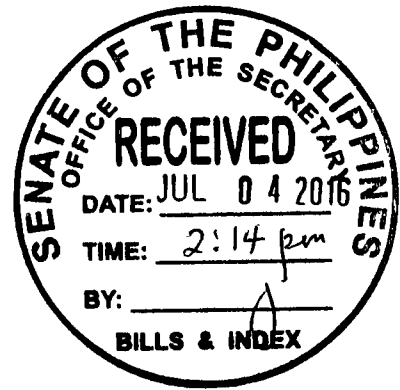


SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session

SENATE
S. B. 346



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 and is empowered 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.

Due to modern methods and sophisticated means being employed by corrupt public officials and employees, however, they are able to stash away unlawfully acquired properties within increasingly shorter 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 up 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

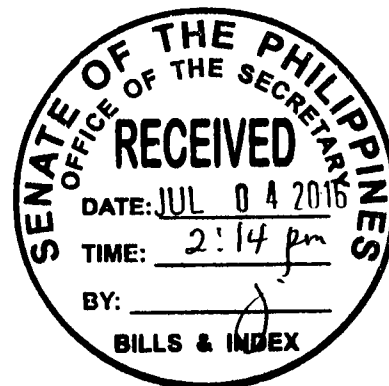
acquired properties, thereby safeguarding the interests of the State in the recovery of assets that rightfully belong to the people.

Grace Poe
GRACE POE

SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES

First Regular Session

SENATE
S.B. 346



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"

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

14
15 **SECTION 2.** Insert new Section 1 (C) in R.A. No. 1379 to read as follows:
16

1 (C) "ILLEGALLY ACQUIRED PROPERTY" SHALL REFER TO THE
2 PROPERTY NOT FALLING UNDER PARAGRAPH (B) OF THIS SECTION. IT
3 ALSO INCLUDES:
4

5 a. PROPERTY UNLAWFULLY ACQUIRED BY THE RESPONDENT, BUT
6 ITS OWNERSHIP IS CONCEALED BY ITS BEING RECORDED IN THE NAME
7 OF, OR HELD BY, THE RESPONDENT'S SPOUSE, ASCENDANTS,
8 DESCENDANTS, RELATIVES, OR ANY OTHER PERSON EXCEPT IN THE
9 FOLLOWING INSTANCES:
10

11 1) WHEN THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS,
12 OR ANY OTHER PERSON CAN PROVE THAT HE ACQUIRED SAID
13 PROPERTY FROM THE PROCEEDS OF HIS SALARY, BENEFITS AND/OR
14 EMOLUMENTS, OR FROM THE PROCEEDS OF HIS BUSINESS
15 INTERESTS; OR
16

17 2) WHEN THE RESPONDENT'S SPOUSE, ASCENDANTS, DESCENDANTS,
18 OR ANY OTHER PERSON CAN PROVE THAT THE PROPERTY WAS
19 RECEIVED THROUGH DONATION OR INHERITANCE FROM OTHER
20 PERSONS OTHER THAN RESPONDENT.
21

22 b. PROPERTY UNLAWFULLY ACQUIRED BY THE RESPONDENT, BUT
23 TRANSFERRED BY HIM TO ANOTHER PERSON OR PERSONS.
24

25 c. PROPERTY DONATED TO THE RESPONDENT DURING HIS
26 INCUMBENCY, UNLESS HE CAN PROVE THAT THE DONATION IS LAWFUL.
27

28 SECTION 3. Section 2 of R.A. No. 1379 is hereby amended to read as follows:
29

30 "SEC. 2. *Filing of petition.* – Whenever any public officer or employee has acquired
31 during his incumbency an amount of property which is manifestly out of proportion to his
32 salary as such public officer or employee and to his other lawful income and the income
33 from [legitimately] LEGALLY acquired property, said property shall be presumed *prima*
34 *facie* to have been unlawfully acquired. The [Solicitor General] OFFICE OF THE

1 **OMBUDSMAN, MOTU PROPIO OR** upon **VERIFIED** complaint by any [taxpayer to
2 the city or provincial fiscal who] **PERSON** shall conduct [a previous inquiry] **A FACT-**
3 **FINDING INVESTIGATION** [similar to preliminary investigations in criminal cases]
4 **TO DETERMINE IF** [and shall certify to the Solicitor General that there is reasonable
5 ground to believe] **THERE EXISTS PRIMA FACIE EVIDENCE THAT A**
6 **PROPERTY HAS BEEN UNLAWFULLY ACQUIRED** [that there has been
7 committed a violation of this Act and the respondent is probably guilty thereof]. **IT [,]**
8 shall file, in the name and on behalf of the Republic of the Philippines, [in the Court of
9 First Instance of the city or province] **WITH THE SANDIGANBAYAN OR THE**
10 **APPROPRIATE REGIONAL TRIAL COURT** where said public officer or employee
11 resides or holds office, a petition for a writ commanding said officer or employee to show
12 cause why the property aforesaid, or any part thereof, should not be declared property of
13 the State: *Provided*, That no such petition shall be filed [within one year before any
14 general election or within three months before any special election] **AGAINST A**
15 **PUBLIC OFFICER OR EMPLOYEE WITHIN THE ELECTION PERIOD”.**
16

17 The resignation, dismissal or separation of the officer or employee from his office
18 or employment in the Government or in the Government-owned or controlled corporation
19 shall not be a bar to the filing of the petition. [Provided, however, That the right to file
20 such petition shall prescribe after four years from the date of resignation, dismissal or
21 separation or expiration of the term of the officer or employee concerned, except as to
22 those who have ceased to hold office within ten years prior to the approval of this Act, in
23 which case the proceedings shall prescribe after four years from the approval hereof.]
24

25 **SECTION 4.** Insert new Sections 2-A and 2-B to R.A. No. 1379 to read as
26 follows:
27

28 **SEC. 2-A. PRIMA FACIE PRESUMPTIONS. –**
29

- 30 **1) WHENEVER ANY PUBLIC OFFICER OR EMPLOYEE HAS ACQUIRED**
31 **DURING HIS INCUMBENCY PROPERTY OR PROPERTIES WHICH ARE**
32 **MANIFESTLY OUT OF PROPORTION TO HIS SALARY, AS SUCH**
33 **PUBLIC OFFICER OR EMPLOYEE, AND TO HIS OTHER LAWFUL**
34 **INCOME, AND THE INCOME FROM OTHER LEGALLY ACQUIRED**

1 PROPERTY/PROPERTIES, SAID PROPERTY SHALL BE PRESUMED
2 PRIMA FACIE TO HAVE BEEN UNLAWFULLY ACQUIRED.

3
4 2) FAILURE OF A PUBLIC OFFICER OR EMPLOYEE TO FILE A
5 STATEMENT OF ASSETS, LIABILITIES AND NETWORTH WITHIN THE
6 PERIOD PRESCRIBED BY LAW FROM DATE OF ASSUMPTION TO
7 OFFICE SHALL BE *PRIMA FACIE* EVIDENCE THAT SAID PUBLIC
8 OFFICER OR EMPLOYEE HAS NO PROPERTY, ASSET OR BUSINESS
9 INTEREST TO DECLARE AT THE BEGINNING OF HIS PUBLIC SERVICE.

10
11 3) FAILURE OF A PUBLIC OFFICER TO FILE A STATEMENT OF ASSETS,
12 LIABILITIES AND NET WORTH FOR ANY PARTICULAR YEAR AFTER
13 ASSUMPTION TO OFFICE SHALL BE *PRIMA FACIE* EVIDENCE THAT
14 THE PUBLIC OFFICER OR EMPLOYEE HAS NO OTHER INFORMATION
15 TO DECLARE OUTSIDE OF HIS DECLARATION IN HIS PRIO
16 SUBMISSIONS, WITHOUT PREJUDICE TO ANY LIABILITIES THAT MAY
17 HAVE BEEN INCURRED UNDER EXISTING LAWS.

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

30
31 SECTION 5. Section 4 of R.A. No. 1379 is hereby amended to read as follows:
32

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

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

7 **SEC. 5-A. AUTHORITY TO SELL PENDING FORFEITURE PROCEEDING. –**
8 **IN CASE THERE IS DANGER OF DEPRECIATION TO THE VALUE OF THE**
9 **PERSONAL PROPERTY OR SPOILAGE IN CASE OF PERISHABLE**
10 **PROPERTIES, UPON MOTION FILED BY THE OFFICE OF THE OMBUDSMAN**
11 **BEFORE THE PROPER COURT, THE PERSONAL PROPERTY SUBJECT OF**
12 **FORFEITURE MAY BE SOLD AT PUBLIC AUCTION PENDING THE**
13 **RESOLUTION OF THE FORFEITURE PROCEEDING. THE PROCEEDS OF THE**
14 **SALE AT PUBLIC AUCTION SHALL BE HELD IN TRUST BY THE OFFICE OF**
15 **THE OMBUDSMAN UNTIL THE FORFEITURE PROCEEDING IS FINALLY**
16 **RESOLVED.**
17

18 **SECTION 7.** Section 6 of R.A. No. 1379 is hereby amended to read as follows:
19

20 “SEC. 6. *Judgment* - If the respondent is unable to show to the satisfaction of
21 the court that he has lawfully acquired the property in question, then the court shall
22 declare such property [,] forfeited in favor of the State, and by virtue of such
23 judgment the property aforesaid shall become property of the State. *Provided, THAT*
24 **IF ANY PROPERTY DECLARED FORFEITED IN FAVOR OF THE STATE**
25 **HAD BEEN LOST, DESTROYED OR HAD DEPRECIATED IN VALUE, THE**
26 **COURT MAY INCLUDE A DISPOSITION IN THE JUDGMENT, OR ISSUE**
27 **SUCH SUPPLEMENTAL JUDGMENTS AS MAY BE NECESSARY, TO**
28 **FORFEIT SUCH FUNDS OR PROPERTIES OWNED BY THE**
29 **RESPONDENT AS MAY BE SUFFICIENT TO SATISFY THE STATE’S**
30 **CLAIM, PROVIDED, FURTHER, [That no judgment shall be rendered within six**
31 months before any general election or within three months before any special election.
32 The Court may, in addition, refer this case to the corresponding Executive Department
33 for administrative or criminal action, or both.] **THAT THIRTY-FIVE PERCENT**
34 **(35%) OF THE VALUE OF SUCH PROPERTY FORFEITED IN A FINAL**

1 AND EXECUTORY ORDER OF THE COURT SHALL BE EARMARKED AS
2 ADDITIONAL FUNDING FOR THE OFFICE OF THE OMBUDSMAN;
3 PROVIDED, FURTHER, THAT IF THE PROPERTY IS NOT IN CASH, IT
4 SHALL BE SOLD AT PUBLIC AUCTION AND THE PROCEEDS THEREOF,
5 AFTER DEDUCTING THE ALLOCATED THIRTY-FIVE PERCENT (35%)
6 FOR THE OFFICE OF THE OMBUDSMAN, SHALL ACCRUE TO THE
7 GENERAL FUND.
8

9 SECTION 8. Section 7 of R.A. No. 1379 is hereby amended to read as follows:
10

11 “SEC. 7. *Appeal*. – The parties may appeal from the judgment of the [Court of
12 First Instance as] **PROPER COURT FORFEITING THE**
13 **PROPERTY/PROPERTIES IN BEHALF OF THE STATE IN THE MANNER**
14 provided in the Rules of Court for appeals in civil cases.”
15

16 SECTION 9. Section 9 of R.A. No. 1379 is hereby amended to read as follows:
17

18 “SEC. 9. *Immunity*. – The [Solicitor General] **OMBUDSMAN** may grant
19 immunity from criminal prosecution to any person who testifies to the unlawful
20 manner in which the respondent has acquired any of the property in question in cases
21 where such testimony is necessary to prove violations of this Act.”
22

23 SECTION 10. Section 12 of R.A. No. 1379 is hereby amended to read as follows:
24

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

1 be imposed upon any person who shall knowingly accept such transfer or
2 conveyance.]

3
4 **THE SAME PENALTIES SHALL BE IMPOSED UPON ANY PERSON**
5 **WHO SHALL KNOWINGLY ACCEPT SUCH UNLAWFUL TRANSFER OR**
6 **CONVEYANCE. ANY SUCH CONVEYANCE SHALL BE VOID *AB INITIO*."**

7
8 **SECTION 11. *Separability Clause*.** – If for any reason, any section or provision of
9 this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof
10 which are not affected thereby shall continue to be in full force and effect.

11
12 **SECTION 12. *Repealing Clause*.** - All laws, decrees, orders or rules and regulations
13 and other issuances which are inconsistent with the provisions of this Act are hereby
14 repealed, amended or modified accordingly.

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

18
19 Approved.