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SENATE

S. NO. 1162

RECEIVED BY: 

**Introduced by Senator Antonio "Sonny" F. Trillanes IV**

### EXPLANATORY NOTE

Asset forfeiture is an acknowledged potent tool for recovering the proceeds and instrumentalities of corruption. Recovery of properties acquired through illegal activities deters public officials from indulging in corrupt and primitive accumulation of wealth. In cognizance of the aforementioned significance of assets forfeiture, Republic Act No. 1379 which provides for a legal framework for the seizure and forfeiture of illicit assets was passed into law. Nonetheless, there is an urgent need to expedite asset seizure thereby maximizing its efficacy.

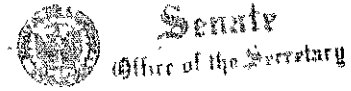
This measure seeks to strengthen RA 1379 by (1) granting greater authority and power to the Office of the Ombudsman to combat corruption through the exercise of forfeiture of assets illegally acquired by public officials; and (2) providing for a more timely mechanism on the same. Moreover, this measure seeks to increase the penalties against erring public officials. Further, this measure seeks to put forward the following amendments to RA 1379:

- 1) *SEC. 3. PRESUMPTION: Failure of a Public officer or employee to file a Statement of Assets and Liabilities and Net Worth pursuant to Section 8 of R.A. 6713 within thirty days from date of assumption to office shall be prima facie evidence that said public officer or employee has no property, asset or business interest to declare at the beginning of his/her service.*
- 2) *SEC. 4. PRIMA FACIE UNLAWFULLY ACQUIRED PROPERTY: Whenever any public office or employee has acquired during his incumbency amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property sources, said property shall be presumed prima facie to have been unlawfully acquired.*
- 3) *SEC. 5. FREEZE ORDER: When it appears upon the filing of the complaint provided for under section 2 of this Act that an unlawfully acquired property or properties exist as defined under Section 4 herein, the Ombudsman may, motu proprio or upon motion of the complainant, issue a freeze order on the aforesaid property or properties which will be valid for not more than three (3) months.*

This measure was filed by Senator Juan Miguel Zubiri and Representative Roilo Golez during the 15<sup>th</sup> Congress but failed to be enacted into law. It is hoped that finally, with its passage, justice will be swiftly served against public officials who have stolen state funds and undermined public trust, and the culture of kleptocracy is exterminated. In view of the foregoing, immediate approval of this measure is earnestly sought.

  
**ANTONIO "SONNY" F. TRILLANES IV**  
Senator

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



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AN ACT

**STRENGTHENING THE FORFEITURE POWERS OF THE STATE, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 1379, OTHERWISE KNOWN AS "AN ACT DECLARING FORFEITURE IN FAVOR OF THE STATE ANY PROPERTY FOUND TO HAVE BEEN UNLAWFULLY ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR THE PROCEEDINGS THEREFOR"**

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

**SECTION 1.** Section 2 of R.A. No.1379 is hereby amended to read as follows:

"SEC. 2. *Filing of petition.* - [Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed prima facie to have been unlawfully acquired.] The [Solicitor General] **OFFICE OF THE OMBUDSMAN, MOTU PROPRIO OR** upon **VERIFIED** complaint by any [taxpayer to the city or provincial fiscal who] **PERSON** shall conduct an [previous] inquiry similar to preliminary investigations in criminal cases **TO DETERMINE IF** [and shall certify to the Solicitor General that] there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof. **IT** [,] shall file, in the name and on behalf of the Republic of the Philippines, [in the Court of First Instance of the city or province] **WITH THE SANDIGANBAYAN OR THE APPROPRIATE REGIONAL TRIAL COURT** where said public officer [or employee] resides or holds office, a petition for a writ commanding said officer or employee to show cause

why the property aforesaid, or any part thereof, should not be declared property of the State: *Provided*, That no such petition shall be filed **AGAINST A CANDIDATE** within **THE ELECTION PERIOD FOR WHICH HE/SHE IS SEEKING ELECTORAL OFFICE** [one year before any general election or within three months before any special election].

The resignation, dismissal or separation of the officer or employee from his office or employment in the Government or in the Government-owned or controlled corporation shall not be a bar to the filing of the petition [*Provided, however*, That the right to file such petition shall prescribe after four years from the date of the resignation, dismissal or separation or expiration of the term of the office or employee concerned, except as to those who have ceased to hold office within ten years prior to the approval of this Act, in which case the proceedings shall prescribe after four years from the approval hereof]."

**SEC 2.** Insert new Sections 3, 4, and 5 to RA. No.1379, to read as follows:

**"SEC. 3. PRESUMPTION. – FAILURE OF A PUBLIC OFFICER OR EMPLOYEE TO FILE A STATEMENT OF ASSETS AND LIABILITIES AND NETWORTH PURSUANT TO SECTION 8 OF R.A. 6713 WITHIN THIRTY DAYS FROM DATE OF ASSUMPTION TO OFFICE SHALL BE PRIMA FACIE EVIDENCE THAT SAID PUBLIC OFFICER OR EMPLOYEE HAS NO PROPERTY, ASSET OR BUSINESS INTEREST TO DECLARE AT THE BEGINNING OF HIS/HER PUBLIC SERVICE.**

**SEC. 4. PRIMA FACIE UNLAWFULLY ACQUIRED PROPERTY. – WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS ACQUIRED DURING HIS INCUMBENCY AMOUNT OF PROPERTY WHICH IS MANIFESTLY OUT OF PROPORTION**

TO HIS SALARY AS SUCH PUBLIC OFFICER OR EMPLOYEE AND TO HIS OTHER LAWFUL INCOME AND THE INCOME FROM LEGITIMATELY ACQUIRED PROPERTY SOURCES, SAID PROPERTY SHALL BE PRESUMED *PRIMA FACIE* TO HAVE BEEN UNLAWFULLY ACQUIRED.

**SEC. 5. FREEZE ORDER.** – WHEN IT APPEARS UPON THE FILING OF THE COMPLAINT PROVIDED FOR UNDER SECTION 2 OF THIS ACT THAT AN UNLAWFULLY ACQUIRED PROPERTY OR PROPERTIES EXIST AS DEFINED IN SECTION 4 HEREIN, THE OMBUDSMAN MAY, MOTU PROPRIO OR UPON MOTION OF THE COMPLAINANT, ISSUE A FREEZE ORDER ON THE AFORESAID PROPERTY OR PROPERTIES WHICH WILL BE VALID FOR NOT MORE THAN SIX (6) MONTHS."

**SEC 3.** Section 3 of RA No. 1379 is hereby renumbered to Section 6.

**SEC. 4.** Section 4 of R.A. No. 1379 is hereby amended to read as follows:

"SEC. [4] 7. Period **TO** [for the] answer **PETITION**. – The respondent shall have a period of fifteen days **FROM NOTICE** within which to present his answer."

**SEC. 5.** Section 5 of RA. No. 1379 is hereby renumbered to Section 8.

**SEC. 6.** Section 6 of RA. No. 1379 is hereby amended to read as follows:

"SEC. [6] 9. *Judgment*. – If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State: *Provided*, That no judgment shall be

rendered within six months before any general election or within three months before any special election. [The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.]"

**SEC. 7.** Section 7 of R.A. No. 1379 is hereby amended to read as follows:

"SEC. [7] **10.** *Appeal.* - The parties may appeal from the judgment of the **SANDIGANBAYAN OR THE REGIONAL TRIAL COURT** [Court of First Instance] as provided in the Rules of Court for appeals in civil cases."

**SEC. 8.** Section 9 of R.A. No. 1379 is hereby amended to read as follows:

"SEC. [9] **12.** *Immunity.* - The [Solicitor General] **OMBUDSMAN** may grant immunity from criminal prosecution to any person who testifies to the unlawful manner in which the respondent has acquired any of the property in question in cases where such testimony is necessary to prove violations of this Act."

**SEC. 9.** Section 10 of RA 1379 is hereby amended to read as follows:

"SEC. [10] **13.** *Effect of record of title.* - The fact that any real property has been recorded in the Registry of Property or office of the Register of Deeds in the name of the respondent or of any person mentioned in paragraphs (1) and (2) of subsection (b) of section one hereof shall not prevent the rendering of the judgment referred to in section **EIGHT** [six] of this Act."

**SEC. 10.** Section 11 of RA 1379 is hereby renumbered to Section 14.

**SEC. 11.** Section 12 of RA 1379 is hereby amended to read as follows:

"SEC. [12] 15. *Penalties.* – Any public officer or employee who shall, after the effective date of this Act, transfer or convey any unlawfully acquired property shall be [repressed] **PENALIZED** with imprisonment for a term **OF** not **LESS THAN SIX** [exceeding five] years **AND ONE DAY BUT NOT MORE THAN FIFTEEN YEARS**, [or a fine not exceeding ten thousand pesos, or both such imprisonment and fine] **PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE, AND CONFISCATION OR " FORFEITURE IN FAVOR OF THE GOVERNMENT OF ANY PROHIBITED INTEREST.** [The same repression shall be imposed upon any person who shall knowingly accept such transfer or conveyance.]

**THE SAME PENALTIES SHALL BE IMPOSED UPON ANY PERSON WHO SHALL KNOWINGLY ACCEPT SUCH UNLAWFUL TRANSFER OR CONVEYANCE. ANY SUCH CONVEYANCE SHALL BE VOID *AB INITIO.*"**

**SEC. 12. *Rules and Regulation.*** – The Ombudsman shall issue within ninety (90) days after the approval of this Act, the necessary rules and regulation relating to the administrative aspects of the provisions of this Act.

**SEC. 13. *Separability Clause.*** – If for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

**SEC. 14. *Repealing Clause.*** – All laws, decrees, orders or rules and regulations, and other issuances which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

**SEC. 15. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in two national newspapers of general circulation.

Approved,