

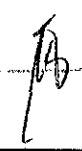
FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

OFFICE OF THE CLERK

15 MAY 2013

SENATE

S. NO. 2272

RECEIVED BY 

Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

Proclamation No. 50, issued on 08 December 1986, launched a program for the disposition of non-performing assets of government financial institutions and government corporations that have been found unnecessary and inappropriate for the public sector to maintain. It created the Committee on Privatization (COP) and the Asset Privatization Trust (APT). These were replaced, however, by the Privatization Council (PC) and the Privatization and Management Office (PMO) by virtue of Executive Order No. 323 issued on 06 December 2000.

Considering that there are still a number of government assets to be subsequently divested to the private sector, a specialized corporate body should therefore be organized.

This bill seeks to create the Government Asset Management Authority (GAMA), which shall pursue a coordinated and efficient program for the disposition and liquidation of non-relevant and non-performing government assets, including surrendered assets of the Presidential Commission on Good Government (PCGG). Consequently, it proposes to abolish the PC, PMO and the Board of Liquidators, and their respective properties, assets and liabilities, fund, and personnel immediately transferred to the GAMA.

The GAMA shall remit to the National Treasury any and all proceeds from the sale and disposition of government assets, in which 60% shall go to the special account of the Agrarian Reform Fund and 40% to the General Fund.

It is therefore requested that this bill be immediately enacted into law.




ANTONIO "SONNY" F. TRILLANES IV
Senator

MAR 13 2008

SENATE

S. NO. 2272

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AN ACT
CREATING THE GOVERNMENT ASSET MANAGEMENT AUTHORITY, DEFINING
ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** – This Act shall be known as the “*Government Asset*
2 *Management Act of 2008.*”

3
4 **SEC. 2. *Declaration of Policy.*** – It is hereby declared policy of the State to promote an
5 orderly, coordinated, and efficient program for the prompt disposition and liquidation of non-
6 relevant and non-performing assets of government agencies and government owned or controlled
7 corporations, including surrendered assets and idle properties which have been found
8 unnecessary or inappropriate for the government sector to maintain.

9
10 **SEC. 3. *Definition of Terms.*** – As used in this Act, the following terms shall mean:

11 (a) “*Disposition*” which shall also be known as “*Privatization,*” refers to the transfer of
12 government corporations, activities, or assets of government or its agencies to private
13 ownership. It could also include sale of shares of stock, sale of physical assets,
14 leasing, concession, joint venture schemes, management or maintenance contracts, or
15 securitization.

16 (b) “*Assets*” refer to: (1) receivables and other obligations due to the Government or its
17 agencies under credit, lease, indemnity, and other agreements together with all

1 collateral security and other rights (including but not limited to rights in relations to
2 shares of stock in corporation such as voting rights as well as rights to appoint
3 directors of a corporation or otherwise engage in the management thereof granted to
4 the Government or its agencies by contract or operation of law to secure or enforce
5 the right of the payment of such obligation; (2) real and personal property of any kind
6 owned or held by the Government, including shares of stock in corporation, obtained
7 by the Government or its agencies, whether directly or indirectly, through foreclosure
8 or other means, in settlement of such obligations and surrendered assets within the
9 purview of Executive Order Nos. 1 and 2, series of 1986; (3) shares of stocks and
10 other investments held by the Government or its agencies; (4) government
11 corporations whether as parent or subsidiary corporations; and (5) such other items as
12 may be identified by law.

13 (c) "*Surrendered Assets*" refer to any asset, property, business enterprise, or material
14 possession of persons ceded to the National Government by virtue of compromise
15 agreements entered into by the Presidential Commission on Good Government
16 (PCGG) pursuant to Executive Order Nos. 1 and 2, series of 1986. It shall also
17 include such similar assets that may be surrendered to the National Government in the
18 future.

19 (d) "*Idle Properties*" refer to all real properties such as land, buildings, and other
20 improvements located in the Philippines and abroad owned by the National
21 Government through its departments, bureaus, offices, or agencies which have not
22 been substantially developed, improved, or cultivated for a period of more than five
23 (5) years as of the effectivity of this Act or thereafter.

24 (e) "*Board*" refers to the Governing Board of the Government Asset Management
25 Authority constituted under this Act.

26 (f) "*Government-owned or Controlled Corporation (GOCC)*" refers to a corporation
27 which is created by special law or incorporated and organized under the Corporation

1 Code and in which the government, directly or indirectly, has ownership of the
2 majority control and which is explicitly intended under that law and government
3 policy for ultimate transfer to private ownership under certain specified conditions
4 shall be considered a GOCC, until it is transferred to private ownership and control:
5 *Provided, however,* That an acquired asset corporation which is either (1) under
6 private ownership, the voting or outstanding shares of which (i) were conveyed to the
7 government or to a government agency, instrumentality or corporation in satisfaction
8 of debts whether by foreclosure or otherwise, or (ii) were duly acquired by
9 government through final judgment in a sequestration proceeding; or (2) a subsidiary
10 of a government corporation organized exclusively to own and manage, or lease, or
11 operate specific physical assets acquired by a government financial institution in
12 satisfaction of debts incurred therewith, and which in any case by law or by
13 enunciated policy is required to be disposed of to private ownership within a specified
14 period of time shall not be considered as GOCC or government corporation.

15
16 **SEC. 4. *Creation of the Government Asset Management Authority.*** – For the purpose of
17 carrying out the above-stated policy, there is hereby created a body corporate to be known as the
18 “Government Asset Management Authority,” hereinafter referred to as the “Authority,” which
19 shall have its principal office in Metropolitan Manila. The Authority may establish such branches
20 and offices as it may deem necessary for the attainment of the objectives of this Act.

21 The Authority shall be attached to the Department of Finance.
22

23 **SEC. 5. *Powers and Functions.*** – The Authority, in addition to the regular powers and
24 functions provided under the Corporation Code of the Philippines, shall have the following
25 powers and functions:

26 (a) To develop and implement a comprehensive plan in identifying non-relevant and non-
27 performing assets of government agencies and government owned or controlled

1 corporations, government corporations whether parent or subsidiary, surrendered
2 assets, and idle properties for privatization;

3 (b) to establish guidelines for the conversion, rehabilitation, and disposition of
4 government assets and corporations;

5 (c) to approve or disapprove, on behalf of the National Government, the sale or
6 disposition of government assets;

7 (d) to exercise on behalf of the National Government rights of ownership and/or
8 administration with respect to such assets, including the right to vote, whether directly
9 or through duly authorized nominees, shares of stocks held in the name of the
10 National Government;

11 (e) to enter into contracts, acquire, purchase, hold, lease, transfer, and dispose of property
12 of any kind or nature necessary to carry out the purpose of this Act;

13 (f) to establish, operate, manage, control, and supervise all activities connected with the
14 efficient management and disposition of government assets and corporations;

15 (g) to receive and hold by request, donation, or by any gratuitous title and to manage or
16 administer or dispose any asset, grant, or property, real or personal, from foreign or
17 domestic sources, subject to such limitations as are provided in existing laws and
18 regulations;

19 (h) to investigate and file cases in relation to conservation, rehabilitation, disposition, and
20 liquidation of non-relevant and non-performing assets of the government;

21 (i) to undertake the conservation, rehabilitation, and disposition of non-relevant or non-
22 performing government assets: *Provided*, That the budget for each rehabilitation
23 project shall be subject to prior approval of the Board;

24 (j) to seek and secure the assistance of any office, agency, or instrumentality of the
25 government;

1 (k) to issue such regulations as may be necessary for the proper use by private parties of
2 any or all of the Authority's properties and to impose fees or tolls for the use of such
3 properties;

4 (l) to issue necessary guidelines to all government agencies to govern activities on the
5 disposal of government corporate assets;

6 (m) to consult, deputize, or request the assistance of appropriate government agencies or
7 instrumentalities for the purpose of enforcing this Act and its implementing rules and
8 regulations, as well as the orders and decisions of the Authority;

9 (n) to adopt, prescribe, and promulgate such rules and regulations as may be necessary
10 for the proper implementation of this Act;

11 (o) to exercise the right of eminent domain as may be necessary for the purposes for
12 which the Authority is created; ad

13 (p) to do any and all acts and things and to exercise all powers which may be necessary
14 or convenient to the accomplishment or furtherance of its purposes and objectives, or
15 which a natural person can do and exercise and which may now be or hereafter be
16 authorized by law.

17
18 **SEC. 6. Governing Board.** – The affairs and business of the Authority shall be directed
19 and its properties managed and preserved by a Governing Board, hereinafter referred to as the
20 “Board”, which shall be composed of the Secretary of the Department of Finance as the *ex-*
21 *officio* Chairman, and the following as members:

22 (a) the Secretary of the Department of Justice;

23 (b) the Director General of the National Economic and Development Authority;

24 (c) the Secretary of the Department of Trade and Industry;

25 (d) the Secretary of the Department of Budget and Management; and

26 (e) two (2) representatives from the private sector to be appointed by the President of the
27 Philippines for a term of three (3) years: *Provided*, That the person appointed shall be

1 of good moral character, of unquestionable integrity, of known probity and
2 patriotism, and with experience of at least ten (10) years in business or finance:
3 *Provided, further,* That in the event of a vacancy, the successor appointed to fill the
4 same shall serve only the unexpired portion of the term of the member he succeeds
5 to.

6
7 **SEC. 7. Meetings.** – The Board shall meet as frequently as is necessary to discharge its
8 responsibilities: *Provided,* That it shall meet at least once every month. The presence of a
9 majority of the members of the members present at a meeting at which a quorum exists shall be
10 adequate for any decision by the Board.

11 Whenever any member of the Board is unable to attend a particular meeting, he may
12 designate any of his immediate subordinate with the rank of undersecretary or its equivalent to
13 attend in his stead.

14
15 **SEC. 8. Per Diems.** – The members of the Board shall be entitled to receive per diem for
16 every meeting actually attended at rates to be approved by the President of the Philippines upon
17 the recommendation of the Department of Budget and Management.

18
19 **SEC. 9. Powers and Functions of the Board.** – The Board shall have the following
20 powers and functions:

- 21 (a) to adopt the by-laws of the Authority and to revise the same as may be expedient;
22 (b) to direct the management, operations, and administration of the Authority;
23 (c) to approve the annual budget to cover the operations of the Authority based on the
24 following: (1) fees and charges imposed by the Authority; (2) payment for the
25 utilization of the projects of the Authority; and (3) annual appropriations and other
26 funds which Congress may approve for the Authority;

1 (d) to formulate, revise, or adjust periodically all policies, plans and programs, and to
2 promulgate the necessary rules and regulations to carry out the purposes and
3 objectives of this Act;

4 (e) to create the organizational structure and staffing pattern necessary for the efficient
5 management, operation, and administration of the Authority, subject to the Civil
6 Service laws, rules and regulations

7 (f) to fix the compensation, emoluments and allowances of the officers and employees of
8 the Authority, subject to existing laws, rules and regulations; and

9 (g) to perform such other functions as may be necessary and proper for the effective
10 enforcement of this Act and to accomplish the purposes for which the Authority was
11 organized.

12
13 **SEC. 10. *Administrator.*** – The Authority shall have an Administrator to be appointed by
14 the President of the Philippines for a term of five (5) years unless sooner removed for cause. He
15 shall be a person of good moral character, of unquestionable integrity, of known probity and
16 patriotism, and with expertise and experience of at least ten (10) years in professional
17 management with a strong background in the legal profession, business, or finance. He shall
18 receive such compensation, allowances, and other emoluments as may be approved by the
19 President of the Philippines upon the recommendation of the Board.

20
21 **SEC. 11. *Powers and Duties of the Administrator.*** – The Administrator shall have the
22 following powers, duties, and responsibilities:

23 (a) to submit to the Board, through the Chairman, policies and measures which, in his
24 judgment, are necessary to carry out the purposes and provisions of this Act;

25 (b) to implement and execute the policies and measure approved by the Board;

26 (c) to prepare the budget of the Authority for approval by the Board;

1 (d) to appoint all employees of the Authority, except the heads of departments and
2 divisions whose appointments shall be made by the Board upon his recommendation,
3 and to remove, dismiss or otherwise discipline for cause such employees in
4 accordance with the Civil Service laws, rules, and regulations;

5 (e) to represent the Authority in all dealings with other offices, agencies, and
6 instrumentalities of the Government and with all persons and entities, public or
7 private, domestic or foreign; and

8 (f) to exercise such other powers as may be granted to him by the Board.

9
10 **SEC. 12. *Legal Counsel.*** – The Office of the Government Corporate Counsel shall be
11 the General Counsel of the Authority.

12
13 **SEC. 13. *Utilization of Proceeds from Sale of Assets.*** – Any or all proceeds from the
14 sale or any disposition of assets net of fees, related liabilities, and other reimbursable expenses
15 related to custodianship, marketing, selling, and disposition of assets of the Authority as defined
16 in the implementing rules and regulations to be issued by the Department of Finance pursuant to
17 Section 24 hereof, shall be remitted immediately to the National Treasury in the following
18 proportion: sixty percent (60%) to the special account to the Agrarian Reform Fund and forty
19 percent (40%) to the general fund. *Provided,* That in the case of proceeds from sale of transferred
20 assets recorded in the books of the Bureau of the Treasury, the check shall be made payable in
21 the name of the Treasurer of the Philippines and shall be remitted immediately to the National
22 Treasury in the same proportion as mentioned above.

23 With respect to the sale or other disposition of government owned or controlled
24 corporations, all government owned or controlled corporations except for the Government
25 Service Insurance System and the Social Security, shall remit to the National Treasury at least
26 fifty percent (50%) of the net proceeds derived from the sale or disposition of assets. For this
27 purpose, net proceeds shall mean gross proceeds less related liabilities and selling expenses.

1 The preceding paragraphs, however, shall not apply to assets surrendered to or otherwise
2 recovered by Presidential Commission on Good Government. Any and all proceeds from the sale
3 or disposition of assets recovered by the PCGG shall be remitted to the National Treasury in a
4 special account for Agrarian Reform in accordance with the Comprehensive Agrarian Reform
5 Law; *Provided*, That recoveries relating to the coconut levy shall be deposited in a special
6 account in trust for coconut farmers.

7
8 **SEC. 14. *Exemption from Taxes, Fees and Other Charges.*** – The Authority, as well as
9 the corporations and assets held by it, shall be exempt from all taxes, fees, charges, imposts, and
10 assessments arising from or occasioned by the passing of title over such corporations or assets
11 from the government institutions to the Authority and/or from the Authority to a private
12 acquirer or buyer imposed by the National Government or any subdivision thereof including
13 but not limited to stock transfer taxes, capital gains tax, documentary stamps, registration fees
14 and the like: *Provided*, That in case the said government institutions acquired the said assets by
15 foreclosure, non-payment of similar taxes, fees, charges, imposts, and assessments shall not be a
16 bar to the consolidation of title in the foreclosing institutions and the subsequent passing of title
17 to the Authority or the corporations held by the Authority.

18
19 **SEC. 15. *Publication.*** – The sale or disposition of assets shall be published in at least
20 three (3) newspapers of general circulation for three (3) consecutive days: *Provided*, That the last
21 publication shall occur at least ten (10) days prior to the scheduled bidding or date of negotiation.

22
23 **SEC. 16. *Restraining Order.*** – No court or administrative agency in the Philippines,
24 except the *Court of Appeals*, shall issue any restraining order or writ of preliminary injunction
25 against the Authority in connection with the acquisition, sale, or disposition of assets in
26 accordance with this Act, nor shall such order or writ be issued against the purchaser of assets

1 sold or disposed of by the Authority to prevent such purchaser from taking possession of such
2 assets.

3
4 **SEC. 17. *Public Accountability.*** – To ensure public accountability, the Authority shall be
5 subject to the audit of the Commission on Audit and shall comply with all accounting and
6 auditing rules and regulations and those which it may hereafter promulgate of its constitutional
7 mandate.

8
9 **SEC. 18. *Merit System.*** – All officials and employees of the Authority shall be selected
10 and appointed on the basis of merit and fitness. The recruitment, transfer, promotion, and
11 dismissal of all its employees including temporary personnel shall be in accordance with Civil
12 Service law, rules, and regulations.

13
14 **SEC. 19. *Transitory Provisions.*** – The Privatization Council, the Privatization and
15 Management Office, and the Board of Liquidators are hereby abolished, and their powers and
16 functions, including their applicable funds and appropriations, records, equipment, facilities,
17 rights, other assets, and personnel shall thereafter immediately be transferred to the Authority.
18 All contracts and liabilities, if any, are hereby also transferred to and assumed by the Authority
19 and shall be acted upon in accordance with the Auditing and shall be acted upon in accordance
20 with the Auditing Code and other pertinent laws, rules, and regulations: *Provided*, That the
21 officers and employees of said agencies who will be needed for the continuity of the programs
22 shall continue in a holdover capacity until such time as the new officers and employees of the
23 Authority shall have been duly appointed pursuant to the provisions of this Act.

24 The management and disposition of surrendered assets as well as assets already recovered
25 by final judgment of the Presidential Commission on Good Government are hereby transferred to
26 the Authority.

1 Upon approval of this Act, the Commission on Audit shall undertake an examination of
2 all assets and liabilities remaining with the Privatization Council, the Privatization and
3 Management Office, and the Board of Liquidators. The Commission on Audit shall complete
4 such examination within one hundred eighty (180) days from the effectivity of this Act.

5 Lawsuits initiated by the Privatization Council, the Privatization and Management Office,
6 the Board of Liquidators, and the Presidential Commission on Good Government in so far as
7 surrendered assets are concerned, which are still pending before appropriate courts upon the
8 abolition of the said agencies, shall be pursued by the Office of the Government Corporate
9 Counsel until their proper termination in the name of or on behalf of the Government.

10

11 **SEC. 20. *Structure and Staffing Pattern.*** – Within thirty (30) days from the effectivity
12 of this Act, the Board of Directors, pursuant to Section 9(e) hereof shall create the organizational
13 structure and staffing patter of the Authority, subject to the approval by the Department of
14 Budget and Management within ninety (90) days from submission thereof.

15

16 **SEC. 21. *Separation and Retirement Benefits.*** – The personnel of the herein abolished
17 agencies who are not absorbed in the new staffing pattern of the Authority shall be deemed
18 separated from the service and shall receive separation benefits in accordance with existing laws.
19 Those who are eligible and/or opt to retire shall be entitled to receive such benefits as authorized
20 under existing laws, rules, and regulations.

21

22 **SEC. 22. *Appropriations.*** – The amount necessary for the initial implementation of this
23 Act shall be taken from the existing appropriations under the current year's General
24 Appropriations Act of Privatization Council, the Privatization and Management Office, and the
25 approved budget of the Board of Liquidators for the current year by the Office of the President.
26 Thereafter, such sums as may be necessary for the continued operation of the Authority shall be
27 included in the annual General appropriations Act.

1 **SEC. 23. Congressional Review.** – Every three (3) years after the effectivity of this Act.
2 Congress shall conduct a systematic evaluation of the Authority to determine whether or not its
3 performance, impact or accomplishment with respect to its mandates merit its continued
4 existence. Such evaluation shall be undertaken by the Committee on Government Corporations
5 and Public Enterprises of the Senate and the Committee on Government Enterprises and
6 Privatization of the House of Representatives which have legislative jurisdiction over the
7 Authority.

8
9 **SEC. 24. Implementing Rules and Regulations.** - Within sixty (60) days from the
10 approval of this Act, the Authority, with the Department of Finance, shall promulgate the
11 necessary rules and regulations for the efficient implementation of this Act: *Provided*, That the
12 rules and regulations shall be published in two (2) newspapers of general circulation.

13
14 **SEC. 25. Separability Clause.** - If for any reason, any provision of this Act or the
15 application thereof to any person or circumstances, is held invalid or unconstitutional, the
16 remaining provisions not affected thereby shall continue to be in full force and effect.

17
18 **SEC. 26. Repealing Clause.** – Executive Order No. 372 (s. 1950), Executive Order No.
19 323 (s. 2000), Republic Act No. 8758, Executive Order No. 12 (s. 1998), Republic Act No. 7886,
20 Republic Act No. 7661m Executive Order No. 37 (s. 1992), Executive Order No. 11 (s. 1992),
21 Republic Act No. 7181, Administrative Order No. 14 (s. 1987), Proclamation No. 50, and
22 Proclamation 50-A are hereby repealed. All other laws, decrees, orders, proclamations, rules and
23 regulations, or parts thereof, inconsistent with or contrary to the provision of this Act or its
24 purposes are hereby repealed, amended or modified accordingly.

25
26 **SEC. 27. Effectivity.** – This Act shall take effect fifteen (15) days after its publication in
27 the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,