

NINETEENTH CONGRESS OF THE]
REPUBLIC OF THE PHILIPPINES]
First Regular Session]

23 FEB -6 P6:23

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SENATE

S.B. No. 1839

Introduced by SEN. WIN GATCHALIAN

AN ACT
PROMOTING TRANSPARENT GOVERNANCE AND INSTITUTING
ANTI-CORRUPTION MECHANISMS IN THE OPERATION OF BANKS
AND OTHER FINANCIAL INSTITUTIONS, AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 1405, OTHERWISE KNOWN AS "THE
SECRECY OF BANK DEPOSITS LAW"

EXPLANATORY NOTE

Sixty-eight years ago, Republic Act No. (RA) 1405, otherwise known as *An Act Prohibiting Disclosure or Inquiry Into, Deposits with any Banking Institution and Providing Penalty Therefor*, was enacted into law to encourage people to deposit money in banking institutions and to discourage private hoarding so that the same may be properly utilized by banks in authorized loans to assist in the economic development of the country.¹

To achieve this, the law prohibits disclosure of any information relative to funds or properties belonging to the depositors in the custody of banks. As it accords absolute confidentiality on the nature of bank deposits, the law also provides for certain instances when such deposits may be examined, inquired or looked into, as follows: 1) upon written permission of the depositor 2) in cases of impeachment 3)

¹ Section 1 of RA 9405.

upon order of court in cases of bribery or dereliction of duty of public officials and 4) in cases where the money deposited or invested is the subject matter of the litigation.

It cannot be overemphasized that the banking sector is built on the confidence of its depositors. Now that the aggregate assets of the Philippine banking system grew to Php21.34 trillion,² it cannot be plagued with anomalies involving depositors who hide behind the cloak of the absolute confidential nature of deposits. According to the Bangko Sentral ng Pilipinas (BSP), there are anomalies involving several bankers themselves, whether be a director, trustee, officer, stockholder, employee or related party of the bank, who commit fraud and hide the proceeds from illicit activities in their own banks,³ and the BSP which has the supposed supervision over the banks in the country⁴ remains powerless to inquire or examine these bank deposits. In fact, the Philippines is the only country in the world where the prudential regulator is not given authority to inquire into bank deposits.⁵

Accordingly, to institute anti-corruption mechanisms and promote transparent governance in the operations of banks and other financial institutions, this measure empowers the BSP to inquire or examine the deposits (including foreign currency deposits in banks operating in the Philippines) made by a stockholder, owner, director, trustee, officer or employees of an entity under BSP's supervisory or regulatory power, as well as the representative or agent, related party or any of the conspirators of the person involved when it meets the following requisites: (i) upon determination by the Monetary Board, there is reasonable ground to believe that fraud, serious irregularity or unlawful activity has been or is being committed by the aforementioned persons and (ii) it is necessary to look into the deposit to establish such fraud, serious irregularity or unlawful activity. The measure also extends BSP's power to inquire and examine deposits during its investigation of closed banks.

² As of June 2022. "Bank assets rise to P21.3 trillion in H1." Philstar Global. Available at <https://www.philstar.com/business/2022/11/06/2221745/bank-assets-rise-p213-trillion-h1>. Accessed 5 January 2023 (citing BSP)

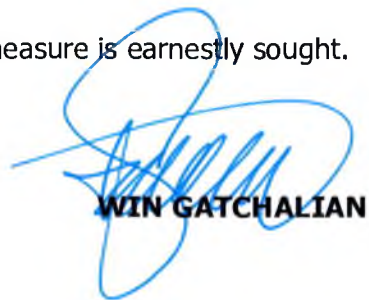
³ Pages 20-21. Senate Committee on Banks, Financial Institutions and Currencies hearing. August 23, 2022.

⁴ Section 3 of RA 7653 or the New Central Bank Act.

⁵ Page 19. Senate Committee on Banks, Financial Institutions and Currencies hearing. August 23, 2022.

Moreover, the measure provides safeguards to ensure that the results of the inquiry or examination will be used only for its intended purpose. It also provides for the exclusive use by BSP of the results of the inquiry or examination, except when sharing of the results of the inquiry or examination is necessary to prevent or prosecute any offense or crime. In case of such exception, the results may be shared only to certain government entities and bodies, namely, the Securities and Exchange Commission, Philippine Deposit Insurance Corporation, Anti-Money Laundering Council, Department of Justice and the courts.

In view of the foregoing, the passage of this measure is earnestly sought.



WIN GATCHALIAN



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**AN ACT PROMOTING TRANSPARENT GOVERNANCE AND
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OF BANKS AND OTHER FINANCIAL INSTITUTIONS, AMENDING FOR
THE PURPOSE REPUBLIC ACT NO. 1405, OTHERWISE KNOWN AS
"THE SECRECY OF BANK DEPOSITS LAW"**

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

1 **SECTION 1.** Section 2 of Republic Act No. 1405, otherwise known as "The
2 Secrecy of Bank Deposits Law" is hereby amended to read, as follows:

3 "SECTION 2. All deposits of ~~whatever nature, with banks or banking~~
4 ~~institutions in the Philippines including investments in bonds issued by the~~
5 ~~Government of the Philippines, its political subdivisions and its instrumentalities,~~
6 are hereby considered as of an absolutely confidential nature and may not be
7 examined, inquired or looked into by any person, government official, bureau or
8 office, except upon written permission of the depositor, or in cases of
9 impeachment, or upon order of a competent court in cases of bribery or
10 dereliction of duty of public officials, or in cases where the money deposited or
11 invested is the subject matter of the litigation, **OR IN CASES WHERE THE**
12 **INQUIRY OR EXAMINATION IS MADE BY THE BANGKO SENTRAL NG**
13 **PILIPINAS (BSP), IN THE EXERCISE OF ITS SUPERVISORY POWERS,**
14 **ON THE DEPOSIT OF THE STOCKHOLDER, OWNER, DIRECTOR,**
15 **TRUSTEE, OFFICER OR EMPLOYEE OF AN ENTITY THAT IS SUBJECT TO**

1 THE SUPERVISION OR REGULATORY POWER OF THE *BSP*, THE
2 REPRESENTATIVE OR AGENT, THE RELATED PARTY, OR ANY OF THE
3 CONSPIRATORS, OF THE PERSON INVOLVED, *PROVIDED* THAT, UPON
4 DETERMINATION BY THE MONETARY BOARD, THERE IS A
5 REASONABLE GROUND TO BELIEVE THAT FRAUD, SERIOUS
6 IRREGULARITY OR UNLAWFUL ACTIVITY HAS BEEN OR IS BEING
7 COMMITTED BY THE ABOVEMENTIONED PERSONS, AND THAT IT IS
8 NECESSARY TO LOOK INTO THE DEPOSIT TO ESTABLISH SUCH FRAUD,
9 SERIOUS IRREGULARITY OR UNLAWFUL ACTIVITY. THE AUTHORITY
10 OF THE *BSP* TO INQUIRE AND EXAMINE DEPOSITS SHALL ALSO APPLY
11 IN THE COURSE OF ITS INVESTIGATION OF CLOSED BANKS.

12 AS USED IN THIS ACT, *DEPOSITS* SHALL REFER TO MONEY OR ITS
13 EQUIVALENT RECEIVED BY A BANK IN THE USUAL COURSE OF
14 BUSINESS, AND FOR WHICH IT HAS GIVEN OR IS OBLIGED TO GIVE
15 CREDIT TO A COMMERCIAL, CHECKING, SAVINGS, TIME
16 OR THRIFT ACCOUNT, EVIDENCED BY A PASSBOOK,
17 CERTIFICATE OF DEPOSIT, OR OTHER EVIDENCE OF DEPOSIT, ISSUED
18 IN ACCORDANCE WITH *BSP* RULES AND REGULATIONS AND OTHER
19 APPLICABLE LAWS, AS WELL AS SUCH OTHER OBLIGATION OF A BANK
20 THAT FORMS PART OF ITS DEPOSIT LIABILITIES PURSUANT TO *BSP*
21 RULES AND REGULATIONS.

22 THE RESULTS OF THE INQUIRY OR EXAMINATION CONDUCTED BY THE
23 *BSP* SHALL BE FOR ITS EXCLUSIVE USE AND SHALL NOT BE MADE
24 AVAILABLE TO ANY PERSON OR ENTITY, WHETHER PUBLIC OR
25 PRIVATE, EXCEPT TO THE SECURITIES AND EXCHANGE COMMISSION,
26 PHILIPPINE DEPOSIT INSURANCE CORPORATION, ANTI-MONEY
27 LAUNDERING COUNCIL, DEPARTMENT OF JUSTICE, AND THE COURTS,
28 *PROVIDED*, THAT THE SHARING OF THE RESULTS OF THE
29 ABOVEMENTIONED INQUIRY OR EXAMINATION IS NECESSARY TO
30 PREVENT OR PROSECUTE ANY OFFENSE OR CRIME.

31 THE EXEMPTIONS UNDER THIS SECTION SHALL APPLY TO FOREIGN
32 CURRENCY DEPOSITS IN BANKS OPERATING IN THE PHILIPPINES
33 INCLUDING OFF-SHORE BRANCHES OF DOMESTIC BANKS; *PROVIDED*,

1 **THAT THESE EXEMPTIONS SHALL NOT APPLY TO NON-STOCK SAVINGS**
2 **& LOAN ASSOCIATIONS (NSSLAS) THAT ARE CATERING ONLY TO**
3 **THEIR MEMBERS.**

4 **SEC. 2.** Section 3 of the same Act, is hereby amended to read as follows:

5 "SECTION 3. **NO BANK OR FINANCIAL INSTITUTION, OR ANY OF ITS**
6 **DIRECTORS, OFFICERS OR EMPLOYEES, SHALL BE**
7 **SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION**
8 **WITH, AND SHALL BE HELD FREE AND HARMLESS FROM LIABILITY**
9 **FOR, ANY ACT DONE IN COMPLIANCE WITH AN ORDER FOR INQUIRY**
10 **OR EXAMINATION OF DEPOSITS FROM THE BSP.**

11 **HOWEVER,** it shall be unlawful for any official **OR** employee, of a banking
12 institution **OR THE BSP,** to disclose **ANY INFORMATION CONCERNING**
13 **SAID DEPOSITS** to any person **AND UNDER SUCH CONDITIONS** other
14 than those mentioned in Section 2 hereof, (~~information concerning said~~
15 ~~deposits~~). **IT SHALL ALSO BE UNLAWFUL FOR ANY PERSON TO USE**
16 **THIS ACT FOR PERSECUTION OR HARASSMENT OR AS AN**
17 **INSTRUMENT TO HAMPER COMPETITION IN TRADE AND COMMERCE.**

18
19 **SEC. 3.** Section 5 of the same Act, is hereby amended to read as follows:

20 **SECTION 5.** Any violation of this law will subject **THE** offender upon
21 conviction, to imprisonment of not less than two (2) years nor more than five
22 **TEN (10) YEARS** or a fine of not **LESS THAN FIFTY THOUSAND PESOS**
23 **(P50,000) NOR MORE THAN** ~~twenty thousand~~ **TWO MILLION**
24 **PESOS (P2,000,000),** or both, ~~in~~ **AT** the discretion of the court.

25
26 **SEC. 4. Separability Clause.** If any provision or section of this Act is held to be
27 unconstitutional or invalid, the other provisions or sections hereof, which are not
28 affected thereby shall continue to be in full force and effect.

1 **SEC. 5. Repealing Clause.**

2 a. Sections 2, 3 and 5 of Republic Act No. 1405, as amended, also known as the
3 "Secrecy of Bank Deposits Act", are hereby amended;

4 b. Sections 8 and 12-A of Republic Act No. 6426, as amended, also known as the
5 "Foreign Currency Deposit Act of the Philippines," with respect to foreign
6 currency deposits, are hereby amended;

7 c. Section 33 of Republic Act No. 6848, also known as the "Charter of the Al-
8 Amanah Islamic Investment Bank of the Philippines", is hereby amended;

9 d. Section 26(a)(2) of Republic Act No. 7353, also known as the Rural Banks
10 Act of 1992, is hereby amended; and

11 e. Section 21(a)(2) of Republic Act No. 7906, also known as the Thrift Banks Act
12 of 1995, is hereby amended.

13 All other Acts or parts of Acts, Special Charters, Executive Order, Rules and
14 Regulations, which are inconsistent with the provisions of this Act, are hereby
15 repealed.

16

17 **SEC. 6. Effectivity.** This Act shall take effect fifteen (15) days following its
18 publication in the *Official Gazette* or in a newspaper of general circulation in the
19 Philippines.

Approved,