


SEVENTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session



'16 JUL 26 A8 59

SENATE
S.B. 873

RECEIVED BY: 

Introduced by Senator Poe

AN ACT
PENALIZING THE ILLICIT ENRICHMENT OF PUBLIC OFFICIALS AND
EMPLOYEES FOR ACQUISITION OF PROPERTIES THROUGH UNLAWFUL
MEANS

Explanatory Note

Transparency and accountability are two major principles of the 1987 Philippine Constitution. As expressly declared:

- Article II, Section 27 (State Policies and Declaration of Principles) guarantees, "The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."
- Article XI, Section I (Accountability of Public Officers) mandates, "Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives."

The State has a right to recover from public officials or employees, as well as 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, while R.A. No. 1379 provides a procedure for forfeiture to be followed when said public officials or employees amass, accumulate, or acquire unexplained wealth, and imposes upon them the penalty of forfeiture of the properties unlawfully acquired, said law

does not criminalize their acts of unlawful acquisition of said properties. Actions brought under R.A. No. 1379 are classified as civil actions in rem directed at the assets illegally acquired, and do not pass upon the criminal liability of the public officer or employee who acquired them. Thus, even if an economic penalty is imposed and the further use of the properties seized is prevented, said public official or employees remains, in the eyes of the law, not guilty of any crime, and is not made to suffer any penalty.

With the enactment of this bill into law, an effective deterrent will be set up against the acquisition of public officers and employees of ill-gotten wealth. The criminalization of illicit enrichment will add more "teeth" to the law, because the threat of imprisonment and payment of fines will dissuade public officers and employees from amassing wealth at the expense of the public.


GRACE POE

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

Section 1. Declaration of Policy. It is the declared policy of the State that public office is a public trust. Public officers and employees must, at all times, be accountable to the people and serve them with utmost responsibility and integrity.

Section 2. Definition of Terms. As used in this Act, the following words and phrases shall mean:

(a.) "Legitimately-acquired property" means any real or personal property, money, salary, business interest or securities which the public officer or employee has, at any time, acquired by sale, donation, inheritance or other mode of acquisition before becoming a public officer or employee, or any property already pertaining to him when he qualified for public office or employment, and the income or fruits from said properties. It shall not include:

1. Property unlawfully acquired by the public officer or employee but its ownership is concealed or recorded in the name of, or held by, the public

officer or employee's spouse, ascendants, descendants, relatives, or any other person

2. Property unlawfully acquired by the public officer or employee but transferred by him to another person or persons.

(b.) "Unlawful acquisition" shall refer to the acquisition by a public officer or employee of funds or property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property. It shall also include those properties which are not legitimately acquired as defined under paragraph (a) of this Section.

Section 3. Unlawful Acquisition of Property. -It shall be unlawful for any public officer or employee to directly or indirectly acquire, possess, receive, use, benefit, or otherwise enjoy, real or personal properties, money, assets, business interests, or securities, within or outside of the Philippines, which amount is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property. It shall also be unlawful to knowingly acquire properties which are not legitimately acquired as defined under paragraph (a) of the preceding Section. It shall also be unlawful for any public officer or employee to transfer or convey, directly or indirectly, any interest in said properties to other person or entity. Such transfer or conveyance shall be *void ab initio*.

Section 4. Prohibition on Private Individuals. - It shall be unlawful for any private individual to directly or indirectly acquire, possess, receive, use, benefit, or otherwise enjoy, real or personal properties, money, assets, and securities, within or outside of the Philippines, from a public officer or employee knowing the same to have been illegally acquired by the latter.

Section 5. Prima Facie Presumptions. - (I) Whenever any public officer or employee has acquired during his incumbency funds or properties which are manifestly out of proportion to his salary as such public officer or employee, and to his other lawful income

and the income from legitimately acquired property, said funds or properties shall be presumed prima facie to have been unlawfully acquired.

(2) Failure of a public officer or employee to file a Statement of Assets, Liabilities and Net Worth within the period prescribed by law from date of assumption to office shall be *prima facie* evidence that said public officer or employee has no property, asset or business interest to declare at the beginning of his public service or without prejudice to the penalties that may be imposed under the law. The failure to file a Statement of Assets, Liabilities and Net Worth for any particular year after assumption to office shall be prima facie evidence that the public officer or employee has no other information to declare outside of his declaration in his prior submissions without prejudice to any liabilities that may have been incurred under existing laws.

Section 6. Penalties. -Any public officer or employee who shall illegally enrich himself through the unlawful acquisition of the properties above-mentioned shall be penalized with imprisonment of not less than six years and one day but not more than twelve years, or a fine not exceeding twice the amount of the property illegally acquired, or both such imprisonment and fine, perpetual absolute disqualification from public office, and confiscation or forfeiture in favor of the government of the unlawfully acquired properties.

The penalty of imprisonment for not less than one year and one day to not more than six 29 years, or a fine not exceeding twice the amount of the property conveyed or transferred, shall be imposed upon any private individual who shall knowingly acquire, possess, receive, use, benefit from, or otherwise enjoy, properties unlawfully acquired by any public officer or employee.

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

Section 9. Repealing Clause. - All laws, decrees, orders or rules and regulations and other issuances which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 10. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,