SEVENTEENTH CONGRESS OF THE )
REPUBLIC OF THE PHILIPPINES )
*First Regular Session* )

Senate
Office of the Secretary

'16 JUL 21 P3:45

RECEIVED BY:

**SENATE**

**S. No. 862**

Introduced by Senator Ralph G. Recto

**AN ACT**
**MANDATING THE ANNUAL PUBLIC DISCLOSURE OF ALL CONTINGENT LIABILITIES INCURRED BY ALL NATIONAL GOVERNMENT AGENCIES, LOCAL GOVERNMENT UNITS, GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS, GOVERNMENT FINANCIAL INSTITUTIONS, AND OTHER GOVERNMENT INSTRUMENTALITIES**

**Explanatory Note**

The Philippine Government is mandated by no less than the 1987 Constitution to recognize the role of the private sector in providing adequate social services, promoting full employment, raising the standard of living, and improving the quality of life for all Filipinos.

Encouraging the private sector to participate in the delivery of public services, however, is hampered by the country's market realities marked by stringent regulations, uncertain socio-economic and political environment, and market distortions caused by price control and subsidies.

To tap private sector capital and skills, the government was compelled to make public sector investments more profitable by providing incentives and assuming investment risks. As such, the conferment of government guarantees on public sector investment and borrowings became one of the prominent features of Republic Act No. 6957 as amended, otherwise known as the Build-Operate-Transfer (BOT) Law.

The benefits of government guarantees, however, come at a price. Studies conducted by the University of the Philippines School of Economics[1] showed that government risk management practices severely understate the level of exposure and risk arising from unfettered provision of guarantees. The Philippine Institute for Development Studies (PIDS)[2] and the Development Budget Coordinating Committee (DBCC)[3] raised their concerns over the unexpected public sector obligations that could be brought about by government guarantees, especially on the delivery of public goods and services.

The Senate Economic Planning Office (SEPO)[4] underscored the importance of effective identification, management, and reporting of contingent liabilities and off-budget risks of government-owned and -controlled corporations (GOCCs), since past fiscal crises in the Philippines were triggered by extra-budgetary activities. Considering the potential of government

[1] Reside, R. (1999). *Estimating the Philippine Government's Exposure to and Risk from Contingent Liabilities and Infrastructure Projects.* Quezon City: University of the Philippines School of Economics
[2] Philippine Institute for Development Studies. (2005). *Contingent Liabilities: adding up to the fiscal burden.* Makati: Republic of the Philippines.
[3] Development Budget Coordinating Committee. (2012). *2012 Fiscal Risks Statement.* Quezon City: Republic of the Philippines.
[4] Senate Economic Planning Office. (2004) *Five Pillars of Growth: An Economic and Social Development Framework.* Pasay City: United Nations Development Programme.

guarantees to wreak havoc on public resources, the conferment and management of such guarantees require exacting deliberations and wide-ranging public disclosures.

The mechanisms to enable the public and the policymaker to make informed decisions on public debt, however, remained largely inadequate.

The Commission on Audit[5] (COA) has already recommended the disclosure of relevant information pertaining to the contingent liabilities including the fiscal risks associated with guarantees on public-private partnership (PPP) projects and on issuances of GOCCs and government financial institutions (GFIs) in its Public Debt Management Audit for 2004 and 2009-2010. In 2015, the COA reiterated this position when it identified the non-disclosure of over one trillion pesos contingent liabilities arising from government guarantees on PPP projects and liabilities from GOCCs and GFIs[6].

This bill requires the annual public disclosure of government's contingent liabilities at least a month prior to the submission of the annual budget documents by the President to Congress. It will provide members of Congress and other stakeholders with a better appreciation of the fiscal and monetary impact of the government's contingent liabilities on future government spending.

At the end of the day, prudent fiscal management warrants the establishment of a stronger legal and institutional framework in apprising the public about the obligations and risks involved in public-private partnership in public service delivery.

It is in this light that the swift approval of this bill is earnestly sought.

**RALPH G. RECTO**

/mdg

---

5 Commission on Audit (2004). *Public Debt Management: Overall Report.* Quezon City: Republic of the Philippines; and Commission on Audit. (2010). *Annual Audit Report on the Public Debt Reporting (A Public Debt Management Audit) For the Year Ended December 2009 and June 30 2010.* Quezon City: Republic of the Philippines.

6 Murcia, A. (2015, June 8). Disclosure Rules in Charter Breached: CoA flags P1.3-T hidden Noy debts. *Daily Tribune*, p. 1.

**SEVENTEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES**
*First Regular Session*

'16 JUL 21 P3:45

**SENATE**

**S. No. 862**

Introduced by Senator Ralph G. Recto

**AN ACT**
**MANDATING THE ANNUAL PUBLIC DISCLOSURE OF ALL CONTINGENT LIABILITIES INCURRED BY ALL NATIONAL GOVERNMENT AGENCIES, LOCAL GOVERNMENT UNITS, GOVERNMENT-OWNED OR -CONTROLLED CORPORATIONS, GOVERNMENT FINANCIAL INSTITUTIONS, AND OTHER GOVERNMENT INSTRUMENTALITIES**

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

**SECTION 1.** *Short Title.* – This Act shall be known as the "*Contingent Liabilities Disclosure Act of 2016.*"

**SEC. 2.** *Declaration of Policy and Objectives.* – It is the declared policy of the State to recognize the right of the people to information on matters of public concern. The Philippine Government shall be transparent in all of its financial transactions and decisions and as such, shall afford the citizens access to official records, documents and research data that pertain to, or are used as basis for, the country's fiscal and monetary policy.

**SEC. 3.** *Contingent Liabilities.* – Contingent liabilities shall refer to explicit guarantees extended by the Philippine Government through any of its agencies including local government units (LGUs), government-owned and controlled corporations (GOCCs) and government financial institutions (GFIs) including, but not limited to, the following:

(i) guarantees arising from Republic Act No. 6957, as amended by Republic Act No. 7718;

(ii) loans contracted and liabilities incurred by GOCCs or by GFIs which were guaranteed by the National Government;

(iii) Guarantee programs implemented by GOCCs and GFIs;

(iv) GFI-guaranteed private loans which were subsequently transferred to and assumed by the National Government by virtue of Proclamation No. 50, Administrative Order No. 64 s.1988, and other similar statutes or issuances;

(v) Bailouts of public enterprises and institutions, as well as strategically important private sector enterprises;

(vi) Government insurance programs;

(vii) Spending on national disaster relief and disaster rehabilitation and recovery operations; and

(viii) Other potential losses arising from indemnities, pending litigation, and other circumstances relating to claims and assessments in respect of breach of contract, damages to persons and property, and similar items.

**SEC. 4.** *Full Disclosure of Contingent Liabilities.* – The Department of Finance (DOF) is hereby mandated to implement full disclosure of all contingent liabilities of the national government or any of its agencies including GOCCs and GFIs in an annual basis. All information related to the government contingent liabilities shall be contained in a report to be submitted to the Chairpersons of the Senate Committee on Finance and House Committee on Appropriations.

**SEC. 5.** *Content and Publication of the Contingent Liability Report.* – The report shall indicate, among others, the specific contingent liabilities of government, the amount involved therein, the purpose and scope of such liabilities, its duration and conditions, and its intended beneficiaries. Information related to the government contingent liabilities shall also be published in at least two newspapers of national circulation and/or in the official websites of the government agencies concerned at least a month prior to the President's submission of the annual budget documents to Congress.

**SEC. 6.** *Implementing Rules and Regulations.* – Within ninety (90) days from effectivity of this Act, the DOF, the National Economic and Development Authority (NEDA), and other relevant government agencies shall promulgate the rules and regulations to effectively implement the provisions of this Act.

**SEC. 7.** *Separability Clause.* – If any provision, section or part of this Act shall be declared unconstitutional or invalid, such judgment shall not affect, invalidate or impair any other provisions, sections or parts hereof.

**SEC. 8.** *Repealing Clause.* – All laws, decrees, orders, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

**SEC. 9.** *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation or the *Official Gazette*.

Approved,