

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



15 MAR 17 P2:33

SENATE
S. No. 2703

RECEIVED BY: J

Introduced by Senator Miriam Defensor Santiago

AN ACT
AMENDING REPUBLIC ACT NO. 386, OTHERWISE KNOWN AS THE CIVIL
CODE OF THE PHILIPPINES, ARTICLE 391

EXPLANATORY NOTE

The Civil Code, Chapter 4 (Presumption of Death), Article 390 states:

Article 390. After an absence of seven years, it being unknown whether or not the absentee still lives, he shall be presumed dead for all purposes, except for those of succession.

The absentee shall not be presumed dead for the purpose of opening his succession till after an absence of ten years. If he disappeared after the age of seventy-five years, an absence of five years shall be sufficient in order that his succession may be opened.

Under the Civil Code, Article 390, as a general rule, a person shall be presumed dead for all purposes after an absence of seven years, except for those of succession. For purposes of opening the absentee's succession, the law requires an absence of ten years. However, if the absentee disappeared after the age of 75, an absence of five years shall be sufficient in order that his succession may be opened.

The Civil Code provides for exceptional circumstances when a person shall be presumed dead for all purposes. Article 391 provides:

Article 391. The following shall be presumed dead for all purposes, including the division of the estate among the heirs:

(1) A person on board a vessel lost during a sea voyage, or an aeroplane which is missing, who has not been heard of for four years since the loss of the vessel or aeroplane;

(2) A person in the armed forces who has taken part in war, and has been missing for four years;

(3) A person who has been in danger of death under other circumstances and his existence has not been known for four years.

In the 7 November 2014 issue of the *Manila Bulletin*, Manila Auxiliary Bishop Broderick Pabillo said that the length of time provided under the Civil Code appears to be unbearable for the grieving relatives who survived the onslaught of super typhoon Yolanda.¹

According to the 2012 World Disaster Report, the Philippines is the third most disaster-prone country in the world because of its high exposure to natural calamities.²

In 2011, typhoon “Sendong” left around 1,257 dead, 6,071 injured, and **182 missing** across 13 provinces. In 2012, typhoon “Pablo” hit Mindanao that caused similar deaths and damage as “Sendong.” Typhoon “Pablo” took the lives of 1,067 people and injured 2,666 others in 34 provinces, and **834 people went missing**. In 2013, super typhoon “Yolanda” killed at least 6,201 people, left more than 28,000 injured, with **1,785 others missing**, according to the National Disaster Risk Reduction and Management Council.³ These typhoons and other natural disasters have left thousands of families of the missing victims waiting for several years just to receive death benefits.

The Philippines is a disaster prone country but Article 391 does not specifically include a person missing due to natural disasters or calamities, like typhoon, volcanic eruption, tsunami, storm surge, earthquake, tornado, landslide, and flood. Although a person missing due to natural disasters or calamities may fall under Article 391, paragraph 3, four years is still a long time. The waiting period unnecessarily aggravates the grief of the relatives of the missing victims and it also prolongs their agony.

¹ <http://www.mb.com.ph/1785-still-missing-a-year-after-yolanda/>.

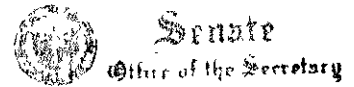
² <http://globalnation.inquirer.net/52858/philippines-is-3rd-most-disaster-prone-country-new-study-shows/>.

³ <http://www.abs-cbnnews.com/specials/3disasters>.

Hence, this bill reduces the number of years, from four years to just two years, before a person who has been missing due to natural disasters or calamities shall be presumed dead for all purposes.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 AN ACT
2 AMENDING REPUBLIC ACT NO. 386, OTHERWISE KNOWN AS THE CIVIL
3 CODE OF THE PHILIPPINES, ARTICLE 391

4 SECTION 1. Article 391 of the Civil Code is hereby amended to read as follows:

5 Article 391. The following shall be presumed dead for all purposes,
6 including the division of the estate among the heirs:

7 (1) A person on board a vessel lost during a sea voyage, or an
8 aeroplane which is missing, who has not been heard of for four years since
9 the loss of the vessel or aeroplane;

10 (2) A person in the armed forces who has taken part in war, and has
11 been missing for four years;

12 (3) A person who has been in danger of death under other
13 circumstances and his existence has not been known for four years; AND

14 (4) A PERSON WHO HAS BEEN MISSING FOR TWO
15 YEARS DUE TO NATURAL DISASTERS OR CALAMITIES,
16 INCLUDING, BUT NOT LIMITED TO, TYPHOON, VOLCANIC
17 ERUPTION, TSUNAMI, STORM SURGE, EARTHQUAKE,
18 TORNADO, LANDSLIDE, FLOOD; PROVIDED THAT THERE IS A
19 WELL-FOUNDED BELIEF THAT THE PERSON IS DEAD.
20

1 SECTION 2. *Repealing Clause.* – All laws, decrees, orders, rules and regulations,
2 or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

3 SECTION 3. *Effectivity.* – This Act shall take effect fifteen (15) days after its
4 publication in at least two (2) newspapers of general circulation.

Approved,

/fdp13mar2015