

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

9 MAR -3 P2:00

SENATE  
S.B. No. **3116**

RECEIVED



---

Introduced by Senator Richard J. Gordon, Chairman and members of the  
Committee on Accountability of Public Officers and Investigations

---

### **EXPLANATORY NOTE**

Corruption is the use of public office for private gain or the betrayal of public trust for private gain. RA 3019 also known as *Anti-Graft and Corrupt Practices Act* has enumerated an extensive list of corrupt practices of public officers.

The Philippines has gravely suffered because of corruption. In fact, the Corruption Index/Surveys have shown how dismal the rating of the country is. In the 2008 Corruption Perceptions Index of Transparency International, the Philippines ranked 141 among 180 countries surveyed from the least corrupt to the most corrupt. The Philippines shares the rank with Iran, Yemen and Cameroon. Countries like Nicaragua, Pakistan and Liberia have slightly higher rank than the Philippines and countries like Timor-Leste, Kazakhstan, Bangladesh, Kenya, Syria and Russia rank slightly lower than the Philippines.

There have been many attempts by government agencies to curb graft and corruption both by legal means and by naming and shaming these public officers who have taken part in this deplorable act. In the course of seeking accountability, RA 1405 or the Secrecy of Bank Deposits Act has often been a stumbling block in finding in the prosecution of offenders. In fact, in the recent case of *Republic vs. Eugenio*, G.R. No. 174629, 14 February 2008, the right to privacy is very much upheld by the courts. The case provides:

It cannot be successfully argued the proceedings relating to the bank inquiry order under Section 11 of the AMLA is a "litigation" encompassed in one of exceptions to the Bank Secrecy Act which is when "the money deposited or invested is the subject matter of litigation." The orientation of the bank inquiry order is simply to serve as a provisional relief or remedy. As earlier stated, the application for such does not entail a full-blown trial.

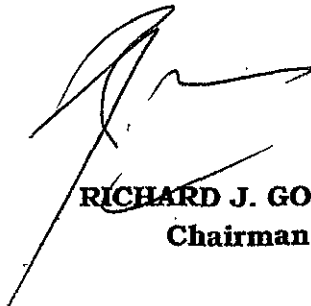
Nevertheless, just because the AMLA establishes additional exceptions to the Bank Secrecy Act it does not mean that the later law has dispensed with the general principle established in the older law that

" [a] ll deposits of whatever nature with banks or banking institutions in the Philippines xxx are hereby considered as of an absolutely confidential nature."

It is this ruling in *Republic vs. Eugenio* that the Anti-Money Laundering Council continues to invoke in the Senate investigations during the 14<sup>th</sup> Congress on the inquiry regarding the Fertilizer Fund Scam when asked about the once frozen accounts of former Undersecretary Jocelyn I. Bolante.

Thus, there is a need to lower the threshold level of the secrecy of bank deposits when the individuals involved are public officers and employees. Since public officers and employees have chosen their profession and they are bound by the Constitution to be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives, it is but proper that they can waive their right to privacy once there is probable cause exists that they have violated the Anti-Graft and Corrupt Practices Act or they have been involved in Money Laundering.<sup>1</sup>

This bill then seeks to amend Section 2 of RA 1405 or the Bank Secrecy Law wherein public officers and employees and former public officers and employees when the acts allegedly committed occurred during their term in public office who have been charged before the Courts with any violation of Republic Act 3019 also known as the Anti-Graft and Corrupt Practices Act or whose accounts have been frozen under Republic Act 9160 as amended by Republic Act 9194 also known as the Anti-Money Laundering Act, are deemed to have given their permission to inquiry, examination or inspection to all their accounts that are the subject matter of the litigation.



**RICHARD J. GORDON**  
Chairman

---

<sup>1</sup> Article XI, Section 1, 1987 Constitution.

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

9 MAR -3 P2:00

RECEIVED BY



SENATE  
S.B. No. 3116

---

Introduced by Senator Richard J. Gordon, Chairman and members of the  
Committee on Accountability of Public Officers and Investigations

---

**AN ACT**  
**AMENDING SECTION 2 OF RA 1405**  
**ALSO KNOWN AS AN ACT PROHIBITING DISCLOSURE OF**  
**OR INQUIRY INTO, DEPOSITS WITH ANY BANKING INSTITUTION**  
**AND PROVIDING PENALTY THEREFOR**

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

**SECTION 1.** Section 2 of RA 1405, also known as An Act Prohibiting  
Disclosure of or Inquiry Into, Deposits with any Banking Institution and  
Providing Penalty Therefor:

Section 2.<sup>2</sup>- All deposits of whatever nature with  
banks or banking institutions in the Philippines including  
investments in bonds issued by the Government of the  
Philippines, its political subdivisions and its  
instrumentalities, are hereby considered as of an absolutely  
confidential nature and may not be examined, inquired or  
looked into by any person, government official, bureau or  
office, except upon written permission of the depositor, or in  
cases of impeachment, *or in cases when the public officer*

---

<sup>2</sup> Proposed Amendments in bold and italicized letters.

*or employee have been charged before the Courts with any violation of Section 3 (b) and (c) of Republic Act 3019 also known as the Anti-Graft and Corrupt Practices Act or when accounts have been frozen or prosecuted under Republic Act 9160 as amended by Republic Act 9194 also known as the Anti-Money Laundering Act, and Republic Act 6426 also known as the Foreign Currency Deposit Act 6426 or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.*

**SECTION 2.** *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, administrative memorandum, rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

**SECTION 3.** *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,