC -3 P4:37

SENATE
S. B. **2485**

RECEIVED BY _____
J

Introduced by Senator Poe

**AN ACT
STRENGTHENING THE INSTITUTIONAL CAPACITY OF THE OFFICE OF THE
OMBUDSMAN BY AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT 6770,
OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989," AND PROVIDING
FUNDS THEREFOR**

EXPLANATORY NOTE

Article XI of the 1987 Constitution creates the Office of the Ombudsman and mandates it to act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations. As the champion of the people and the preserver of the integrity of the public service, its jurisdiction encompasses all kinds of malfeasance, misfeasance, and nonfeasance committed by any public officer or employee during his/her tenure of office. Republic Act (R.A.) No. 6770, otherwise known as "The Ombudsman Act of 1989", was enacted to enable the Office of the Ombudsman to function and organize itself in accordance with the constitutional provisions and to exercise powers for the effective deterrence of corrupt activities by public officials and employees.

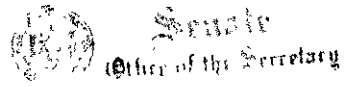
It is unfortunate that, at present, the powers provided under R.A. No. 6770 to the Office of the Ombudsman are not enough to efficiently combat corruption despite being the primary anti-corruption agency of the Government. To address this deficiency, its investigative and prosecutorial powers have to be broadened to enhance its ability to build solid cases against erring public officials and employees.

It is also significant to note that the efficient performance of the prosecutors and investigators of the Office of the Ombudsman are being hampered by harassment suits filed by persons subject of their investigation before the courts or other government agencies, including the Integrated Bar of the Philippines. To obviate any harassment against said prosecutors and investigators who are in the regular performance of their functions, they should be given legal protection and immunity from suits for acts done in line with their duties.

Hence, due to the difficulties being experienced by the Office of the Ombudsman in the investigation and prosecution of crimes and offenses within its jurisdiction, there is a need to grant additional investigative and prosecutorial powers to the Office of the Ombudsman. These include the leeway to employ wiretapping in especially meritorious cases, the power to issue *subpoena* and *subpoena duces tecum* to compel the compulsory attendance of any witness or the production of evidence, the authority to inquire into bank and non-bank accounts, records and transactions, and the power to punish for contempt. All these powers will enable the Office of the Ombudsman to effectively and efficiently fulfill its constitutionally-mandated duty.

With the adoption of the proposed amendments to R.A. No. 6770, stronger anti-corruption efforts could be exercised by the Office of the Ombudsman to effectively deter corruption in the government for the benefit of the public interest. These additional powers are being proposed in order to keep the Ombudsman from becoming a "toothless tiger" in the fight against increasingly sophisticated and advanced criminals in the government's ranks.


GRACE POE



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

SECTION 1. Section 15 of R.A. No. 6770 is hereby amended to read as follows:

"SEC. 15. Powers, Functions and Duties. – The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient; [It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;]

(2) EMPLOY WIRETAPPING AS AN INVESTIGATIVE TECHNIQUE WHEN THE CIRCUMSTANCES OF A CASE SO WARRANT. FOR THIS PURPOSE, SECTION 3 OF REPUBLIC ACT NO. 4200, OTHERWISE KNOWN AS THE ANTI-WIRETAPPING LAW, IS HEREBY AMENDED TO INCLUDE CASES INVOLVING PLUNDER, VIOLATIONS OF REPUBLIC ACT NO. 3019, FORFEITURE OF ILL-GOTTEN WEALTH UNDER REPUBLIC ACT NO. 1379, CRIMES COMMITTED BY PUBLIC OFFICERS UNDER THE REVISED PENAL CODE AND OTHER GRAFT AND CORRUPTION OFFENSES IN THE CASES FOR WHICH WIRETAPPING MAY BE ALLOWED AFTER AN APPLICATION FOR AND GRANT OF A JUDICIAL AUTHORITY;

(3) EXERCISE EXCLUSIVE JURISDICTION OVER CASES COGNIZABLE BY THE SANDIGANBAYAN AND, PURSUANT TO SUCH EXCLUSIVE JURISDICTION, TAKE OVER, AT ANY STAGE, FROM ANY INVESTIGATORY AGENCY OF GOVERNMENT, THE INVESTIGATION OF SUCH CASES, IF, IN ITS DETERMINATION, PUBLIC INTEREST WILL BE SERVED THEREBY;

[(2)](4) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations [with

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1 original charter], to perform and expedite any act or duty required by law, or to
2 stop, prevent, and correct any abuse or impropriety in the performance of duties;

3
4 [(3)] (5) Direct the [officer] concerned **HEAD OF AGENCY OR**
5 **OFFICIAL** to take appropriate action against a public officer or employee at
6 fault or who neglects to perform an act or discharge a duty required by law, and
7 [recommend], **FOR SUCH PURPOSE, ORDER SAID HEAD OF AGENCY**
8 **OR OFFICIAL TO IMPLEMENT AN ORDER FOR [his] THE SAID**
9 **PUBLIC OFFICER OR EMPLOYEE'S** removal, suspension, demotion, fine,
10 censure, or prosecution [and ensure compliance therewith; or enforce] **IN LINE**
11 **WITH** its disciplinary authority as provided in Section 21 of this Act: *Provided,*
12 That the refusal by any officer without just cause to comply with an order of the
13 Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or
14 employee who is at fault or who neglects to perform an act or discharge a duty
15 required by law shall be a ground for disciplinary action against said officer;

16
17 [(4)] (6) Direct the officer concerned, in any appropriate case, and subject
18 to such limitations as it may provide in its rules of procedure, to furnish it with
19 copies of documents relating to contracts or transactions entered into by his office
20 involving the disbursement or use of public funds or properties, and report any
21 irregularity to the Commission on Audit for appropriate action;

22
23 [(5)] (7) Request any government agency for assistance and information
24 necessary in the discharge of its responsibilities, and to examine, if necessary,
25 pertinent records and documents;

26
27 [(6)] (8) Publicize matters covered by its investigation of the matters
28 mentioned in paragraphs (1), (2), [(3) and] (4), (5), (6) **AND (7)** hereof, when
29 circumstances so warrant and with due prudence: *Provided,* That the Ombudsman
30 under its rules and regulations may determine what cases may not be made public:
31 *Provided, further,* That any publicity issued by the Ombudsman shall be balanced,
32 fair and true;

33
34 [(7)] (9) Determine the causes of inefficiency, red tape, mismanagement,
35 fraud, and corruption in the Government, and make recommendations for their
36 elimination and the observance of high standards of ethics and efficiency;

37
38 [(8)] (10) Administer oaths, issue *subpoena* and *subpoena duces tecum* [,]
39 **TO COMPEL AND SECURE THE COMPULSORY ATTENDANCE OF**
40 **ANY WITNESS OR THE PRODUCTION OF EVIDENCE WHEREVER**
41 **THE SAME MAY BE FOUND, and take testimony AT ANY STAGE OF [it]**
42 any investigation or inquiry, **PROVIDED, THAT IN THE COURSE OF**
43 **SUCH INVESTIGATION OR INQUIRY, THE OMBUDSMAN SHALL**
44 **HAVE [including] the power to examine and have access to bank AND NON-**
45 **BANK accounts, records AND TRANSACTIONS, SUCH AS DEPOSITS,**
46 **TRUSTS, INVESTMENTS, EVEN PRIOR TO THE FILING OF A CASE**
47 **BEFORE A COURT OF COMPETENT JURISDICTION,**
48 **NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT NO.**
49 **1405, AS AMENDED; REPUBLIC ACT NO. 6426, AS AMENDED;**
50 **REPUBLIC ACT NO. 8791 AND REPUBLIC ACT NO. 9160, AS**
51 **AMENDED, AND OTHER LAWS;**

52
53 (11) ENTER, VISIT, INSPECT, OR IF CIRCUMSTANCES
54 REQUIRE, BREAK INTO, ANY GOVERNMENT OFFICE OR ANY
55 PUBLIC PREMISES, STRUCTURE OR ESTABLISHMENT, IN THE
56 LAWFUL COURSE OF AN ONGOING CRIMINAL OR
57 ADMINISTRATIVE INVESTIGATION, AND SEIZE ANY OBJECT OR

1 **ARTICLE FOUND THEREIN WHICH MAY BE USED IN THE SAID**
2 **INVESTIGATION, OR DIRECT ANY PUBLIC OFFICER TO DELIVER**
3 **SUCH OBJECT OR ARTICLE, PURSUANT TO SUCH RULES AND**
4 **REGULATIONS THAT THE OMBUDSMAN MUST PROMULGATE TO**
5 **GOVERN THE EXERCISE OF THE FOREGOING POWER;**
6

7 [(9)] **(12) Punish for contempt in accordance with [the Rules of Court]**
8 **ITS OWN RULES and [under the same procedure] with the [same] penalties**
9 **provided [therein] UNDER SECTION 36 OF THIS ACT.**
10

11 [(10)] **(13) Delegate to the Deputies, or its investigators or representatives**
12 **such authority or duty as shall ensure the effective exercise or performance of the**
13 **powers, functions, and duties herein or hereinafter provided;**
14

15 [(11)] **(14) Investigate and initiate the proper action for the recovery of ill-**
16 **gotten and/or unexplained wealth amassed after February 25, 1986 and the**
17 **prosecution of the parties involved therein. IN THE FILING AND**
18 **PROSECUTION OF SUCH ACTIONS, THE REPUBLIC OF THE**
19 **PHILIPPINES SHALL BE EXEMPT FROM THE FILING OF ANY BOND**
20 **OR THE PAYMENT OF ANY FEES AND CHARGES. PROPERTIES**
21 **LIQUIDATED OR SOLD BY THE GOVERNMENT, AND THOSE**
22 **RECOVERED, FORFEITED, SURRENDERED AND TRANSFERRED TO**
23 **THE GOVERNMENT, SHALL BE EXEMPT FROM THE PAYMENT OF**
24 **ANY NATIONAL OR LOCAL TAXES.**
25

26 **SECTION 2. Insert new paragraphs (15), (16) and (17) to Section 15 of R.A. No. 6770**
27 **to read as follows:**
28

29 **(15) REPRESENT ITSELF, THE REPUBLIC OF THE PHILIPPINES, OR**
30 **THE PEOPLE OF THE PHILIPPINES IN ANY JUDICIAL, ADMINISTRATIVE,**
31 **CIVIL OR OFFICIAL PROCEEDING INVOLVING CASES WITHIN ITS**
32 **JURISDICTION BEFORE ANY COURT, TRIBUNAL, AGENCY, OR OFFICE**
33 **WITHOUT NEED OF PRIOR CLEARANCE, AUTHORITY OR DEPUTATION**
34 **FROM ANY OTHER OFFICE OR AGENCY, INCLUDING THE OFFICE OF**
35 **THE SOLICITOR GENERAL;**
36

37 **(16) DEPUTIZE PRIVATE LAWYERS TO ACT AS INVESTIGATORS**
38 **OR PROSECUTORS TO ACT UNDER THE DIRECT CONTROL AND**
39 **SUPERVISION OF THE OMBUDSMAN IN CASES BEING HANDLED BY THE**
40 **OFFICE, WHEN SPECIAL AND MERITORIOUS CIRCUMSTANCES SO**
41 **WARRANT, SUBJECT TO SUCH RULES AND REGULATIONS, INCLUDING**
42 **PROVISIONS FOR REASONABLE COMPENSATION AND REIMBURSEMENT**
43 **FOR REASONABLE EXPENSES, AS THE OMBUDSMAN WILL**
44 **PROMULGATE; AND**
45

46 **(17) CREATE AND ADMINISTER ITS OWN WITNESS PROTECTION**
47 **AND WHISTLEBLOWING PROGRAMS AND, FOR SUCH PURPOSES,**
48 **MAINTAIN ITS OWN INTELLIGENCE ENFORCEMENT OR PROTECTIVE**
49 **SERVICES UNIT FOR THE PROTECTION OF ITS WITNESSES AND**
50 **WHISTLEBLOWERS.**
51

52 The Ombudsman shall give priority to complaints filed against high ranking
53 government officials and/or those occupying supervisory positions, complaints involving
54 grave offenses as well as complaints involving large sums of money and/or properties.
55
56

1 **SECTION 3.** Section 17 of R.A. No. 6770 is hereby amended to read as follows:
2

3 “SEC 17. *Immunities.* – x x x
4

5 Under such terms and conditions as it may determine, [taking into account
6 the pertinent provisions of the Rules of Court] the Ombudsman may grant
7 immunity from criminal prosecution to any person whose testimony or whose
8 possession and production of documents or other evidence may be necessary to
9 determine the truth in any hearing, inquiry or proceeding being conducted by the
10 Ombudsman or under its authority, in the performance or in the furtherance of its
11 constitutional functions and statutory objectives. The immunity granted under
12 this and the immediately preceding paragraph shall not exempt the witness from
13 criminal prosecution for perjury or false testimony nor shall he be exempt from
14 demotion or removal from office.
15

16 Any refusal to appear or testify pursuant to the foregoing provisions shall
17 be subject to punishment for contempt and removal of the immunity from
18 criminal prosecution.
19

20 **SECTION 4.** Section 25 of R.A. No. 6770 is hereby amended to read as follows:
21

22 “SEC. 25. *Penalties* –
23

24 (1) In administrative proceedings under [Presidential Decree No. 807]
25 **EXECUTIVE ORDER NO. 292, THE OFFENSES DEFINED AND** the
26 penalties [and rules] provided therein shall be applied.
27

28 (2) In other administrative proceedings, the penalty ranging from
29 suspension without pay for one (1) year to dismissal with forfeiture of benefits or
30 a fine ranging from Five Thousand Pesos (P5, 000.00) to twice the amount
31 malversed, illegally taken or lost, or both at the discretion of the Ombudsman,
32 taking into consideration circumstances that mitigate or aggravate the liability of
33 the officer or employee found guilty of the complaint or charges.
34

35 **THESE PENALTIES MAY BE IMPLEMENTED DURING**
36 **ELECTION PERIOD, AMENDING FOR THIS PURPOSE SECTION**
37 **261(X) OF BATAS PAMBANSA BLG. 881, OR THE OMNIBUS**
38 **ELECTION CODE.”**
39

40 **SECTION 5.** Section 27 of R.A. No. 6770 is hereby amended to read as follows:
41

42 “SEC. 27. *Effectivity and Finality of Decisions.* — (1) All provisional
43 orders of the Office of the Ombudsman are immediately effective and executory.
44

45 A motion for reconsideration of any order, directive or decision of the
46 Office of the Ombudsman must be filed within five (5) days after receipt of
47 written notice and shall be entertained only on any of the following grounds:
48

49 (1) New evidence has been discovered which materially affects the order,
50 directive or decision;
51

52 (2) Errors of law or irregularities have been committed prejudicial to the
53 interest of the movant. [The motion for reconsideration shall be resolved
54 within three (3) days from filing: *Provided, That*] **ONLY** one motion for
55 reconsideration shall be entertained.
56

1 Findings of fact by the Office of the Ombudsman when supported by
2 substantial evidence are conclusive. Any order, directive or decision imposing the
3 penalty of public censure or reprimand, suspension of not more than one (1)
4 **MONTH AND FINE OF NOT MORE THAN ONE (1) MONTH'S SALARY**
5 shall be final and unappealable.
6

7 In all administrative disciplinary cases, orders, directives, or decisions of
8 the Office of the Ombudsman may be appealed to the **COURT OF APPEALS**
9 **ON A VERIFIED PETITION FOR REVIEW UNDER RULE 43 OF THE**
10 **RULES OF COURT. AN APPEAL SHALL NOT STOP THE DECISION**
11 **FROM BEING EXECUTORY.**
12

13 The above rules may be amended or modified by the Office of the
14 Ombudsman as the interest of justice may require.”
15

16 **SECTION 6.** Insert a new Section 31-A to R.A. No. 6770 to read as follows:
17

18 **SEC. 31-A. IMMUNITY FROM SUIT OF OMBUDSMAN INVESTIGATORS**
19 **AND PROSECUTORS. – OMBUDSMAN INVESTIGATORS AND**
20 **PROSECUTORS, INCLUDING THOSE DEPUTIZED BY THE OMBUDSMAN**
21 **PURSUANT TO SECTION 31 HEREOF, SHALL BE IMMUNE FROM**
22 **CRIMINAL, ADMINISTRATIVE OR CIVIL SUITS ARISING FROM THEIR**
23 **MANDATE AND THE REGULAR EXERCISE OF THEIR OFFICIAL**
24 **FUNCTIONS.**
25

26
27 **SECTION 7.** Section 32, paragraph (3) of R.A. No. 6770 is hereby amended to
28 read as follows:
29

30 “SEC. 32. *Rights and Duties of Witness.* –
31 x x x x
32

33 (3) If a person refuses to respond to the Ombudsman’s or his
34 Deputy’s *subpoena*, or refuses to be examined, or engages in obstructive
35 conduct, the Ombudsman or his Deputy shall issue an order directing the person
36 to appear before him to show cause why he should not be punished for contempt.
37 [The contempt proceedings shall be conducted pursuant to the provisions of the
38 Rules of Court.]”
39

40
41 **SECTION 8.** Section 36 of R.A. No. 6770 is hereby amended to read as follows:
42

43 “SEC. 36. *Penalties for Obstruction.* – Any person who willfully obstructs
44 or hinders the proper exercise of the functions of the Office of the Ombudsman,
45 or who willfully misleads or attempts to mislead the Ombudsman, his Deputies,
46 and the Special Prosecutor in replying to their inquiries shall be punished by a
47 fine of not exceeding Five thousand pesos (P5, 000.00).
48

49 **ANY PERSON GUILTY OF MISBEHAVIOR IN THE PRESENCE**
50 **OF OR SO NEAR AN OFFICER OF THE OFFICE OF THE**
51 **OMBUDSMAN AS TO OBSTRUCT OR INTERRUPT THE**
52 **PROCEEDINGS BEFORE THE SAME, INCLUDING DISRESPECT**
53 **TOWARD THE HEARING OFFICER, OFFENSIVE PERSONALITIES**
54 **TOWARD OTHERS, OR REFUSAL TO BE SWORN OR TO ANSWER AS**
55 **A WITNESS, OR TO SUBSCRIBE AN AFFIDAVIT OR DEPOSITION**
56 **WHEN LAWFULLY REQUIRED TO DO SO, MAY BE SUMMARILY**

1 ADJUDGED IN CONTEMPT BY SUCH HEARING OFFICER, SUBJECT
2 TO THE APPROVAL OF THE OMBUDSMAN, AND PUNISHED BY A
3 FINE NOT EXCEEDING FIVE THOUSAND PESOS (P5,000.00) OR
4 IMPRISONMENT NOT EXCEEDING TEN (10) DAYS WITHOUT
5 PREJUDICE TO THE FILING OF A CRIMINAL CASE UNDER
6 PRESIDENTIAL DECREE NO. 1829.
7

8 ANY IMPROPER CONDUCT TENDING, DIRECTLY OR
9 INDIRECTLY, TO IMPEDE, OBSTRUCT, OR DEGRADE THE
10 ADMINISTRATION OF JUSTICE, OR ANY INVESTIGATION BEING
11 CONDUCTED BY THE OFFICE OF THE OMBUDSMAN SHALL
12 CONSTITUTE AS INDIRECT CONTEMPT, AND SHALL, AFTER
13 NOTICE AND HEARING, BE PUNISHED WITH THE SAME
14 PENALTIES AS DIRECT CONTEMPT.
15

16 TO ENFORCE THE PROVISIONS OF THIS SECTION, THE
17 OFFICE OF THE OMBUDSMAN MAY, IF NECESSARY, REQUEST THE
18 ASSISTANCE OF ANY LAW ENFORCEMENT OFFICE OR DEPUTIZE
19 ANY LAW ENFORCEMENT OFFICER TO ASSIST IN THE
20 EXECUTION OF ANY ORDER ISSUED FOR SAID PURPOSE.”
21

22
23 SECTION 9. Insert a new Section 36-A to R.A. No. 6770 to read as follows:
24

25 **Sec. 36-A. *Illegal Disclosure of Information.*** – IT SHALL BE UNLAWFUL
26 FOR ANY PERSON WHO RECEIVES A *SUBPOENA*, OTHER ORDERS, OR
27 REQUESTS FOR INFORMATION FROM THE OFFICE OF THE
28 OMBUDSMAN PURSUANT TO THE EXERCISE OF THE LATTER’S POWERS
29 UNDER SECTION 15 HEREOF TO DISCLOSE TO ANY PERSON ANY
30 INFORMATION CONCERNING SAID ORDERS OR REQUESTS, AND THE
31 PROCEEDINGS RELATING THERETO. ANY VIOLATION OF THIS SECTION
32 WILL SUBJECT THE OFFENDER TO IMPRISONMENT RANGING FROM SIX
33 (6) MONTHS AND ONE (1) DAY TO THREE (3) YEARS, AND A FINE OF NOT
34 LESS THAN FIFTY THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN
35 FIVE HUNDRED THOUSAND PESOS (P500,000.00).
36

37
38 SECTION 10. *Rules and Regulations.* – The Ombudsman shall issue, within ninety (90)
39 days after the approval of this Act, the necessary rules and regulation relating to the
40 administrative aspects of the provisions of this Act.
41

42 SECTION 11. *Separability Clause.* — If for any reason, any section or provision of this
43 Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are
44 not affected thereby shall continue to be in full force and effect.
45

46 SECTION 12. *Repealing Clause.* — All laws, decrees, orders or rules and regulations,
47 and other issuances which are inconsistent with the provisions of this Act are hereby repealed,
48 amended or modified accordingly.
49

50 SECTION 13. *Effectivity.* — This Act shall take effect fifteen (15) days after its
51 publication in two (2) national newspapers of general circulation.
52

53 Approved,