



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

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BY: *[Signature]*

SENATE
S.B. No. 1234

Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

**AN ACT FOR THE STEWARDSHIP AND CONSERVATION OF BUILT CULTURAL HERITAGE, AND
FOR OTHER PURPOSES**

Explanatory Note

The old Paco Railway Station along Quirino Avenue, first built in 1915, is a reminder that there is much more we can do to properly maintain built heritage that serve as settings for precious stories that make up our history. It is thanks to the "Save the Paco Railway Station" campaign that the rundown structure will be reconstructed and turned into a central station with a museum, revealing the weakness of our laws and agencies in preserving historical structures.

At present, the protection of built heritage is largely covered by Republic Act No. 10066, otherwise known as The Heritage Conservation Law, the Local Government Code and the Urban Housing and Development Act (RA 1760), and to a lesser extent, the different various cultural agencies, such as the National Commission for Culture and the Arts, the Historical Commission and the National Museum.

But the existing legal framework to protect built heritage is not enough and does not account for the practical concerns that arise in the preservation and rehabilitation of heritage structures.

Local governments handling heritage preservation cases are often faced with competing land use priorities that favor economic development over heritage protection.

Privately held property owners in possession of a heritage structure may also be unequipped to handle the heavy legal burden involved in settling property rights as it is passed down through generations.

Public and private cultural agencies charged with protecting our national heritage are also hindered in their work by unclear and overlapping jurisdictional lines, such that accountability is lost on those involved.


Thus, this bill seeks to address these key problems encountered in the implementation of the Heritage Conservation Law by:

- 1) Integrating heritage protection as an important consideration in land use planning;
- 2) Requiring certain economic and planning tools (such as the use of zoning, impact assessment and floor area ratios) as a means of managing urban density, and allowing heritage structures and zones to benefit economically by selling unutilized development rights, or by preventing variances to plans without proper impact analysis;
- 3) Providing tax incentives to private owners to preserve heritage, reducing economic pressures to sell the property;
- 4) Allowing for a judicially-declared trustee of a property; and
- 5) Granting the President powers to streamline and rationalize the operations and mandates of cultural agencies to resolve matters concerning built heritage.

This bill will fill in the gaps in existing legislation and encourage both public and private institutions to protect and conserve built heritage.

Through preservation, Filipinos are left with inescapable reminders of our history. Plus, the preservation of heritage sites can intensify cultural awareness and national identity, increase land value, and encourage more tourism activities.

In view thereof the passage of this bill is earnestly requested.


Senator Paolo Benigno "Bam" A. Aquino IV



Senate
Office of the Secretary

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AN ACT FOR THE STEWARDSHIP AND CONSERVATION OF BUILT CULTURAL HERITAGE, AND FOR OTHER PURPOSES

1 **SECTION 1. *Short Title.*** – This Act shall also be known as "*The Built Cultural Heritage Act*".

2 **ARTICLE I. INTRODUCTION**

3 **SEC. 2. *Declaration of Policy.*** – It is the policy of the State to:

- 4 a) Preserve and protect built cultural heritage, which is important in understanding and
- 5 appreciating Philippine history and culture, nurturing the identity and nationalism of the
- 6 Filipino, and in attaining genuine and holistic national development;
- 7 b) Recognize the stewardship and protection of built cultural heritage as a public good,
- 8 which shall be directly or indirectly supported by its resources whenever possible;
- 9 c) Administer stewardship of built cultural heritage, whether publicly or privately-owned,
- 10 to benefit the present and future generations; and
- 11 d) Support the conservation and adaptive reuse of built heritage by the grant of fiscal and
- 12 non-fiscal incentives to fully unlock the economic value of such heritage, while
- 13 preserving its cultural and historical value.

14 **SEC. 3. *Definition of Terms.*** – As referred to in this Act, the following terms shall mean:

- 15 a) "*Built Heritage*" refers to architectural and engineering structures such as, but not
- 16 limited to, bridges, government buildings, houses of ancestry, traditional dwellings,
- 17 quartels, train stations, lighthouses, small ports, educational, technological and
- 18 industrial complexes, and their settings, and landscapes with notable historical and
- 19 cultural significance;

- 1 b) *"Classified Built Heritage"* refers to built heritage that has been duly marked and listed
2 in the Philippine Registry of Cultural Property;
- 3 c) *"Housing and Land Use Regulatory Board (HLURB)"* refers to the planning, regulatory
4 and quasi-judicial instrumentality of government for land use development;
- 5 d) *"Zoning Ordinance"* refers to legislation adopted by a local government unit that
6 implements the comprehensive land use plan of the local government;
- 7 e) *"Land Use Plan"* refers to a document prepared by the local government, which forms
8 the basis for the future use of land resources, including, but not limited to, food
9 production, human settlements, and industrial expansion;
- 10 f) *"Floor Area Ratio (FAR)"* refers to the ratio of a building's total floor area to the size of
11 the land on which it was built;
- 12 g) *"Variance"* refers to a discretionary action by the appropriate body in the local
13 government unit that grants relief from the provisions of the zoning ordinance to the
14 extent necessary to permit a reasonable or practical use of the land, when the
15 regulations imposed by zoning in relation to the unique conditions of a parcel of land
16 cause the property owner practical difficulty and undue hardship if it were developed
17 according to the zoning regulations;
- 18 h) *"National Cultural Agencies (NCA)"* refers to the National Commission for Culture and
19 the Arts, Cultural Center of the Philippines, the Institute of Philippine Languages, the
20 National Historical Commission, the National Library, the National Museum, the
21 National Archives, among others
- 22 i) *"Covered Property"* refers to classified property, including both the structure and the
23 land on which the structure stands
- 24 j) *"The Registry"* refers to the Philippine Registry of Cultural Property;
- 25 k) *"Government Financial Institution (GFI)"* refers to financial institutions or corporations in
26 which the government directly or indirectly owns majority of the capital stock and which
27 are either: (1) registered with or directly supervised by the Bangko Sentral ng Pilipinas;
28 or (2) collecting or transacting funds or contributions from the public and places them in
29 financial instruments or assets such as deposits, loans, bonds and equity including, but
30 not limited to, the Government Service Insurance System and the Social Security
31 System; and
- 32 l) *"Transfer Development Rights (TDR)"* refers to the transfer of unused development
33 rights from one zoning lot to another in limited circumstances;
- 34

35 **ARTICLE II. LOCAL GOVERNMENT ACTION AND LAND USE PLANNING**

1 **SEC 4. *Philippine Registry of Cultural Property.*** - All LGUs shall integrate all properties listed by
2 the NCAs in their respective land use plans. They shall file a petition with the NCCA to include
3 in, or exclude from, the Registry a particular property.

4 The NCCA and its attached agencies shall, within thirty (30) days from the effectivity of
5 this Act, ensure that the Registry is available online and is updated on a regular basis.

6 **SEC. 5. *Construction and Demolition.*** - The City or Municipal Building Official shall verify with
7 the Registry prior to issuing any permit that will destroy, deface, or alter any structure. Upon
8 verification, the Building Property Official shall execute an affidavit stating:

- 9 a) The date and time of verification;
10 b) The identity and location of the structure;
11 c) Whether the property in question is included in the Registry;
12 d) The action to be taken as regards the property; and
13 e) Such other requirements as may be stipulated by the HLURB and the NCCA.

14 The City or Municipal Registrar is prohibited from executing an affidavit, which states that the
15 Registry was not accessed and/or the status of the property was not verified.

16 **SEC. 6. *Public Safety.*** - No City or Municipal Building Official shall allow the demolition of
17 classified property on the grounds of public safety, such as the property being a hazard for fire,
18 earthquake, sanitation, collapse, or other similar grounds of public safety, without first
19 reporting the same to, and allowing for the inspection by, a duly authorized official of the
20 NCCA. Considering the particular expertise of the NCCA as regards the cultural value and the
21 technical feasibility of reconstruction and support, the findings of the NCCA shall be
22 conclusively presumed to be reasonable and determined in good faith unless proven otherwise.

23 **SEC. 7. *Precautionary Principle.*** - In the absence of any specific declaration or order to the
24 contrary regarding a specific property, it shall be the duty of the Municipal or City Building
25 Official to act with utmost caution in implementing or allowing any act that may expose
26 classified or unclassified built heritage to risk or damage.

27 **SEC. 8. *Inclusion of Heritage in Planning.*** - Cities and Municipalities shall include a section on
28 built heritage in their respective Comprehensive Land Use Plans (CLUP) and Zoning Ordinances.
29 It shall also include provisions to establish, maintain and respect open spaces, architectural and
30 design limitations, development and height restrictions, buffer zones, and sightlines to respect

1 and preserve built heritage, cultural and historical sites and monuments, as well as parks and
2 protected areas.

3 **SEC. 9. Local Initiative.** - The residents of a City or Municipality, through local initiative under
4 the Local Government Code, shall establish through ordinance a heritage district, designate
5 heritage sites, or establish buffer zones, sightlines, architectural and design limitations, or open
6 space restrictions, and create mechanisms for the governance of such areas, and such an
7 ordinance cannot be revoked by the local council within three years from the approval of such
8 an ordinance.

9 **SEC. 10. Evaluation of Land Use Plans and Zoning Ordinances.** - In evaluating applications for
10 approval of Zoning Ordinances and CLUP, the HLURB and relevant LGUs must ensure that the
11 ordinances and plans contain provisions to establish, maintain and respect open space,
12 architectural and design limitations, development and height restrictions, buffer zones, and
13 sightlines to respect and preserve built heritage, cultural and historical sites and monuments, as
14 well as parks and protected areas.

15 **SEC. 11. Floor Area Ratios (FAR).** - All Municipalities and Cities shall adopt zoning ordinances
16 that strictly apply the use of FAR to manage urban density and development, especially in the
17 urban core of their territories.

18 **SEC. 12. Transfer Development Rights (TDR).** - Without applying for variance, a property shall
19 only exceed the allowable Floor Area Ratio (FAR) for a zone in a specific city or municipality by
20 purchasing the rights to the unutilized FAR of properties within the same city or municipality.
21 The purchase and use of these transfer development rights shall be subject to the following:

22 a) The unutilized FAR shall be computed as follows:

23
$$\text{Maximum allowed FAR} - \text{utilized FAR} = \text{Unutilized FAR}$$

24 b) The city or municipality shall require that unutilized FAR shall only be applied to
25 properties within specific zones or subzones in order to manage the urban density and
26 the direction of physical development of the urban area, as well as to preserve
27 sightlines, buffer zones, landscapes, heritage structures, and open space.

28 c) The purchase of unutilized FAR shall be exempt from both national and local taxation,
29 but in lieu of taxes, of the proceeds from the sale of unutilized FAR:

30 i. Ten percent (10%) shall be placed in a trust fund in the name of the city or
31 municipality, the earnings from which shall be used solely for the purpose of

- 1 maintaining public spaces and infrastructure in the source areas of the unutilized
2 FAR; and
- 3 ii. Forty percent (40%) shall be placed in a trust fund in the name of the beneficiary
4 of the source property, the earnings of which shall be used solely for the
5 preservation of the source property, regardless of whether the property is
6 classified as heritage or not.
- 7 d) The minimum purchase price of unutilized FAR shall be computed as by:

$$\frac{\text{Market Value of Land}}{\text{Maximum Allowed FAR}} \times \text{Unutilized FAR} = \text{Minimum Purchase Price}$$

- 10 e) Metropolitan areas covering more than one municipality or city may establish a system
11 allowing for TDR to be traded within and between the municipalities or cities composing
12 the metropolitan area.

13 **SEC. 13. Approval of Variances.** - Requiring the review and ratification by Provinces of
14 Municipal and Component City Land Use Plans, and by the HLURB of Provincial, Highly
15 Urbanized Cities, and Independent Cities, no variances from a duly approved zoning ordinance
16 and land use plan shall be valid without the ratification of the province, or the HLURB, as the
17 case may be. An application for variance must be subject to the following:

- 18 a) Include an analysis of the social, economic, cultural and environmental impact on the
19 immediate and surrounding area of the proposed development for which the variance is
20 sought;
- 21 b) Any fee for the application of a variance must bear a reasonable relationship to the
22 aforementioned impacts, and must include the cost of necessary infrastructure and
23 public expenditures needed to mitigate such impacts and support the development. In
24 no case shall it be less than one hundred and fifty percent (150%) of the total market
25 value of increase in FAR above what is allowed in that specific zone;
- 26 c) One third (1/3) of that fee shall be placed in a trust fund in the name of the city or
27 municipality, the earnings from which shall be used solely for the purpose of
28 maintaining public spaces and infrastructure in the area surrounding the property
29 subjected to the variance; and
- 30 d) The mere payment of a fee and the submission of an impact analysis shall not, *ipso*
31 *facto*, result in the approval of the application for variance. The province or HLURB shall
32 have full discretion in the approval or denial of an application.

33 **ARTICLE III. INCENTIVES FOR BUILT HERITAGE**

1 **SEC. 14. Coverage.** - The incentives and other benefits for built heritage under this Article,
2 except as otherwise provided, shall apply solely to structures duly entered in the Registry, and
3 the parcel of land on which the structure stands. In the event that the parcel of land is grossly
4 disproportional to the size of the built heritage, and is not itself part of the scope of the
5 classified property, the land exempt from taxation shall be limited to the building footprint and
6 a reasonable buffer zone around the property to protect both its structural integrity and its
7 historical or cultural context, as may be delimited by the NCCA.

8 **SEC. 15. The Applicant.** - The applicant for incentives and other benefits for built heritage under
9 this Article, except otherwise provided, shall be any of the following:

- 10 a) The owner of the covered property;
- 11 b) A person designated as the administrator of the covered property, holding relevant and
12 applicable authorization in relation to the property;
- 13 c) A trustee for and on behalf of the owners of the covered property, as hereinafter
14 provided;
- 15 d) A third party conducting business in the covered property, provided it is duly authorized
16 by the owner, administrator, or trustee to apply for the benefits and incentives; and
- 17 e) A third party charged with the repair, maintenance, restoration, management or
18 reconstruction of the covered property

19 **SEC. 16. The Heritage Trustee.** - The following shall govern the designation of a heritage
20 trustee:

- 21 a) In the event that the applicant is unable to establish clear and full ownership over the
22 covered property due to the lack of full and proper documentation, such as, but not
23 limited to:
 - 24 i. The failure to properly document the transfer of the property through estate
25 proceedings;
 - 26 ii. The inability to obtain full consent from all co-owners of the property; and
 - 27 iii. The non-registration under the Torrens System of the land on which the property
28 is located

29
30 The applicant, in a verified application filed in the court having jurisdiction over the
31 covered property, may establish his or her claim over the property by affidavits and
32 collateral evidence, and after publication and in a summary proceeding, the court may

1 designate the applicant as a trustee in favor of all other possible rights holders to the
2 property; and

- 3 b) The court shall further require that the applicant deposit in a trust fund a portion of the
4 net income of the property for the benefit of such other rights holders.

5 **SEC. 17. *Incentives for Heritage.*** - The applicant shall be entitled to claim the following:

- 6 a) A covered property shall be exempt from all taxes arising from, or incidental to,
7 transfers or changes in ownership, such as but not limited to:

- 8 i. Estate taxation;
9 ii. Capital gains taxation;
10 iii. Documentary stamp taxes; and
11 iv. Value added taxes;

- 12 b) Income derived by an applicant by operating a business establishment within a covered
13 property shall be subjected to the following:

- 14
15 i. A gross income tax rate of five percent (5%) provided that the applicant's
16 business operations are limited solely to one or more covered properties; and
17 ii. A double deduction of expenses actually incurred from the repair, maintenance,
18 restoration, management or reconstruction of covered property, regardless of
19 whether the applicant is a natural or juridical person, or whether only part of its
20 business operations are located in one or more covered properties;

- 21 c) Income derived by third parties specifically from the repair, maintenance, restoration,
22 management or reconstruction of covered property shall be exempt from income
23 taxation;

- 24 d) The importation of materials specifically identified by the NCCA as essential for the
25 repair, maintenance, restoration, management or reconstruction of covered property
26 shall be exempt from both import duties and value-added taxation; and

- 27 e) Real property taxes shall be prorated against the utilized FAR of the property.

28 **SEC. 18. *Financing.*** - The NCCA shall establish a fund within appropriate GFIs to establish loan
29 programs at concessional rates to facilitate the preservation and stewardship of privately or
30 publicly owned but classified built heritage.

31 The NCCA, working closely, and under such guidelines established, with the GFI, shall
32 provide such necessary requirements, such as the submission of a restoration or adaptive reuse
33 plan, business plan, collateral, payment strategy, guarantor, among others, provided that such

1 requirements are not unduly burdensome nor unreasonable under the circumstances, in view
2 of Sections 2 and 3 of this Act.

3 **SEC. 19. Administration.** - The administration of the grant of incentives under this Act shall be
4 the exclusive jurisdiction of the NCCA.

5 **SEC. 20. Hierarchical Classification of Heritage.** - The NCCA shall develop a hierarchical scheme
6 of classification for heritage structures, defining the level of protection and use, and the
7 responsibilities of the state and the property owner/user, to balance the level of state interest
8 in a particular structure's heritage value as against the property owner/user's rights over the
9 property.

10 **Article IV: General Provisions**

11 **SEC. 21. Penal Clause.** - The NCCA, upon due notice, hearing and determination of the
12 existence of any breach or violation of the provisions of this Act or any rule and regulation
13 issued pursuant thereto, shall impose a penalty or fine on any erring parties in accordance with
14 applicable provisions of this Act.

15 **SEC. 22. Implementing Rules and Regulations.** - The NCCA, in consultation with the relevant
16 NCAs and other government agencies, shall promulgate the implementing rules and regulations
17 within ninety (90) days after the approval of this Act.

18 **SEC. 23. Separability Clause.** - Any portion of provision of this Act that may be declared
19 unconstitutional shall not have the effect of nullifying the other portions or provisions.
20

21 **SEC. 24. Repealing Clause.** All laws, decrees executive orders, rules and regulations, part of
22 parts thereof, inconsistent with the provisions of this Act, are hereby repealed or modified
23 accordingly.
24

25 **SEC. 25. Effectivity Clause.** - This Act shall take effect fifteen (15) days after its publication in
26 the Official Gazette, or in at least two (2) newspapers of general circulation.

Approved,