


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SENATE

S. No. **3127**
(in substitution of Senate Bill No. 2676)

RECEIVED BY: 

*Prepared jointly by the Committees on Banks, Financial Institutions and Currencies;
Public Order and Dangerous Drugs; and Justice and Human Rights with Senators
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**AN ACT DEFINING THE CRIME OF FINANCING OF TERRORISM, PROVIDING
PENALTIES THEREFOR AND FOR OTHER PURPOSES**

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

1 SECTION 1. **Short Title** – This Act shall be known as the “*The Terrorism*
2 *Financing Prevention and Suppression Act of 2012*”.

3 SEC. 2. **Declaration of Policy** – It is the policy of the State to protect life,
4 liberty, and property from acts of terrorism and to condemn terrorism and those who
5 support and finance it and to recognize it as inimical and dangerous to national
6 security and the welfare of the people, and to make the financing of terrorism a crime
7 against the Filipino people, against humanity, and against the law of nations.

8 The State, likewise, recognizes and adheres to international commitments to
9 combat the financing of terrorism, specifically to the International Convention for the
10 Suppression of the Financing of Terrorism, as well as other binding terrorism-related
11 resolutions of the United Nations Security Council pursuant to Chapter 7 of the
12 Charter of the United Nations (UN).

13 Toward this end, the State shall reinforce its fight against terrorism by
14 criminalizing the financing of terrorism and related offenses, and by preventing and

1 suppressing the commission of said offenses through freezing and forfeiture of
2 properties or funds while protecting human rights.

3 SEC. 3. **Definition of Terms.** – As used in this Act:

4 a) *Anti-Money Laundering Council (AMLC)* refers to the Council created by
5 virtue of Republic Act No. 9160, as amended, otherwise known as the "Anti-Money
6 Laundering Act of 2001, as amended";

7 b) *Anti-Terrorism Council (ATC)* refers to the Council created by virtue of
8 Republic Act No. 9372, otherwise known as the Human Security Act of 2007;

9 c) *Covered institutions* refer to or shall have the same meaning as defined
10 under the Anti-Money Laundering Act (AMLA), as amended;

11 d) *Dealing, with regard to property or funds* refers to receipt, acquisition,
12 transacting, representing, concealing, disposing or converting, transferring or
13 moving, use as security of or providing financial services;

14 e) *Designated persons* refers to

15 1) any person or entity included in the list maintained by a committee
16 established under the applicable United Nations Security Council
17 Resolution;

18 2) any organization, association, or group of persons proscribed
19 pursuant to Section 17 of the Human Security Act of 2007; or

20 3) any person, organization, association, or group of persons whose
21 funds or property, based on probable cause are subject to seizure and
22 sequestration under Section 39 of the Human Security Act of 2007.

23 f) *Forfeiture* refers to a court order transferring in favor of the government,
24 after due process, ownership of property or funds representing, involving, or relating
25 to financing of terrorism as defined in Section 4 or an offense under Sections 5, 6, 7,
26 8, or 9 of this Act.

1 g) *Freeze* refers to the blocking or restraining of specific property or funds
2 from being transacted, converted, concealed, moved or disposed without affecting
3 the ownership thereof.

4 h) *Property or funds* refer to financial assets, property of every kind,
5 whether tangible or intangible, movable or immovable, however acquired, and legal
6 documents or instruments in any form, including electronic or digital, evidencing title
7 to, or interest in, such funds or other assets, including, but not limited to, bank
8 credits, travellers cheques, bank cheques, money orders, shares, securities, bonds,
9 drafts, or letters of credit, and any interest, dividends or other income on or value
10 accruing from or generated by such funds or other assets.

11 i) *Terrorist* refers to any natural person who: (1) commits, or attempts, or
12 conspires to commit terrorist acts by any means, directly or indirectly, unlawfully and
13 willfully; (2) participates, as a principal or as an accomplice, in terrorist acts; (3)
14 organizes or directs others to commit terrorist acts; or (4) contributes to the
15 commission of terrorist acts by a group of persons acting with a common purpose
16 where the contribution is made intentionally and with the aim of furthering the
17 terrorist act or with the knowledge of the intention of the group to commit a terrorist
18 act.

19 j) *Terrorist acts* refer to the following:

20 1. Any act in violation of Section 3 or 4 of the Human Security Act of
21 2007;

22 2. Any other act intended to cause death or serious bodily injury to a
23 civilian, or to any other person not taking an active part in the hostilities in a
24 situation of armed conflict, when the purpose of such act, by its nature or

1 context, is to intimidate a population, or to compel a government or an
2 international organization to do or to abstain from doing any act.

3 3. Any act which constitutes an offense under this Act, or under the
4 law of a foreign State, that is within the scope of any of the following treaties
5 of which the Republic of the Philippines is a State party:

6 a) Convention for the Suppression of Unlawful Seizure of Aircraft,
7 done at The Hague on 16 December 1970;

8 b) Convention for the Suppression of Unlawful Acts against the
9 Safety of Civil Aviation, done at Montreal on 23 September 1971;

10 c) Convention on the Prevention and Punishment of Crimes against
11 Internationally Protected Persons, including Diplomatic Agents, adopted
12 by the General Assembly of the United Nations on 14 December 1973;

13 d) International Convention against the Taking of Hostages,
14 adopted by the General Assembly of the United Nations on 17 December
15 1979;

16 e) Convention on the Physical Protection of Nuclear Material,
17 adopted at Vienna on 3 March 1980;

18 f) Protocol for the Suppression of Unlawful Acts of Violence at
19 Airports Serving International Civil Aviation, supplementary to the
20 Convention for the Suppression of Unlawful Acts against the Safety of
21 Civil Aviation, done at Montreal on 24 February 1988;

22 g) Convention for the Suppression of Unlawful Acts against the
23 Safety of Maritime Navigation, done at Rome on 10 March 1988;

1 h) Protocol for the Suppression of Unlawful Acts against the Safety
2 of Fixed Platforms located on the Continental Shelf, done at Rome on 10
3 March 1988; or

4 i) International Convention for the Suppression of Terrorist
5 Bombings, adopted by the General Assembly of the United Nations
6 on 15 December 1997.

7 k) *Terrorist organization, association or a group of persons* refers to any
8 entity owned or controlled by any terrorist or group of terrorists that: (1) commits, or
9 attempts to commit, terrorist acts by any means, directly or indirectly, unlawfully and
10 willfully; (2) participates as an accomplice in terrorist acts; (3) organizes or directs
11 others to commit terrorist acts; or (4) contributes to the commission of terrorist acts
12 by a group of persons acting with common purpose of furthering the terrorist act
13 where the contribution is made intentionally and with the aim of furthering the
14 terrorist act or with the knowledge of the intention of the group to commit a terrorist
15 act.

16 SEC. 4. **Financing of Terrorism.** - Any person who, directly or indirectly,
17 willfully and without lawful excuse, possesses, provides, collects or uses property or
18 funds or makes available property, funds or financial service or other related
19 services, by any means, with the unlawful and willful intention that they should be
20 used or with the knowledge that they are to be used, in full or in part: (a) to carry out
21 or facilitate the commission of any terrorist act; (b) by a terrorist organization,
22 association or group; or (c) by an individual terrorist, shall be guilty of the crime of
23 financing of terrorism and shall suffer the penalty of *reclusion temporal* in its
24 maximum period to *reclusion perpetua* and a fine of not less than Five Hundred
25 Thousand Pesos (₱ 500,000.00) nor more than One Million Pesos (₱ 1,000,000.00).

1 Any person who organizes or directs others to commit financing of terrorism
2 under the immediately preceding paragraph shall likewise be guilty of an offense and
3 shall suffer the same penalty as herein prescribed.

4 For purposes of this Act, knowledge or intent may be established by direct
5 evidence or inferred from the attendant circumstances.

6 For an act to constitute a crime under this Act it shall not be necessary that
7 the funds were actually used to carry out a crime referred to in Section 3 (j).

8 The fact that property or funds were provided or collected with respect to
9 subsection (c) above shall be *prima facie* evidence that the person providing or
10 collecting the property or funds has knowledge or reason to believe that the property
11 or funds would be used to carry out or facilitate the commission of any terrorist act or
12 acts by a terrorist organization, association or group.

13 **SEC. 5. *Attempt or Conspiracy to Commit the Crimes of Financing of***
14 ***Terrorism and Dealing with Property or Funds of Designated Persons*** . – Any
15 attempt to commit any crime under Section 4 or Section 8 under this Act shall be
16 penalized by a penalty two degrees lower than that prescribed for the commission
17 of the same as provided under this Act.

18 Any conspiracy to commit any crime under Section 4 or 8 of this Act shall be
19 penalized by the same penalty prescribed for the commission of such crime under
20 the said sections.

21 There is conspiracy to commit the offenses punishable under Sections 4
22 and 8 of this Act when two or more persons come to an agreement concerning the
23 commission of such offenses and decided to commit it.

24 **SEC. 6. *Accomplice***. - Any person who, not being a principal under Article
25 17 of the Revised Penal Code or a conspirator as defined in Section 5 hereof,

1 cooperates in the execution of either the crime of financing of terrorism or
2 conspiracy to commit the crime of financing of terrorism by previous or
3 simultaneous acts shall suffer the penalty one degree lower than that prescribed for
4 the conspirator.

5 **SEC. 7. Accessory.** - Any person who, having knowledge of the commission
6 of the crime of financing of terrorism but without having participated therein as a
7 principal, takes part subsequent to its commission, by profiting from it or by
8 assisting the principal or principals to profit by the effects of the crime, or by
9 concealing or destroying the effects of the crime in order to prevent its discovery, or
10 by harboring, concealing or assisting in the escape of a principal of the crime shall
11 be guilty as an accessory to the crime of financing of terrorism and shall be imposed
12 a penalty two degrees lower than that prescribed for principals in the crime of
13 financing terrorism.

14 **SEC. 8. Prohibition Against Dealing with Property or Funds of**
15 **Designated Persons.** – Any person who, not being an accomplice under Section 6
16 or accessory under Section 7 in relation to any property or fund, deals directly or
17 indirectly, in any way and by any means, with any property or fund that he knows
18 or has reasonable ground to believe is owned or controlled by a designated
19 person, organization, association or group of persons, including funds derived or
20 generated from property or funds owned or controlled, directly or indirectly, by a
21 designated person, organization, association or group of persons shall suffer the
22 penalty of reclusion temporal in its maximum period to *reclusion perpetua* and a
23 fine of not less than Five Hundred Thousand Pesos (₱ 500,000.00) nor more than
24 One Million Pesos (₱ 1,000,000.00).

25 **SEC. 9. Offense by a Juridical Person, Corporate Body or Alien.** – If the
26 offender is a corporation, association, partnership or any juridical person, the penalty

1 shall be imposed upon the responsible officers, as the case maybe, who participated
2 in, or allowed by their gross negligence, the commission of the crime or who shall
3 have knowingly permitted or failed to prevent its commission. If the offender is a
4 juridical person, the court may suspend or revoke its license. If the offender is an
5 alien, the alien shall, in addition to the penalties herein prescribed, be deported
6 without further proceedings after serving the penalties herein prescribed.

7 **SEC. 10. Authority to Investigate Financing of Terrorism.-** The AMLC,
8 either upon its own initiative or at the request of the ATC, is hereby authorized to
9 investigate: (a) any property or funds that are in any way related to financing of
10 terrorism or acts of terrorism; (b) property or funds of any person or persons in
11 relation to whom there is probable cause to believe that such person or persons are
12 committing or attempting or conspiring to commit, or participating in or facilitating the
13 financing of terrorism or acts of terrorism as defined herein.

14 The AMLC may also enlist the assistance of any branch, department, bureau,
15 office, agency or instrumentality of the government, including government-owned
16 and –controlled corporations in undertaking measures to counter the financing of
17 terrorism, which may include the use of its personnel, facilities and resources.

18 For purposes of this Section and notwithstanding the provisions of Republic
19 Act No. 1405, otherwise known as the “Law on Secrecy of Bank Deposits”, as
20 amended, Republic Act No. 6426, otherwise known the “Foreign Currency Deposit
21 Act of the Philippines”, as amended; Republic Act No. 8791, otherwise known as
22 “The General Banking Law of 2000” and other laws, the AMLC is hereby authorized
23 to inquire into or examine deposits and investments with any banking institution or
24 non-bank financial institution and their subsidiaries and affiliates without a court
25 order.

1 SEC. 11. **Authority to Freeze.** – The AMLC, either upon its own initiative or
2 at the request of the ATC, is hereby authorized to issue an *ex parte* order to freeze
3 without delay: (a) property or funds that are in any way related to financing of
4 terrorism or acts of terrorism; or (b) property or funds of any person, group of
5 persons, terrorist organization, or association, in relation to whom there is probable
6 cause to believe that they are committing or attempting or conspiring to commit, or
7 participating in or facilitating the commission of financing of terrorism or acts of
8 terrorism as defined herein.

9 , The freeze order shall be effective for a period not exceeding twenty (20)
10 days. Upon a petition filed by the AMLC before the expiration of the period, the
11 effectivity of the freeze order may be extended up to a period not exceeding six (6)
12 months upon order of the Court of Appeals, provided that the twenty-day period shall
13 be tolled upon filing of a petition to extend the effectivity of the freeze order.

14 Notwithstanding the preceding paragraphs, the AMLC, consistent with the
15 Philippines' international obligations, shall be authorized to issue a freeze order with
16 respect to property or funds of a designated organization, association, group or any
17 individual to comply with binding terrorism-related Resolutions of the UN Security
18 Council pursuant to Article 41 of the Charter of the UN. Said freeze order shall be
19 effective until the basis for the issuance thereof shall have been lifted. During the
20 effectivity of the freeze order, an aggrieved party may, within twenty (20) days from
21 issuance, file with the Court of Appeals a petition to determine the basis of the freeze
22 order according to the principle of effective judicial protection.

23 However, if the property or funds subject of the freeze order under the
24 immediately preceding paragraph are found to be in any way related to financing of
25 terrorism or acts of terrorism committed within the jurisdiction of the Philippines, said

1 property or funds shall be the subject of civil forfeiture proceedings as hereinafter
2 provided.

3 SEC. 12. **Exceptions for investigative requirements.** Notwithstanding the
4 immediately preceding provision, the AMLC may decide to defer the issuance of a
5 freeze order for as long as necessary for any specific investigative/ prosecutorial
6 purposes.

7 SEC. 13. **Humanitarian Exemptions.** The person whose property or funds
8 have been frozen under the first paragraph of Section 11 may withdraw such sums
9 as the court determines to be reasonably needed for monthly family needs and
10 sustenance including the services of counsel and the family medical needs of such
11 person.

12 The person whose property or funds have been frozen under third paragraph
13 of Section 11 may withdraw such sums as the AMLC determines to be reasonably
14 needed for monthly family needs including the services of counsel and the family
15 medical needs of such person.

16 SEC. 14 . **Appropriation and Use of Funds of Public Attorneys Office**
17 **(PAO).** - Any appropriation and use of funds of PAO to provide free legal assistance
18 or services to persons charged of the offenses defined and penalized herein shall
19 not be construed as a violation of this Act, thereby exempting the PAO from any
20 liability.

21 SEC. 15. **Publication of Designation.** - The Department of Foreign Affairs
22 with respect to designation under Section 3 (e) (1) of this Act, and the ATC with
23 respect to designation under Section 3 (e) (2) and (3) and Section 11 of this Act,
24 shall establish, publish, review and amend a list of the designated persons to which
25 this Act or the Human Security Act applies. The concerned agencies shall ensure

1 that an electronic version of the document is made available to the public on their
2 respective website.

3 Each respective agency or authority shall ensure that information on
4 procedures established in rules and regulations issued pursuant to this Act for
5 delisting, unfreezing and exemptions for basic, necessary or extraordinary expenses
6 shall likewise be made available in their respective website.

7 **SEC. 16. *Duty of the Covered Institutions and/or Relevant Government***
8 ***Agencies upon receipt of the Freeze Order*** .- Upon receipt of the notice of a
9 freeze order, the covered institutions and/or relevant government agencies shall
10 immediately preserve the subject property or funds in accordance with the order of
11 the AMLC and shall forthwith serve a copy of the notice of the freeze order upon the
12 owner or holder of the property or funds. Any responsible officer or other person who
13 fails to comply with a freeze order shall suffer the penalty of imprisonment from six
14 months to four years and a fine of not less than One Hundred Thousand Pesos
15 (Php100,000.00) nor more than Five Hundred Thousand Pesos (Php500,000.00), at
16 the discretion of the court, without prejudice to the administrative sanctions that the
17 AMLC may impose on the erring covered institution.

18 **SEC. 17. *Predicate offense to money laundering***. - Financing of terrorism
19 under Section 4 and offenses punishable under Sections 5, 6, and 7 of this Act shall
20 be predicate offenses to money laundering as defined in Republic Act No. 9160,
21 otherwise known as the Anti-Money Laundering Act of 2001, as amended, and
22 subject to its suspicious transaction reporting requirement.

23 **SEC. 18. *Civil forfeiture***.- The procedure for the civil forfeiture of property or
24 funds found to be in any way related to financing of terrorism under Section 4 and
25 other offenses punishable under Sections 5, 6, and 7 of this Act shall be made in

1 accordance with the AMLA, as amended, its Revised Implementing Rules and
2 Regulations and the Rules of Procedure promulgated by the Supreme Court.

3 **SEC. 19. *Extra-Territorial Application of this Act.*** - Subject to the provision
4 of an existing treaty, including the International Convention for the Suppression of
5 the Financing of Terrorism of which the Philippines is a State Party, and to any
6 contrary provision of any law of preferential application, the criminal provisions of this
7 Act shall apply: (a) to individual persons who commit any of the crimes defined and
8 punished in this Act within the terrestrial domain, interior waters, maritime zone, and
9 airspace of the Philippines; (b) to individual persons who, although physically outside
10 the territorial limits of the Philippines, commit, conspire or plot to commit any of the
11 crimes defined and punished in this Act inside the territorial limits of the Philippines;
12 (c) to individual persons who, although physically outside the territorial limits of the
13 Philippines, commit any of the said crimes on board Philippine ship or Philippine
14 airship; (d) to individual persons who commit any of said crimes within any embassy,
15 consulate, or diplomatic premises belonging to or occupied by the Philippine
16 government in an official capacity; (e) to individual persons who, although physically
17 outside the territorial limits of the Philippines, commit said crimes against Philippine
18 citizens or persons of Philippine descent, where their citizenship or ethnicity was a
19 factor in the commission of the crime; and (f) to individual persons who, although
20 physically outside the territorial limits of the Philippines, commit said crimes directly
21 against the Philippine government.

22 The provisions of this Act shall likewise apply to a Filipino national who,
23 although outside the territorial jurisdiction of the Philippines, commit, conspire or plot
24 to commit any of the crimes defined and punished in this Act.

25 In case of an alien whose extradition is requested pursuant to the
26 International Convention for the Suppression of the Financing of Terrorism, and that

1 alien is not extradited to the requesting state, the Republic of the Philippines, without
2 exception whatsoever and whether or not the offense was committed in the
3 Philippines, shall submit the case without undue delay to the Department of Justice
4 for the purpose of prosecution in the same manner as if the act constituting the
5 offense had been committed in the Philippines, in which case, the courts of the
6 Philippines shall have jurisdiction over the offense.

7 SEC. 20. **Extradition.** - The Philippines may, at its option, subject to the
8 principle of reciprocity , consider the *International Convention for the Suppression of*
9 *the Financing of Terrorism* as a legal basis for requesting or granting extradition in
10 respect of the offenses set forth under this Act.

11 SEC. 21. **Applicability of the Revised Penal Code.** – The provisions of
12 Book I of the Revised Penal Code shall apply suppletorily to this Act.

13 SEC. 22. **Implementing Rules and Regulations.** - Within thirty (30) days
14 from the effectivity of this Act, the AMLC, in coordination with relevant government
15 agencies, shall promulgate rules and regulations to implement effectively the
16 provisions of this Act.

17 The rules and regulations to be promulgated may include, but not limited to,
18 designation, delisting, notification of matters of interest of persons affected by the
19 Act, exceptions for basic, necessary and extraordinary expenses, matters of
20 evidence, definition of probable cause, inter-agency coordination, publication of
21 relevant information, administrative offenses and penalties, procedures and forms,
22 and other mechanisms for implementation of the Act.

23 SEC. 23. **Separability Clause.** – If, for any reason, any provision of this Act is
24 declared invalid or unconstitutional, the remaining provisions not affected thereby
25 shall continue to be in force and effect.

1 SEC. 24. **Repealing Clause.** – All laws, decrees, executive orders,
2 proclamations, rules and regulations, and other issuances, or parts thereof, which
3 are inconsistent with the provisions of this Act are hereby repealed or modified
4 accordingly.

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

8 Approved,