

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

OFFICE OF THE CLERK

10 JUL 15 P1 57

SENATE
S. No. 1467

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

It is a constitutional principle that all lands of the public domain, waters, minerals, coal petroleum and other mineral oils, all forces of potential energy, forests and timber and other natural resources are owned by the State. With the exception of agricultural land all other natural resources shall not be alienated. It is further laid down in the Constitution that "Acts which circumvent or negate these provisions shall be considered inimical to the national interest and subject to criminal and civil sanctions, as may be provided by law."

Numerous statutes and rulings are to the effect that canals, esteros, creeks and similar waterways are of public dominion and as such may not be acquired by prescription and therefore not registrable.. Public wafer are not subject to appropriation, sale, lease or otherwise be contracted, being outside the commerce of men. The inclusion and property of public dominion in a certificate does not confer title to the registrant. However, despite these well settled rules of law, encroachment, titling and/or registration of these waterways is very much prevalent especially in urban and proximate areas. Land in urban areas has become so scarce that even small spaces of about 60 square meters have become invaluable. Urban centers have become so crowded that every available space are being encroached upon and titled to the extent that even canals, streams, esteros are being filled up and built over, regardless of the fact that these are properties of the state, is inalienable and acquisition thereof is fraudulent. To make the situation worse, such those who commit these acts do so with impunity. Furthermore, the blocking and filling up of these waterways or natural drainages has resulted or added to the flooding, pollution, destruction of roads and other infrastructures, and contributes to the depreciation of the value of land and prevent normal development and use of the area.

This bill seeks to provide penalties to those unscrupulous persons who exploit this situation. Penalizing such registrants shall serve as a deterrent to these malefactors to prevent or curtail their anomalous acts of titling these waterways. Enactment of this bill will also serve as a response to the non-self executory provision in the Constitution that alienation of properties of the public domain are inimical to national interest and may be subject *to* sanctions.

This is a senate counterpart bill to one filed in the House of Representatives by Rep. Michael John Duavit.¹

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MIRIAM DEFENSOR SANTIAGO

¹ This bill was originally filed during the 14th Congress 1st Regular Season

OFFICE OF THE SECRETARY

10 JUL 15 P1 57

SENATE
S. No. 1467

Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 PENALIZING THE APPROPRIATION, ENCROACHMENT, REGISTRATION
3 AND TITLING OF CREEKS, ESTEROS, STREAMS, CANALS, RIVER BANKS AND
4 OTHER PUBLIC WATERWAYS

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

5 SECTION 1. *Declaration of Policy.* - It is a principle of the State that all lands of the
6 public domain, waters, minerals, and other national resources belong to it and that acts
7 committed to circumvent or negate this provision shall be considered inimical to the national
8 interest and subject to criminal and civil sanctions.

9 SECTION 2. *Declaration of Principles.* --It is the purpose of this Act to prevent or curtail
10 the prevalent anomalous acts of encroachment, titling, and/or registration of esteros, creeks,
11 canals, streams and other public waterways consistent with public order and in furtherance of
12 national interests.

13 SECTION 3. *Definition of Terms.* - As used in this Act, the following terms shall mean:

14 1. "Person" includes any natural or juridical person, except in cases where the crime is
15 committed by a juridical person, the president or manager thereof shall be made liable;

16 2. "Public Officer" means any person holding any public office in the Government of the
17 Republic of the Philippines;

18 3. "Registration and/or Titling" means the act of acquiring a certificate of ownership
19 and/or recording with the Register of Deeds ownership and/or use of property;

20 4. "Encroachment" means the entering into, invasion of, intrusion on or infringement of a
21 property not otherwise owned by the entrant;

1 5. "Appropriation" means the act of acquiring through any modes of acquisition of
2 ownership or contract, title and/or use of a property;

3 6. "Public Waterways" shall include streams, canals, creeks, esteros, and other similar
4 natural drainages or water channels.

5 SECTION 4. *Penalties for Private Persons.* - The penalty of imprisonment of not less
6 than six (6) months and one (1) day to six (6) years or a fine of not less than P5,000.00 or both
7 shall be imposed on any person who:

8 1) appropriates and/or encroaches upon any creek, canal, estero, stream and other similar
9 public waterways;

10 2) registers or otherwise acquires a title thereto.

11 SECTION 5. *Penalties for Public Officers.* - If the encroachment, registration or titling of
12 such waterways is caused by a public officer or acquired with his assistance, such public officer
13 shall be liable for imprisonment of not less than six (6) years and one (1) day and not more than
14 twelve (12) years.

15 SECTION 6. *Suspension and Loss of Benefits.* - Any public officer against whom any
16 criminal prosecution under a valid information covered in this Act in whatever stage of execution
17 and mode of participation as pending in court, shall be suspended from office. Should he be
18 convicted by final judgment, he shall lose all retirement and gratuity benefits under any law. In
19 case of acquittal, he shall be entitled to reinstatement and to the salaries and other benefits which
20 he failed to receive during his suspension.

21 SECTION 7. *Prescription of the Crime.* - The crime punishable under this Act shall
22 prescribe in twenty (20) years. However, the right of the State to recover ownership of these
23 waterways unlawfully acquired shall not be barred by estoppel, prescription or laches.

24 SECTION 8. *Separability Clause.* - If any provisions of this Act or the application
25 thereof to any person or circumstance are held involved or unconstitutional, the remaining
26 provisions not otherwise declared as such shall not be affected thereby.

1 SECTION 9. *Effectivity* . - This Act shall take effect fifteen (15) days after its complete
2 publication in the Official Gazette *or* in two (2) newspapers of general circulation.

Approved,