

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

HOUSE OF REPRESENTATIVES

House Bill No. **862**

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| HOUSE OF REPRESENTATIVES | |
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| REGISTRATION UNIT BILLS AND INDEX SERVICE | |

Introduced by Representative Victor A. Yap

EXPLANATORY NOTE

A public official, officer or employee sometimes finds himself charged in court for alleged wrongdoings or damages caused to a party as a result of his discharge of his official duties. A police officer may be charged of illegal arrest, a judge may be accused of miscarriage of law, or a member of the Bids and Awards Committee (BAC) of a government agency sued for abuse of discretion in the selection of winning bidders.

In these circumstances, the official concerned faces the difficulties of undergoing litigation with all the emotional, financial and moral stresses occasioned by it. In the end, they may have suffered unjustly for their actions made by them in the course of performance of their official duties. Fairness then dictates that they should be properly assisted and indemnified by the institutions they represent.

Black's Law Dictionary defines indemnification as the 'action of compensating for loss or damages sustained', or reimbursement for public officers and employees from financial loss, including court costs and monetary damages, for acts arising out of the discharge of duties within the scope of their employment.

As a rule, a public officer or personnel, whether judicial, quasi-judicial, or executive, is not personally liable to one injured in consequence of an act performed within the scope of his official authority, and in the line of his official duty. In order that acts may be done within the scope of official authority, it is not necessary that they be prescribed by statute, or even that they be specifically directed or requested by a superior officer, but it is sufficient if they are done by an officer in relation to matters committed by law to his control or supervision, or that they are governed by a lawful requirement of the department under whose authority the officer is acting.

However, a public officer is by law not immune from damages in his/her personal capacity for acts done in bad faith which, being outside the scope of his authority, are no longer protected by the mantle of immunity for official actions.

This bill seeks to institutionalize the grant of benefits for all public officers and personnel rendering service which shall be in the form of legal assistance and other forms of legal protection, and reimbursement for all legal costs and expenses reasonably incurred by such persons in any administrative, civil, or criminal action, suit or proceeding to which they have been made a party by reason of the performance of their functions or duties. To be indemnified, the actions of the public officer or employee must not be intentionally wrongful acts or gross negligence.

Moreover, the proposed measure lays down the basic procedure through which qualified claimants may avail of the indemnification benefits provided for in the proposed Act.

Finally, the bill enjoins government agencies and instrumentalities covered to establish a special trust fund for the grant of indemnification benefits to their qualified respective officers and personnel.

In view of the foregoing, the immediate passage of the bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'Victor A. Yap', with a stylized flourish at the end.

VICTOR A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. **862**

Introduced by Representative Victor A. Yap

AN ACT
PROVIDING FOR THE INDEMNIFICATION OF PUBLIC OFFICERS AND
PERSONNEL BY REASON OF THE PERFORMANCE OF THEIR OFFICIAL
DUTIES AND FUNCTION

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

1 **SECTION 1. *Title*** - This Act shall be known as the ‘Public Officers and
2 Personnel Indemnification Act of 2016’.

3 **SECTION 2. *Declaration of Policies and Objectives*** - It is hereby declared the
4 policy of the State to establish an equitable indemnification package for all public officers
5 and personnel rendering service which shall be in the form of legal assistance and other
6 forms of legal protection and indemnification for all legal costs and expenses reasonably
7 incurred by such persons in any administrative, civil, or criminal action, suit or proceeding to
8 which they have been made a party by reason of the performance of their functions or
9 duties, unless they are finally adjudged in such action or proceeding to be guilty of an
10 offense. Toward this end, every government agency or instrumentality covered by this Act
11 shall:

12 a) Prescribe the rules and procedures in granting legal assistance and indemnification to
13 their respective officers and personnel as contemplated in this Act; and

14 b) Establish the legal parameters for the effective implementation of the legal assistance
15 and indemnification provided for in this Act.

16 **SECTION 3. *Definition of Terms.*** - For purposes of this Act, the following
17 terms shall mean:

18 a) *Indemnification* - refers to the assistance or remuneration given to officers or
19 personnel of the government agency or instrumentality as contemplated in this Act

1 for any loss, damage, or injury caused to them by reason of the lawful performance
2 of their duty;

3 b) *Private Legal Assistance*- refers to the services of a private lawyer or external counsel
4 engaged by or in behalf of the officers and members of the government agency or
5 instrumentality necessitated by the filing against them of any criminal or civil action
6 or proceeding for acts made in connection with the lawful performance of their
7 functions.

8 c) *Liability insurance* - refers to the insurance policy purchased and maintained by the
9 government agency or instrumentality in favor of its officer or personnel against any
10 liability asserted against or incurred by the person in any such capacity or arising out
11 of the person's status as such.

12 **SECTION 4. *Indemnification of Officials and Personnel.*** - The government
13 agency or instrumentality concerned shall indemnify all officials and personnel for all costs
14 and expenses reasonably incurred by such persons in connection with any civil or criminal
15 actions, suits, or proceedings to which they may be or made a party by reason of the
16 performance of their functions or duties, unless they are finally adjudged in such actions or
17 proceedings to be liable or guilty of gross negligence or grave abuse of discretion.

18 The legal assistance and indemnification shall not cover any action or suit initiated by
19 an officer or personnel of the government agency or instrumentality in his or her personal
20 capacity or on behalf of the government agency or instrumentality, unless such action,
21 proceeding, or claim was authorized by the government entity concerned.

22 **SECTION 5. *Coverage.***- The provisions of this Act shall apply to all branches,
23 agencies, departments, bureaus, offices and instrumentalities of the Government, including
24 Government-Owned and/or Controlled Corporations (GOCCs), Government Financial
25 Institutions (GFIs), State Universities and Colleges (SUCs), and Local Government Units
26 (LGUs).

27 **SECTION 6. *Procedure for Granting Legal Assistance and Indemnification.*** -

28 a) The claimant(s) shall file their respective claim(s) for legal assistance or liability
29 insurance, as the case may be, with the head of the government agency or

1 instrumentality concerned and shall secure the approval of the latter on the terms
2 and conditions of the assistance needed;

3 b) The head of the government agency or instrumentality shall be given at least fifteen
4 (15) to thirty (30) calendar days to examine, review, verify and validate the
5 authenticity of the documents presented by the claimant;

6 c) Upon finding that all the requirements have been duly complied with and that all the
7 necessary documents submitted are genuine, it shall then order the processing of the
8 claims and the subsequent release of funds for the approved claims;

9 d) Any expenses incurred in advance by the claimant arising from the performance of
10 his official functions in such capacity shall be subject to reimbursement upon
11 submission of the necessary documents and approval thereof by the head of the
12 government agency or instrumentality. If the concerned officer or personnel is
13 found to be not guilty for gross negligence, misconduct, or grave abuse of discretion,
14 he shall liquidate his cash advances by presenting receipts of payment and other
15 necessary documents. On the other hand, if the concerned officer or personnel is
16 found to be guilty for gross negligence, misconduct, or grave abuse of discretion, he
17 shall pay the cash advances made through salary deductions or reimbursement.

18 **SECTION 7. *Establishment and Administration of a Trust Fund.*** – The
19 government agencies and instrumentalities shall establish a special trust fund for the grant of
20 legal assistance and indemnification as provided under this Act. Such funds allocated shall
21 not be used for purposes other than what are provided for by this Act. Fees and any other
22 additional funds derived from other income-generating activities of the agencies may be used
23 to augment the funding source provided in this section.

24 **SECTION 8. *Implementing Rules and Regulations.***– The Department of
25 Budget and Management and the Department of Justice, shall, within ninety (90) days from
26 the effectivity of this Act, promulgate the rules and regulations for the effective
27 implementation of this Act.

1 **SECTION 9. *Separability.*** - If any provision or part hereof, is held invalid or
2 unconstitutional, the remainder of the law or the provision not otherwise affected shall
3 remain valid and subsisting.

4 **SECTION 10. *Repealing Clause.*** - All laws, decrees, orders, rules and
5 regulations, or parts thereof inconsistent with the provisions of this Act are hereby deemed
6 repealed or modified accordingly.

7 **SECTION 11. *Effectivity.***- This Act shall take effect fifteen (15) days after its full
8 publication in the Official Gazette or in at least two (2) newspapers of general circulation.

APPROVED.