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SENATE
S. No. **1205**

RECEIVED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Section 27 provides:

SEC. 27. The State shall maintain honesty and integrity in public service and take positive and effective measures against graft and corruption.

Graft and corruption has placed a heavy burden in our country throughout our history. In 2000, the World Bank estimated that the Philippines lost \$48 billion (P1.968 trillion) to corruption from 1977 to 1997. That amount would have addressed most of our current problems, not the very least of them poverty. Each administration has had its own program in fighting graft and corruption. Although each has resulted into certain levels of success, we have yet to accomplish a truly significant step in fighting corruption. According to economist Alejandro Lichauco, the Philippines is perennially in crisis because of "the mortal mix of corruption and poverty and a consequent loss of popular confidence in government and the electoral process as instruments of change." The fatal mix, he said, is so massive and so intense as to have degenerated into a problem of mass hunger and corruption that is as massive as the massive poverty.¹ A 2007 World Bank study said that corruption in the Philippines was perceived to be the worst among East Asia's leading economies.²

This bill seeks to provide our anti-graft and corruption agencies with a better tool against graft and corruption by addressing the weaknesses of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act."³

our
Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

¹ Cost of corruption. Philippine Daily Inquirer. 12 February 2008.

² Dumlao, Doris. WB: Corruption in RP worst in East Asia. Philippine Daily Inquirer. 25 June 2008.

³ This bill was originally filed in the Fourteenth Congress, Second Regular Session.



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1 AN ACT
2 STRENGTHENING REPUBLIC ACT NO. 3019,
3 OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT

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

4 SECTION 1. Section 2 of Republic Act No. 3019, otherwise known as the Anti-Graft
5 and Corrupt Practices Act, is hereby amended to read as follows:

6 SEC. 2. Definition of Terms. – As used in this Act, that term –

7 (a) "Government" includes the national government, the local
8 governments, the government-owned and government-controlled
9 corporations, and all other instrumentalities or agencies of the
10 Republic of the Philippines and their branches.

11 (b) "Public officer" includes elective and appointive officials and
12 employees, permanent or temporary, whether in the classified or
13 unclassified or exempt service, **WHETHER OR NOT** receiving
14 compensation [, even nominal,] from the government as defined in the
15 preceding subparagraph.

16 (c) "Receiving any gift" includes the act of accepting directly or indirectly
17 a gift from a person other than a member of the public officer's
18 immediate family, in behalf of himself or of any member of his family
19 or relative within the fourth civil degree, either by consanguinity or
20 affinity, even on the occasion of a family celebration or national
21 festivity like Christmas [, if the value of the gift is under the
22 circumstances manifestly excessive].

1 (d) "Person" includes natural and juridical persons, unless the context
2 indicates otherwise.

3 SECTION 2. Section 3 (b) of the same Act is hereby amended to read as follows:

4 (b) Directly or indirectly requesting or receiving any gift, present, share,
5 percentage, or benefit, for himself or for any other person, in
6 connection with any contract, [or] transaction, **OR PROCEEDING**
7 between the Government and any other part, wherein the public
8 officer in his official capacity has to intervene under the law.

9 SECTION 3. Section 3 (e) of RA 3019 is hereby amended to read as follows:

10 (e) Causing any undue injury to any party, including the Government, or
11 giving any private party any unwarranted benefits, advantage or
12 preference in the discharge of his official administrative or judicial
13 functions through **SIMPLE** [manifest] partiality, [evident] bad faith
14 or gross **OR** inexcusable negligence. This provision shall apply to
15 officers and employees of offices or government corporations charged
16 with the grant of licenses or permits or other concessions.

17 SECTION 4. Section 3 (g) of the same Act is hereby amended to read as follows:

18 (g) Entering, on behalf of the Government, into any contract or
19 transaction [manifestly and grossly] disadvantageous to the same,
20 whether or not the public officer profited or will profit thereby.

21 SECTION 5. Section 4 (a) of the same Act is hereby amended to read as follows:

22 SEC. 4. Prohibition on private individuals. –

23 (a) It shall be unlawful for any person having family or close personal
24 relation with any public official to capitalize or exploit or take
25 advantage of such family or close personal relation by directly or
26 indirectly requesting or receiving any present, gift or material or

1 pecuniary advantage from any other person having some business,
2 transaction, application, request or contract with the government, in
3 which such public official has to intervene. Family relation shall
4 include the spouse or relatives by consanguinity or affinity in the
5 **FOURTH** [third] civil degree. The word "close personal relation"
6 shall include close personal friendship, social and fraternal
7 connections, and professional employment all giving rise to intimacy
8 which assures free access to such public officer.

9 SECTION 6. Section 5 of RA 3019 is hereby amended to read as follows:

10 SEC. 4. Prohibition on certain relatives. – It shall be unlawful for the
11 spouse or for any relative, by consanguinity or affinity, within the
12 **FOURTH** [third] civil degree, of the President of the Philippines, the
13 Vice-President of the Philippines, the President of the Senate, or the
14 Speaker of the House of Representatives, to intervene, directly or
15 indirectly, in any business, transaction, contract or application with the
16 Government: Provided, That this section shall not apply to any person
17 who, prior to the assumption of office of any of the above officials to
18 whom he is related, has been already dealing with the Government along
19 the same line of business, nor to any transaction, contract or application
20 already existing or pending at the time of such assumption of public
21 office, nor to any application filed by him the approval of which is not
22 discretionary on the part of the official or officials concerned but depends
23 upon compliance with requisites provided by law, or rules or regulations
24 issued pursuant to law, nor to any act lawfully performed in an official
25 capacity or in the exercise of a profession.

26 SECTION 7. Section 7 of the same Act is hereby deleted.

1 SECTION 8. Section 9 (b) of the same Act is hereby deleted.

2 SECTION 9. Section 11 of the same Act is hereby amended to read as follows:

3 SEC. 11. Prescription of offenses. – All offenses punishable under this Act
4 shall prescribe in **TWENTY** [fifteen] years.

5 SECTION 10. Section 12 of the same Act is hereby amended to read as follows:

6 SEC. 12. Termination of office. – **ANY PROVISION OF LAW TO**
7 **THE CONTRARY, NOTWITHSTANDING**, No public officer shall be
8 allowed to **RECEIVE OR CLAIM RETIREMENT BENEFITS** [resign
9 or retire] pending an investigation, criminal or administrative, or pending a
10 prosecution against him, for any offense under this Act, **R.A. No. 7080**
11 **“AN ACT DEFINING AND PENALIZING THE CRIME OF**
12 **PLUNDER”** or under the provisions of the Revised Penal Code on
13 bribery. **RESIGNATION OF A RESPONDENT PENDING**
14 **ADMINISTRATIVE INVESTIGATION ARISING FROM ANY**
15 **VIOLATION OF THIS ACT, R.A. NO. 7080, OR PROVISIONS OF**
16 **THE REVISED PENAL CODE (RPC) ON BRIBERY SHALL NOT**
17 **PREJUDICE THE SAID ADMINISTRATIVE CASE AND SHALL**
18 **PROCEED UNTIL FINALLY RESOLVED.**

19 SECTION 11. Section 14 of the same Act is hereby amended to read as follows:

20 SEC. 14. Exception. – [Unsolicited gifts or presents of small or
21 insignificant value offered or given as a mere ordinary token of gratitude
22 or friendship according to local customs or usage, shall be excepted from
23 the provisions of this Act.] Nothing in this Act shall be interpreted to
24 prejudice or prohibit the practice of any profession, lawful trade or
25 occupation by any private person or by any public officer who under the
26 law may legitimately practice his profession, trade or occupation, during

1 his incumbency, except where the practice of such profession, trade or
2 occupation involves conspiracy with any other person or public official to
3 commit any of the violations penalized in this Act.

4 SECTION 12. *Separability Clause.* – If any provision or part hereof is held invalid or
5 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
6 valid and subsisting.

7 SECTION 13. *Repealing Clause.* – Any law, presidential decree or issuance, executive
8 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
9 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

10 SECTION 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
11 publication in at least two (2) newspapers of general circulation.

Approved,