

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



Senate
Office of the Secretary

20 FEB -3 A11 :12

SENATE

S. No. 1307

RECEIVED BY:

Introduced by **SENATOR LEILA M. DE LIMA**

AN ACT
REDEFINING THE CRIME OF SYNDICATED ESTAFA, AMENDING FOR
THE PURPOSE SECTION 1 OF PRESIDENTIAL DECREE NO. 1689

EXPLANATORY NOTE

In a country where poverty is pervasive, escape is sought by those who want to free themselves from generations-old bondage that they have inherited. This desire has forced many unsuspecting Filipinos who toil under the scorching heat of the sun for a meager amount of money, to trust persons who take advantage of their desperate situations, with their hard-earned money - in the hopes of finally receiving relief.¹ We have all heard their story – of how life savings dried up after having been persuaded by those whose aim was nothing but to abuse the confidence reposed in them.

Syndicated *estafa* is a social menace that not only preys on our countrymen, but also erodes our faith in our economic system. While there are those who operate alone, most operate in a group. By using elaborate scams to abuse the confidence of their victims, the perpetrators who operate in groups are able to commit this crime against multiple victims and over an extended period of time.

¹ Orejas, Tonette. "They never learn: Victims of P120-M scam in Pampanga seek NBI help." 05 August 2019. Inquirer. Retrieved from: <https://newsinfo.inquirer.net/1150371/they-never-learn-victims-of-p120-m-scam-in-pampanga-seek-nbi-help>

The Supreme Court, in *Galvez v. Court of Appeals*,² enumerated the elements of syndicated estafa, to wit: (a) estafa or other forms of swindling as defined in Article 315 and 316 of the Revised Penal Code is committed; (b) the *estafa* or swindling is committed by a syndicate of five or more persons; and (c) defraudation results in the misappropriation of moneys contributed by stockholders, or members of rural banks, cooperatives, “*samahang nayon(s)*,” or farmers’ association or of funds solicited by corporations/associations that receive contributions from the general public who misappropriated the contributions. However, under our present set up, persons accused of syndicated estafa may evade the higher penalty of *reclusion temporal* to *reclusion perpetua* as provided in P.D. No. 1689 by simply alleging that the victim failed to establish that the crime was committed by a syndicate of five or more persons conspiring or confederating with one another. Thus, the purpose of the law in increasing the penalty for certain forms of swindling or *estafa* is easily defeated.

In order, therefore, to properly punish the syndicates behind these elaborate scams, we need to revise our existing law to punish offenders with a minimum required number in a group. This way, less burden is placed upon our law enforcers to arrest all the offenders immediately, and at least two members of the syndicate can already be put to trial.

This proposed bill seeks to amend the definition of syndicate by lowering the number of perpetrators from “five (5) or more persons” to “two (2) more persons”, or a minimum of two people to qualify *estafa* or swindling as syndicated *estafa*, with the end in view of protecting the public from a systematic fraud which “erodes the confidence of the public in the banking and cooperative system, contravenes public interest and constitutes economic sabotage that threatens the stability of the nation.”³

Approval of this measure is earnestly sought.


LEILA M. DE LIMA

² GR No. 187919. (Feb 20, 2013)

³ Presidential Decree No. 1689. (April 6, 1980)

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

1 SECTION 1. Section 1 of Presidential Decree No. 1689 is hereby amended to
2 read as follows:

3 “Section 1. Any person or persons who shall commit *estafa*
4 or other forms of swindling as defined in Article 315 and 316 of the
5 Revised Penal Code, as amended, shall be punished by life
6 imprisonment to death if the swindling (*estafa*) is committed by a
7 syndicate consisting of [~~five~~] **TWO** or more persons formed with
8 the intention of carrying out the unlawful or illegal act, transaction,
9 enterprise or scheme and the defraudation results in the
10 misappropriation of moneys contributed by stockholders, or
11 members of rural banks cooperative, “*samahang nayon(s)*”, or
12 farmers’ association, or funds solicited by
13 corporations/associations from the general public.

1 “When not committed by a syndicate as above defined, the
2 penalty imposable shall be *reclusion temporal* to *reclusion*
3 *perpetua* if the amount of the fraud exceeds 100,000 pesos.”

4 Sec. 2. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or
5 other issuances or parts thereof inconsistent with the provisions of this Act are hereby
6 repealed or amended accordingly.

7 Sec. 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
8 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,