



Senate  
Office of the Secretary

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

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SENATE

S. B. No. 77

Introduced by Senator TEOFISTO "TG" GUINGONA III

**EXPLANATORY NOTE**

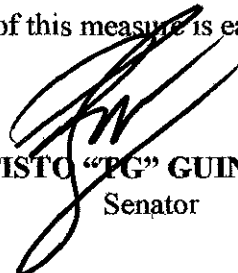
**Sec. 2. Plea of guilty to a lesser offense.** – At arraignment, the accused, with the consent of the offended party and prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

- Sec. 2, Rule 116, Rules of Court

Plea bargaining in criminal cases is a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case, subject to court approval (*Daan vs. Sandiganbayan*, G.R. Nos. 163972-77, March 28, 2008). While plea bargaining is a procedural rule under the law, its purpose, application and implementation should not be exercised in a capricious, whimsical or arbitrary fashion. Instead, a plea bargaining agreement should ultimately redound to the benefit of the public.

This bill aims to ensure that plea bargaining will not be exploited as a procedure of compromise for the convenience of the accused, but will be used for the paramount public interest of justice.

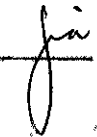
In view of the foregoing, the immediate enactment of this measure is earnestly sought.

  
TEOFISTO "TG" GUINGONA III  
Senator

13 JUL -1 AM '22

SENATE

S. B. No. 77

RECORDED BY: 

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Introduced by Senator TEOFISTO "TG" GUINGONA III

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AN ACT  
PROVIDING FOR RULES ON PLEA BARGAINING AGREEMENT IN CRIMINAL  
CASES, PROVIDING PENALTIES IN VIOLATION THEREFOR, AND FOR  
OTHER PURPOSES

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

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**SECTION 1. Short Title.** - This Act shall be known as the "Plea Bargaining Act of 2013."

**SECTION 2. Plea Bargaining.** - Plea Bargaining is the process in criminal proceedings whereby the accused and the prosecution work out a mutually satisfactory disposition of the case, as expressed and contained in the plea bargaining agreement, and subject to court approval, including the plea of the accused to a lesser offense than that charged in the complaint or information, or to only one or some of the counts of a multi-count indictment, and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the graver charge.

**SECTION 3. Principles.** - Plea bargaining shall be entered into by and between the prosecution and the accused, and approved by the court, in accordance with the following principles:

- a. Plea bargaining is a matter imbued with public interest. As such, its initial consideration and final terms should both primarily redound to the benefit of the public.
- b. When a plea bargain is offered by the accused, or a plea bargaining agreement is entered into, the prosecution and the court are both duty bound to inquire carefully into the circumstances and motivations on which these are premised, to the end that the interest of justice and of the public will be served.

1 c. Plea bargaining is not a matter of compromise for the convenience and benefit  
2 of the accused. It is not demandable by the accused as a matter of right but is  
3 addressed to the sound discretion of the trial court.  
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5 d. Plea bargaining shall not be entered into when it will only serve to trivialize  
6 the seriousness of the offense charged against the accused and negate the  
7 deterrent value of the law intended to proscribe the offense committed.  
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10 **SECTION 4. *Plea of guilty to a lesser offense.*** – As part of a plea bargaining agreement, the  
11 accused, with the consent of the offended party and the prosecutor, may be allowed by the  
12 trial court to plead guilty to a lesser offense which is necessarily included in the offense  
13 charged.  
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15 For purposes of plea bargaining, a lesser offense which is necessarily included in the offense  
16 charged is one that has some of the essential elements of the original offense charged. The  
17 lesser offense shall also belong to the same classification or title under the Revised Penal  
18 Code or the relevant special laws as the offense charged in the original information.  
19

20 In all cases, the penalty for the lesser offense to which the accused may be allowed to plead  
21 guilty shall not be more than two (2) degrees lower than the imposable penalty for the offense  
22 charged, notwithstanding the presence of mitigating circumstances.  
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25 **SECTION 5. *Consent of the Offended Party.*** – In offenses charged where there is no private  
26 offended party, the offended party whose consent is necessary for the plea bargaining shall be  
27 a) the People of the Philippines, as represented by the prosecution; and b) the government  
28 agency responsible for the enforcement of the law violated or directly affected by the offense  
29 committed, as represented by its highest ranking official, such as its president, chief  
30 executive, or head.  
31

32 **SECTION 6. *Additional Parties in certain cases.*** – In cases of plunder and money  
33 laundering, the consent of the Ombudsman and the President are required.  
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35 **SECTION 7. *Time of Availment.*** – At arraignment, the accused, with the consent of the  
36 offended party, the prosecutor, and any additional party required by law to give its consent,  
37 may be allowed to plead guilty to a lesser offense which is necessarily included in the offense  
38 charged.  
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40 During the course of trial, the period after arraignment- during or after the presentation of the  
41 evidence of the prosecution, but before the presentation of the evidence of the defense, and in  
42 no case after the dismissal by the court of a demurrer to evidence- the accused may still be  
43 allowed to plead guilty to a lesser offense after withdrawing a plea of guilty to the original  
44 offense charged. No amendment of the complaint or information is necessary. Plea  
45 bargaining at this stage shall be subject to the conditions provided in Section 8 of this Act.  
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47 **SECTION 8. *Plea Bargaining during the course of the trial; Conditions.*** – The prosecution  
48 may enter into plea bargaining with the accused, with the consent of the offended party under  
49 Section 7, during or after the presentation of the evidence of the prosecution, but before the

1 presentation of the evidence of the defense, and in no case after the dismissal by the court of  
2 a demurrer to evidence, provided that all of the following conditions are present:

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- 4 a. The evidence of the prosecution is insufficient to prove the offense charged  
5 beyond reasonable doubt;  
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- 7 b. In cases involving the recovery by or restitution to the offended party of  
8 property in crimes against property and those committed by public officers in  
9 relation to public funds such as, but not limited to, the crime of plunder, graft  
10 and corrupt practices, bribery, and malversation, the accused makes a full  
11 restitution of the property or public funds involved; and  
12
- 13 c. In cases of conspiracy and when the accused has not yet qualified as a state  
14 witness in accordance with the Rules of Criminal Procedure, the accused fully  
15 cooperates by providing, among others, documentary, object, and testimonial  
16 evidence, against the principal conspirators responsible for the commission of  
17 the offense charged and who are most guilty.  
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20 **SECTION 9. Procedure.** – For purposes of plea bargaining, the following procedure shall be  
21 followed:

- 22
- 23 a. The intention to plead guilty to a lesser offense must be manifested by the  
24 accused before the court. Immediately thereafter, the prosecutor shall move for  
25 the suspension of the proceedings to enable him to confer with the offended  
26 party, to evaluate the implications of the offer to plead to a lesser offense and  
27 secure the consent of the offended party.  
28
- 29 b. If the penalty imposable for the offense charged is *prision mayor*, or six years  
30 and one day imprisonment, or higher, or a fine exceeding twelve thousand  
31 pesos (PhP 12, 000.00), the plea bargaining agreement shall first be approved  
32 in writing by the City Prosecutor, Provincial Prosecutor, or the Prosecutor  
33 General in criminal cases handled by the National Prosecution Service; or the  
34 Ombudsman in criminal cases handled by the Office of the Special Prosecutor;  
35 or the head of the agency in the case of other agencies authorized to prosecute  
36 criminal cases, before it is submitted to the court for approval. In no case shall  
37 the subject plea bargaining agreement be allowed without the written approval  
38 of the above approving authorities.  
39
- 40 c. The prosecution and the accused shall file a joint motion for the approval of  
41 the plea bargaining agreement. Attached to the joint motion is the plea  
42 bargaining agreement itself. In no case shall the accused be re-arraigned and  
43 plead guilty to a lesser offense other than that agreed upon and without the  
44 requisite court approval of the plea bargaining agreement shall render the plea  
45 null and void ab initio.  
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1           d.       The prosecution may dispense with the presentation of evidence unless the  
2                        court directs it to do so for purposes of determining the penalty to be imposed.  
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4   **SECTION 10. *Penalty.*** – For violations of this Act, the penalty of imprisonment ranging  
5   from six months and one day to six years, and a fine ranging from six thousand (PhP  
6   6,000.00) to sixty thousand pesos (PhP 60,000.00) shall be imposed.

7   **SECTION 11. *Repeal of Inconsistent Laws.*** – All laws, decrees, orders, rules and  
8   regulations, and other issuances or parts thereof which are inconsistent with or contrary to  
9   this Act, are hereby repealed, amended, or modified accordingly. Existing laws disallowing  
10   plea bargaining for certain offenses and crimes shall remain in force and effect.

11   **SECTION 12. *Repealing Clause.*** – All laws, decrees, orders, and issuances or portions  
12   thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended  
13   or modified accordingly.

14  
15   **SECTION. 13. *Effectivity.*** – This Act shall take effect fifteen (15) days following its  
16   publication in at least two (2) national newspapers of general circulation.

17  
18   Approved,