


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

7 JIP -6 1987

SENATE

RECEIVED BY: 

S. No. 1541

Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

The government is obliged to protect and render basic services to its inhabitants, and the latter, in turn, are required to support their government in terms of enforced and mandatory contributions called taxes.

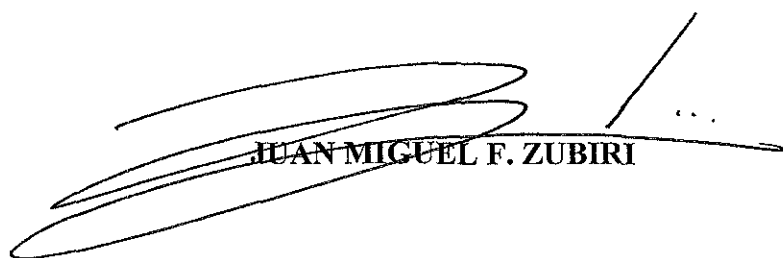
However, it is also the duty of the government to alleviate the suffering of its inhabitants in view of the economic hardships they face. Such alleviation can come from various forms such as implementation of social legislations, implementation of finance-generating programs or simply maximizing the taxes paid by the citizens and returning the same through efficient and adequate basic services.

A great portion of our taxes goes to the funding of public works projects. This would include bridges, buildings, irrigation, dike, roads, canal improvement, and the like. An astute observer will note that after just a few years, these projects collapse. It could be attributed to the inherent SOP given by unscrupulous contractors to some rotten bureaucrats to corner the award of a project or cover the lapses in the implementation.

Bribe is taken from the contract price, hence, price adjustments are in turn done during project construction resulting to defective construction works. Aside from the fact that it is a very unsound and unethical business practice, the life and limbs of ordinary citizens are imperiled. Notice could be taken of bridges collapsing on minor earthquakes or building falling due to plain poor workmanship.

It is hightime that we penalize not only government officials entering into contracts or transactions manifestly and grossly disadvantageous to the government. We must likewise impose criminal sanctions against erring contractors for utter defective workmanship. The stability of a structure is tested by time. Those contractors must give warranty of their work else, we shall witness helplessly the collapse of our bridges, buildings, roads, dikes among our major waterways, or even airports and seaports.

In view of the foregoing, it is strongly recommended that this bill be approved immediately.


JUAN MIGUEL F. ZUBIRI

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AN ACT
IMPOSING CRIMINAL SANCTIONS AGAINST UNSCRUPULOUS CONTRACTORS
AND AWARDEES OF GOVERNMENT CONTRACTS THEREBY AMENDING
REPUBLIC ACT 9184 AND FOR OTHER PURPOSES

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

SECTION 1. This Act shall be known as the "Anti-Unscrupulous Contractors Act."

SECTION 2. Section 62 of Republic Act No. 9184 is hereby amended to read as follows:

"a) For the procurement of Goods, in order to assure that manufacturing defects shall be corrected by the supplier, manufacturer, or distributor, as the case may be, for a specific time after performance of the contract, a warranty shall be required from the contract awardee for A MINIMUM OF THREE (3) YEARS FROM THE DELIVERY OF SUPPLIES, the obligation for which shall be covered by either retention money in the amount equivalent to a percentage of every progress payment, or a special bank guarantee equivalent to a percentage of the total contract price, to be provided in the IRR. The said amounts shall only be released after the lapse of the warranty period, provided that the Goods supplied are free from defects and all the conditions imposed under the contract have been fully met.

"b) For the procurement of infrastructure projects, the contractor shall assume full responsibility for the contract work from the time project construction commenced up to FIVE (5) YEARS COUNTED FROM THE COMPLETION OF THE PROJECT REGARDLESS OF THE CONTRACT AMOUNT taking into consideration the scale and coverage of the project from its final acceptance by the government and shall be held responsible for any damage for construction works except those occasioned by *force majeure*. The contractor shall be fully responsible for the safety, protection, security, and convenience of his personnel, third parties, and the public at large, as well as the works, equipment, installation

and the like to be affected by his construction work and shall be required to put up a warranty security in the form of cash, bank guarantee, letter of credit, Government Service Insurance System bond, or callable surety bond.

The contractor shall undertake the repair works, at his own expense, of any defect or damage to the infrastructure projects on account of the use of materials of inferior quality within ninety (90) days from the time the Head of the Procuring Entity has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the government shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand.

Any contractor who fails to comply with the preceding paragraph shall suffer perpetual disqualification from participating in any public bidding and his property or properties shall be subject to attachment or garnishment proceedings to recover the costs. All payables of government in his favor shall be offset to recover the costs.

THE PROPRIETOR OR IN CASE OF A PARTNERSHIP OR CORPORATION, THE PARTNERS OR CORPORATORS, AS THE CASE MAY BE, SHALL BE SOLIDARILY LIABLE WITH ANY PERSON FOUND GUILTY OF CONSTRUCTING DEFECTIVE PUBLIC WORKS AND SHALL SUFFER THE PENALTY OF TWELVE (12) YEARS IMPRISONMENT IF ACTUAL INJURY OCCURS TO ANY PERSON SUFFERING OR FOUND TO SUFFER THEREFROM AND TWENTY (20) YEARS IMPRISONMENT IF ACTUAL DEATH OCCURS.

THE CIVIL LIABILITY OF THE PROPRIETOR, PARTNERS, OR CORPORATORS TO THE GOVERNMENT SHALL BE TREBLE THE AMOUNT OF THE REPORTED INCOME OF THE CONTRACTOR FROM THE PARTICULAR GOVERNMENT PROJECT. PRIVATE PERSONS SHALL FILE THEIR CLAIM IN ACCORDANCE WITH THE PERTINENT PROVISIONS OF THE CIVIL CODE OF THE PHILIPPINES.

“c) ANY AGGRIEVED TAXPAYER, EITHER ALONE OR WITH SOME OTHER PERSONS, SHALL BE AUTHORIZED TO FILE A CLASS SUIT AGAINST ANY OF THE PERSONS LIABLE UNDER THIS ACT.

SECTION 3. Any other law, presidential decree or issuance, executive order, letter of instruction, administrative order, proclamation order, rule or regulation and/or parts thereof contrary to or inconsistent with this Act, is hereby repealed, modified or amended accordingly.

SECTION 4. If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 5. This Act shall take effect immediately upon its approval.

Approved,