

SIXTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
Second Regular Session



Senate
Office of the Secretary

'14 AUG -7 A10 :10

SENATE
S. B. **2347**

RECEIVED BY: *Ji*

Introduced by Senator Poe

**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"**

EXPLANATORY NOTE

The State has a right to recover from public officials or employees, including their transferees or nominees, properties which were not lawfully acquired by them. Republic Act (R.A.) No. 1379 aims to enforce this right of the State.

However, due to modern methods and sophisticated means being employed by corrupt public officials and employees, they are able to spirit away unlawfully acquired properties within increasingly short periods of time, and out of the State's reach. There is, therefore, a need to amend certain provisions of the law in order for the State to be fully effective in recovering assets stolen by public officials and employees. The Office of the Ombudsman, as the chief enforcer of R.A. No. 1379, must likewise keep in step with unscrupulous public officers and employees and arm itself with the necessary powers to run after their ill-gotten wealth.

With the enactment of this bill into law, an effective deterrent will be set up to prevent public officials or employees from concealing, destroying or dissipating their unlawfully acquired properties, thereby safeguarding the interests of the State in the recovery of assets that rightfully belong to the people.

Grace Poe
GRACE POE



'14 AUG -7 AIO:10

SENATE
S. B. 2347

RECEIVED BY: *Jr*

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THEREFOR"**

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

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

3 **(B) "LEGALLY ACQUIRED PROPERTY" MEANS ANY REAL OR PERSONAL**
4 **PROPERTY, MONEY, OR SECURITIES WHICH THE PUBLIC OFFICER OR**
5 **EMPLOYEE HAS ACQUIRED FROM THE PROCEEDS OF HIS SALARY, BENEFITS**
6 **AND/OR OTHER EMOLUMENTS, AND/OR FROM OTHER LAWFUL INCOME**
7 **SUCH AS, BUT NOT LIMITED TO, BUSINESS INTERESTS. IT SHALL ALSO**
8 **INCLUDE REAL OR PERSONAL PROPERTY, MONEY OR SECURITIES WHICH**
9 **THE PUBLIC OFFICER OR EMPLOYEE HAS, AT ANY TIME, ACQUIRED BY**
10 **INHERITANCE, OR BY DONATION BEFORE HIS BECOMING A PUBLIC OFFICER**
11 **OR EMPLOYEE, OR ANY PROPERTY ALREADY PERTAINING TO HIM WHEN HE**
12 **QUALIFIED FOR PUBLIC OFFICE OR EMPLOYMENT, AND THE INCOME FROM**
13 **SAID PROPERTIES.**
14

15 **SECTION 2.** Insert new Section 1 (C) to R.A. No. 1379 to read as follows:
16

17 **(C) "ILLEGALLY ACQUIRED PROPERTY" SHALL REFER TO THE**
18 **PROPERTY NOT FALLING UNDER PARAGRAPH B OF THIS SECTION. IT ALSO**
19 **INCLUDES:**
20

21 **a. PROPERTY UNLAWFULLY ACQUIRED BY THE RESPONDENT, BUT ITS**
22 **OWNERSHIP IS CONCEALED BY ITS BEING RECORDED IN THE NAME OF, OR**
23 **HELD BY, THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS,**
24 **RELATIVES, OR ANY OTHER PERSON EXCEPT IN THE FOLLOWING**
25 **INSTANCES:**
26

27 **1) WHEN THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS, OR**
28 **ANY OTHER PERSON CAN PROVE THAT HE ACQUIRED SAID PROPERTY**
29 **FROM THE PROCEEDS OF HIS SALARY, BENEFITS AND/OR**
30 **EMOLUMENTS, OR FROM THE PROCEEDS OF HIS BUSINESS INTERESTS.**
31

32 **2) WHEN THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS, OR**
33 **ANY OTHER PERSON CAN PROVE THAT THE PROPERTY WAS RECEIVED**

1 THROUGH DONATION OR INHERITANCE FROM OTHER PERSONS
2 OTHER THAN RESPONDENT.

3
4 b. PROPERTY UNLAWFULLY ACQUIRED BY THE RESPONDENT, BUT
5 TRANSFERRED BY HIM TO ANOTHER PERSON OR PERSONS.

6
7 c. PROPERTY DONATED TO THE RESPONDENT DURING HIS INCUMBENCY,
8 UNLESS HE CAN PROVE THAT THE DONATION IS LAWFUL.

9
10 SECTION 3. Section 2 of R.A. No. 1379 is hereby amended to read as follows:

11
12 “SEC. 2. *Filing of petition.* – Whenever any public officer or employee has acquired
13 during his incumbency an amount of property which is manifestly out of proportion to his
14 salary as such public officer or employee and to his other lawful income and the income from
15 [legitimately] LEGALLY acquired property, said property shall be presumed *prima facie*
16 have been unlawfully acquired. The [Solicitor General] OFFICE OF THE OMBUDSMAN,
17 MOTU PROPIO OR upon VERIFIED complaint by any [taxpayer to the city or provincial
18 fiscal who] PERSON shall conduct [a previous inquiry] A FACT-FINDING
19 INVESTIGATION [similar to preliminary investigations in criminal cases] TO
20 DETERMINE IF [and shall certify to the Solicitor General that there is reasonable ground
21 to believe] THERE EXISTS PRIMA FACIE EVIDENCE THAT A PROPERTY HAS
22 BEEN UNLAWFULLY ACQUIRED [that there has been committed a violation of this Act
23 and the respondent is probably guilty thereof]. IT [,] shall file, in the name and on behalf of
24 the Republic of the Philippines, [in the Court of First Instance of the city or province] WITH
25 THE SANDIGANBAYAN OR THE APPROPRIATE REGIONAL TRIAL COURT
26 where said public officer or employee resides or holds office, a petition for a writ
27 commanding said officer or employee to show cause why the property aforesaid, or any part
28 thereof, should not be declared property of the State: *Provided*, That no such petition shall be
29 filed [within one year before any general election or within three months before any special
30 election] AGAINST A PUBLIC OFFICER OR EMPLOYEE WITHIN THE
31 ELECTION PERIOD”.

32
33 The resignation, dismissal or separation of the officer or employee from his office or
34 employment in the Government or in the Government-owned or controlled corporation shall
35 not be a bar to the filing of the petition. [Provided, however, That the right to file such
36 petition shall prescribe after four years from the date of resignation, dismissal or separation
37 or expiration of the term of the officer or employee concerned, except as to those who have
38 ceased to hold office within ten years prior to the approval of this Act, in which case the
39 proceedings shall prescribe after four years from the approval hereof.]

40
41 SECTION 4. Insert new Sections 2-A and 2-B to R.A. No. 1379 to read as follows:

42
43 SEC. 2-A. *PRIMA FACIE PRESUMPTIONS.* –

44
45 1) WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS ACQUIRED
46 DURING HIS INCUMBENCY PROPERTY OR PROPERTIES WHICH ARE
47 MANIFESTLY OUT OF PROPORTION TO HIS SALARY, AS SUCH PUBLIC
48 OFFICER OR EMPLOYEE, AND TO HIS OTHER LAWFUL INCOME, AND
49 THE INCOME FROM OTHER LEGALLY ACQUIRED
50 PROPERTY/PROPERTIES, SAID PROPERTY SHALL BE PRESUMED PRIMA
51 FACIE TO HAVE BEEN UNLAWFULLY ACQUIRED.

52
53 2) FAILURE OF A PUBLIC OFFICER OR EMPLOYEE TO FILE A STATEMENT
54 OF ASSETS, LIABILITIES AND NETWORTH WITHIN THE PERIOD
55 PRESCRIBED BY LAW FROM DATE OF ASSUMPTION TO OFFICE SHALL
56 BE *PRIMA FACIE* EVIDENCE THAT SAID PUBLIC OFFICER OR EMPLOYEE

1 HAS NO PROPERTY, ASSET OR BUSINESS INTEREST TO DECLARE AT
2 THE BEGINNING OF HIS PUBLIC SERVICE.

- 3
4 3) FAILURE OF A PUBLIC OFFICER TO FILE A STATEMENT OF ASSETS,
5 LIABILITIES AND NET WORTH FOR ANY PARTICULAR YEAR AFTER
6 ASSUMPTION TO OFFICE SHALL BE *PRIMA FACIE* EVIDENCE THAT THE
7 PUBLIC OFFICER OR EMPLOYEE HAS NO OTHER INFORMATION TO
8 DECLARE OUTSIDE OF HIS DECLARATION IN HIS PRIOR SUBMISSIONS,
9 WITHOUT PREJUDICE TO ANY LIABILITIES THAT MAY HAVE BEEN
10 INCURRED UNDER EXISTING LAWS.

11
12 **SEC. 2-B. ADVERSE CLAIM PRIOR TO FILING OF PETITION.** – WHEN,
13 DURING OR AFTER THE FACT-FINDING INVESTIGATION OF THE OFFICE
14 OF THE OMBUDSMAN, IT APPEARS THAT THERE IS REASONABLE
15 GROUND TO BELIEVE THAT A PUBLIC OFFICER OR EMPLOYEE HAS
16 UNLAWFULLY ACQUIRED PROPERTY, THE SAID OFFICE, ON BEHALF OF
17 THE REPUBLIC OF THE PHILIPPINES, MAY FILE AN ADVERSE CLAIM IN
18 THE PROPER REGISTRY OF DEEDS, OR THE APPROPRIATE PUBLIC
19 REGISTRY, SETTING FORTH A DESCRIPTION OF THE PROPERTY/IES
20 COVERED BY THE FACT-FINDING INVESTIGATION, AND THE CLAIM OF
21 RIGHT OR INTEREST OF THE STATE THEREIN AS POSSIBLE SUBJECTS
22 OF FORFEITURE.

23
24 SECTION 5. Section 4 of R.A. No. 1379 is hereby amended to read as follows:

25
26 “SEC. 4. *Period TO [for the] answer PETITION.* – The 24 respondent shall have
27 a period of fifteen days FROM NOTICE within which to [present] FILE his answer.”

28
29 SECTION 6. Insert new Section 5-A to R.A. No. 1379 to read as follows:

30
31 **SEC. 5-A. AUTHORITY TO SELL PENDING FORFEITURE PROCEEDING.** – IN
32 CASE THERE IS DANGER OF DEPRECIATION TO THE VALUE OF THE
33 PERSONAL PROPERTY OR SPOILAGE IN CASE OF PERISHABLE PROPERTIES,
34 UPON MOTION FILED BY THE OFFICE OF THE OMBUDSMAN BEFORE THE
35 PROPER COURT, THE PERSONAL PROPERTY SUBJECT OF FORFEITURE MAY
36 BE SOLD AT PUBLIC AUCTION PENDING THE RESOLUTION OF THE
37 FORFEITURE PROCEEDING. THE PROCEEDS OF THE SALE AT PUBLIC
38 AUCTION SHALL BE HELD IN TRUST BY THE OFFICE OF THE OMBUDSMAN
39 UNTIL THE FORFEITURE PROCEEDING IS FINALLY RESOLVED.

40
41 SECTION 7. Section 6 of R.A. No. 1379 is hereby amended to read as follows:

42
43 “SEC. 6. *Judgment* - If the respondent is unable to show to the satisfaction of the
44 court that he has lawfully acquired the property in question, then the court shall declare
45 such property [,] forfeited in favor of the State, and by virtue of such judgment the
46 property aforesaid shall become property of the State. *Provided, THAT IF ANY*
47 **PROPERTY DECLARED FORFEITED IN FAVOR OF THE STATE HAD BEEN**
48 **LOST, DESTROYED OR HAD DEPRECIATED IN VALUE, THE COURT MAY**
49 **INCLUDE A DISPOSITION IN THE JUDGMENT, OR ISSUE SUCH**
50 **SUPPLEMENTAL JUDGMENTS AS MAY BE NECESSARY, TO FORFEIT**
51 **SUCH FUNDS OR PROPERTIES OWNED BY THE RESPONDENT AS MAY BE**
52 **SUFFICIENT TO SATISFY THE STATE’S CLAIM, PROVIDED, FURTHER,**
53 [That no judgment shall be rendered within six months before any general election or
54 within three months before any special election. The Court may, in addition, refer this
55 case to the corresponding Executive Department for administrative or criminal action, or
56 both.] **THAT THIRTY-FIVE PERCENT (35%) OF THE VALUE OF SUCH**
57 **PROPERTY FORFEITED IN A FINAL AND EXECUTORY ORDER OF THE**

1 COURT SHALL BE EARMARKED AS ADDITIONAL FUNDING FOR THE
2 OFFICE OF THE OMBUDSMAN; PROVIDED, FURTHER, THAT IF THE
3 PROPERTY IS NOT IN CASH, IT SHALL BE SOLD AT PUBLIC AUCTION
4 AND THE PROCEEDS THEREOF, AFTER DEDUCTING THE ALLOCATED
5 THIRTY-FIVE PERCENT (35%) FOR THE OFFICE OF THE OMBUDSMAN,
6 SHALL ACCRUE TO THE GENERAL FUND.
7

8 SECTION 8. Section 7 of R.A. No. 1379 is hereby amended to read as follows:
9

10 “SEC. 7. *Appeal.* – The parties may appeal from the judgment of the [Court of
11 First Instance as] **PROPER COURT FORFEITING THE**
12 **PROPERTY/PROPERTIES IN BEHALF OF THE STATE IN THE MANNER**
13 provided in the Rules of Court for appeals in civil cases.”
14

15 SECTION 9. Section 9 of R.A. No. 1379 is hereby amended to read as follows:
16

17 “SEC. 9. *Immunity.* – The [Solicitor General] **OMBUDSMAN** may grant
18 immunity from criminal prosecution to any person who testifies to the unlawful manner
19 in which the respondent has acquired any of the property in question in cases where such
20 testimony is necessary to prove violations of this Act.”
21

22 SECTION 10. Section 12 of R.A. No. 1379 is hereby amended to read as follows:
23

24 “SEC. 12. *Penalties.* – Any public officer or employee who shall, after the
25 effective date of this Act, transfer or convey any unlawfully acquired property shall be
26 [repressed] **PENALIZED** with imprisonment for a term [not exceeding five years] **OF**
27 **NOT LESS THAN ONE YEAR AND ONE DAY BUT NOT MORE THAN SIX**
28 **YEARS,** or a fine not exceeding [ten thousand pesos] **TWICE THE AMOUNT OF**
29 **THE PROPERTY TRANSFERRED OR CONVEYED,** or both such imprisonment
30 and fine, **PERPETUAL DISQUALIFICATION FROM PUBLIC OFFICE, AND CONFISCATION**
31 **OR FORFEITURE IN FAVOR OF THE 8 GOVERNMENT OF ANY**
32 **PROHIBITED INTEREST.** [The same repression shall be imposed upon any person who
33 shall knowingly accept such transfer or conveyance.]
34

35 **THE SAME PENALTIES SHALL BE IMPOSED UPON ANY PERSON**
36 **WHO SHALL KNOWINGLY ACCEPT SUCH UNLAWFUL TRANSFER OR**
37 **CONVEYANCE. ANY SUCH CONVEYANCE SHALL BE VOID AB INITIO.”**
38

39 SECTION 11. *Separability Clause.* – If for any reason, any section or provision of this
40 Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are
41 not affected thereby shall continue to be in full force and effect.
42

43 SECTION 12. *Repealing Clause.* - All laws, decrees, orders or rules and regulations and
44 other issuances which are inconsistent with the provisions of this Act are hereby repealed,
45 amended or modified accordingly.
46

47 SECTION 13. *Effectivity.* – This Act shall take effect fifteen (15) days after its
48 publication in two (2) national newspapers of general circulation.
49

50 Approved,