13th CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

SENATE

S. BILL NO. 1351

Introduced by Senator Ralph G. Recto

Explanatory Note

The enactment of Republic Act No. 6957 or the BOT Law, as amended by Republic Act 7718 in 1994, has brought in big-budgeted projects such as the Metro Rail Transit (MRT) project, the SkyWay, the NAIA II and III airport terminals and the now infamous independent power producers (IPPs), which government, on its own, could not have undertaken given its limited resources. Contingent liabilities have become a growing concern among economists as government continues to encourage the private sector to invest in public infrastructure. By providing guarantee covers to private contractors, the government was able to eliminate, if not minimize, the risks faced by private capital participating in public infrastructure projects particularly those under the Build-Operate-Transfer (BOT) schemes.

However, in a policy paper[1], the Philippine Institute for Development Studies (PIDS) stressed that the guarantees provided to BOT projects have also given rise to huge contingent liabilities of the government. PIDS estimates that the cumulative guarantee payments to BOT project proponents amount to US$89.4 billion over the period 1994 to 2019 or at a 15% discount rate, a net present value of P208.3 billion or 10.6% of GNP in 1995. Annually, PIDS estimates that government faces contingent liabilities at an average of 0.3 to 0.4 % of GNP.

This bill requires the annual public disclosure of government's contingent liabilities at least a month prior to the submission of the annual national expenditure program by the President to Congress. It will enable members of Congress to understand better the fiscal and monetary impact of the government's contingent liabilities on the national budget for the succeeding year. Likewise, the media, the public, investors, credit-rating agencies, and multilateral institutions can make sound decisions in assessing the fiscal and monetary performance of the administration and in determining whether they should chastise government for exposing the State to excessive risks and for concealing those risks.

In this age when fiscal discipline has become a byword in the international financial markets, the passage of this bill has never been more apt.

Thus, its immediate approval is earnestly sought.

RALPH G. RECTO

[1] Llanto, Gilberto and Ma. Cecilia Soriano. 1997. Government guarantees in infrastructure projects: a second, third look at the policy. *PIDS Policy Notes No. 97-11*. Makati City: Philippine Institute for Development Studies.

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AN ACT
REQUIRING THE ANNUAL PUBLIC DISCLOSURE OF ALL GOVERNMENT CONTINGENT LIABILITIES

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

SECTION 1. *Title.* – This Act shall be known as the "Contingent Liabilities Disclosure Act of 2004".

SEC. 2. *Declaration of Policy.* – It is the declared policy of the State to recognize the right of the people to information on matters of public concern. The national government shall be transparent in all its financial transactions and/or decisions and as such, shall afford the citizen access to official records, and to documents, and papers pertaining to official acts as well as to government research data used as basis for fiscal and monetary policy.

SEC. 3. *Definition of Terms.* – The following terms used in this Act shall have the meanings stated below:

(a) Contingent liabilities – explicit guarantees extended by the national government or any of its agencies including government-owned and controlled corporations (GOCCs) including, but not limited to, the following:

(i) Guarantees arising from Republic Act No. 6957, as amended;

(ii) Liabilities of GOCCs;

(iii) Guarantee programs under the Quedan and Rural Credit Corporation (QRCC), Small Business Guarantee and

Finance Corporation (SBGFC), the Comprehensive Agricultural Loan Fund (CALF) under the Land Bank of the Philippines (LBP), Trade and Industry Development Corporation (TIDCORP), Industrial and Guarantee Loan Fund (IGLF) under the Development Bank of the Philippines (DBP), and the Home Guaranty Corporation (HGC); and

(iv) Other potential losses arising from pending and threatened litigation relating to claims and assessments in respect of breach of contract, damages to persons and property, and similar items.

(b) Full disclosure – reporting of the government's contingent liabilities indicating, but not limited to, all the specific contingent liabilities of government classified by major category, the amount involved, the purpose and scope of each contingent liability, its duration, and the intended beneficiaries. Information on past calls on the government to meet contingent liabilities shall likewise be reported.

SEC. 4. *Full disclosure of contingent liabilities.* - The Department of Finance (DOF) is hereby mandated to implement full disclosure of all contingent liabilities of the national government or any of its agencies including GOCCs. All information related to the contingent liabilities of the government shall be published in at least two newspapers of national circulation at least a month prior to the submission of the annual national expenditure program by the President to Congress.

SEC. 5. *Implementing rules and regulations.* - The DOF, the National Economic Development Authority (NEDA), the Department of Public Works and Highways (DPWH), and other appropriate government agencies shall promulgate rules and regulations necessary for the effective implementation of this Act.

SEC. 6. *Repealing Clause*. – All laws or parts of any law inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 7. *Separability Clause*. – If any provision of this Act is held invalid, the other provisions not affected thereby shall continue in operation.

SEC. 8. *Effectivity Clause*. – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,