



HOUSE OF REPRESENTATIVES

H. No. 5588

BY REPRESENTATIVES COSALAN, MANALO, DEL MAR, UNGAB, NAVA (J.),
CUA, BATAOIL, ALMONTE, CHIPECO, COLLANTES, DELOSO-MONTALLA,
DELA CRUZ, ATIENZA, PAQUIZ, ABELLANOSA, RODRIGUEZ (O.),
BULUT-BEGTANG AND DEL MAR, PER COMMITTEE REPORT NO. 625

AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY
SITE OR LOCATION FOR NATIONAL GOVERNMENT
INFRASTRUCTURE PROJECTS

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

1 SECTION 1. *Short Title.* — This Act shall be known as
2 “The Right-of-Way Act”.

3 SEC. 2. *Declaration of Policy.* — Article III, Section 9 of the
4 Constitution states that private property shall not be taken for public use
5 without just compensation. Towards this end, the State shall ensure that
6 owners of real property acquired for national government infrastructure
7 projects are promptly paid just compensation for the expeditious acquisition
8 of the required right-of-way for the projects.

9 SEC. 3. *National Government Projects.* — As used in this Act, the
10 term “national government projects” shall refer to all national government
11 infrastructure projects and its public service facilities, engineering works and

1 service contracts, including projects undertaken by government-owned and
2 -controlled corporations, all projects covered by Republic Act No. 6957, as
3 amended by Republic Act No. 7718, otherwise known as the "Build-Operate-
4 and-Transfer Law", and other related and necessary activities, such as site
5 acquisition, supply or installation of equipment and materials,
6 implementation, construction, completion, operation, maintenance,
7 improvement, repair and rehabilitation, regardless of the source of funding.
8 Subject to the provisions of Republic Act No. 7160, otherwise known as the
9 "Local Government Code of 1991", local government units (LGUs) may also
10 adopt the provisions of this Act for use in the acquisition of right-of-way for
11 local government infrastructure projects.

12 *SEC. 4. Modes of Acquiring Real Property.* – The government may
13 acquire real property needed as right-of-way site or location for any
14 national government infrastructure project through donation, negotiated
15 sale, expropriation, or any other mode of acquisition as provided by law.

16 In case of lands granted through Commonwealth Act No. 141, as
17 amended, otherwise known as "The Public Land Act", the implementing
18 agency shall:

19 (a) Follow the other modes of acquisition enumerated in this Act, if
20 the landowner is not the original patent holder and any previous acquisition of
21 said land is not through a gratuitous title; or

22 (b) Follow the provisions under Commonwealth Act No. 141, as
23 amended, regarding acquisition of right-of-way on patent lands, if the
24 landowner is the original patent holder or the acquisition of the land from the
25 original patent holder is through a gratuitous title.

26 The implementing agency may utilize donation or similar mode of
27 acquisition if the landowner is a government-owned or government-controlled
28 corporation.

1 When it is necessary to build, construct, or install on the subsurface or
2 subterranean portion of private and government lands owned, occupied, or
3 leased by other persons, such infrastructure as subways, tunnels, underpasses,
4 waterways, floodways, or utility facilities as part of the government's
5 infrastructure and development project, the government or any of its
6 authorized representatives shall not be prevented from entry into and use of
7 the subsurface or subterranean portions of such private and government lands
8 by surface owners or occupants, if such entry and use are made more than fifty
9 (50) meters from the surface.

10 SEC. 5. *Rules on Negotiated Sale.* – The implementing agency may
11 offer to acquire, through negotiated sale, the right-of-way site or location for a
12 national government infrastructure project, under the following rules:

13 (a) The implementing agency shall offer to the property owner
14 concerned, as compensation price, the sum of:

15 (1) The current market value of the land;

16 (2) The replacement cost of structures and improvements therein; and

17 (3) The current market value of crops and trees therein.

18 To determine the appropriate price offer, the implementing agency may
19 engage the services of a government financial institution with adequate
20 experience in property appraisal, or an independent property appraiser
21 accredited by the Bangko Sentral ng Pilipinas (BSP) or a professional
22 association of appraisers recognized by the BSP to be procured by the
23 implementing agency under the provisions of Republic Act No. 9184,
24 otherwise known as the "Government Procurement Reform Act" and its
25 implementing rules and regulations pertaining to consulting services.

26 If the property owner does not accept the price offer, the implementing
27 agency shall initiate expropriation proceedings pursuant to Section 6 hereof.

1 The property owner is given thirty (30) days to decide whether or not to
2 accept the offer as payment for his property. Upon refusal or failure of the
3 property owner to accept such offer or fails and/or refuses to submit the
4 documents necessary for payments, the implementing agency shall
5 immediately initiate and expropriation proceedings as provided in Section 6
6 herein.

7 (b) Subparagraph (a)(2) of Section 5 hereof shall also apply to all
8 owners of structures and improvements who do not have legally recognized
9 rights to the land, and who meet all of the following criteria:

10 (1) Must be a Filipino citizen;

11 (2) Must not own any real property or any other housing facility,
12 whether in an urban or rural area; and

13 (3) Must not be a professional squatter or a member of a squatting
14 syndicate, as defined in Republic Act No. 7279, otherwise known as the
15 "Urban Development and Housing Act of 1992".

16 (c) With regard to the taxes and fees relative to the transfer of title of
17 the property to the Republic of the Philippines through negotiated sale, the
18 implementing agency shall pay, for the account of the seller, the capital gains
19 tax, as well as the documentary stamp tax, transfer tax and registration fees,
20 while the owner shall pay any unpaid real property tax.

21 (d) If requested by the property owner, the implementing agency shall
22 remit to the LGU concerned the amount corresponding to any unpaid real
23 property tax, subject to the deduction of this amount from the total negotiated
24 price: *Provided, however,* That the said amount is not more than the
25 negotiated price.

26 (e) *The property owner and the implementing agency shall execute a*
27 *deed of absolute sale: Provided,* That the property owner has submitted to the
28 implementing agency the Transfer Certificate of Title, Tax Declaration, Real

1 Property Tax Certificate, and other documents necessary to transfer the title to
2 the Republic of the Philippines. The implementing agency shall cause
3 the annotation of the deed of absolute sale on the Transfer Certificate of
4 Title.

5 (f) Upon the execution of a deed of sale, the implementing agency
6 shall pay the property owner:

7 (1) Fifty percent (50%) of the negotiated price of the affected land,
8 exclusive of taxes remitted to the LGU concerned under subparagraph (d)
9 herein; and

10 (2) Seventy percent (70%) of the negotiated price of the affected
11 structures, improvements, crops and trees, exclusive of unpaid taxes remitted
12 to the LGU concerned under subparagraph (d) herein.

13 (g) The implementing agency shall, at the times stated hereunder, pay
14 the property owner the remaining fifty percent (50%) of the negotiated price
15 of the affected land, and thirty percent (30%) of the affected structures,
16 improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU
17 concerned under subparagraph (d) herein: *Provided*, That the land is already
18 completely cleared of structures, improvements, crops and trees:

19 (1) At the time of the transfer of title in the name of the Republic of
20 the Philippines, in cases where the land is wholly affected; or

21 (2) *At the time of the annotation of a deed of sale on the title*, in cases
22 where the land is partially affected.

23 The provisions of subparagraph (a) herein shall also apply to
24 outstanding claims for right-of-way payments, except that the amount to be
25 offered shall be the price at the time of taking of the property, including
26 legal interest until fully paid.

27 SEC. 6. *Guidelines for Expropriation Proceedings.* – Whenever it is
28 necessary to acquire real property for the right-of-way site or location for any

1 national government infrastructure through expropriation, the appropriate
2 implementing agency, through the Office of the Solicitor General, the Office
3 of the Government Corporate Counsel, or their deputized government or
4 private legal counsel, shall immediately initiate the expropriation proceedings
5 before the proper court under the following guidelines:

6 (a) Upon the filing of the complaint or at any time thereafter, and
7 after due notice to the defendant, the implementing agency shall
8 immediately deposit to the court in favor of the owner the amount equivalent
9 to the sum of:

10 (1) One hundred percent (100%) of the value of the land based on the
11 current relevant zonal valuation of the Bureau of Internal Revenue (BIR)
12 issued not more than three (3) years prior to the filing of the expropriation
13 complaint subject to subparagraph (c) of this section;

14 (2) The replacement cost at current market value of the improvements
15 and structures as determined by:

16 (i) The implementing agency;

17 (ii) A government financial institution with adequate experience in
18 property appraisal; and

19 (iii) *An independent property appraiser accredited by the BSP.*

20 (3) The current market value of crops and trees located within the
21 property as determined by a government financial institution or an
22 independent property appraiser to be selected as indicated in subparagraph (a)
23 of Section 5 hereof.

24 Upon compliance with the guidelines abovementioned, the court shall
25 immediately issue to the implementing agency an order to take possession of
26 the property and start the implementation of the project.

27 If, within seven (7) working days after the deposit to the court of the
28 amount equivalent to the sum under subparagraphs (a)(1) to (a)(3) of this

1 section, the court has not issued to the implementing agency a writ of
2 possession for the affected property, the counsel of the implementing agency
3 shall immediately seek from the court the issuance of the writ of possession.
4 The court shall issue the writ of possession *ex parte*; no hearing shall be
5 required.

6 The court shall release the amount to the owner upon presentation of
7 sufficient proofs of ownership.

8 (b) In case the owner of the property cannot be found, if unknown, or
9 deceased in cases where the estate has not been settled, after exerting due
10 diligence, or there are conflicting claims over the ownership of the property
11 and improvements and structures thereon, the implementing agency shall
12 deposit the amount equivalent to the sum under subparagraphs (a)(1) to (a)(3)
13 of this section to the court for the benefit of the person to be adjudged in the
14 same proceeding as entitled thereto.

15 Upon compliance with the guidelines abovementioned, the court shall
16 immediately issue to the implementing agency an order to take possession of
17 the property and start the implementation of the project.

18 If, within seven (7) working days after the deposit to the court of the
19 amount equivalent to the sum under subparagraphs (a)(1) to (a)(3) of this
20 section, the court has not issued to the implementing agency a writ of
21 possession for the affected property, the counsel of the implementing agency
22 shall immediately seek from the court the issuance of the writ of possession.

23 The court shall release the amount to the person adjudged in the same
24 expropriation proceeding as entitled thereto.

25 (c) In provinces, cities, municipalities, and other areas where there is
26 no land classification, the city or municipal assessor is hereby mandated,
27 within the period of sixty (60) days from the date of filing of the expropriation
28 case, to come up with the required land classification and the corresponding

1 declaration of real property and improvement for the area. In provinces, cities,
2 municipalities, and other areas where there is no zonal valuation, or where the
3 current zonal valuation has been in force for more than three (3) years, the
4 BIR is mandated, within the period of sixty (60) days from the date of filing of
5 the expropriation case, to conduct a zonal valuation of the area, based on the
6 land classification done by the city or municipal assessor.

7 (d) With reference to subparagraph (a)(1) of this section, in case the
8 completion of a government infrastructure project is of utmost urgency and
9 importance, and there is no land classification or no existing zonal valuation
10 of the area concerned or the zonal valuation has been in force for more than
11 three (3) years, the implementing agency shall use the BIR zonal value and
12 land classification of similar lands within the adjacent vicinity as the basis for
13 the valuation.

14 (e) In any of the cases in subparagraphs (a) to (d) of this section, upon
15 its receipt of the writ of possession issued by the court, the implementing
16 agency may take possession of the property and start the implementation of
17 the project.

18 (f) In the event that the owner of the property contests the
19 implementing agency's proffered value, the court shall determine the just
20 compensation to be paid the owner within sixty (60) days from the date of
21 filing of the expropriation case. When the decision of the court becomes final
22 and executory, the implementing agency shall pay the owner the difference
23 *between the amount already paid and the just compensation as determined by*
24 *the court.*

25 (g) With regard to the taxes and fees relative to the transfer of title of
26 the property to the Republic of the Philippines through expropriation
27 proceedings, the implementing agency shall pay the documentary stamp tax,

1 transfer tax and registration fees, while the owner shall pay the capital gains
2 tax and any unpaid real property tax.

3 SEC. 7. *Standards for the Assessment of the Value of the Property*
4 *Subject to Negotiated Sale.* – In order to facilitate the determination of the
5 *market value of the property, the following relevant standards shall be*
6 *observed:*

- 7 (a) The classification and use for which the property is suited;
- 8 (b) The development cost for improving the land;
- 9 (c) The value declared by the owners;
- 10 (d) The current selling price of similar lands in the vicinity;
- 11 (e) The reasonable disturbance compensation for the removal and
12 demolition of certain improvements on the land and for the value of
13 improvements thereon;
- 14 (f) The size, shape or location, tax declaration and zonal valuation of
15 the land;
- 16 (g) The price of the land as manifested in the ocular findings, oral as
17 well as documentary evidence presented; and
- 18 (h) Such facts and events so as to enable the affected property owners
19 to have sufficient funds to acquire similarly situated lands of approximate
20 areas as those required from them by the government, and thereby rehabilitate
21 themselves as early as possible.

22 The implementing rules and regulations (IRR) to be prepared under
23 Section 13 hereof shall include, among other things, the terms of reference
24 which shall be used by the government financial institutions and independent
25 property appraisers in the determination of the market value of the land. The
26 terms of reference shall define in detail the standards stated herein.

27 SEC. 8. *Ecological and Environmental Concerns.* – In cases
28 involving the acquisition of right-of-way site or location for any national

1 government infrastructure project, the implementing agency shall take into
2 account the ecological and environmental impact of the project. Before any
3 national government project could be undertaken, the implementing agency
4 shall consider environmental laws, land-use ordinances, and all pertinent
5 provisions of Republic Act No. 7160.

6 SEC. 9. *Relocation of Informal Settlers.* – The government,
7 through the Housing and Urban Development Coordinating Council
8 (HUDCC) and the National Housing Authority (NHA), in coordination with
9 the LGUs and implementing agencies concerned, shall establish and develop
10 resettlement sites for informal settlers, including the provision of adequate
11 basic services and community facilities, in anticipation of informal settlers
12 that have to be removed from the right-of-way site or location of future
13 infrastructure projects, pursuant to the provisions of Republic Act No. 7279,
14 otherwise known as the “Urban Development and Housing Act of 1992”.
15 Whenever applicable, the concerned LGUs shall provide and administer the
16 resettlement sites.

17 In case the expropriated land is occupied by informal settlers who
18 refuse or are unable to demolish their structures and other improvements
19 therein despite the writ of possession issued by the court under Section 6
20 hereof, the court shall issue the necessary writ of demolition for the purpose of
21 dismantling any and all structures found within the subject property. The
22 implementing agency shall take into account and observe diligently the
23 procedure provided for in Sections 28 and 29 of Republic Act No. 7279.

24 SEC. 10. *Appropriations for Acquisition of Right-of-Way Site or*
25 *Location for National Government Infrastructure Projects in Advance*
26 *of Project Implementation.* – The government shall provide adequate
27 appropriations that will allow the concerned implementing agencies to acquire
28 the required right-of-way site or location for national government

1 infrastructure projects in advance of project implementation. These
2 appropriations shall cover the funds needed to cover the following expenses
3 for activities directly related to right-of-way acquisition for the projects as
4 provided in this Act:

5 (a) Cost of parcellary surveys and appraisal of properties affected by
6 the projects;

7 (b) Compensation for the project-affected land, structures,
8 improvements, crops and trees;

9 (c) Cost of development and implementation of resettlement projects
10 covered by this Act, including planning, social preparation, and other
11 activities under the resettlement action plan; and

12 (d) Related expenses of the implementing agency, including capital
13 gains tax in the case of negotiated sale under Section 5 hereof,
14 documentary stamp tax, transfer tax and registration fees for the transfer
15 of titles, and other relevant administrative expenses for right-of-way
16 management.

17 In public-private-partnership (PPP) projects, the modalities of which
18 are defined in Republic Act No. 6957 as amended by Republic Act
19 No. 7718, the implementing agency may, as part of the contract terms and
20 conditions, require the project proponent to:

21 (1) Advance the funds covering the cost of the right-of-way which
22 shall be reimbursed later by the implementing agency, except for unsolicited
23 proposals; or

24 (2) Finance the right-of-way cost which shall be recovered partly or
25 fully by the proponent from the tolls, fees, or tariffs to be charged to the users
26 of the completed project.

27 SEC. 11. *Regulation of Developments Within Declared Right-of-Way.*

28 -- Upon the approval of an infrastructure project by the head of the

1 implementing agency concerned, with funding authorized in the General
2 Appropriations Act and with defined right-of-way, no national government
3 agency or LGU shall, within two (2) years from date of notice of taking, allow
4 any development or construction, or issue any building, construction,
5 development, or business permit, which is contrary to the approved plans and
6 purposes of the project, within the right-of-way, unless explicitly authorized
7 by the head of the implementing agency for justifiable reasons.

8 SEC. 12. *Sanctions.* – Violation of any provision of this Act shall
9 subject the government official or employee concerned to appropriate
10 administrative, civil, or criminal sanctions, including suspension or dismissal
11 from the government service and forfeiture of benefits in accordance with the
12 provisions of the law.

13 SEC. 13. *Implementing Rules and Regulations (IRR).* – A committee
14 shall prepare, in consultation with key stakeholders, the IRR for the proper
15 implementation of this Act within sixty (60) days from its approval.

16 The committee shall be composed of the following officials or their
17 duly designated representatives:

18 (a) The Secretary of the Department of Public Works and Highways as
19 Chairperson;

20 (b) The Secretary of the Department of Transportation and
21 Communications as member;

22 (c) The Secretary of the Department of Energy as member;

23 (d) The Secretary of the Department of Justice as member;

24 (e) The Secretary of the Department of Budget and Management as
25 member;

26 (f) The Director General of the National Economic and Development
27 Authority as member;

28 (g) The Chairperson of the HUDCC as member; and

1 (h) Other representatives of concerned entities as determined by the
2 committee as members.

3 SEC. 14. *Transitory Clause.* – The provisions of this Act shall apply
4 to all right-of-way transactions, except ongoing transactions which, as of the
5 effectivity of this Act, have been concluded *satisfactorily* by the parties
6 concerned and who have signed a written agreement as to the price to be paid
7 to the property owner.

8 SEC. 15. *Separability Clause.* – If any provision of this Act is
9 declared unconstitutional or invalid, other parts or provisions hereof not
10 affected thereby shall continue to be in full force and effect.

11 SEC. 16. *Repealing Clause.* – Republic Act No. 8974 is hereby
12 repealed and all other laws, decrees, orders, rules and regulations or parts
13 thereof inconsistent with this Act are hereby repealed or amended accordingly.

14 SEC. 17. *Effectivity.* – This Act shall take effect fifteen (15) days after
15 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,

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