

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



13 OCT -3 P 6:05

SENATE
S. No. 1827

RECEIVED BY: *ji*

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Republic Act No. 386, as amended, otherwise known as the Civil Code of the Philippines, provides for two modes of testamentary disposition by the decedent: by notarized will or holographic will. However, in light of technological advances, these two modes are now insufficient for the testator's purposes.

Due to the invention and development of video recording devices, it is now more convenient and practicable for the testator to use these devices for the disposition of his estate because of these devices, his identity and his intent, through his own words, are established with absolute verity. In effect, they facilitate the determination of probate cases.

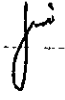
Hence, a third mode of testamentary disposition is proposed: by video tape or other similar visual recoding device, to make the law on succession more responsive and up-to-date on the use of such technological advances.*

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Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

* This bill was originally filed during the Thirteenth Congress, First Regular Session.

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1 AN ACT

2 AMENDING REPUBLIC ACT NO. 386, AS AMENDED, OTHERWISE KNOWN AS THE
3 CIVIL CODE OF THE PHILIPPINES, ARTICLES 804, 805, 810 AND 811, PROVIDING FOR
4 THE USE OF VIDEO TAPES OR OTHER SIMILAR VISUAL RECORDING DEVICE FOR
5 TESTAMENTARY DISPOSITION OF THE ESTATE OF THE DECEDENT

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

6 SECTION 1. Article 804 of Republic Act No. 386 as amended, otherwise known as the
7 Civil Code of the Philippines, is hereby amended to read as follows:

8 "Art. 804. Every will must be in writing **OR CONTAINED IN A VIDEO**
9 **TAPE OR ANY OTHER SIMILAR VISUAL RECORDING DEVICE** and
10 executed in a language or dialect known to the testator."

11 SECTION 2. Article 805 of the same law is hereby amended to read as follows:

12 "Art. 805. Every will, other than a holographic will **OR A WILL**
13 **CONTAINED IN A VIDEO TAPE OR ANY SIMILAR VISUAL**
14 **RECORDING DEVICE**, must be subscribed at the end thereof by the testator
15 himself or by the testator's name written by some other person in his presence,
16 and by his express direction, and attested and subscribed by three or more credible
17 witnesses in the presence of the testator and of one another.

18 The testator or the person requested by him to write his name and the
19 instrumental witnesses of the will, shall also sign, as aforesaid, each and every
20 page thereof, except the last, on the left margin, and all the pages shall be
21 numbered correlatively in letters placed on the upper part of each page.

1 The attestation shall state the number of pages used upon which the will is
2 written, and the fact that the testator signed the will and every page thereof, or
3 caused some other person to write his name, under his express direction, in the
4 presence of the instrumental witnesses, and that the latter witnessed and signed
5 the will and all the pages thereof in the presence of the testator and of one
6 another.

7 If the attestation clause is in a language not known to the witnesses, it
8 shall be interpreted to them.”

9 SECTION 3. Article 810 of the same law is hereby amended to read as follows:

10 “Art. 810. A person may execute a holographic will which must be
11 entirely written, dated, and signed by the hand of the testator himself. It is subject
12 to no other form, and may be made in or out of the Philippines, and need not be
13 witnessed.

14 **A PERSON MAY ALSO EXECUTE A WILL WITH THE USE OF**
15 **VIDEO EQUIPMENT OR OTHER SIMILAR VISUAL RECORDING**
16 **EQUIPMENT WHICH SHALL INDICATE, WITHOUT DOUBT, THE**
17 **IDENTITY OF THE TESTATOR WHO MUST STATE THE DATE OF**
18 **THE RECORDING OF SUCH WILL. THE DATE, AS STATED BY THE**
19 **TESTATOR, SHALL BE THE DATE WHICH WILL DETERMINE THE**
20 **EXECUTION OF SUCH WILL, AND NOT THE DATE AS REFLECTED**
21 **IN THE RECORDING. SUCH WILL IS SUBJECT TO NO FORM, AND**
22 **MAY BE MADE IN OR OUT OF THE PHILIPPINES, AND NEED NOT**
23 **BE WITNESSED.”**

24 SECTION 4. Article 811 of the same law shall be amended to read as follows:

25 “Article 811. In the probate of a holographic will, it shall be necessary
26 that at least one witness who knows the handwriting and signature of the testator

1 explicitly declare that the will and the signature are in the handwriting of the
2 testator. If the will is contested, at least three of such witnesses shall be required.

3 **IN THE PROBATE OF A WILL IN VIDEO TAPE OR OTHER**
4 **SIMILAR VISUAL RECORDING DEVICE, IT SHALL BE NECESSARY**
5 **THAT AT LEAST ONE WITNESS WHO KNOWS THE IDENTITY OF**
6 **THE TESTATOR ESTABLISH SUCH TESTATOR'S IDENTITY WITH**
7 **CERTAINTY. IF THE WILL IS CONTESTED, AT LEAST THREE OF**
8 **SUCH WITNESSES SHALL BE REQUIRED.**

9 In the absence of any competent witness referred to in the preceding
10 paragraphS, and if the court deems it necessary, expert testimony may be resorted
11 to.”

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

15 SECTION 6. *Repealing Clause.* – Any law, presidential decree or issuance, executive
16 order, letter of instruction, administrative order, rule, or regulation contrary to or inconsistent
17 with the provisions of this Act is hereby repealed, modified, or amended accordingly.

18 SECTION 7. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
19 publication in at least two (2) newspapers of general circulation.

Approved,