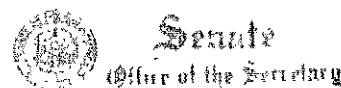


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'13 JUL 16 P4:56

SENATE

RECORDED BY: *ji*

S. No. 813

Introduced by Senator Antonio "SONNY" F. Trillanes IV

Explanatory Note

Proclamation No. 50, issued on 08 December 1986, launched a program for the disposition of non-performing assets of government financial institutions and government corporations that have been found unnecessary and inappropriate for the public sector to maintain. It created the Committee on Privatization (COP) and the Asset Privatization Trust (APT). These were replaced, however, by the Privatization Council (PrC) and the Privatization and Management Office (PMO) by virtue of Executive Order No. 323 issued on 06 December 2001.

Considering that there are still a number of government assets to be subsequently divested to the private sector, a specialized corporate body should therefore be organized.

This bill seeks to create the Government Asset Management Authority (GAMA), which shall pursue a coordinated and efficient program for the disposition and liquidation of non-relevant and non-performing government assets, including surrendered assets of the Presidential Commission on Good Government (PCGG). Consequently, it proposes to abolish the PC, PMO and the Board of Liquidators, and their respective properties, assets and liabilities, fund, and personnel immediately transferred to the GAMA.

The GAMA shall remit to the National Treasury any and all proceeds from the sale and disposition of government assets, in which 60% shall go to the special account of the Agrarian Reform Fund and 40% to the General Fund.


It is therefore requested that this bill be immediately enacted into law.

ANTONIO "SONNY" F. TRILLANES IV
Senator

'13 JUL 16 P4:56

SENATE

S. No. 813

RECEIVED BY: 

Introduced by Senator Antonio "SONNY" F. Trillanes IV

AN ACT
CREATING THE GOVERNMENT ASSET MANAGEMENT AUTHORITY, DEFINING
ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR
OTHER PURPOSES

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

1 **SECTION 1. Short Title.** - This Act shall be known as the "*Government Asset*
2 *Management Act of 2013.*"

3

4 **Sec. 2. Declaration of Policy.** - It is hereby declared policy of the State to
5 promote an orderly, coordinated, and efficient program for the prompt disposition and
6 liquidation of non-relevant and non-performing assets of government agencies and
7 government owned or controlled corporations, including surrendered assets and idle
8 properties which have been found unnecessary or inappropriate for the government
9 sector to maintain.

10

11 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms shall
12 mean:

13 (a) "Disposition" which shall also be known as "Privatization," refers to the
14 transfer of government corporations, activities, or assets of government or its
15 agencies to private ownership. It could also include sale of shares of stock, sale of
16 physical assets, leasing, concession, joint venture schemes, management or
17 maintenance contracts, or securitization.

18 (b) "Assets" refer to: (1) receivables and other obligations due to the Government
19 or its agencies under credit, lease, indemnity, and other agreements together with all

1 collateral security and other rights (including but not limited to rights in relations to
2 shares of stock in corporation such as voting rights as well as rights to appoint
3 directors of a corporation or otherwise engage in the management thereof granted to
4 the Government or its agencies by contract or operation of law to secure or enforce
5 the right of the payment of such obligation; (2) real and personal property of any kind
6 owned or held by the Government, including shares of stock in corporation, obtained
7 by the Government or its agencies, whether directly or indirectly, through foreclosure
8 or other means, in settlement of such obligations and surrendered assets within the
9 purview of Executive Order Nos. 1 and 2, series of 1986; (3) shares of stocks and
10 other investments held by the Government or its agencies; (4) government
11 corporations whether as parent or subsidiary corporations; and (5) such other items as
12 may be identified by law.

13 (c) "*Surrendered Assets*" refer to any asset, property, business enterprise, or material
14 possession of persons ceded to the National Government by virtue of compromise
15 agreements entered into by the Presidential Commission on Good Government
16 (PCGG) pursuant to Executive Order Nos. 1 and 2, series of 1986. It shall also
17 include such similar assets that may be surrendered to the National Government in the
18 future.

19 (d) "*Idle Properties*" refer to all real properties such as land, buildings, and other
20 improvements located in the Philippines and abroad owned by the National
21 Government through its departments, bureaus, offices, or agencies which have not
22 been substantially developed, improved, or cultivated for a period of more than five
23 (5) years as of the effectivity of this Act or thereafter.

24 (e) "*Board*" refers to the Governing Board of the Government Asset Management
25 Authority constituted under this Act.

26 (f) "*Government-owned or Controlled Corporation (GOCC)*" refers to a corporation
27 which is created by special law or incorporated and organized under the Corporation
28 Code and in which the government, directly or indirectly, has ownership of the

1 majority control and which is explicitly intended under that law and government
2 policy for ultimate transfer to private ownership under certain specified conditions
3 shall be considered a GOCC, until it is transferred to private ownership and control:
4 *Provided, however,* That an acquired asset corporation which is either (1) under
5 private ownership, the voting or outstanding shares of which (i) were conveyed to the
6 government or to a government agency, instrumentality or corporation in satisfaction
7 of debts whether by foreclosure or otherwise, or (ii) were duly acquired by
8 government through final judgment in a sequestration proceeding; or (2) a subsidiary
9 of a government corporation organized exclusively to own and manage, or lease, or
10 operate specific physical assets acquired by a government financial institution in
11 satisfaction of debts incurred therewith, and which in any case by law or by
12 enunciated policy is required to be disposed of to private ownership within a specified
13 period of time shall not be considered as GOCC or government corporation.

14
15 **SEC. 4. *Creation of the Government Asset Management Authority.*** – For the purpose of
16 carrying out the above-stated policy, there is hereby created a body corporate to be known as the
17 “Government Asset Management Authority,” hereinafter referred to as the “Authority,” which
18 shall have its principal office in Metropolitan Manila. The Authority may establish such branches
19 and offices as it may deem necessary for the attainment of the objectives of this Act.

20 The Authority shall be attached to the Department of Finance.

21
22 **SEC. 5. *Powers and Functions.*** – The Authority, in addition to the regular powers and
23 functions provided under the Corporation Code of the Philippines, shall have the following
24 powers and functions:

25 (a) To develop and implement a comprehensive plan in identifying non-relevant and non-
26 performing assets of government agencies and government owned or controlled
27 corporations, government corporations whether parent or subsidiary, surrendered
28 assets, and idle properties for privatization;

- 1 (b) to establish guidelines for the conversion, rehabilitation, and disposition of
2 government assets and corporations;
- 3 (c) to approve or disapprove, on behalf of the National Government, the sale or
4 disposition of government assets;
- 5 (d) to exercise on behalf of the National Government rights of ownership and/or
6 administration with respect to such assets, including the right to vote, whether directly
7 or through duly authorized nominees, shares of stocks held in the name of the
8 National Government;
- 9 (e) to enter into contracts, acquire, purchase, hold, lease, transfer, and dispose of property
10 of any kind or nature necessary to carry out the purpose of this Act;
- 11 (f) to establish, operate, manage, control, and supervise all activities connected with the
12 efficient management and disposition of government assets and corporations;
- 13 (g) to receive and hold by request, donation, or by any gratuitous title and to manage or
14 administer or dispose any asset, grant, or property, real or personal, from foreign or
15 domestic sources, subject to such limitations as are provided in existing laws and
16 regulations;
- 17 (h) to investigate and file cases in relation to conservation, rehabilitation, disposition, and
18 liquidation of non-relevant and non-performing assets of the government;
- 19 (i) to undertake the conservation, rehabilitation, and disposition of non-relevant or non-
20 performing government assets: *Provided*, That the budget for each rehabilitation
21 project shall be subject to prior approval of the Board;
- 22 (j) to seek and secure the assistance of any office, agency, or instrumentality of the
23 government;
- 24 (k) to issue such regulations as may be necessary for the proper use by private parties of
25 any or all of the Authority's properties and to impose fees or tolls for the use of such
26 properties;
- 27 (l) to issue necessary guidelines to all government agencies to govern activities on the
28 disposal of government corporate assets;

1 (m) to consult, deputize, or request the assistance of appropriate government agencies or
2 instrumentalities for the purpose of enforcing this Act and its implementing rules and
3 regulations, as well as the orders and decisions of the Authority;

4 (n) to adopt, prescribe, and promulgate such rules and regulations as may be necessary
5 for the proper implementation of this Act;

6 (o) to exercise the right of eminent domain as may be necessary for the purposes for
7 which the Authority is created; ad

8 (p) to do any and all acts and things and to exercise all powers which may be necessary
9 or convenient to the accomplishment or furtherance of its purposes and objectives, or
10 which a natural person can do and exercise and which may now be or hereafter be
11 authorized by law.

12
13 **SEC. 6. Governing Board.** – The affairs and business of the Authority shall be directed
14 and its properties managed and preserved by a Governing Board, hereinafter referred to as the
15 “Board”, which shall be composed of the Secretary of the Department of Finance as the *ex-*
16 *officio* Chairman, and the following as members:

17 (a) the Secretary of the Department of Justice;

18 (b) the Director General of the National Economic and Development Authority;

19 (c) the Secretary of the Department of Trade and Industry;

20 (d) the Secretary of the Department of Budget and Management; and

21 (e) two (2) representatives from the private sector to be appointed by the President of the
22 Philippines for a term of three (3) years: *Provided*, That the person appointed shall be
23 of good moral character, of unquestionable integrity, of known probity and
24 patriotism, and with experience of at least ten (10) years in business or finance:
25 *Provided, further*, That in the event of a vacancy, the successor appointed to fill the
26 same shall serve only the unexpired portion of the term of the member he succeeds
27 to.

1 **SEC. 7. Meetings.** – The Board shall meet as frequently as is necessary to discharge its
2 responsibilities: *Provided*, That it shall meet at least once every month. The presence of a
3 majority of the members of the members present at a meeting at which a quorum exists shall be
4 adequate for any decision by the Board.

5 Whenever any member of the Board is unable to attend a particular meeting, he may
6 designate any of his immediate subordinate with the rank of undersecretary or its equivalent to
7 attend in his stead.

8
9 **SEC. 8. Per Diems.** – The members of the Board shall be entitled to receive per diem for
10 every meeting actually attended at rates to be approved by the President of the Philippines upon
11 the recommendation of the Department of Budget and Management.

12
13 **SEC. 9. Powers and Functions of the Board.** – The Board shall have the following
14 powers and functions:

- 15 (a) to adopt the by-laws of the Authority and to revise the same as may be expedient;
- 16 (b) to direct the management, operations, and administration of the Authority;
- 17 (c) to approve the annual budget to cover the operations of the Authority based on the
18 following: (1) fees and charges imposed by the Authority; (2) payment for the
19 utilization of the projects of the Authority; and (3) annual appropriations and other
20 funds which Congress may approve for the Authority;
- 21 (d) to formulate, revise, or adjust periodically all policies, plans and programs, and to
22 promulgate the necessary rules and regulations to carry out the purposes and
23 objectives of this Act;
- 24 (e) to create the organizational structure and staffing pattern necessary for the efficient
25 management, operation, and administration of the Authority, subject to the Civil
26 Service laws, rules and regulations
- 27 (f) to fix the compensation, emoluments and allowances of the officers and employees of
28 the Authority, subject to existing laws, rules and regulations; and

1 (g) to perform such other functions as may be necessary and proper for the effective
2 enforcement of this Act and to accomplish the purposes for which the Authority was
3 organized.
4

5 **SEC. 10. *Administrator.*** – The Authority shall have an Administrator to be appointed by
6 the President of the Philippines for a term of five (5) years unless sooner removed for cause. He
7 shall be a person of good moral character, of unquestionable integrity, of known probity and
8 patriotism, and with expertise and experience of at least ten (10) years in professional
9 management with a strong background in the legal profession, business, or finance. He shall
10 receive such compensation, allowances, and other emoluments as may be approved by the
11 President of the Philippines upon the recommendation of the Board.
12

13 **SEC. 11. *Powers and Duties of the Administrator.*** – The Administrator shall have the
14 following powers, duties, and responsibilities:

- 15 (a) to submit to the Board, through the Chairman, policies and measures which, in his
16 judgment, are necessary to carry out the purposes and provisions of this Act;
17 (b) to implement and execute the policies and measure approved by the Board;
18 (c) to prepare the budget of the Authority for approval by the Board;
19 (d) to appoint all employees of the Authority, except the heads of departments and
20 divisions whose appointments shall be made by the Board upon his recommendation,
21 and to remove, dismiss or otherwise discipline for cause such employees in
22 accordance with the Civil Service laws, rules, and regulations;
23 (e) to represent the Authority in all dealings with other offices, agencies, and
24 instrumentalities of the Government and with all persons and entities, public or
25 private, domestic or foreign; and
26 (f) to exercise such other powers as may be granted to him by the Board.
27

1 **SEC. 12. *Legal Counsel.*** – The Office of the Government Corporate Counsel shall be
2 the General Counsel of the Authority.

3
4 **SEC. 13. *Utilization of Proceeds from Sale of Assets.*** – Any or all proceeds from the
5 sale or any disposition of assets net of fees, related liabilities, and other reimbursable expenses
6 related to custodianship, marketing, selling, and disposition of assets of the Authority as defined
7 in the implementing rules and regulations to be issued by the Department of Finance pursuant to
8 Section 24 hereof, shall be remitted immediately to the National Treasury in the following
9 proportion: sixty percent (60%) to the special account to the Agrarian Reform Fund and forty
10 percent (40%) to the general fund. *Provided,* That in the case of proceeds from sale of transferred
11 assets recorded in the books of the Bureau of the Treasury, the check shall be made payable in
12 the name of the Treasurer of the Philippines and shall be remitted immediately to the National
13 Treasury in the same proportion as mentioned above.

14 With respect to the sale or other disposition of government owned or controlled
15 corporations, all government owned or controlled corporations except for the Government
16 Service Insurance System and the Social Security, shall remit to the National Treasury at least
17 fifty percent (50%) of the net proceeds derived from the sale or disposition of assets. For this
18 purpose, net proceeds shall mean gross proceeds less related liabilities and selling expenses.

19 The preceding paragraphs, however, shall not apply to assets surrendered to or otherwise
20 recovered by Presidential Commission on Good Government. Any and all proceeds from the sale
21 or disposition of assets recovered by the PCGG shall be remitted to the National Treasury in a
22 special account for Agrarian Reform in accordance with the Comprehensive Agrarian Reform
23 Law; *Provided,* That recoveries relating to the coconut levy shall be deposited in a special
24 account in trust for coconut farmers.

25
26 **SEC. 14. *Exemption from Taxes, Fees and Other Charges.*** – The Authority, as well as
27 the corporations and assets held by it, shall be exempt from all taxes, fees, charges, imposts, and
28 assessments arising from or occasioned by the passing of title over such corporations or assets

1 from the government institutions to the Authority and/or from the Authority to a private
2 acquirer or buyer imposed by the National Government or any subdivision thereof including
3 but not limited to stock transfer taxes, capital gains tax, documentary stamps, registration fees
4 and the like: *Provided*, That in case the said government institutions acquired the said assets by
5 foreclosure, non-payment of similar taxes, fees, charges, imposts, and assessments shall not be a
6 bar to the consolidation of title in the foreclosing institutions and the subsequent passing of title
7 to the Authority or the corporations held by the Authority.

8
9 **SEC. 15. *Publication.*** – The sale or disposition of assets shall be published in at least
10 three (3) newspapers of general circulation for three (3) consecutive days: *Provided*, That the last
11 publication shall occur at least ten (10) days prior to the scheduled bidding or date of negotiation.

12
13 **SEC. 16. *Restraining Order.*** – No court or administrative agency in the Philippines,
14 except the Court of Appeals, shall issue any restraining order or writ of preliminary injunction
15 against the Authority in connection with the acquisition, sale, or disposition of assets in
16 accordance with this Act, nor shall such order or writ be issued against the purchaser of assets
17 sold or disposed of by the Authority to prevent such purchaser from taking possession of such
18 assets.

19
20 **SEC. 17. *Public Accountability.*** – To ensure public accountability, the Authority shall be
21 subject to the audit of the Commission on Audit and shall comply with all accounting and
22 auditing rules and regulations and those which it may hereafter promulgate of its constitutional
23 mandate.

24
25 **SEC. 18. *Merit System.*** – All officials and employees of the Authority shall be selected
26 and appointed on the basis of merit and fitness. The recruitment, transfer, promotion, and
27 dismissal of all its employees including temporary personnel shall be in accordance with Civil
28 Service law, rules, and regulations.

1 **SEC. 19. *Transitory Provisions.*** – The Privatization Council, the Privatization and
2 Management Office, and the Board of Liquidators are hereby abolished, and their powers and
3 functions, including their applicable funds and appropriations, records, equipment, facilities,
4 rights, other assets, and personnel shall thereafter immediately be transferred to the Authority.
5 All contracts and liabilities, if any, are hereby also transferred to and assumed by the Authority
6 and shall be acted upon in accordance with the Auditing and shall be acted upon in accordance
7 with the Auditing Code and other pertinent laws, rules, and regulations: *Provided*, That the
8 officers and employees of said agencies who will be needed for the continuity of the programs
9 shall continue in a holdover capacity until such time as the new officers and employees of the
10 Authority shall have been duly appointed pursuant to the provisions of this Act.

11 The management and disposition of surrendered assets as well as assets already recovered
12 by final judgment of the Presidential Commission on Good Government are hereby transferred to
13 the Authority.

14 Upon approval of this Act, the Commission on Audit shall undertake an examination of
15 all assets and liabilities remaining with the Privatization Council, the Privatization and
16 Management Office, and the Board of Liquidators. The Commission on Audit shall complete
17 such examination within one hundred eighty (180) days from the effectivity of this Act.

18 Lawsuits initiated by the Privatization Council, the Privatization and Management Office,
19 the Board of Liquidators, and the Presidential Commission on Good Government in so far as
20 surrendered assets are concerned, which are still pending before appropriate courts upon the
21 abolition of the said agencies, shall be pursued by the Office of the Government Corporate
22 Counsel until their proper termination in the name of or on behalf of the Government.

23
24 **SEC. 20. *Structure and Staffing Pattern.*** – Within thirty (30) days from the effectivity
25 of this Act, the Board of Directors, pursuant to Section 9(e) hereof shall create the organizational
26 structure and staffing patter of the Authority, subject to the approval by the Department of
27 Budget and Management within ninety (90) days from submission thereof.

28

1 **SEC. 21. *Separation and Retirement Benefits.*** – The personnel of the herein abolished
2 agencies who are not absorbed in the new staffing pattern of the Authority shall be deemed
3 separated from the service and shall receive separation benefits in accordance with existing laws.
4 Those who are eligible and/or opt to retire shall be entitled to receive such benefits as authorized
5 under existing laws, rules, and regulations.

6
7 **SEC. 22. *Appropriations.*** – The amount necessary for the initial implementation of this
8 Act shall be taken from the existing appropriations under the current year's General
9 Appropriations Act of Privatization Council, the Privatization and Management Office, and the
10 approved budget of the Board of Liquidators for the current year by the Office of the President.
11 Thereafter, such sums as may be necessary for the continued operation of the Authority shall be
12 included in the annual General appropriations Act.

13
14 **SEC. 23. *Congressional Review.*** – Every three (3) years after the effectivity of this Act.
15 Congress shall conduct a systematic evaluation of the Authority to determine whether or not its
16 performance, impact or accomplishment with respect to its mandates merit its continued
17 existence. Such evaluation shall be undertaken by the Committee on Government Corporations
18 and Public Enterprises of the Senate and the Committee on Government Enterprises and
19 Privatization of the House of Representatives which have legislative jurisdiction over the
20 Authority.

21
22 **SEC. 24. *Implementing Rules and Regulations.*** - Within sixty (60) days from the
23 approval of this Act, the Authority, with the Department of Finance, shall promulgate the
24 necessary rules and regulations for the efficient implementation of this Act: *Provided*, That the
25 rules and regulations shall be published in two (2) newspapers of general circulation.

1 **SEC. 25. *Separability Clause.*** - If for any reason, any provision of this Act or the
2 application thereof to any person or circumstances, is held invalid or unconstitutional, the
3 remaining provisions not affected thereby shall continue to be in full force and effect.

4
5 **SEC. 26. *Repealing Clause.*** – Executive Order No. 372 (s. 1950), Executive Order No.
6 323 (s. 2000), Republic Act No. 8758, Executive Order No. 12 (s. 1998), Republic Act No. 7886,
7 Republic Act No. 7661m Executive Order No. 37 (s. 1992), Executive Order No. 11 (s. 1992),
8 Republic Act No. 7181, Administrative Order No. 14 (s. 1987), Proclamation No. 50, and
9 Proclamation 50-A are hereby repealed. All other laws, decrees, orders, proclamations, rules and
10 regulations, or parts thereof, inconsistent with or contrary to the provision of this Act or its
11 purposes are hereby repealed, amended or modified accordingly.

12
13 **SEC. 27. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in
14 the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,