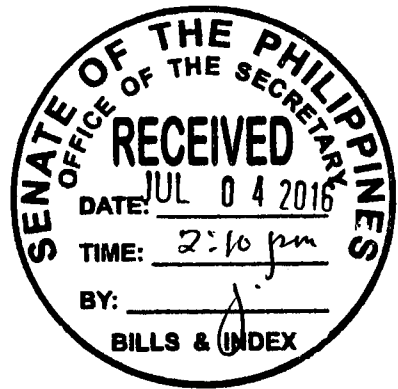


SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session



SENATE
S. B. 339

Introduced by Senator Poe

**AN ACT
STRENGTHENING THE INSTITUTIONAL CAPACITY OF THE OFFICE OF THE
OMBUDSMAN BY AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT 6770,
OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989," AND PROVIDING
FUNDS THEREFOR**

Explanatory Note

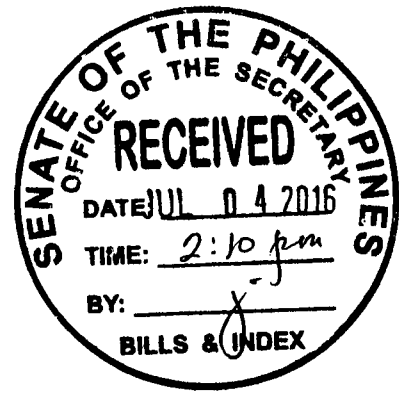
Article XI of the 1987 Constitution creates the Office of the Ombudsman and mandates it to act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations. As the champion of the people and the preserver of the integrity of the public service, its jurisdiction encompasses all kinds of malfeasance, misfeasance, and nonfeasance committed by any public officer or employee during his/her tenure of office. Republic Act (R.A.) No. 6770, otherwise known as "The Ombudsman Act of 1989", was enacted to enable the Office of the Ombudsman to function and organize itself in accordance with the constitutional provisions and to exercise powers for the effective deterrence of corrupt activities by public officials and employees.

However, the powers provided under R.A. No. 6770 to the Office of the Ombudsman are not still enough to efficiently combat corruption. The investigative and prosecutorial powers of the Ombudsman must be broadened to enhance its ability to build solid cases against erring public officials and employees.

Prosecutors and investigators of the Office of the Ombudsman should be given legal protection and immunity from suits for acts done in line with their duties. Furthermore, there is a need to grant additional investigative and prosecutorial powers to the Office of the Ombudsman. These include the leeway to employ wiretapping in especially meritorious cases; the power to issue *subpoena* and *subpoena duces tecum* to compel the compulsory attendance of any witness or the production of evidence; the authority to inquire into bank and non-bank accounts, records and transactions; and the power to punish for contempt. All these powers will enable the Office of the Ombudsman to effectively and efficiently fulfill its constitutionally-mandated duty.

With the adoption of the proposed amendments to R.A. No. 6770, stronger anti-corruption efforts could be exercised by the Office of the Ombudsman to effectively deter corruption in the government for the benefit of the public interest. These additional powers will keep the Ombudsman from becoming a “toothless tiger” in the fight against increasingly sophisticated and advanced criminals in the government’s ranks.


GRACE POE



SENATE
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**AN ACT
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6770, OTHERWISE KNOWN AS "THE OMBUDSMAN ACT OF 1989," AND
PROVIDING FUNDS THEREFOR**

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

1 **SECTION 1.** Section 15 of R.A. No. 6770 is hereby amended to read as follows:
2

3 "SEC. 15. *Powers, Functions and Duties.* – The Office of the
4 Ombudsman shall have the following powers, functions and duties:
5

6 (1) Investigate and prosecute on its own or on complaint by any
7 person, any act or omission of any public officer or employee, office or
8 agency, when such act or omission appears to be illegal, unjust, improper
9 or inefficient; [It has primary jurisdiction over cases cognizable by the
10 Sandiganbayan and, in the exercise of this primary jurisdiction, it may take
11 over, at any stage, from any investigatory agency of Government, the
12 investigation of such cases;]
13

14 (2) **EMPLOY WIRETAPPING AS AN INVESTIGATIVE**
15 **TECHNIQUE WHEN THE CIRCUMSTANCES OF A CASE SO**
16 **WARRANT. FOR THIS PURPOSE, SECTION 3 OF REPUBLIC ACT**
17 **NO. 4200, OTHERWISE KNOWN AS THE ANTI-WIRETAPPING**
18 **LAW, IS HEREBY AMENDED TO INCLUDE CASES INVOLVING**

1 PLUNDER, VIOLATIONS OF REPUBLIC ACT NO. 3019,
2 FORFEITURE OF ILL-GOTTEN WEALTH UNDER REPUBLIC ACT
3 NO. 1379, CRIMES COMMITTED BY PUBLIC OFFICERS UNDER
4 THE REVISED PENAL CODE AND OTHER GRAFT AND
5 CORRUPTION OFFENSES IN THE CASES FOR WHICH
6 WIRETAPPING MAY BE ALLOWED AFTER AN APPLICATION
7 FOR AND GRANT OF A JUDICIAL AUTHORITY;
8

9 (3) EXERCISE EXCLUSIVE JURISDICTION OVER CASES
10 COGNIZABLE BY THE SANDIGANBAYAN AND, PURSUANT TO
11 SUCH EXCLUSIVE JURISDICTION, TAKE OVER, AT ANY STAGE,
12 FROM ANY INVESTIGATORY AGENCY OF GOVERNMENT, THE
13 INVESTIGATION OF SUCH CASES, IF, IN ITS DETERMINATION,
14 PUBLIC INTEREST WILL BE SERVED THEREBY;
15

16 [(2)](4) Direct, upon complaint or at its own instance, any officer or
17 employee of the Government, or of any subdivision, agency or instrumentality
18 thereof, as well as any government-owned or controlled corporations [with
19 original charter], to perform and expedite any act or duty required by law, or
20 to stop, prevent, and correct any abuse or impropriety in the performance of
21 duties;
22

23 [(3)] (5) Direct the [officer] concerned **HEAD OF AGENCY OR**
24 **OFFICIAL** to take appropriate action against a public officer or employee at
25 fault or who neglects to perform an act or discharge a duty required by law,
26 and [recommend], **FOR SUCH PURPOSE, ORDER SAID HEAD OF**
27 **AGENCY OR OFFICIAL TO IMPLEMENT AN ORDER FOR [his]**
28 **THE SAID PUBLIC OFFICER OR EMPLOYEE'S** removal, suspension,
29 demotion, fine, censure, or prosecution [and ensure compliance therewith; or
30 enforce] **IN LINE WITH** its disciplinary authority as provided in Section 21
31 of this Act: *Provided*, That the refusal by any officer without just cause to
32 comply with an order of the Ombudsman to remove, suspend, demote, fine,
33 censure, or prosecute an officer or employee who is at fault or who neglects to

1 perform an act or discharge a duty required by law shall be a ground for
2 disciplinary action against said officer;

3
4 [(4)] (6) Direct the officer concerned, in any appropriate case, and
5 subject to such limitations as it may provide in its rules of procedure, to
6 furnish it with copies of documents relating to contracts or transactions
7 entered into by his office involving the disbursement or use of public funds or
8 properties, and report any irregularity to the Commission on Audit for
9 appropriate action;

10
11 [(5)] (7) Request any government agency for assistance and
12 information necessary in the discharge of its responsibilities, and to examine,
13 if necessary, pertinent records and documents;

14
15 [(6)] (8) Publicize matters covered by its investigation of the matters
16 mentioned in paragraphs (1), (2), [(3) and] (4), (5), (6) AND (7) hereof, when
17 circumstances so warrant and with due prudence: *Provided*, That the
18 Ombudsman under its rules and regulations may determine what cases may
19 not be made public: *Provided, further*, That any publicity issued by the
20 Ombudsman shall be balanced, fair and true;

21
22 [(7)] (9) Determine the causes of inefficiency, red tape,
23 mismanagement, fraud, and corruption in the Government, and make
24 recommendations for their elimination and the observance of high standards of
25 ethics and efficiency;

26
27 [(8)] (10) Administer oaths, issue *subpoena* and *subpoena duces*
28 *tecum* [,] **TO COMPEL AND SECURE THE COMPULSORY**
29 **ATTENDANCE OF ANY WITNESS OR THE PRODUCTION OF**
30 **EVIDENCE WHEREVER THE SAME MAY BE FOUND**, and take
31 testimony **AT ANY STAGE OF** [~~in~~] any investigation or inquiry,
32 **PROVIDED, THAT IN THE COURSE OF SUCH INVESTIGATION**
33 **OR INQUIRY, THE OMBUDSMAN SHALL HAVE** [including] the power
34 to examine and have access to bank AND NON-BANK accounts, records

1 AND TRANSACTIONS, SUCH AS DEPOSITS, TRUSTS,
2 INVESTMENTS, EVEN PRIOR TO THE FILING OF A CASE
3 BEFORE A COURT OF COMPETENT JURISDICTION,
4 NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT NO.
5 1405, AS AMENDED; REPUBLIC ACT NO. 6426, AS AMENDED;
6 REPUBLIC ACT NO. 8791 AND REPUBLIC ACT NO. 9160, AS
7 AMENDED, AND OTHER LAWS;

8
9 (11) ENTER, VISIT, INSPECT, OR IF CIRCUMSTANCES
10 REQUIRE, BREAK INTO, ANY GOVERNMENT OFFICE OR ANY
11 PUBLIC PREMISES, STRUCTURE OR ESTABLISHMENT, IN THE
12 LAWFUL COURSE OF AN ONGOING CRIMINAL OR
13 ADMINISTRATIVE INVESTIGATION, AND SEIZE ANY OBJECT
14 OR ARTICLE FOUND THEREIN WHICH MAY BE USED IN THE
15 SAID INVESTIGATION, OR DIRECT ANY PUBLIC OFFICER TO
16 DELIVER SUCH OBJECT OR ARTICLE, PURSUANT TO SUCH
17 RULES AND REGULATIONS THAT THE OMBUDSMAN MUST
18 PROMULGATE TO GOVERN THE EXERCISE OF THE
19 FOREGOING POWER;

20
21 [(9)] (12) Punish for contempt in accordance with [the Rules of Court]
22 ITS OWN RULES and [under the same procedure] with the [same] penalties
23 provided [therein] UNDER SECTION 36 OF THIS ACT.

24
25 [(10)] (13) Delegate to the Deputies, or its investigators or
26 representatives such authority or duty as shall ensure the effective exercise or
27 performance of the powers, functions, and duties herein or hereinafter
28 provided;

29
30 [(11)] (14) Investigate and initiate the proper action for the recovery of
31 ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the
32 prosecution of the parties involved therein. IN THE FILING AND
33 PROSECUTION OF SUCH ACTIONS, THE REPUBLIC OF THE
34 PHILIPPINES SHALL BE EXEMPT FROM THE FILING OF ANY

1 **BOND OR THE PAYMENT OF ANY FEES AND CHARGES.**
2 **PROPERTIES LIQUIDATED OR SOLD BY THE GOVERNMENT,**
3 **AND THOSE RECOVERED, FORFEITED, SURRENDERED AND**
4 **TRANSFERRED TO THE GOVERNMENT, SHALL BE EXEMPT**
5 **FROM THE PAYMENT OF ANY NATIONAL OR LOCAL TAXES.**
6

7 **SECTION 2.** Insert new paragraphs (15), (16) and (17) to Section 15 of R.A. No.
8 6770 to read as follows:
9

10 **(15) REPRESENT ITSELF, THE REPUBLIC OF THE PHILIPPINES,**
11 **OR THE PEOPLE OF THE PHILIPPINES IN ANY JUDICIAL,**
12 **ADMINISTRATIVE, CIVIL OR OFFICIAL PROCEEDING INVOLVING**
13 **CASES WITHIN ITS JURISDICTION BEFORE ANY COURT, TRIBUNAL,**
14 **AGENCY, OR OFFICE WITHOUT NEED OF PRIOR CLEARANCE,**
15 **AUTHORITY OR DEPUTATION FROM ANY OTHER OFFICE OR**
16 **AGENCY, INCLUDING THE OFFICE OF THE SOLICITOR GENERAL;**
17

18 **(16) DEPUTIZE PRIVATE LAWYERS TO ACT AS INVESTIGATORS**
19 **OR PROSECUTORS TO ACT UNDER THE DIRECT CONTROL AND**
20 **SUPERVISION OF THE OMBUDSMAN IN CASES BEING HANDLED BY**
21 **THE OFFICE, WHEN SPECIAL AND MERITORIOUS CIRCUMSTANCES**
22 **SO WARRANT, SUBJECT TO SUCH RULES AND REGULATIONS,**
23 **INCLUDING PROVISIONS FOR REASONABLE COMPENSATION AND**
24 **REIMBURSEMENT FOR REASONABLE EXPENSES, AS THE**
25 **OMBUDSMAN WILL PROMULGATE; AND**
26

27 **(17) CREATE AND ADMINISTER ITS OWN WITNESS**
28 **PROTECTION AND WHISTLEBLOWING PROGRAMS AND, FOR SUCH**
29 **PURPOSES, MAINTAIN ITS OWN INTELLIGENCE ENFORCEMENT OR**
30 **PROTECTIVE SERVICES UNIT FOR THE PROTECTION OF ITS**
31 **WITNESSES AND WHISTLEBLOWERS.**
32

33 The Ombudsman shall give priority to complaints filed against high ranking
34 government officials and/or those occupying supervisory positions, complaints

1 involving grave offenses as well as complaints involving large sums of money and/or
2 properties.

3
4
5 **SECTION 3.** Section 17 of R.A. No. 6770 is hereby amended to read as follows:
6

7 “SEC 17. *Immunities.* – x x x

8
9 Under such terms and conditions as it may determine, [taking into
10 account the pertinent provisions of the Rules of Court] the Ombudsman may
11 grant immunity from criminal prosecution to any person whose testimony or
12 whose possession and production of documents or other evidence may be
13 necessary to determine the truth in any hearing, inquiry or proceeding being
14 conducted by the Ombudsman or under its authority, in the performance or in
15 the furtherance of its constitutional functions and statutory objectives. The
16 immunity granted under this and the immediately preceding paragraph shall
17 not exempt the witness from criminal prosecution for perjury or false
18 testimony nor shall he be exempt from demotion or removal from office.
19

20 Any refusal to appear or testify pursuant to the foregoing provisions
21 shall be subject to punishment for contempt and removal of the immunity from
22 criminal prosecution.
23

24 **SECTION 4.** Section 25 of R.A. No. 6770 is hereby amended to read as follows:
25

26 “SEC. 25. *Penalties* –

27
28 (1) In administrative proceedings under [Presidential Decree No. 807]
29 **EXECUTIVE ORDER NO. 292, THE OFFENSES DEFINED AND** the
30 penalties [and rules] provided therein shall be applied.
31

32 (2) In other administrative proceedings, the penalty ranging from
33 suspension without pay for one (1) year to dismissal with forfeiture of benefits
34 or a fine ranging from Five Thousand Pesos (P5, 000.00) to twice the amount

1 malversed, illegally taken or lost, or both at the discretion of the Ombudsman,
2 taking into consideration circumstances that mitigate or aggravate the liability
3 of the officer or employee found guilty of the complaint or charges.
4

5 **THESE PENALTIES MAY BE IMPLEMENTED DURING**
6 **ELECTION PERIOD, AMENDING FOR THIS PURPOSE**
7 **SECTION 261(X) OF BATAS PAMBANSA BLG. 881, OR THE**
8 **OMNIBUS ELECTION CODE.”**
9

10 **SECTION 5.** Section 27 of R.A. No. 6770 is hereby amended to read as follows:
11

12 “*SEC. 27. Effectivity and Finality of Decisions.* — (1) All provisional
13 orders of the Office of the Ombudsman are immediately effective and
14 executory.
15

16 A motion for reconsideration of any order, directive or decision of the
17 Office of the Ombudsman must be filed within five (5) days after receipt of
18 written notice and shall be entertained only on any of the following grounds:
19

20 (1) New evidence has been discovered which materially affects the
21 order, directive or decision;
22

23 (2) Errors of law or irregularities have been committed prejudicial to
24 the interest of the movant. [The motion for reconsideration shall be
25 resolved within three (3) days from filing: *Provided, That*] **ONLY** one motion
26 for reconsideration shall be entertained.
27

28 Findings of fact by the Office of the Ombudsman when supported by
29 substantial evidence are conclusive. Any order, directive or decision imposing
30 the penalty of public censure or reprimand, suspension of not more than one
31 **(1) MONTH AND FINE OF NOT MORE THAN ONE (1) MONTH'S**
32 **SALARY** shall be final and unappealable.
33

1 In all administrative disciplinary cases, orders, directives, or decisions
2 of the Office of the Ombudsman may be appealed to the **COURT OF**
3 **APPEALS ON A VERIFIED PETITION FOR REVIEW UNDER RULE**
4 **43 OF THE RULES OF COURT. AN APPEAL SHALL NOT STOP THE**
5 **DECISION FROM BEING EXECUTORY.**

6
7 The above rules may be amended or modified by the Office of the
8 Ombudsman as the interest of justice may require.”

9
10 **SECTION 6.** Insert a new Section 31-A to R.A. No. 6770 to read as follows:

11
12 **SEC. 31-A. IMMUNITY FROM SUIT OF OMBUDSMAN**
13 **INVESTIGATORS AND PROSECUTORS. – OMBUDSMAN INVESTIGATORS**
14 **AND PROSECUTORS, INCLUDING THOSE DEPUTIZED BY THE**
15 **OMBUDSMAN PURSUANT TO SECTION 31 HEREOF, SHALL BE**
16 **IMMUNE FROM CRIMINAL, ADMINISTRATIVE OR CIVIL SUITS**
17 **ARISING FROM THEIR MANDATE AND THE REGULAR EXERCISE OF**
18 **THEIR OFFICIAL FUNCTIONS.**

19
20
21 **SECTION 7.** Section 32, paragraph (3) of R.A. No. 6770 is hereby amended
22 to read as follows:

23
24 “SEC. 32. *Rights and Duties of Witness.* –

25 X X X X

26
27 (3) If a person refuses to respond to the Ombudsman’s or his Deputy’s
28 *subpoena*, or refuses to be examined, or engages in obstructive conduct, the
29 Ombudsman or his Deputy shall issue an order directing the person to appear before
30 him to show cause why he should not be punished for contempt. [The contempt
31 proceedings shall be conducted pursuant to the provisions of the Rules of Court.]”

32
33
34 **SECTION 8.** Section 36 of R.A. No. 6770 is hereby amended to read as follows:

1
2 “SEC. 36. *Penalties for Obstruction.* – Any person who willfully
3 obstructs or hinders the proper exercise of the functions of the Office of the
4 Ombudsman, or who willfully misleads or attempts to mislead the
5 Ombudsman, his Deputies, and the Special Prosecutor in replying to their
6 inquiries shall be punished by a fine of not exceeding Five thousand pesos (P5,
7 000.00).

8
9 **ANY PERSON GUILTY OF MISBEHAVIOR IN THE**
10 **PRESENCE OF OR SO NEAR AN OFFICER OF THE OFFICE**
11 **OF THE OMBUDSMAN AS TO OBSTRUCT OR INTERRUPT THE**
12 **PROCEEDINGS BEFORE THE SAME, INCLUDING DISRESPECT**
13 **TOWARD THE HEARING OFFICER, OFFENSIVE PERSONALITIES**
14 **TOWARD OTHERS, OR REFUSAL TO BE SWORN OR TO ANSWER**
15 **AS A WITNESS, OR TO SUBSCRIBE AN AFFIDAVIT OR**
16 **DEPOSITION WHEN LAWFULLY REQUIRED TO DO SO, MAY BE**
17 **SUMMARILY ADJUDGED IN CONTEMPT BY SUCH HEARING**
18 **OFFICER, SUBJECT TO THE APPROVAL OF THE OMBUDSMAN,**
19 **AND PUNISHED BY A FINE NOT EXCEEDING FIVE THOUSAND**
20 **PESOS (P5,000.00) OR IMPRISONMENT NOT EXCEEDING TEN (10)**
21 **DAYS WITHOUT PREJUDICE TO THE FILING OF A CRIMINAL**
22 **CASE UNDER PRESIDENTIAL DECREE NO. 1829.**

23
24 **ANY IMPROPER CONDUCT TENDING, DIRECTLY OR**
25 **INDIRECTLY, TO IMPEDE, OBSTRUCT, OR DEGRADE THE**
26 **ADMINISTRATION OF JUSTICE, OR ANY INVESTIGATION BEING**
27 **CONDUCTED BY THE OFFICE OF THE OMBUDSMAN SHALL**
28 **CONSTITUTE AS INDIRECT CONTEMPT, AND SHALL, AFTER**
29 **NOTICE AND HEARING, BE PUNISHED WITH THE SAME**
30 **PENALTIES AS DIRECT CONTEMPT.**

31
32 **TO ENFORCE THE PROVISIONS OF THIS SECTION, THE**
33 **OFFICE OF THE OMBUDSMAN MAY, IF NECESSARY, REQUEST**
34 **THE ASSISTANCE OF ANY LAW ENFORCEMENT OFFICE OR**

1 **DEPUTIZE ANY LAW ENFORCEMENT OFFICER TO ASSIST IN**
2 **THE EXECUTION OF ANY ORDER ISSUED FOR SAID PURPOSE.”**

3
4 **SECTION 9.** Insert a new Section 36-A to R.A. No. 6770 to read as follows:

5
6 **Sec. 36-A. *Illegal Disclosure of Information.* – IT SHALL BE**
7 **UNLAWFUL FOR ANY PERSON WHO RECEIVES A *SUBPOENA*, OTHER**
8 **ORDERS, OR REQUESTS FOR INFORMATION FROM THE OFFICE OF**
9 **THE OMBUDSMAN PURSUANT TO THE EXERCISE OF THE LATTER’S**
10 **POWERS UNDER SECTION 15 HEREOF TO DISCLOSE TO ANY PERSON**
11 **ANY INFORMATION CONCERNING SAID ORDERS OR REQUESTS, AND**
12 **THE PROCEEDINGS RELATING THERETO. ANY VIOLATION OF THIS**
13 **SECTION WILL SUBJECT THE OFFENDER TO IMPRISONMENT**
14 **RANGING FROM SIX (6) MONTHS AND ONE (1) DAY TO THREE (3)**
15 **YEARS, AND A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS**
16 **(P50,000.00) BUT NOT MORE THAN FIVE HUNDRED THOUSAND PESOS**
17 **(P500,000.00).**

18
19 **SECTION 10. *Rules and Regulations.* –** The Ombudsman shall issue, within ninety
20 (90) days after the approval of this Act, the necessary rules and regulation relating to the
21 administrative aspects of the provisions of this Act.

22
23 **SECTION 11. *Separability Clause.* —** If for any reason, any section or provision of
24 this Act is declared to be unconstitutional or invalid, the other sections or provisions
25 hereof which are not affected thereby shall continue to be in full force and effect.

26
27 **SECTION 12. *Repealing Clause.* —** All laws, decrees, orders or rules and
28 regulations, and other issuances which are inconsistent with the provisions of this Act are
29 hereby repealed, amended or modified accordingly.

30
31 **SECTION 13. *Effectivity.* —** This Act shall take effect fifteen (15) days after its
32 publication in two (2) national newspapers of general circulation.

33
34 Approved,