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SENATE

COMMITTEE REPORT NO. 66

RECEIVED BY: 

Submitted by the Committee on Justice and Human Rights on JUN 02 2008

Re: Senate Bill No. 2360.

Recommending its approval in substitution of Senate Bill No. 1846.

Sponsors: Senators Escudero and Santiago.

MR. PRESIDENT:

The Committee on Justice and Human Rights to which was referred Senate Bill No. 1846, introduced by Senator Santiago, entitled:

**"AN ACT
PROTECTING PRIVATE PROPERTY RIGHTS BY REQUIRING
GOVERNMENT AGENCIES TO PREPARE PRIVATE PROPERTY TAKING
IMPACT ANALYSIS"**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached bill, Senate Bill No. 2360, prepared by the Committee, entitled:

**"AN ACT
PROTECTING PRIVATE PROPERTY RIGHTS BY REQUIRING
GOVERNMENT AGENCIES TO PREPARE PRIVATE PROPERTY TAKING
IMPACT ANALYSIS"**

be approved in substitution of Senate Bill No. 1846 with Senators Escudero and Santiago as authors thereof.



Respectfully submitted:



FRANCIS "CHIZ" G. ESCUDERO
Chairman



BENIGNO SIMEON "NOYNOY" S. AQUINO III
Vice Chairman

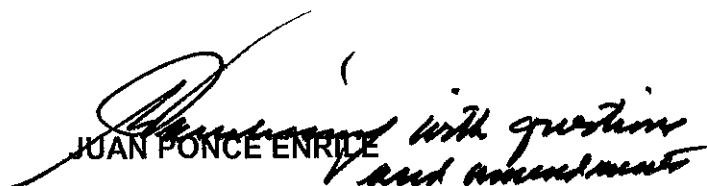
will interpellate Day amend

Members:

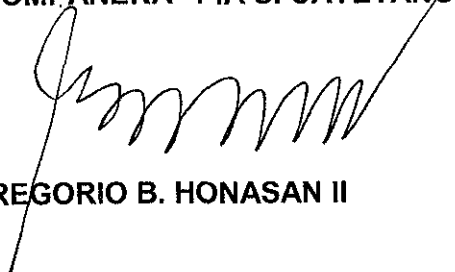


ALAN PETER "COMPAÑERO" S. CAYETANO

"COMPAÑERA" PIA S. CAYETANO



JUAN PONCE ENRILE



GREGORIO B. HONASAN II



RAMON BONG REVILLA JR.



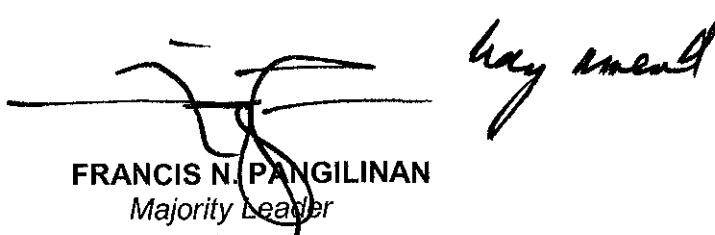
RODOLFO G. BIAZON

M. A. MADRIGAL

Ex-Officio Members:

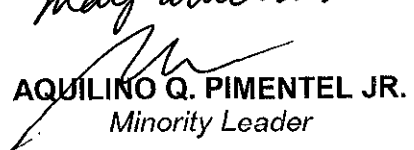


JINGGOY EJERCITO ESTRADA
President Pro-Tempore



FRANCIS N. PANGILINAN
Majority Leader

may amend:



AQUILINO Q. PIMENTEL JR.
Minority Leader

Hon. MANNY VILLAR
Senate President
Senate of the Philippines
Pasay City

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

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SENATE
Senate Bill No. 2360

RECEIVED BY: _____

Prepared and Submitted by the Committee on Justice and Human Rights with
Senators Escudero and Santiago as authors thereof

Escudero *Santiago*

**AN ACT PROTECTING PRIVATE PROPERTY RIGHTS BY REQUIRING
GOVERNMENT AGENCIES TO PREPARE PRIVATE PROPERTY TAKING
IMPACT ANALYSIS**

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "Private Property
2 Rights Act of 2008."

3 **SECTION 2. *Statement of Policy.*** - The policy of the government is to protect the
4 health, safety, and general welfare of the public in a manner that, to the extent
5 practicable, avoids taking of private property.

6 **SECTION 3. *Definition of Terms.*** -For purposes of this Act, the term:

7 (A) "Agency" means a department, agency, independent agency, or
8 instrumentality, including any military department, government corporation,
9 government-owned and controlled corporation, or other establishment in the
10 executive branch of the government.

11 (B) "Agency action" means any action, inaction, or decision, taken by an
12 agency and includes such an action, inaction, or decision taken by, or pursuant
13 to:

14 (1) A statute, rule, regulation, order, guideline, or policy; or
15 (2) The issuance, denial, or suspension of any permit, license, or
16 authorization;

17 (C) "Owner" means the person with title, possession, or other property
18 rights in property affected by any taking of such property; and

19 (D) "Taking of private property" means any action whereby private
20 property is taken in such a way as to require compensation.

21 **SECTION 4. *Requirement for Private Property Taking Impact Analysis.*** -

22 (A) ***In General.*** - To the fullest extent possible, all policies, regulations, and
23 public laws shall be interpreted and administered in accordance with the policies

1 under this Act, and, subject to paragraph (B) hereunder, each agency shall
2 complete a private property taking impact analysis before taking any agency
3 action, including the promulgation of a regulation, which is likely to result in a
4 taking of private property.

5 **(B) Non-Application.** -Paragraph (A) shall not apply to:

6 (1) An action in which the power of eminent domain is formally
7 exercised;

8 (2) An action taken:

9 (a) With respect to property held in trust by the government; or

10 (b) In preparation for, or in connection with, treaty negotiations
11 with foreign nations;

12 (3) Law enforcement action, including seizure, for a violation of
13 law, of property for forfeiture as evidence in a criminal proceeding;

14 (4) A communication between an agency and local land-use
15 planning agency concerning a planned proposed local activity that
16 regulates private property, regardless of whether the
17 communication is initiated by an agency or is undertaken in
18 response to an invitation by the local authority;

19 (5) Any military or foreign affairs function, including a
20 procurement function under a military or foreign affairs function;
21 or

22 (6) Any case in which there is an immediate threat to health or
23 safety that constitutes an emergency requiring immediate response,
24 if the taking impact analysis is completed after the emergency
25 action is carried out or the regulation is published.

26 **(C) Content of Analysis.** - A private property taking impact analysis shall
27 be a written statement that includes:

28 (1) The specific purpose of the agency action;

29 (2) An assessment of the likelihood that a taking of private property
30 will occur under such agency action;

31 (3) An evaluation of whether such agency action is likely to require
32 compensation to private property owners; and

33 (4) Alternatives to the agency action that would:

34 (a) Achieve the intended purposes of the agency action;

35 (b) Lessen the likelihood that a taking of private property will
36 occur; or

37 (c) An estimate of the potential liability of the government if the
38 government is required to compensate a private property owner as
39 a result of the agency action.

40 **(D) Submission to the Department of Budget and Management (DBM):**

41 Each agency shall provide analysis required under this section as part of any

1 submission otherwise required to be made to the DBM relating to an agency
2 action.

3 **(E) *Public Availability of Analysis.*** - An agency shall:

4 (1) Make each private property taking impact analysis available to the
5 public; and

6 (2) To the greatest extent practicable, transmit a copy of such analysis to
7 the owner and any other person with a property right or interest in the
8 affected property.

9 **SECTION 5. *Alternatives to Taking of Property.*** -Before taking any final agency
10 action, the agency shall fully consider alternatives described in Section 4(C)(4)
11 and shall, to the maximum extent practicable, alter the action to avoid or
12 minimize the taking of private property.

13 **SECTION 6. *Civil Action.*** - If an agency action results in the taking of private
14 property, the owner of such property may obtain appropriate relief in a civil
15 action against the agency that has caused the taking to occur.

16 **SECTION 7. *Guidance and Reporting Requirement.*** -

17 (A) *Guidance.* -The Solicitor General shall provide legal guidance in a
18 timely manner, in response to a request by an agency, to assist the agency in
19 complying with this Act.

20 (B) *Reports.* - Not later than one (1) year after the date of the enactment of
21 this Act and at the end of each one (1) year period thereafter, each agency shall
22 submit a report to the Secretary of the DBM that identifies:

23 (1) Each agency action that has resulted in the preparation of a taking
24 impact analysis;

25 (2) The filing of a taking claim; and

26 (3) Any award of compensation pursuant to the just compensation clause
27 of the Constitution.

28 (C) *Publication of Reports.* - The Secretary of the DBM shall publish in the
29 Register, on an annual basis, a compilation of the reports of all agencies made
30 under this paragraph.

31 **SECTION 8. *Presumption in Proceedings.*** - For the purpose of any agency action
32 or administrative or judicial proceeding, there shall be a rebuttable presumption
33 that the costs, values, and estimates in any private property taking impact
34 analysis shall be outdated and inaccurate, if:

35 (A) Such analysis was completed after 5 years or more before the date of
36 such action or proceeding; and

37 (B) Such costs, values, or estimates have not been modified within the five
38 (5) year period preceding the date of such action or proceeding.

1 **SECTION 9. *Separability Clause.*** - If any provision or part hereof is held
2 invalid or unconstitutional, the remaining provisions of this Act not otherwise
3 affected shall remain valid and subsisting.

4 **SECTION 10. *Repealing Clause.*** - Any law, presidential decree or issuance,
5 executive order, letter of instruction, administrative order, rule or regulation
6 contrary to, or inconsistent with, the provisions of this Act is hereby repealed,
7 modified or amended accordingly.

8 **SECTION 11. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after
9 its publication in at least two (2) newspapers of general circulation.

10 Approved,