

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

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SENATE

S. B. No. 1202

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Introduced by Senator Ramon Bong Revilla, Jr.

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### EXPLANATORY NOTE

On April 3, 1979, more than twenty years had passed since Batas Pambansa Blg. 22, otherwise known as "An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds or Credit," was passed into law. This law was a well-meaning attempt to curb the proliferation of bouncing checks which was perceived to be damaging to commercial transaction where the check as a negotiable instrument was a convenient tool of business and personal dealings.

While this representation is fully cognizant of the rationale for the law, *i.e.* the need to curb the practice of putting worthless checks in circulation as it can very well pollute the channels of trade and commerce and injure the banking system, the rampant and almost indiscriminate resort to the statute as a tool to coerce payments have made it imperative for Congress to re-examine the efficacy of the law.

This proposed measure seeks to amend B.P. Blg. 22 by making other persons who are signatories to the check who conspire with the drawer and issuer liable for violation of law; by penalizing the issuance of check drawn against closed accounts; and by increasing the penalty imposable for the acts penalized under thereunder.

This measure further seeks to give more teeth to the existing law by increasing the period of imprisonment to a minimum of 6 months to a maximum of 6 years and further proposes to remove the two hundred thousand peso limit of the fine which can be imposed by the court.

Moreover, this bill provides that officers and general managers of the drawers corporation, company or entity who conspire with the signatories in behalf of the drawer should be equally made liable for violation of the law under the legal principle governing conspiracy.

In the same light, this proposed measure mandates that all drawee banks should provide every month an inventory listing of all the checks, including bank account name and amount of the check, that have been dishonored by the drawee bank for reasons consistent with the provisions of B.P. 22, and submit the same inventory listing to the Central Bank for proper monitoring and database listing.

By the same token, the banks are hereby empowered to suspend the checking account privileges of the checking account clients who are habitual offenders in the issuance of worthless checks.

Finally, one of the landmark provisions of this proposed measure is the imposition of a stiffer bail bond requirement for cases involving alleged violations of the provisions of Batas Pambansa Blg. 22, as amended, in the amount equivalent to twenty-five percent (25%) of the amount of the check that have been dishonored by the drawee bank for reasons of insufficiency of funds or for other reasons consistent with the provisions of this Act.

No one can deny that the harmful practice of putting value-less commercial papers in circulation, multiplied a thousand fold, can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public. The Department of Justice (DOJ) estimates that in Metropolitan Manila area along, approximately thirty percent (30%) of the trial court's dockets involve supposed violations of B.P. 22.

In the words of a noted legal annotator, "*xxx no other single piece of legislation has been more abused and its intendments perverted, that B.P. 22.*"<sup>1</sup>

It is earnestly hope, therefore, that the passage of this bill would successfully deter the issuance of worthless checks in this country and provide the enabling mechanism for the improvement of business and trade in the economy.

  
RAMON BONG REVILLA, JR.  
Senator

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AN ACT  
AMENDING BATAS PAMBANSA BLG. 22,  
"AN ACT PENALIZING THE MAKING OR DRAWING AND ISSUANCE  
OF A CHECK WITHOUT SUFFICIENT FUNDS OR CREDIT  
AND FOR OTHER PURPOSES"

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

**SECTION 1.** Section 1 of Batas Pambansa Blg. 22, otherwise known as the "Bouncing Check Law", is hereby amended to read as follows:

"Section 1. *Checks [w]Without [s]Sufficient [f]Funds.* – Any person who makes or draws and issues any check to apply on account or for value, knowing at the time of issue that he does not have sufficient funds in or credit, **OR HE HAS CLOSED ACCOUNT** with the drawee bank for the payment of such check in full upon its presentment, which check is subsequently dishonored by the drawee bank for insufficiency of funds or credit **OR CLOSED ACCOUNT** or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment, shall be punished by imprisonment of not less than [~~thirty days~~] **SIX (6) MONTHS** but not more than [~~one (1)] **SIX (6)** yearS or by a fine of not less that but not more than double the amount of the~~

check [~~which fine shall in no case exceed Two Hundred Thousand Pesos~~], or both such fine and imprisonment at the discretion of the court.

The same penalty shall be imposed upon any person who, having sufficient funds in or credit with the drawee bank when he makes or draws and issues a check, shall fail to keep sufficient funds or to maintain a credit to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank.

Where the check is drawn by the corporation, company or entity, the person or persons who actually signed the check, **AS WELL AS THE DIRECTOR, OFFICER AND/OR GENERAL MANAGER OF THE CORPORATION, COMPANY OR ENTITY WHO INDUCES, CAUSES AND/OR ALLOWS SUCH ISSUANCE,** [~~in behalf of such drawer~~] shall be liable under this Act.”

**SEC. 2.** Section 2 of Batas Pambansa Blg. 22, otherwise known as the “Bouncing Check Law”, is hereby amended to read as follows:

*Section 2. Evidence of [~~the~~]Knowledge of [~~the~~]Insufficient [~~of~~]Funds **OR OF CLOSED ACCOUNT** --* The making, drawing and issuance of a check payment of which is refused by the drawee because of insufficient funds in or credit or **CLOSED ACCOUNT** with such bank, when presented within ninety (90) days from the date of the check, shall be prima facie evidence of knowledge of such insufficiency of funds or credit **OR OF CLOSED ACCOUNT** unless such maker or drawer pays the holder thereof the amount due thereon, or makes arrangements in full by the drawee of such check within [~~five (5)~~] **THREE (3)** banking days after receiving notice that such check has not been paid by the drawee.”

**SECTION 3.** Section 3 of Batas Pambansa Blg. 22, is hereby amended to read as follows:

“Section 3. *Duty of [d]Drawee; [r]Rules of [e]Evidence* – It shall be the duty of the drawee of any check, when refusing to pay the same to the holder thereof upon presentment, to cause to be written, printed, or stamped in plain language thereon, or attached thereto, the reason for the drawee’s dishonor or refusal to pay the same: *Provided*, That where there are no sufficient funds in or credit with such drawee bank, **OR WHEN THE ACCOUNT HAS BEEN CLOSED**, such fact shall always be explicitly stated in the notice of dishonor or refusal. In all prosecution under this Act, the introduction in evidence of any unpaid and dishonored check, having the drawee’s refusal to pay stamped or written thereon, or attached thereto, with the reason therefor as aforesaid, shall be *prima facie* evidence of the making or issuance of said check, and the due presentment to the drawee for payment and the dishonor thereof, and that the same was properly dishonored for the reason written, stamped or attached by the drawee on such dishonored check.

Notwithstanding receipt of an order to stop payment, the drawee shall state in the notice that there were no sufficient funds in or credit with such bank for the payment in full of such check, if such be the fact.”

**SEC. 4. *Pre-qualification Requirements for the Issuance of a Checking Account.***

– Consistent with existing sound banking practices, laws, rules and regulations, the banks are hereby empowered to issue and provide strict and extensive pre-qualification requirements and screening criteria in the issuance of a checking account to person(s), corporation, company or entity, in which case, the screening criteria and requirements shall include, among others, the inquiry as to whether the applicant has been convicted of a crime involving falsification of commercial documents and/or crime involving moral turpitude.

**SEC. 5. *Trial Period for B.P. 22 Cases.*** – Consistent with the provisions of existing laws, upon the effectivity of this Act, cases involving the supposed violation of Batas Pambansa Blg. 22, as amended, shall be disposed-of within 120 days from the filing of the case thereof in a court of competent jurisdiction.

**SEC. 6. *Monitoring of Habitual Issuers of Worthless Checks.*** – At the end of each month, all drawee banks are hereby mandated to provide an inventory listing of all the checks, including the bank account name and amount of the check, that have been dishonored by the drawee bank for reasons of insufficiency of funds and/or that the account have been closed by the owner of the account prior to the presentation of said check(s) to the drawee bank.

All drawee banks are hereby required and mandated to submit said inventory listing of dishonored checks, including the bank account name and amount of the check, to the Central Bank for proper monitoring and database listing.

Every month, the Central Bank, in coordination with the different agencies of the government, is hereby mandated to prepare a database inventory listing of all the checks, including the bank account name and amount of the check, that have been dishonored by the different banks in the country for reasons of insufficiency of funds and/or that the account have been closed by the owner of the account prior to the presentation of said check(s) to the drawee bank.

Every quarter, the Central Bank, in coordination with the different agencies in the government, is hereby mandated and required provide a separate listing of checking account holders/names whose checks have been dishonored three (3) times within given calendar year. After the printing of the separate list of habitual offenders, the Central Bank shall inform the concerned drawee bank(s) for proper action and monitoring, consistent with the provisions of this Act.

**SEC. 7. *Suspension of Checking Account Privileges for Habitual Offenders.*** - Consistent with the provisions of existing laws, the drawee bank, upon receipt of the notification

from the Central Bank of the list of habitual offenders, is hereby empowered to suspend the checking account privileges of the concerned account holder(s) and/or entity on the following conditions:

1. For checking account holders whose checks have been dishonored by the drawee bank for three (3) times within a given calendar year for reasons consistent with the provisions of this Act, the drawee bank is hereby empowered to suspend the checking account privileges of the checking account holder and/or entity or a period of three (3) years, upon receipt of the notification from the Central Bank.

2. For checking account holders who are considered second time offenders whose checks have again been dishonored by the drawee bank for three (3) times within a given calendar year for reasons consistent with the provisions of this Act, the drawee bank is hereby empowered to suspend the checking account privileges of the checking account holder and/or entity for a period of five (5) years, upon receipt of the notification from the Central Bank.

3. For checking account holders who are considered third time offenders whose checks have again been dishonored by the drawee bank for three (3) times within a given calendar year for reasons consistent with the provisions of this Act, the drawee bank is hereby empowered to permanently suspend the checking account privileges of the checking account holder and/or entity, upon receipt of the notification from the Central Bank, without prejudice to the filling of separate criminal and civil cases consistent with the provisions of existing laws in the Republic of the Philippines.

**SEC. 8. Bail Bond Requirements.** - For cases involving alleged violations of the provisions of Batas Pambansa Blg. 22, as amended by this Act, the courts are hereby empowered to impose a bail bond in the amount equivalent to twenty-five percent (25%) of the amount of the check that have been dishonored by the drawee bank for reasons of insufficiency of funds, or that the account have been closed by the owner of the account prior to the presentation of said check(s) to the drawee bank, or for other reasons consistent with the provisions of this Act.

**SEC. 9. *Separability Clause.*** – If any provision of this Act shall be declared invalid or unconstitutional, the remaining part or provisions not otherwise affected shall remain in force and effect.

**SEC. 10. *Repealing Clause.*** – All laws, decrees, executive orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

**SEC. 11. *Effectivity.*** – This Act shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette and in at least two (2) newspapers of general circulation.

*Approved,*