

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

SENATE  
S. No. **1962**

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 11, Section 5 provides:

The maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

Our country has gained notoriety as the regional headquarters of the criminal underworld in Asia due to the increasing incidence of syndicated and organized crimes. This situation is further exacerbated by the fact that organized crimes are now infiltrating legitimate businesses to expand their empire and strengthen their operations.

As it is the policy of the State to eradicate all forms of criminal enterprises, and their corrupting influence and control over legitimate entities engaged in lawful commerce, the government must expend efforts in adopting and implementing stronger measures aimed at neutralizing the economic base of criminal enterprises.

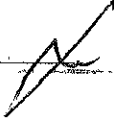
Hence, this bill seeks to prevent organized crime from infiltrating businesses, and other economic entities by prohibiting syndicated gambling, racketeering and similar and halting pattern of infiltration of businesses by organized crimes through penalties and forfeiture of the proceeds of these racketeering activities.<sup>1</sup>

*Miriam Defensor Santiago*  
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<sup>1</sup> This bill was originally filed during the Fourteenth Congress, First Regular session.

1962

SENATE  
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RECEIVED BY 

Introduced by Senator Miriam Defensor Santiago

1 AN ACT  
2 PENALIZING RACKETEERS AND CRIMINAL ENTERPRISES, PROHIBITING  
3 SUCH CRIMINAL ENTERPRISES AND RACKETEER INFLUENCED AND  
4 CORRUPT ORGANIZATIONS FROM INFILTRATING, CONTROLLING OR  
5 OTHERWISE INFLUENCING PHILIPPINE COMMERCE

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

6 SECTION 1. *Short Title.* - This Act shall be known as the “Anti-Racketeer Influenced  
7 and Corrupt Organizations Act.”

8  
9 SECTION 2. *Declaration of Policy.* - It is hereby declared the policy of the State to  
10 eradicate any and all forms of criminal enterprises, and its corrupting influence and control over  
11 legitimate entities engaged in lawful commerce, as well as prioritizing the enactment of laws  
12 with stronger measures aimed at neutralizing the economic base of criminal enterprises.

13  
14 SECTION 3. *Definition of Terms.* -As used in this Act, the following terms shall mean:  
15 (A) “Person” means any individual, association, partnership, corporation, entity or any  
16 group of individuals, associations, corporations or entities, capable of holding a legal interest in  
17 property.

18 (B) “Enterprise” includes any individual, association, partnership, corporation or other  
19 legal entity or any union or group of individuals associated in fact although not a legal entity.

20 (C) “Racketeering Activity” means any act involving kidnapping; murder, mutilation;  
21 homicide; serious physical injuries; arson; robbery; theft; illegal possession of

1 firearm, ammunition or explosives; bribery and other graft and corrupt practices; illegal  
2 gambling; carnapping; fencing; gunrunning; illegal logging; white slavery or prostitution; illegal  
3 recruitment; smuggling; piracy; illegal fishing; illegal importation; manufacture or sale of  
4 dangerous drugs and illegal maintenance of a drug den; swindling (estafa); counterfeiting;  
5 monopolies; and combinations in restraint of trade; falsification of land titles; securities fraud;  
6 bank frauds; dealing in obscene matters and sexual and economic exploitation of the disabled  
7 and mendicants as defined under existing criminal statutes.

8 (D) "Pattern of Racketeering Activity" requires at least two (2) acts of racketeering  
9 activity one of which occurred after the effectivity date of this Act, and the other occurring  
10 within ten (10) years (excluding any period of imprisonment) after the commission of a prior act  
11 of racketeering activity.

12 (E) "Racketeer Investigator" means any attorney or investigator so Secretary of Justice  
13 and charged with the duty of enforcing or carrying this Act into effect.

14 (F) "Department" refers to the Department of Justice.

15 (G) "Secretary" refers to the Secretary of Justice.

16  
17 SECTION 4. *Prohibited Activities.* –

18 (A) It shall be unlawful for any person who has received any income or benefit, either  
19 directly or indirectly, from a pattern of racketeering activity, to use or invest, directly indirectly,  
20 any part of such income or benefit, or the proceeds of such income or benefit, in acquisition of  
21 any interest in, or the establishment or operation of, any enterprise which is engaged in, or the  
22 activities of which affect commerce.

23 (B) It shall be unlawful for any person through a pattern of racketeering activity to  
24 acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is  
25 engaged in, or the activities of which affect commerce.

26 (C) It shall be unlawful for any person employed by or associated with any enterprise  
27 engaged in, or the activities of which affect commerce, to conduct or participate, directly or  
28 indirectly, in the control of such enterprise's affairs through a pattern of racketeering activity.

1           SECTION 5. *Criminal Penalties.* –

2           (A) Imprisonment or fine or both – Any person found guilty or convicted by final  
3 judgment of violating any of the prohibited activities enumerated in Section 4 above, shall be  
4 punished by imprisonment of not less than ten (10) years nor more than twenty (20) years, and if  
5 the violation is based on a racketeering activity for which the maximum penalty includes life  
6 imprisonment or death, the death penalty for violating any provision of Section 4 above, shall  
7 likewise be life imprisonment or death, and a fine ranging from One Hundred Thousand pesos  
8 (P100,000.00) up to One Million pesos (P1,000,000.00);

9           (B) Forfeiture - In addition to imprisonment and fine, the defendant shall forfeit to the  
10 Government:

11                 (1) any interest the defendant has acquired or maintained in violation of  
12 Section 4;

13                 (2) any interest in, security of, claim against, or property or contractual right of  
14 any kind affording a source of influence over any enterprise which the defendant has  
15 established, operated, controlled, conducted, or participated in the conduct of, in violation  
16 of Section 4: and

17                 (3) any property constituting or derived from any proceeds which the defendant  
18 obtained, directly or indirectly, from racketeering activities in violation of Section 4.

19           If any of the properties described in Section 5(B), as a result or omission of the  
20 defendant, cannot be located even with the exercise of due diligence; or has been transferred or  
21 sold to, or deposited with a third party; or has been placed beyond the jurisdiction of the courts;  
22 or has been substantially diminished in value; or has been commingled with other property which  
23 cannot be divided without difficulty, the court shall order the forfeiture of any other property of  
24 the defendant up to the value of any property described in Section 5(B).

25  
26           SECTION 6. *Jurisdiction.* - The Regional Trial Court exercising jurisdiction over the  
27 place where any one of the elements constituting an act racketeering activity is committed,  
28 resulting in a pattern of racketeering activity, shall exercise exclusive original jurisdiction over  
29 criminal prosecutions for violation of any provisions of this Act, as well as over applications for

1 the issuance and grant of applicable provisional remedies under the Rules of Court filed in  
2 relation to said criminal prosecutions, which provisional remedy may include attachment, and/or  
3 *injunctions with prayer for the issuance of a temporary restraining order*, as well as the forfeiture  
4 of property provided for under this Act, regardless of the place or location of any property object  
5 of the provisional remedy sought or subject of forfeiture, the residence of the defendants, or the  
6 location of the enterprise of the defendant.

7  
8 SECTION 7. *Temporary Restraining Order (TRO)*. - For purposes of securing a  
9 temporary restraining order from the court, there must be clear and convincing evidence that the  
10 properties of the defendant which are sought to be restrained, were involved in a violation of  
11 this Act, that such properties would be subject to forfeiture under provisions  
12 of this Act and that the government have reasonable grounds to believe that defendant was likely  
13 to conceal or otherwise make the properties inaccessible to the Government prior to conclusion  
14 of trial.

15 A temporary restraining order effective for a period of thirty (30) days may be issued,  
16 with or without notice and hearing, depending on the exigencies of each case, on or after the  
17 filing of a sworn complaint with the Office of the Secretary of the Department of Justice, but  
18 before the filing of the information with the court. The TRO may direct the defendant, or any  
19 person acting on his behalf, to cease and desist from alienating, disposing, selling, assigning,  
20 conveying, transferring, or otherwise concealing any interest or right of the defendant over his  
21 property. The applicant for a TRO, without notice to the adverse party, must establish that there  
22 is probable cause to engender a well-founded belief that the property of the defendant would be  
23 subject to forfeiture under the provisions of this Act, and the notice to the adverse party will  
24 jeopardize the availability of the property for forfeiture.

25 SECTION 8. *Preliminary Injunction*. - Prior to the lapse of the Effectivity of a temporary  
26 restraining order, the court shall immediately conduct a hearing with notice to all parties  
27 concerned, to determine if there is sufficient and valid grounds for the issuance of a writ of  
28 preliminary injunction in favor of the Government, and preponderance of evidence to support the  
29 finding that:

1 (A) The Government will prevail on the issue of forfeiture of properties of the defendant;

2 (B) Failure to issue the writ will grossly prejudice public interest, or cause grave and  
3 irreparable damage to the interests of the Government by undermining the efforts to ensure that  
4 the property will not be concealed, place in hiding, destroyed, disposed or otherwise made  
5 unavailable for forfeiture; and

6 (C) The need to preserve the availability of the property through the writ outweighs the  
7 hardship on the adverse party against whom it is directed.

8  
9 SECTION 9. *Judgment of Forfeiture.* - Upon conviction and a declaration of guilt of the  
10 defendant by final judgment for violation of this Act, the Court shall enter a judgment for  
11 violation of this Act, and the Court shall enter a judgment of forfeiture of the property in favor of  
12 the Government, appointing the Secretary as receiver or conservator of all property ordered  
13 forfeited, and who shall act subject to the court's control and supervision.

14  
15 SECTION 10. *Disposition of Forfeited Property.* - Following the seizure of the property  
16 and upon compliance with paragraph (3), Section 5 of this Act, the Secretary shall direct the  
17 disposition of the property by auction sale. Any property right or interest in exercisable by or  
18 transferable for value to the government shall expire and shall not revert to the defendant, nor  
19 shall the defendant or any person acting in his behalf be eligible to purchase said forfeited  
20 property.

21  
22 SECTION 11. *Restitution of Property to Victims.* - The court hearing the case shall  
23 likewise hear petition of racketeering activity for restitution of property or compensation.

24  
25 SECTION 12. *Prohibition Against Intervention and Injunction.* - (A) No party claiming  
26 an interest in property subject to forfeiture may commence an action nor intervene in a trial or  
27 appeal of a criminal case involving the forfeiture of such property.

28 (B) No restraining order or injunction may issue against the Government concerning the  
29 validity of its interest in the property subject to forfeiture.

1  
2 SECTION 13. *Rights of Third Parties.* - Any person, other than the defendant asserting a  
3 legal interest in property ordered forfeited may, within thirty (30) days from publication by the  
4 Secretary of the judgment of forfeiture in two (2) national newspaper of general circulation in the  
5 Philippines, petition the court for a hearing to adjudicate the validity of his alleged interest in the  
6 property. While the petition is pending resolution, the Secretary of Justice shall not sell or  
7 otherwise dispose of the property forfeited. If after hearing, the court determines that the  
8 petitioner has established by preponderance of evidence that -

9 (A) the petitioner has a legal right, or interest in the property; or

10 (B) the petitioner is a bona fide purchaser for value of the right, title or interest in the  
11 property and was at the time of purchase reasonably without cause to believe that the property  
12 was acquired through a racketeering act or otherwise subject to forfeiture in accordance with  
13 such determination.  
14

15 SECTION 14. *Civil Remedies.* -

16 (A) Where to file - Any of the Regional Trial Courts of the place where any element of  
17 any racketeering activity constituting a pattern of racketeering activity has been committed, shall  
18 have jurisdiction to prevent or restrain violations of Section 5 irrespective of where the defendant  
19 resides or is found, or where the enterprise or property is located, by issuing appropriate orders,  
20 including but not limited to:

21 (1) ordering any person to divest himself of any interest, direct or indirect,  
22 in any enterprise;

23 (2) imposing reasonable restrictions on the future activities or investments  
24 of any person including but not limited to, prohibiting any person from engaging  
25 in the same type of endeavor as the enterprise engaged in; or

26 (3) ordering dissolution or reorganization of any enterprise, provision for  
27 the rights of innocent persons.

28 (B) Who can file -

1 (1) The Secretary of Justice, or his duly authorized representative, may  
2 institute proceedings under this Section in behalf of the Government; or

3 (2) Any person injured in his person, business or property by reason of  
4 violation of Section 4 or his heirs, may sue therefore in the appropriate Regional  
5 Trial Court mentioned in the preceding paragraph and shall recover threefold the  
6 damages he sustains and the cost of the suit, including a reasonable attorney's  
7 fees.

8  
9 SECTION 15. *Hearing Preference.* - Notwithstanding any law civil action instituted  
10 under this Section, the Regional Trial Court shall expeditiously hear the case by giving it  
11 preference over all other civil cases. Trial once commenced, shall continue from day to day, as  
12 far as practicable until terminated.

13  
14 SECTION 16. *Subpoena Powers.* -

15 (A) Wherever the Secretary has reason to believe that any person or enterprise may be in  
16 possession or control of any documentary materials relevant to a racketeering investigation, he  
17 may, prior to the institution of a criminal or civil proceeding thereon, shall in writing cause to be  
18 served upon such person or enterprise a *subpoena duces tecum* requiring such person to produce  
19 such material for examination.

20 (B) The Secretary shall designate a racketeering investigator to serve as racketeer  
21 document custodian.

22 (C) Any person or enterprise who has duly been served the subpoena, shall make  
23 available for inspection and copying or reproduction to the custodian designated therein at any  
24 place designated in the subpoena, or as agreed upon, and shall certify under oath that the copies  
25 shall be admissible in court as originals.

26 (D) While in the possession of the custodian, no material so reproduced shall be available  
27 for examination, without the consent of the person who produced such material, by any  
28 individual other than the Secretary.



1 (E) Whenever any person or enterprise fails to comply with any subpoena, the Secretary  
2 of Justice may file in the appropriate Regional Trial Court having jurisdiction, a petition for an  
3 order of such court for the enforcement of the subpoena; Provided, that if the person disobeys the  
4 order of the court, he shall liable for contempt of court.

5  
6 SECTION 17. *Rules and Procedures.* - The Secretary of Justice shall adopt rules and  
7 procedures:

8 (A) To govern its proceedings;

9 (B) To provide for the security of records, documents, information, and other materials its  
10 custody and of its proceedings;

11 (C) To prevent unauthorized disclosure of information and materials disclosed to it in the  
12 course of its inquiry;

13 (D) To provide the right counsel to all witnesses pursuant to subpoena; and

14 (E) To accord the full protection of all rights guaranteed by the Constitution.

15  
16 SECTION 18. *Statute of Limitations.* - One of the predicate acts of racketeering must  
17 have been committed within ten (10) years of the date of the information otherwise violations  
18 this Act shall be deemed to have prescribed.

19  
20 SECTION 19. *Separability Clause.* - If any provision or part hereof is held invalid or  
21 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain  
22 valid and subsisting.

23  
24 SECTION 20. *Repealing Clause.* - Any law, presidential decree or issuance, executive  
25 order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent  
26 with, the provision of this Act is hereby repealed, modified or amended accordingly.

27  
28 SECTION 21. *Effectivity Clause.* - This Act shall take effect fifteen days (15) days after  
29 its publication in at least two (2) newspapers of general circulation.

Approved.