

INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

EXPLANATORY NOTE

One not widely known yet very significant aspect of the criminal justice system is the forfeiture of ill-gotten wealth and the seizure of the proceeds and instruments of a crime. In many cases, despite securing the conviction of an accused, the State cannot claim a complete and meaningful victory because the convict had already spirited away or consumed the fruits of his/her wrongdoing. Indeed, the interest of the State lies not only in ensuring that those who perpetrate unlawful activities will be penalized accordingly. The State has an equally compelling interest in preventing criminals from profiting from the objects of their crime and recovering the said objects for the benefit of the offended parties and the public in general.

There currently exists a regime of asset forfeiture and seizure in our legal system. When the law is violated, proceeds and instruments of offenses can be seized and eventually forfeited in favor of the State in the course of criminal and/or administrative proceedings. Likewise, properties acquired by public officials above and beyond their legitimate income can be recovered by way of a civil action for forfeiture under Republic Act No. 1379.

However, this is only the front end of the system. Even if there are sufficient statutes for forfeiting assets, if the State is ill equipped to manage, preserve, and administer the same, it cannot fully maximize the benefits of these laws. It is therefore imperative that the State devise a mechanism to efficiently and economically manage or dispose of seized or forfeited assets so that their value can be optimized for the good of the public.

Under the present state of things, the management of assets under the custody of the government is unfortunately neither systematic nor rational. Asset management is considered a mere auxiliary function of various government agencies, deemed merely incidental to their mandates. Being a highly technical and highly specialized independent field, asset management should be handled by qualified professionals, not by law enforcers, prosecutors, or judges.

This bill seeks to fill this gap in the justice system by strengthening the back end of the criminal prosecution process – the management, preservation, liquidation, and disposition of ill-gotten wealth and of instruments and proceeds of crimes.

If enacted into law, this bill will establish the Public Assets Management Corporation of the Philippines (the “Corporation”) – a centralized and specialized government corporation that will serve as custodian and administrator of seized or forfeited assets that are the subject of criminal, administrative, or civil actions. To preserve the value of seized assets, the Corporation will be given powers to sell or dispose of them with the authority of the court, even prior to a final order of forfeiture, when it is in the best interests of justice to do so. Agencies currently exercising administrative forfeiture powers may likewise choose to turn over forfeited properties to the Corporation to produce better yields or returns.

The benefits of delegating the management of seized and forfeited assets to the Corporation are four-fold: (1) it creates an independent revenue stream for the government and facilitates the efficient, economical, transparent, centralized, and optimal liquidation or disposition of assets;

(2) it eases the burdens of law enforcement agencies and the courts regarding the preservation and management of seized or forfeited assets, thereby allowing them to focus on their primary mandates and competencies; (3) it avoids conflicts of interests by taking the asset management function out of the formal justice process being handled by law enforcers, prosecutors, and judges; and (4) it professionalizes the management of seized or forfeited assets by letting independent and highly-qualified industry practitioners handle the technical aspects of asset preservation, valuation, liquidation, and disposition, on behalf of the public.

The pursuit of justice against criminals and the corrupt must be done in a holistic manner. The State should strengthen and bolster not only law enforcement, prosecution, and the courts but also asset forfeiture and management so that the commission of crimes will truly be high risk and low reward endeavors.

In view of all the foregoing, the support of the Members of Congress for the prompt and timely passage of this measure is earnestly sought.

A handwritten signature in black ink, appearing to read 'X-JR', with a stylized flourish at the end.

XAVIER JESUS D. ROMUALDO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 692

INTRODUCED BY REPRESENTATIVE XAVIER JESUS D. ROMUALDO

AN ACT
ESTABLISHING THE PUBLIC ASSETS MANAGEMENT CORPORATION OF THE
PHILIPPINES, PROVIDING 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. Short Title. – This Act shall be known as the *Charter of the Public Assets*
2 *Management Corporation of the Philippines.*

3
4 SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to ensure the
5 efficient, economical, systematic, transparent, and optimal preservation, administration,
6 management, liquidation, and disposition of all assets seized or forfeited in favor of the
7 government, in the course or as a consequence of criminal, administrative, and civil actions.

8
9 SEC. 3. Creation of the Public Assets Management Corporation of the Philippines. –
10 There is hereby created an independent central public assets management authority, which shall
11 be a government-owned body corporate, to be known as the Public Assets Management
12 Corporation of the Philippines (the “Corporation”). It shall have the primary responsibility and
13 objective of administering the country’s asset management regime, ensuring the proper and
14 prudent disposition of all assets seized or forfeited in favor of the State. The Corporation shall be
15 attached to the Department of Finance for policy and program coordination.

16
17 SEC. 4. Mandate. – The Corporation shall accept and take title to, custody over, and
18 possession of such assets and other properties seized and forfeited by law enforcement, judicial,
19 and other governmental entities in favor of the State in the course of criminal, civil,

1 administrative, anti-corruption, anti-money laundering, or similar proceedings, subject to the
2 following rules:

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4 (a) Assets seized by administrative agencies. – In cases of administrative forfeiture, the
5 forfeiting agency has the option of either:

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7 1) disposing of forfeited assets in accordance with the authority inherent in their law
8 enforcement mandates and pursuant to their established systems and procedures; or

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10 2) turning over the same to the Corporation, especially in cases where the optimal
11 management or disposition of assets require technical expertise and competence.

12

13 (b) Assets forfeited in favor of the State. – In cases where assets have been forfeited in favor
14 of the State by virtue of a final and executory order of a court, the Corporation shall
15 automatically take custody over the same for proper administration and disposition.

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17 (c) Assets seized and subject of ongoing litigation. – In cases where assets are seized in
18 connection with an ongoing criminal or forfeiture litigation, said assets shall be
19 considered in custodia legis and may be placed under the physical custody of the
20 Corporation, the agency which seized the same, or such other person or office as the
21 court may designate, in which case, the designated custodian is deemed constituted as an
22 agent of the court.

23

24 1) Prior to an official designation of a custodian by the court, seized assets are deemed
25 ipso jure under the accountability and fiduciary responsibility of the agency which
26 seized the same or the agency with the duty to take possession thereof in accordance
27 with existing laws and rules.

28

29 2) Upon motion by any interested party, including the Corporation, the court shall
30 conduct a summary hearing, to be concluded within twenty (20) days from the filing

1 of such motion, to determine whether seized assets should be sold or disposed of, if
2 doing so would best serve the interests of justice. The court shall render a ruling on
3 the motion no later than ten (10) days from the conclusion of the summary hearing.
4

5 3) In the event that the seized assets are liable to progressive wasting, dissipation,
6 devaluation, depreciation or deterioration, or cannot reasonably be conserved in a
7 cost-efficient manner, the court shall order a disposition pendente lite, unless it is
8 established by competent evidence during the summary hearing that such disposition
9 will cause undue injury or will adversely affect the substantive rights of the parties or
10 any third party; provided, that an order of the court to sell or dispose of seized assets
11 pendente lite shall not affect the trial of the case or be construed as an adjudication of
12 the merits of the claims and defenses of the parties.
13

14 4) The proceeds of the sale of seized assets disposed of pendente lite shall be kept in a
15 separate account and turned over to the custody of the court, for eventual release to
16 the prevailing party or to whoever may be adjudged as lawfully entitled thereto.
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18 SEC. 5. Corporate Powers. – The Corporation shall have the following powers:
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20 (a) To succeed in its corporate name, to sue and be sued in such corporate name, subject to
21 Section 10 of this Act, and to adopt, use, and alter its corporate seal.
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23 (b) To adopt, amend, or repeal its by-laws.
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25 (c) To enter into contracts and execute any deed or act in furtherance of its mandate to
26 efficiently, economically, and prudently manage, administer, preserve, appraise,
27 liquidate, and dispose of assets under its custody.
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29 (d) To execute and deliver, on behalf of the Government, the deeds of sale, contracts, and
30 other instruments, as may be necessary or appropriate to convey title to such assets.

