

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



Senate
Office of the Secretary

SENATE
S. No. 1488

20 MAY -4 / P 3:34

Introduced by Senator Grace Poe

RECEIVED BY

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.

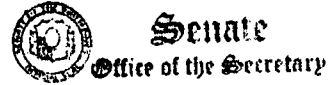
Prosecutors and investigators of the Office of the Ombudsman should be given legal protection and immunity from suits for acts done in line with their duties.

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

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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

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

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

11 (2) **EMPLOY WIRETAPPING AS AN INVESTIGATIVE**
12 **TECHNIQUE WHEN THE CIRCUMSTANCES OF A CASE SO**
13 **WARRANT. FOR THIS PURPOSE, SECTION 3 OF REPUBLIC ACT**
14 **NO. 4200, OTHERWISE KNOWN AS THE ANTI-WIRETAPPING**
15 **LAW, IS HEREBY AMENDED TO INCLUDE CASES INVOLVING**
16 **PLUNDER, VIOLATIONS OF REPUBLIC ACT NO. 3019,**

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

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

13 ~~[(2)]~~**(4)** Direct, upon complaint or at its own instance, any
14 officer or employee of the Government, or of any subdivision, agency
15 or instrumentality thereof, as well as any government-owned or
16 controlled corporations [with original charter], to perform and expedite
17 any act or duty required by law, or to stop, prevent, and correct any
18 abuse or impropriety in the performance of duties;

19 ~~[(3)]~~ **(5)** Direct the ~~[officer]~~ concerned **HEAD OF AGENCY OR**
20 **OFFICIAL** to take appropriate action against a public officer or
21 employee at fault or who neglects to perform an act or discharge a
22 duty required by law, and ~~[recommend]~~, **FOR SUCH PURPOSE,**
23 **ORDER SAID HEAD OF AGENCY OR OFFICIAL TO IMPLEMENT**
24 **AN ORDER FOR [his] THE SAID PUBLIC OFFICER OR**
25 **EMPLOYEE'S** removal, suspension, demotion, fine, censure, or
26 prosecution ~~[and ensure compliance therewith; or enforce]~~ **IN LINE**
27 **WITH** its disciplinary authority as provided in Section 21 of this Act:
28 *Provided,* That the refusal by any officer without just cause to comply
29 with an order of the Ombudsman to remove, suspend, demote, fine,
30 censure, or prosecute an officer or employee who is at fault or who
31 neglects to perform an act or discharge a duty required by law shall be
32 a ground for disciplinary action against said officer;

1
2 ~~[(4)]~~ **(6)** Direct the officer concerned, in any appropriate case,
3 and subject to such limitations as it may provide in its rules of
4 procedure, to furnish it with copies of documents relating to contracts
5 or transactions entered into by his office involving the disbursement or
6 use of public funds or properties, and report any irregularity to the
7 Commission on Audit for appropriate action;

8 ~~[(5)]~~ **(7)** Request any government agency for assistance and
9 information necessary in the discharge of its responsibilities, and to
10 examine, if necessary, pertinent records and documents;

11 ~~[(6)]~~ **(8)** Publicize matters covered by its investigation of the
12 matters mentioned in paragraphs (1), (2), ~~[(3) and]~~ (4), **(5), (6) AND**
13 **(7)** hereof, when circumstances so warrant and with due prudence:
14 *Provided*, That the Ombudsman under its rules and regulations may
15 determine what cases may not be made public: *Provided, further*, That
16 any publicity issued by the Ombudsman shall be balanced, fair and
17 true;

18 ~~[(7)]~~ **(9)** Determine the causes of inefficiency, red tape,
19 mismanagement, fraud, and corruption in the Government, and make
20 recommendations for their elimination and the observance of high
21 standards of ethics and efficiency;

22 ~~[(8)]~~ **(10)** Administer oaths, issue *subpoena* and *subpoena*
23 *duces tecum* ~~[7]~~ **TO COMPEL AND SECURE THE COMPULSORY**
24 **ATTENDANCE OF ANY WITNESS OR THE PRODUCTION OF**
25 **EVIDENCE WHEREVER THE SAME MAY BE FOUND**, and take
26 testimony **AT ANY STAGE OF** ~~[in]~~ any investigation or inquiry,
27 **PROVIDED, THAT IN THE COURSE OF SUCH INVESTIGATION**
28 **OR INQUIRY, THE OMBUDSMAN SHALL HAVE** ~~[including]~~ the
29 power to examine and have access to bank **AND NON-BANK**
30 accounts, records **AND TRANSACTIONS, SUCH AS DEPOSITS,**
31 **TRUSTS, INVESTMENTS, EVEN PRIOR TO THE FILING OF A**
32 **CASE BEFORE A COURT OF COMPETENT JURISDICTION,**

1 **NOTWITHSTANDING THE PROVISIONS OF REPUBLIC ACT NO.**
2 **1405, AS AMENDED; REPUBLIC ACT NO. 6426, AS AMENDED;**
3 **REPUBLIC ACT NO. 8791 AND REPUBLIC ACT NO. 9160, AS**
4 **AMENDED, AND OTHER LAWS;**

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

16 ~~[(9)]~~ **(12) Punish for contempt in accordance with [the Rules of**
17 **Court] ITS OWN RULES and [under the same procedure] with the**
18 **[same] penalties provided [therein] UNDER SECTION 36 OF THIS**
19 **ACT;**

20 ~~[(10)]~~ **(13) Delegate to the Deputies, or its investigators or**
21 **representatives such authority or duty as shall ensure the effective**
22 **exercise or performance of the powers, functions, and duties herein or**
23 **hereinafter provided;**

24 ~~[(11)]~~ **(14) Investigate and initiate the proper action for the**
25 **recovery of ill-gotten and/or unexplained wealth amassed after**
26 **February 25, 1986 and the prosecution of the parties involved therein.**
27 **IN THE FILING AND PROSECUTION OF SUCH ACTIONS, THE**
28 **REPUBLIC OF THE PHILIPPINES SHALL BE EXEMPT FROM THE**
29 **FILING OF ANY BOND OR THE PAYMENT OF ANY FEES AND**
30 **CHARGES. PROPERTIES LIQUIDATED OR SOLD BY THE**
31 **GOVERNMENT, AND THOSE RECOVERED, FORFEITED,**
32 **SURRENDERED AND TRANSFERRED TO THE GOVERNMENT,**

1 **SHALL BE EXEMPT FROM THE PAYMENT OF ANY NATIONAL OR**
2 **LOCAL TAXES.**

3 Sec. 2. Insert new paragraphs (15), (16) and (17) to Section 15 of R.A. No.
4 6770 to read as follows:

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

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

20 **(17) CREATE AND ADMINISTER ITS OWN WITNESS**
21 **PROTECTION AND WHISTLEBLOWING PROGRAMS AND, FOR SUCH**
22 **PURPOSES, MAINTAIN ITS OWN INTELLIGENCE ENFORCEMENT OR**
23 **PROTECTIVE SERVICES UNIT FOR THE PROTECTION OF ITS**
24 **WITNESSES AND WHISTLEBLOWERS.**

25 The Ombudsman shall give priority to complaints filed against high
26 ranking government officials and/or those occupying supervisory positions,
27 complaints involving grave offenses as well as complaints involving large
28 sums of money and/or properties.

29 Sec. 3. Section 17 of R.A. No. 6770 is hereby amended to read as follows:

30 "SEC 17. *Immunities.* – x x x

31

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

13 Any refusal to appear or testify pursuant to the foregoing
14 provisions shall be subject to punishment for contempt and removal of
15 the immunity from criminal prosecution.

16 Sec. 4. Section 25 of R.A. No. 6770 is hereby amended to read as follows:

17 "SEC. 25. *Penalties* –

18 (1) In administrative proceedings under [~~Presidential Decree No.~~
19 ~~807~~] **EXECUTIVE ORDER NO. 292, THE OFFENSES DEFINED**
20 **AND** the penalties [~~and rules~~] provided therein shall be applied.

21 (2) In other administrative proceedings, the penalty ranging
22 from suspension without pay for one (1) year to dismissal with
23 forfeiture of benefits or a fine ranging from Five Thousand Pesos (P5,
24 000.00) to twice the amount malversed, illegally taken or lost, or both
25 at the discretion of the Ombudsman, taking into consideration
26 circumstances that mitigate or aggravate the liability of the officer or
27 employee found guilty of the complaint or charges.

28 **THESE PENALTIES MAY BE IMPLEMENTED DURING**
29 **ELECTION PERIOD, AMENDING FOR THIS PURPOSE**
30 **SECTION 261(X) OF BATAS PAMBANSA BLG. 881, OR THE**
31 **OMNIBUS ELECTION CODE."**

32 Sec. 5. Section 27 of R.A. No. 6770 is hereby amended to read as follows:

1 "SEC. 27. *Effectivity and Finality of Decisions.* — (1) All
2 provisionary orders of the Office of the Ombudsman are immediately
3 effective and executory.

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

8 (1) New evidence has been discovered which materially affects
9 the order, directive or decision;

10 (2) Errors of law or irregularities have been committed
11 prejudicial to the interest of the movant. ~~[The motion for~~
12 ~~reconsideration shall be resolved within three (3) days from filing:~~
13 ~~Provided, That]~~ **ONLY** one motion for reconsideration shall be
14 entertained.

15 Findings of fact by the Office of the Ombudsman when
16 supported by substantial evidence are conclusive. Any order, directive
17 or decision imposing the penalty of public censure or reprimand,
18 suspension of not more than one (1) **MONTH AND FINE OF NOT**
19 **MORE THAN ONE (1)** month's salary shall be final and unappealable.

20 In all administrative disciplinary cases, orders, directives, or
21 decisions of the Office of the Ombudsman may be appealed to the
22 ~~[Supreme Court by filing a petition for certiorari within ten (10) days~~
23 ~~from receipt of the written notice of the order, directive or decision or~~
24 ~~denial of the motion for reconsideration in accordance with Rule 45 of~~
25 ~~the Rules of Court.]~~ **COURT OF APPEALS ON A VERIFIED**
26 **PETITION FOR REVIEW UNDER RULE 43 OF THE RULES OF**
27 **COURT. AN APPEAL SHALL NOT STOP THE DECISION FROM**
28 **BEING EXECUTORY.**

29 The above rules may be amended or modified by the Office of
30 the Ombudsman as the interest of justice may require."

31 Sec. 6. Insert a new Section 31-A to R.A. No. 6770 to read as follows:

1 SUMMARILY ADJUDGED IN CONTEMPT BY SUCH HEARING
2 OFFICER, SUBJECT TO THE APPROVAL OF THE OMBUDSMAN,
3 AND PUNISHED BY A FINE NOT EXCEEDING FIVE THOUSAND
4 PESOS (P5,000.00) OR IMPRISONMENT NOT EXCEEDING TEN
5 (10) DAYS WITHOUT PREJUDICE TO THE FILING OF A
6 CRIMINAL CASE UNDER PRESIDENTIAL DECREE NO. 1829.

7 ANY IMPROPER CONDUCT TENDING, DIRECTLY OR
8 INDIRECTLY, TO IMPEDE, OBSTRUCT, OR DEGRADE THE
9 ADMINISTRATION OF JUSTICE, OR ANY INVESTIGATION
10 BEING CONDUCTED BY THE OFFICE OF THE OMBUDSMAN
11 SHALL CONSTITUTE AS INDIRECT CONTEMPT, AND SHALL,
12 AFTER NOTICE AND HEARING, BE PUNISHED WITH THE SAME
13 PENALTIES AS DIRECT CONTEMPT.

14 TO ENFORCE THE PROVISIONS OF THIS SECTION, THE
15 OFFICE OF THE OMBUDSMAN MAY, IF NECESSARY, REQUEST
16 THE ASSISTANCE OF ANY LAW ENFORCEMENT OFFICE OR
17 DEPUTIZE ANY LAW ENFORCEMENT OFFICER TO ASSIST IN
18 THE EXECUTION OF ANY ORDER ISSUED FOR SAID PURPOSE."

19 Sec. 9. Insert a new Section 36-A to R.A. No. 6770 to read as follows:

20 **Sec. 36-A. *Illegal Disclosure of Information.* – IT SHALL BE**
21 **UNLAWFUL FOR ANY PERSON WHO RECEIVES A *SUBPOENA*, OTHER**
22 **ORDERS, OR REQUESTS FOR INFORMATION FROM THE OFFICE OF**
23 **THE OMBUDSMAN PURSUANT TO THE EXERCISE OF THE LATTER'S**
24 **POWERS UNDER SECTION 15 HEREOF TO DISCLOSE TO ANY**
25 **PERSON ANY INFORMATION CONCERNING SAID ORDERS OR**
26 **REQUESTS, AND THE PROCEEDINGS RELATING THERETO. ANY**
27 **VIOLATION OF THIS SECTION WILL SUBJECT THE OFFENDER TO**
28 **IMPRISONMENT RANGING FROM SIX (6) MONTHS AND ONE (1)**
29 **DAY TO THREE (3) YEARS, AND A FINE OF NOT LESS THAN FIFTY**
30 **THOUSAND PESOS (P50,000.00) BUT NOT MORE THAN FIVE**
31 **HUNDRED THOUSAND PESOS (P500,000.00).**

1 Sec. 10. *Implementing Rules and Regulations.* — The Ombudsman shall issue,
2 within ninety (90) days after the approval of this Act, the necessary rules and
3 regulation relating to the administrative aspects of the provisions of this Act.

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

7 Sec. 12. *Repealing Clause.* — All laws, decrees, orders or rules and
8 regulations, and other issuances which are inconsistent with the provisions of this
9 Act are hereby repealed, amended or modified accordingly.

10 Sec. 13. *Effectivity.* — This Act shall take effect fifteen (15) days after its
11 publication in two (2) national newspapers of general circulation.

Approved,