

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

04 JUL -2 A9:14

RECEIVED BY: 

SENATE

S. No. 1314

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

It is common knowledge that some unscrupulous businessmen and/or business enterprises maintain multiple sets of books and financial statements. Thus, they submit a doctored set as a basis for their income and other tax obligations and use a more accurate set for purposes of obtaining loans from banks and other financial institutions.


Such practices are, of course, illegal. The payment of tens of billions of pesos in legitimate taxes due to the government is evaded. In this light, the bank, its executives and loan officers, wittingly or unwittingly, become silent collaborators in the crime of tax evasion by allowing borrowers to present financial reports quite different from that which is filed with their periodic reports to the Bureau of Internal Revenue (BIR) and other government agencies.

There is therefor, a felt need to discourage such illegal practices, ensure honesty in compliance with tax laws, promote sound banking management and protect the integrity of the banking and financial system.

This measure seeks to make officers and directors of banks and other financial institutions criminally liable for allowing the use of financial statements from their prospective borrowers other than the audited financial statements that they submitted to the BIR and other government agencies, as a basis for the grant of credit accommodations to said borrowers.

This measure also holds liable any banking officer or director who fails to report to the Bangko Sentral ng Pilipinas and the BIR any knowledge they may have if a borrower keeps more than one set of financial accounts.

In order to collect taxes validly owed the government, the early passage of this measure is earnestly requested.


SÉRGIO OSMEÑA III
Senator

04 JUL -2 A9:13

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

RECEIVED BY: 

S E N A T E

S. No. 1314

Introduced by Senator S. R. Osmeña III

AN ACT

REQUIRING THE OFFICERS AND DIRECTORS OF BANKS AND OTHER FINANCIAL INSTITUTIONS. TO UTILIZE AS THE BASIS FOR THE APPROVAL OF CREDIT ACCOMMODATIONS THE FINANCIAL STATEMENTS USED FOR PAYMENT OF TAX OBLIGATIONS BY THE PROSPECTIVE BORROWERS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AMENDING REPUBLIC ACT. 337, OTHERWISE KNOWN AS THE GENERAL BANKING ACT AND FOR OTHER PURPOSES

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

1 **Section 1. Declaration of Policies.** – It is hereby declared the policy of
2 the State to insure honesty in compliance with the nation's tax laws and to
3 protect the integrity of the banking and financial system through the use of a
4 single accurate set of books in business for the purpose of tax returns and credit
5 applications.

6 **Sec. 2.** – Section 76 of Rep. Act. No. 337, otherwise known as the
7 "General Banking Act". Is hereby amended to read as follows:

8 "Sec. 76. – Before granting a loan, banks must exercise proper
9 caution to ascertain that the debtor is capable of fulfilling his commitments
10 to the bank.

11 Toward this end, banks may demand of their credit applicants a
12 statement of their property and SHALL DEMAND CERTIFIED COPIES of

1 their income and expenditures AND THEIR INCOME TAX RETURNS
2 FOR THE PRECEDING THREE (3) YEARS INCLUDING THE AUDITED
3 FINANCIAL STATEMENTS ON WHICH SAID TAX RETURNS WERE
4 BASED, IN THE EVALUATION OF CREDIT APPLICATIONS AND THE
5 GRANT OF LOANS. Should such STATEMENTS OR ANY PART
6 THEREOF prove to be false or incorrect in any material detail, the bank
7 [may] SHALL REJECT THE CREDIT APPLICATION AND SHALL
8 DECLINE TO EXTEND ANY LOAN OR CREDIT ACCOMMODATION.
9 THE BANK SHALL ALSO terminate any loan granted on the basis of said
10 statements and shall have the right to demand immediate repayment of
11 the obligation." THE BANK IS HEREBY REQUIRED TO IMMEDIATELY
12 REPORT ITS DISCOVERY OF FINANCIAL DISCREPANCIES AND/OR
13 FALSE STATEMENTS TO THE BANGKO SENTRAL NG PILIPINAS, THE
14 BUREAU OF INTERNAL REVENUE AND OTHER CONCERNED
15 GOVERNMENT AGENCIES.

16 **Sec. 3.** – A New Section is hereby inserted to read as follows:

17 "Sec. 76-A. – THE DIRECTOR AND OFFICER OF THE BANK OR
18 FINANCIAL INSTITUTION FOUND GUILTY OF WILLFUL VIOLATION OF
19 ANY OF THE ACTS PROHIBITED UNDER THE PRECEDING SECTION
20 SHALL BE PUNISHED BY A FINE RANGING FROM FIVE MILLION
21 PESOS (P5,000,000.00) TO TWENTY MILLION PESOS
22 (P20,000,000.00) OR THRICE THE AMOUNT OF THE TAX DEFICIT OF
23 THE BORROWER, WHICHEVER IS HIGHER, OR IMPRISONMENT
24 RANGING FROM FOUR (4) YEARS TO TWELVE (12) YEARS, OR
25 BOTH, AT THE DISCRETION OF THE COURT."

26 **Sec. 4.** – Any provision of law, decree, executive order or any issuance
27 inconsistent herewith is hereby repealed and/or modified accordingly.

1 **Sec. 5.** – This Act shall take effect fifteen (15) days) after the completion
2 of its publication in the Official Gazette or in at least two (2) national newspapers
3 of general circulation.

Approved,