

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



SENATE

S. No. 56

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
MANDATING GOVERNMENT OFFICIALS AND EMPLOYEES TO EXECUTE AND
SUBMIT A WRITTEN PERMISSION TO EXAMINE, INQUIRE OR LOOK INTO ALL
THEIR DEPOSITS AND INVESTMENTS THEREBY WAIVING THE BANK SECRECY
LAW AS PROVIDED FOR UNDER REPUBLIC ACT NUMBERS 1405 AND 6426

EXPLANATORY NOTE

Republic Act (RA) No. 1405 or the Bank Secrecy Law was enacted in 1955 to encourage people to deposit their money in banking institutions and to discourage private hoarding. It was a policy meant to benefit economic development.

Adhering to the same policy of secrecy of bank deposits, it became more stringent in 1974 when RA No. 6426 was passed but this time for foreign currency deposits.

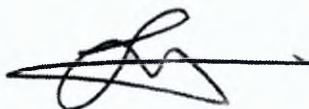
The exceptions from the secrecy of bank deposits are quite limited and exclusive. Currently, RA 1405 admits of four (4) exceptions while RA 6426 only one (1), which essentially treats foreign currency deposits with absolute confidentiality.

The policy intent is quite tenable given that the above laws on bank deposits have passed the test of time and remained unchanged. However, such intent has its own unintended consequences – this is when banks are used as institutions to hide illegal wealth, fund illegal activities, launder money, evade taxes and commit other financial crimes under the mantle of a statutorily mandated secrecy. It is for this reason that all countries now, except the Philippines, have lifted the secrecy of bank deposits.

Given the policy direction toward the lifting of the secrecy of bank deposits to address the commission of financial crimes, it is submitted that the government should spearhead the move by mandating its officials and employees to waive the secrecy of bank deposits as provided by law. Moreover, in doing so, the government could effectively mitigate, if not resolve, the problem of graft and corruption in government.

Verily, any person who has nothing to hide in secret would only welcome this proposal in the name of transparency and accountability.

Respectfully submitted.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

FRANCIS G. ESCUDERO_{ef}

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AND 6426

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

1 Section 1. *Declaration of Policy.* — It is hereby declared the policy of the State
2 for all public officials and employees to be open and transparent in all their financial
3 transactions and dealings.

4
5 Sec. 2. *Submission of Written Permission or Waiver.* — All public officials and
6 employees as defined under paragraph (b) in relation to paragraph (a), Section 3 of
7 Republic Act No. 6713, except those who serve in an honorary capacity, shall submit
8 to the Office of the Ombudsman a written permission or waiver in favor of the
9 Ombudsman to examine, inquire and look into all their deposits, including foreign
10 currency deposits, in banks and other financial institutions, both in and outside the
11 Philippines, including investment bonds issued by the government of the Philippines,
12 its political subdivisions and instrumentalities.

13
14 The aforestated written permission or waiver shall be submitted within thirty
15 (30) days from the date of their assumption of office; *Provided, however,* That public
16 officials and employees who are already exercising the functions of their respective
17 offices upon the effectivity of this Act shall submit the same not later than thirty (30)
18 days from the effectivity of the Rules and Regulations implementing this Act.

19
20 Sec. 3. *Failure or Refusal to Submit Written Permission or Waiver.* — Any public
21 official or employee who fails or refuses to submit such written permission or waiver
22 as mandated by this Act shall not be allowed to enter upon, or continue exercising
23 the functions of, his or her office.

1
2 Sec. 4. *Limitation on Use.* — Only the Office of the Ombudsman shall obtain
3 or use the written permission or waiver, or any other information or data obtained by
4 virtue thereof; *Provided, however,* That the same shall be used exclusively for
5 investigating a duly verified complaint or for prosecuting a case before the courts;
6 *Provided, further,* That the written permission or waiver shall not be used for any
7 other purpose.

8
9 Sec. 5. *Implementing Rules and Regulations.* — The Office of the Ombudsman
10 shall have the primary responsibility to implement this Act; *Provided, however,* That
11 it shall enlist the advice of the Department of Justice and the Bangko Sentral ng
12 Pilipinas in the drafting of the written permission or waiver as provided in this Act.

13
14 Sec. 6. *Separability Clause.* - If any part or provision of this Act shall be held
15 unconstitutional or invalid, other provisions hereof which are not affected hereby shall
16 continue to be in full force and effect.

17
18 Sec. 7. *Repealing Clause* - All laws, presidential, executive orders, rules, and
19 regulations or parts thereof which are inconsistent with the provisions of this Act are
20 hereby repealed or modified accordingly.

21
22 Sec. 9. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its
23 publication in the Official Gazette or at least two (2) newspapers of general
24 circulation.

25
26 *Approved,*