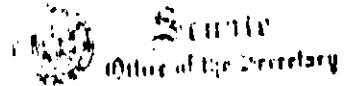


SIXTEENTH CONGRESS OF THE)
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SENATE

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RECEIVED BY: 

Prepared jointly by the Committees on Public Works; Justice and Human Rights; Ways and Means; and Finance with Senators Ferdinand R. Marcos, Jr.; Cynthia A. Villar; Manuel "Lito" M. Lapid; Teofisto "TG" Guingona III; Aquilino "Koko" Pimentel III; Sonny Angara; and Loren Legarda, as authors

**"AN ACT
STRENGTHENING THE PROCESS OF ACQUIRING THE RIGHT OF WAY FOR
NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS, REPEALING FOR THIS
PURPOSE REPUBLIC ACT NO. 8974, OTHERWISE KNOWN AS "AN ACT TO
FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE, OR LOCATION FOR
NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS, APPROPRIATING FUNDS
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. Declaration of Policy.**- Article III, Section 9 of the Constitution states
2 that private property shall not be taken for public use without just compensation.
3 Towards this end, the State shall ensure that owners of real property acquired for
4 national government Infrastructure projects are promptly paid adequate consideration
5 or just compensation, while providing for the expeditious acquisition of the required
6 right-of-way for the projects.

7 **SEC. 2. National Government Infrastructure Project.** - The term "national
8 government infrastructure project" shall refer to infrastructure project and its public
9 service facilities, engineering works and service contract of the National Government,
10 including project undertaken by government-owned and controlled corporations,
11 project covered by Republic Act No. 6957, as amended, otherwise known as the Build-
12 Operate-and-Transfer Law, and other related and necessary activities such as site
13 acquisition, supply and/or Installation of equipment and materials, implementation,
14 construction, completion, operation, maintenance, improvement, repair and

1 rehabilitation, regardless of the source of funding. Subject to the provisions of R.A. No.
2 7160 otherwise known as the Local Government Code of 1991, as amended, local
3 government units (LGUs) may also adopt the provisions of this Act for use in the
4 acquisition of right-of-way for local government infrastructure project[s].

5 **SEC. 3. Modes of Acquiring Real Property.** - The Government may acquire real
6 property needed as right-of-way, site or location for any government infrastructure
7 project through donation, negotiated sale, expropriation or any other mode of
8 acquisition as provided by law.

9 In cases of lands granted thru Commonwealth Act 141 and its amendments, the
10 Implementing Agency shall:

11 (a) follow the modes of acquisition under the first paragraph of this Section 3 if
12 the landowner is not the original patent holder and not a holder thru gratuitous
13 title; or

14 (b) follow the provisions under Commonwealth Act 141 regarding acquisition of
15 right-of-way on patent lands, if the landowner is the original patent holder or his
16 or her acquisition of said land from the original patent holder is through
17 gratuitous title.

18 **SEC. 4. Rules on Negotiated Sale.** -The Implementing Agency may offer to
19 acquire, through negotiated sale, the right-of-way, site or location for a national
20 government infrastructure project, under the following rules:

21 (a) The Implementing Agency shall make an offer only once to the property
22 owner concerned, as compensation price, the sum of:

23 i. The current market value of the land;

24 ii. The replacement cost of structures and improvements therein; and

25 iii. The current market value of crops and trees therein.

26 (b) To assist the Implementing Agency in determining the said price, the
27 Implementing Agency may engage the services of:

28 i. Government Financial Institution with adequate experience in property
29 appraisal, or

30 ii. an independent property appraiser licensed by the Professional
31 Regulation Commission (PRC) for individuals or registered with the
32 Security and Exchange Commission (SEC) in the case of corporations and
33 partnerships

1 iii. the provincial city or municipal assessor's office

2 (c) The independent property appraisers shall be procured by the Implementing
3 Agency under the provisions of R. A. No. 9184 and its implementing rules and
4 regulations pertaining to consulting services.

5 (d) The property owner is given thirty (30) days from receipt of the written offer
6 within which he or she shall decide whether to accept the offer as payment for
7 his or her property. If the property owner accepts the offer for the purchase of
8 the property through negotiated sale, the parties shall with reasonable dispatch,
9 proceed to execute the necessary deed of sale as provided hereunder.

10 If the property owner does not accept the price offer or refuses or fails to submit
11 documents, the Implementing Agency shall immediately initiate expropriation
12 proceedings pursuant to Section 5 hereof.

13 (e) The above provision pertaining to Section 4(a)(ii) shall also apply to owner
14 of structures and improvements who does not have legally recognized rights to
15 the land and who meet all of the following criteria:

16 i. Must be a Filipino citizen.

17 ii. Must not own any real property or any other housing facility, whether
18 in an urban or rural area.

19 iii. Must not be a professional squatter or a member of a squatting
20 syndicate, as defined in R. A. No. 7279, otherwise known as the Urban
21 Development and Housing Act, as amended.

22 iv. Must not have received any benefits under R.A. No. 7279.

23 (f) The Implementing Agency shall pay, for the account of the seller, the capital
24 gains tax, as well as the documentary stamp tax, transfer tax and registration fees
25 while the owner shall pay the unpaid real property tax. If requested by the
26 property owner, the Implementing Agency shall remit to the LGU concerned the
27 amount corresponding to any unpaid real property tax, subject to the deduction
28 of this amount from the total negotiated price.

29 (g) The property owner and the Implementing Agency shall execute a deed of
30 absolute sale, provided that the property owner has submitted to the
31 Implementing Agency the transfer certificate of title, tax declaration, real
32 property tax certificate, and other documents necessary to transfer the title to

1 the Republic. The Implementing Agency shall cause the annotation of the deed of
2 absolute sale on the transfer certificate of title.

3 h. Upon execution of Deed of Sale, the Implementing Agency shall pay the
4 property owner one hundred percent (100%) of the negotiated price of the
5 affected land, improvements, structures, crops and trees net of taxes remitted to
6 the LGU concerned under Section 4 hereof;

7 **SEC. 5. Guidelines for Expropriation Proceedings.** - Whenever it is necessary to
8 acquire real property for the right-of-way, site or location for any national government
9 infrastructure through expropriation, the Implementing Agency, through the Office of
10 the Solicitor General, the Office of the Government Corporate Counsel, or their
11 deputized government or private legal counsel, shall immediately initiate the
12 expropriation proceedings or the enforcement of lien proceedings for land covered by
13 free or homestead patents pursuant to Commonwealth Act 141, before the proper court
14 under the following guidelines:

15 (a) Upon the filing of the complaint or at any time thereafter, and after due notice
16 to the property owner, the Implementing Agency shall immediately deposit to
17 the court in favor of the owner the amount equivalent to the sum of:

- 18 i. One hundred percent (100%) of the value of the land based on the
19 current relevant zonal valuation of the Bureau of Internal Revenue (BIR),
20 ii. The replacement cost of structures and improvements therein as
21 determined pursuant to Section 4(a)(ii); and
22 iii. The current market value of crops and trees within the property.

23 If, within seven (7) days after the deposit to the court of the amount
24 equivalent to the sum of Section 5(a)(i) to 5(a)(iii), the court has not issued to
25 the Implementing Agency a Writ of Possession for the affected property, the
26 Implementing Agency shall immediately seek from the court the issuance of the
27 Writ of Possession *ex parte*. No hearing shall be required in the issuance of such
28 Writ of Possession. The court shall issue the Writ of Possession within fifteen
29 (15) days from the filing of the complaint.

30 In the enforcement of lien proceedings, the court shall immediately issue
31 a Writ of Possession similar to that granted in expropriation cases.

32 The court shall release the said amount to the owner upon presentation of
33 sufficient proof of ownership.

1 (b) In case the owner cannot be found, unknown, or deceased, in cases where the
2 estate has not been settled, after exerting due diligence, or there are conflicting
3 claims over the ownership of the property and improvements and/or structures
4 thereon, the Implementing Agency shall deposit the amount equivalent to the
5 sum of Sections 5(a)(i) to 5(a)(iii) above to the court for the benefit of the person
6 to be adjudged in the same proceedings as entitled thereto.

7 The court shall release the said amount to the person adjudged in the
8 same expropriation proceeding as entitled thereto.

9 (c) Upon receipt of the Writ of Possession Issued by the court, the Implementing
10 Agency may take possession of the property and start the implementation of the
11 project.

12 (d) The court shall determine the just compensation to be paid to the owner
13 within sixty (60) days from the date of filing of the expropriation case. When the
14 decision of the court becomes final and executory, the Implementing Agency
15 shall pay the owner the difference between the amount already paid/deposited
16 and the just compensation as determined by the court.

17 (e) The Implementing Agency shall pay the documentary stamp tax, transfer tax
18 and registration fees, while the owner shall pay the capital gains tax and any
19 unpaid real property tax.

20 **SEC. 6. Standards for the Assessment of the Value of the Property In case of**
21 **Negotiated Sale** – In order to facilitate the determination of the current market value of
22 the property for purposes of a negotiated sale under this Act, the following relevant
23 factors and standards shall be observed:

- 24 a) The classification and use for which the property is suited;
- 25 b) The developmental cost for improving the land;
- 26 c) The value declared by the owner;
- 27 d) The current selling price of similar lands in the vicinity;
- 28 e) The reasonable disturbance compensation for the removal and/or demolition of
29 certain improvements on the land and for the value of improvements, thereon;
- 30 f) The size, shape or location, local real property tax declaration, and zonal
31 valuation of the land;
- 32 g) The price of the land as manifested in the ocular inspection findings, or in oral
33 and documentary evidence presented; and

1 h) Other information, facts, events or circumstances that will enable the affected
2 property owner to have sufficient funds to acquire similarly situated land of
3 approximate areas as those to be acquired from him/her by the government, and
4 thereby rehabilitate himself/themselves as early as possible.

5 The above-mentioned factors and standards may also be used by the Court in the
6 determination of the just compensation.

7 For purposes of this Section, the implementing rules and regulations to be
8 prepared under Section 12 hereof shall include, among other things, the Terms of
9 Reference, which shall be used by the government financial institutions and/or
10 independent property appraisers in the determination of the current market value of
11 the land. The said Terms of Reference shall define in detail the factors and standards
12 stated in this Section.

13 **SEC. 7. Ecological and Environmental Concerns.** - In cases involving the
14 acquisition of right-of-way, site or location for any national government infrastructure
15 project, the Implementing Agency shall take into account the ecological and
16 environmental impact of the project. Before any national government project could be
17 undertaken, the agency shall consider environmental laws, land use ordinances, and all
18 pertinent provisions of R. A. No. 7160, as amended, otherwise known as the Local
19 Government Code of 1991.

20 **SEC. 8. Relocation of Informal Settlers.** - The Government, through the Housing
21 and Urban Development Coordinating Council (HUDCC) and the National Housing
22 Authority (NHA), in coordination with the LGU and implementing agencies concerned,
23 shall establish and develop resettlement site for informal settlers, including the
24 provision of adequate basic services and community facilities, in anticipation of
25 informal settlers that have to be removed from the right-of-way or site of future
26 infrastructure projects, pursuant to the provisions of R. A. No. 7279. Whenever
27 applicable, the implementing agency and/or concerned LGUs shall fund, provide and
28 administer the payment of financial assistance and/or resettlement sites.

29 When relocation site is not available during the start of implementation of the
30 proposed government infrastructure project, the affected families may choose to avail
31 financial assistance from the Implementing Agency in accordance with the provisions of
32 R.A. 7279.

1 In case the expropriated land is occupied by informal settlers who are unable or
2 refuse to demolish their structures and other improvements therein despite the Writ of
3 Possession Issued by the court under Section 5, the court shall Issue the necessary Writ
4 of Demolition for the purpose of dismantling any and all structures found within the
5 subject property. The Implementing Agency shall take into account and observe
6 diligently the procedure provided for in Sections 28 and 29 of R. A. No. 7279.

7 **SEC. 9. Appropriations for Acquisition of Right-of-way, Site or Location for**
8 **National Government Infrastructure Project in Advance of Project Implementation.**

9 – The Government shall provide adequate appropriations that will allow the concerned
10 implementing agencies to acquire the required right-of-way, site or location for any
11 national government infrastructure project in advance of project implementation. These
12 appropriations shall cover the funds needed to cover the following expenses for
13 activities directly related to right-of-way acquisition for the projects as provided in this
14 Act;

15 (a) Compensation for the project-affected land, structures and Improvements,
16 crops and trees;

17 (b) Cost of parcellary surveys and appraisal of properties affected by the
18 projects.

19 (c) Cost of development and implementation of resettlement projects covered by
20 this Act, including planning, social preparation, land development and housing
21 construction, provision of basic services and community facilities, livelihood
22 alternatives, financial assistance under R. A. No. 7279 and other activities under
23 the resettlement action plan in coordination with relevant government agencies.

24 (d) Related expenses of the Implementing Agency, including capital gains tax in
25 the case of negotiated sale under Section 4, documentary stamp tax, transfer tax
26 and registration fees for the transfer of titles, and other relevant administrative
27 expenses for right-of-way management.

28 In solicited proposals for Public-Private Partnership (PPP) projects, the
29 Implementing Agency may, as part of the contract terms and conditions require the
30 project proponent to (a) advance the funds covering the cost of the right-of-way which
31 shall be reimbursed later by the Implementing Agency or (b) finance the right-of-way
32 cost which shall be recovered partly or fully by the proponent from the tolls, fees, or
33 tariffs to be charged to the users of the completed project.

1 **SEC. 10. Entry Into Private Lands for Subsurface or Subterranean Works. -**

2 Whenever necessary for a government infrastructure and development project to
3 construct or install underground works in the subsurface or subterranean portion of
4 private land, the government or any of its authorized representatives may not be
5 prevented from entering into the subsurface or subterranean portions of such private
6 land if such entry is made more than fifty (50) meters from the surface.

7 If the government infrastructure project involves underground works within a
8 depth of fifty (50) meters from the surface, the government may, based, on the
9 feasibility study on the project:

10 (a) negotiate with the property owner a perpetual easement for the subterranean
11 portions of his or her property required by the project; or

12 (b) offer to acquire from the property owner the entire affected land, structures,
13 improvements, crops and trees in accordance with the provisions of this Act.

14 The price offer for the perpetual easement under item (a) shall be twenty
15 percent (20%) of the current market value of the entire property. The Implementing
16 Agency shall follow the rules in Section 4.

17 **SEC. 11. Sanctions. -** Violation of this Act shall subject the government official or
18 employee or private individual concerned to appropriate administrative, civil and/or
19 criminal sanctions, including suspension and/or dismissal from the government service
20 and forfeiture of benefits.

21 **SEC. 12. Rules and Regulations. -** A committee composed of the Secretary of the
22 Department of Public Works and Highways as Chairperson, and Secretaries of the
23 Department of Transportation and Communications, the Department of Energy, the
24 Office of the Solicitor General, the National Economic and Development Authority, the
25 Chairman of the Housing and Urban Development Coordinating Council, and other
26 concerned entities as determined by the committee as members; shall prepare, in
27 consultation with key stakeholders the necessary rules and regulations for the proper
28 implementation of this Act within sixty (60) days from its approval.

29 **SEC.13. Transitory Clause. -** The provisions of this Act shall apply to all right-of-
30 way transactions, except ongoing transactions which, as of the effectivity of this Act,
31 have already reached a written agreement as to the price between the Implementing
32 Agency and the property owner.

1 **SEC. 14. *Separability Clause.*** - If any provision of this Act is declared
2 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall
3 continue to be in full force and effect.

4 **SEC. 15. *Repealing Clause.*** - All laws, decrees, executive orders, proclamations,
5 rules and regulations and other issuances or parts thereof which are inconsistent with
6 the provisions of this Act are hereby repealed or modified accordingly.

7 **SEC. 16. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days following
8 its publication in at least two (2) newspapers of general circulation.

Approved,