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SENATE

S. NO. 3117

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

Explanatory Note

Overseas Filipino Workers (OFWs) and retirees are driving up the demand for residential property in the Philippines. According to a report from CB Richard Ellis Philippines (CBRE), a significant number of OFWs and Filipino retirees from around the world that reside in the country or considering residence here account for the robust sales of midrange properties.

Accordingly, a data from CBRE stated that condominium developers plan to build an approximate total of 40,000 units by 2011. The data showed that 28 residential condominium buildings with a total of 18,000 units are expected to rise from 2008 up to 2013 in Makati City together with 33 more condominium buildings totaling 11,500 units in the adjacent Fort Bonifacio Global City.


However, the rise of the real estate industry also made the condominium developers susceptible to complaints. For instance, some complaints forwarded to the Housing and Land Use Regulatory Board (HLURB) showed that discrepancies in floor area measurement exist in condominium projects.

This bill seeks to protect small condominium unit buyers from onerous and/or unreasonable contractual provisions imposed by condominium developers, considering that small condominium buyers normally do not have resources to have their respective contracts reviewed by lawyers. The bill further seeks to protect said buyers from flawed and misleading information as regards the floor area measurement of small condominium units. The HLURB is hereby tasked to issue inspection certificates which will guarantee the small condominium unit buyers against possible fraud due to incorrect condominium floor area measurements. Developers, dealers, brokers, sellers or owners are likewise held bound by representations they have made in the handouts, posters, brochures, prospectus, letters, circulars or any form of advertisement of their condominium projects or any units thereof.

In view of the foregoing, the passage of this bill is earnestly sought.

ANTONIO "SONNY" F. TRILLANES IV
Senator

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AN ACT
EXTENDING PROTECTION TO SMALL CONDOMINIUM UNIT BUYERS AND FOR OTHER RELATED PURPOSES

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

1 **SECTION 1. Title.-** This Act shall be known as the "Small Condominium Unit Buyers
2 Protection Act of 2009".

3
4 **SEC. 2. Policy of the State.-** It is the policy of the State to protect small condominium
5 unit buyers against onerous and/or unreasonable contractual provisions imposed by
6 condominium developers, as well as against flawed and misleading information as regards the
7 floor area measurement of small condominium units.

8
9 **SEC. 3. Definition of Terms.-** For purposes of this Act, the following definitions shall
10 apply:

- 11 1. "Broker" means any person who, for commission or other compensation, undertakes to sell
12 or negotiate the sale of a real estate belonging to another.
- 13 2. "Condominium Buyer" means a party which acquires, or agrees to acquire, ownership or
14 benefit or usage, in exchange for money or other consideration under a contract of sale.
- 15 3. "Small Condominium Unit" means a part of the condominium project intended for any type
16 of independent residential use or ownership, including one or more rooms or spaces located
17 in one or more floors (or part or parts of floors) in a building or buildings and such

- 1 accessories as may be appended thereto. The unit contemplated hereunder shall have an
2 actual floor area not exceeding one hundred square meters (100 sqm) in measurement.
- 3 4. "Dealer" means any person directly engaged as principal in the business of buying, selling or
4 exchanging real estate whether on a full-time or part-time basis.
- 5 5. "Developer" means the person who develops or improves the condominium project for and in
6 behalf of the owner thereof.
- 7 6. "Owner" refers to the registered owner of the land subject of condominium project.
- 8 7. "Project" means the entire parcel of real property divided or to be divided into
9 condominiums, including all structures thereon.
- 10 8. "Salesmen" refers to the persons regularly employed by a broker to perform, for and in his
11 behalf, any or all functions of a real estate broker.
- 12

13 ***SEC. 4. Measurement of the Floor Area and Adjustment of the Unit Price.-***

- 14 1. Upon completion of the project and upon request of the small condominium unit buyer, or
15 upon a complaint filed by the said buyer, before the Housing and Land Use Regulatory Board
16 (hereinafter referred as HLURB), it shall be the duty of the HLURB to conduct an actual
17 measurement of the floor area of the unit bought within fifteen (15) working days from receipt of
18 the request or complaint, and thereafter issue an order stating the actual total measurement of the
19 floor area of the small condominium unit in question, which order shall be final and executory
20 and binding on both the buyer and the developer, dealer, broker, salesmen or owner.
- 21 2. There shall be a proportional adjustment in the price of the small condominium unit subject of
22 the contract of sale in case there is found any variance between the actual total measurement of
23 the floor area of said unit as duly measured by the HLURB and the total floor area as represented
24 by the developer, dealer, broker, salesmen or owner in the contract of sale with the buyer or in
25 the handouts, posters, brochures, prospectus, circulars, letters or any other literature intended to
26 advertise the project in question or any units thereof.

1 3. It shall be the duty of the HLURB to ensure that the proportional adjustments in the prices of
2 small condominium units being sold to the public, as prescribed in the preceding paragraph, are
3 strictly made and enforced.

4
5 **SEC. 5. *Issuance of Certificate of Inspection.***- Consequent to the first paragraph of the
6 preceding Section and upon request of the small condominium unit buyer, the HLURB shall
7 issue a Certificate of Inspection, which states that the actual floor area of the unit in question
8 meets the measurement of the floor area as represented by the developer, broker, dealer,
9 salesmen, or owner.

10
11 **SEC. 6. *Rights of a Defaulting Buyer.***-

12 (A) In all transactions or contracts involving the sale or financing of small condominium units on
13 installment payments, where the buyer has paid at least two (2) years of installments, and
14 defaults in the payment of his succeeding installments, he shall be entitled to the following
15 rights:

- 16 1. To pay without additional interest the unpaid installments due within the total grace
17 period earned by him, which grace period is equal to one (1) month for every year of
18 installment payments made. This right can be exercised by the buyer only once in every
19 five (5) years of the life of the contract;
- 20 2. To be refunded of the cash surrender value of his payments on the small condominium
21 unit, equal to fifty percent (50%) of his total payments if the contract is cancelled.
22 However, if he has paid five (5) years or more, he is entitled to an additional five percent
23 (5%) every year but not to exceed ninety percent (90%) of the total payments made.
24 Actual cancellation of the contract shall take place only after thirty (30) days from receipt
25 by the buyer of the notice of cancellation or demand for rescission and upon full payment
26 to the buyer of the cash surrender value.

1 (B) If the small condominium unit buyer has paid less than two (2) years of installments, he shall
2 have the right to pay within a grace period of not less than sixty (60) days from the time the
3 installment became due. If the buyer fails to pay the installments due at the expiration of the said
4 grace period, the buyer shall not be entitled to any refund, and the contract may be cancelled
5 after thirty (30) days from his receipt of the notice of cancellation or demand for rescission by a
6 notarial act.

7 (C) The down payments, deposits or options on the contract shall be included in the computation
8 of the total number of installment payments made.

9
10 **SEC. 7. Right to Assign or Reinstate Contract.-** The buyer shall have the right to sell or
11 assign his rights over the small condominium unit to another person or reinstate the contract by
12 updating the account during the grace period and before the actual cancellation of the contract.
13 The deed of sale or assignment shall be done by notarial act.

14
15 **SEC. 8. Right to Advance Payment.-** The buyer shall have the right to pay in advance
16 any installments or the full unpaid balance of the purchase price any time without interest and to
17 have such full payment of the purchase price annotated in the certificate of title covering the
18 property.

19
20 **SEC. 9. Right of Refund.-** The buyer shall have the right of refund of the entire amount
21 of any installment payments made by him, when the developer fails to complete the
22 condominium project within one year from the date of issuance of the license for the
23 condominium project or such other period of time as may be approved or fixed by the HLURB.

24
25 **SEC. 10. Right to have Contract Registered.-** Where the purchase price is paid in full,
26 the buyer shall have the right to have his deed of sale relative to the sale or conveyance of the

1 small condominium unit, registered by the developer, dealer, broker or salesmen in the Office of
2 the Register of Deeds of the province or city where the property is situated.

3 Upon the request of the buyer and at his own expense, his contract to sell may likewise be
4 registered with the proper register of deeds. However, in case of cancellation or rescission of said
5 contract to sell for any reason whatsoever, such registration of contract to sell shall be cancelled
6 by the proper register of deeds without need of any court order upon execution by the developer,
7 dealer or broker of an affidavit that said contract to sell has been cancelled or rescinded.

8
9 **SEC. 11. *Additional Protection to Buyers.***- (1) Any disclaimer or waiver made by the
10 developer, dealer, broker, salesmen or owner in the contract or in the handouts, posters,
11 brochures, prospectus, circulars, letters, literature or any other form of advertisement of the
12 condominium project in question or any unit thereof, as to the measurement of the floor area of
13 any small condominium unit part of said project, shall be null and void.

14 (2) Any representation made in the contract or in the handouts, posters, brochures, prospectus,
15 circulars, letters, literature or any other form of advertisement, as to the amenities, facilities,
16 common spaces and other such spaces and facilities, shall be binding on, and should be complied
17 with by, the developer of the condominium project. Any disclaimer or waiver to the contrary
18 made by said developer shall be null and void.

19 (3) Any stipulation in any contract entered into contrary to the provisions of this Act shall be null
20 and void.

21

22 **SEC. 12. *Penalties.***-

23 1. The HLURB may, *motu proprio* or upon verified complaint filed by a buyer of a small
24 condominium unit and after due notice and hearing, revoke the registration of any
25 condominium project and the license to sell any small condominium unit in said project by
26 issuing an order to this effect, if there is satisfactory evidence that the owner or developer has

1 made any misrepresentation in the contract or in any handouts, posters, prospectus, brochure,
2 circulars, letters or other literature about the measurement of the floor area of any of the
3 small condominium units for sale in said project or has otherwise violated any of the
4 provisions of this Act or any applicable rule or regulation of the HLURB in relation herewith.

- 5 2. The HLURB may, after due notice and hearing, refuse registration or issuance of license of,
6 or revoke any registration granted or any license issued to, any broker, dealer or salesmen
7 found guilty of fraud or misrepresentation in connection with any sale of a small
8 condominium unit, or has misrepresented the measurement of the floor area of any small
9 condominium unit for sale in the project, or has otherwise violated any provision of this Act
10 or any rule or regulation made hereunder by the HLURB.

11
12 **SEC. 13. *Implementing Rules and Regulations.***- Within ninety (90) days from the
13 effectivity of this Act, the HLURB shall promulgate the necessary rules and regulations to
14 implement the provisions of this Act. Such rules and regulations shall take effect immediately
15 thereafter.

16
17 **SEC. 14. *Repealing Clause.***- Any laws, decrees, ordinances or rules and regulations
18 which are inconsistent with or contrary to the provision of this Act is hereby amended or
19 repealed.

20
21 **SEC. 15. *Effectivity.***- This Act shall take effect fifteen (15) days after its complete
22 publication in at least two (2) national newspapers of general circulation.

Approved,