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

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 0416

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.

This is a refiled bill from last Congress and I earnestly request the support of the Members of Congress for the prompt and timely passage of this measure.

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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:

SECTION 1. Short Title. – This Act shall be known as the Charter of the Public Assets Management Corporation of the Philippines.

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

SEC. 3. Creation of the Public Assets Management Corporation of the Philippines. – There is hereby created an independent central public assets management authority, which shall be a government-owned body corporate, to be known as the Public Assets Management Corporation of the Philippines (the “Corporation”). It shall have the primary responsibility and objective of administering the country’s asset management regime, ensuring the proper and prudent disposition of all assets seized or forfeited in favor of the State. The Corporation shall be attached to the Department of Finance for policy and program coordination.
SEC. 4. Mandate. – The Corporation shall accept and take title to, custody over, and possession of such assets and other properties seized and forfeited by law enforcement, judicial, and other governmental entities in favor of the State in the course of criminal, civil, administrative, anti-corruption, anti-money laundering, or similar proceedings, subject to the following rules:

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

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

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

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

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

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

2) Upon motion by any interested party, including the Corporation, the court shall
conduct a summary hearing, to be concluded within twenty (20) days from the filing
of such motion, to determine whether seized assets should be sold or disposed of, if
doing so would best serve the interests of justice. The court shall render a ruling on
the motion no later than ten (10) days from the conclusion of the summary hearing.

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

4) The proceeds of the sale of seized assets disposed of pendente lite shall be kept in a
separate account and turned over to the custody of the court, for eventual release to
the prevailing party or to whoever may be adjudged as lawfully entitled thereto.

SEC. 5. Corporate Powers. – The Corporation shall have the following powers:

(a) To succeed in its corporate name, to sue and be sued in such corporate name, subject to
Section 10 of this Act, and to adopt, use, and alter its corporate seal.

(b) To adopt, amend, or repeal its by-laws.
(c) To enter into contracts and execute any deed or act in furtherance of its mandate to efficiently, economically, and prudently manage, administer, preserve, appraise, liquidate, and dispose of assets under its custody.

(d) To execute and deliver, on behalf of the Government, the deeds of sale, contracts, and other instruments, as may be necessary or appropriate to convey title to such assets.

(e) To sell or dispose of seized or forfeited assets, subject to the rules provided in Section 4 of this Act, without need of securing prior clearances from other governmental entities; provided, that all such transactions shall be subject to subsequent review under existing audit rules and regulations and shall be guided by principles of fairness, prudence, accountability, and transparency.

(f) To construct, acquire, own, hold, operate, maintain, administer, and lease personal and real properties, including buildings, machinery, equipment, other infrastructure, land and improvements, property rights, and interests therein, and to encumber, mortgage, dispose, sell, or alienate or otherwise dispose the same; provided, that no real property thus acquired and any other real property shall be sold without the approval of the President of the Philippines.

(g) To receive gifts, donations, grants, bequests, services, properties, whether personal or real, and assistance of all kinds, from private and public sources, firms, institutions, domestic and foreign governments, and international institutions, and utilize the same for the purposes set forth in this Act.

(h) To hire and retain such personnel as may be necessary for the performance of its mandate and engage external services as the exigencies of particular cases may require, such as
technical consultants, accountants, auditors, counsels, appraisers, risk managers, curators, conservationists, and others.

(i) To conduct any such act, consistent with law, for the preservation of any seized or forfeited asset, consistent with the professional and economic management of the same.

SEC. 6. Board of Directors. – (a) The powers and functions of the Corporation shall be vested in and exercised by a Board of Directors (the “Board”), composed of the following:

1) The Secretary of Finance, as ex officio Chairperson (the “Chairperson”).

2) The President of the Corporation (the “President”), as ex officio Vice-Chairperson.

3) The Secretary of Budget and Management, as ex officio Member.

4) Two (2) Members who are at least thirty-five (35) years old, of good moral character, unquestionable integrity, and known probity, and with recognized competence in banking and finance, insurance, real estate, property appraisal, engineering, or other technical fields, to be appointed by the President of the Philippines and to serve for a term of five (5) years, without reappointment.

5) Two (2) Members who are at least thirty-five (35) years old, of good moral character, unquestionable integrity, and known probity, and with recognized competence in business administration and management or law, to be appointed by the President of the Philippines and to serve for a term of five (5) years, without reappointment.
(b) The Board shall meet regularly once a month and may hold special meetings to consider urgent matters upon call of the Chairperson or upon the initiative of four (4) Members. Internal rules of procedure in the conduct of its meetings shall be as prescribed by the Board.

(c) The presence of at least four (4) Members of the Board shall constitute a quorum and the majority vote of three (3) Members in a meeting where a quorum is present shall be necessary for the adoption of any rule, regulation, order, resolution, decision, or other act of the Board in the exercise of its functions.

(d) The Secretary of Finance and the Secretary of Budget and Management may each designate a representative from his/her department, whose position shall not be lower than an undersecretary, to attend meetings of the Board and to vote on behalf of their respective principals. Whenever the Secretary of Finance or his/her representative is unable to attend a meeting of the Board, the President of the Corporation shall act as Chairperson of the Board.

(e) The Members of the Board, who do not serve in an ex officio capacity, shall receive a per diem for each Board meeting actually attended and shall be reimbursed for actual and reasonable expenses incurred in the performance of their duties. The rates of such per diems and reimbursements shall be fixed by the Chairperson, subject to the approval of the President of the Philippines.

(f) The Board shall have the authority to:

1) Issue rules and regulations it considers necessary for the effective discharge of the mandate, responsibilities, and exercise of the powers vested upon the Corporation.
2) Direct the management and administration of the Corporation, reorganize its personnel, and issue such rules and regulations as it may deem necessary or convenient for this purpose.

3) Determine the organizational structure, staffing pattern, and number of all personnel of the Corporation, define their duties and responsibilities, and fix their compensation and other emoluments.

4) Establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all employees. Such system shall aim to establish professionalism and excellence at all levels of the Corporation in accordance with sound principles of management.

5) On the recommendation of the President of the Corporation, appoint and remove employees of the Corporation, subject to pertinent civil service laws; provided, that the Board shall have exclusive and final authority to promote, transfer, assign, or reassign employees of the Corporation and such actions are deemed made in the interest of the service and not disciplinary; provided further, that the Board may delegate such authority to the President of the Corporation under such rules and regulations, as it may determine.

6) Discipline or dismiss the officers of the Corporation, subject to pertinent civil service law and upon a majority vote of the Members of the Board who actually took part in the investigation and deliberations on the matter.
7) Adopt the annual budget for and authorize such expenditures by the Corporation as
are in the interest of the effective administration and operation of the Corporation, in
accordance with applicable laws and regulations.

SEC. 7. Corporate Officers – (a) The President of the Corporation, who shall be appointed by
the President of the Philippines, shall be the chief executive officer of the Corporation. As such,
the President of the Corporation shall:

1) Prepare the agenda for the meetings of the Board and submit for the consideration of
the Board the policies and measures which he believes to be necessary to carry out
the mandate of the Corporation and provisions of this Act.

2) Implement and administer the policies and measures prescribed or adopted by the
Board.

3) Direct and supervise the operations and internal administration of the Corporation in
accordance with the policies, rules, and regulations established by the Board;
provided that the President may delegate certain of his administrative responsibilities
to other officers of the Corporation, subject to the by-laws of the Corporation and the
rules and regulations of the Board.

4) Represent the Corporation, upon prior authority of the Board, in all dealings with
other offices, agencies, and instrumentalities of the Government and with all other
persons or entities, public or private, whether domestic or foreign.

5) Authorize, with his/her signature, upon prior authority of the Board, contracts entered
into by and other acts of the Corporation.
6) Prepare and submit to the Board, for its consideration, the annual budget plan of the Corporation not later than two (2) months before the commencement of the ensuing fiscal year.

7) Undertake research, studies, investigations, and other activities and projects relative to the mandate of the Corporation, and submit appropriate reports and recommendations to the Board for its information and approval.

8) Exercise such other powers as may be vested in him by by-laws of the Corporation or by the Board.

(b) The Executive Vice-President, Senior Vice-President for Operations, Senior Vice-President for Finance, General Counsel and Corporate Secretary, Vice-President for Asset Management, Vice-President for Asset Valuation, and Vice-President for Asset Liquidation and Disposition, who shall all be appointed by the Board, shall have such duties, functions, and powers as are provided by the by-laws of the Corporation or the Board.

SEC. 8. Personnel. – All positions in the Corporation, including consultancies, shall be governed by the compensation structure, position classification system, and qualification standards approved by the Board, based on a comprehensive job analysis of actual duties and responsibilities.

The compensation plan shall be comparable to the prevailing compensation plans in the private sector and shall be subject to periodic review by the Board once every two (2) years, without prejudice to yearly merit reviews or increases based on the Corporation’s productivity and profitability. The Corporation shall, therefore, be exempt from existing laws, rules, and regulations on compensation, position classification, and qualification standards. The
Corporation shall, however, endeavor to make its system conform as possible to the principles under Republic Act No. 6758, otherwise known as the Compensation and Position Classification Act of 1989.

SEC. 9. Relationship with Forfeiting Agencies. - The Corporation may enter into memoranda of agreement with relevant forfeiting agencies to define their respective roles, functions and financial responsibilities relative to the management, administration, liquidation, and disposition of seized or forfeited assets and the transfer and payment of the proceeds of disposition.

SEC. 10. Immunity from Suit. - The Corporation shall not be subject to any suit in connection with any act done or omitted by it in the regular exercise of its functions and powers; provided, that it acts in good faith and pursuant to the state policy set forth in this Act.

SEC. 11. Third-Party Claims. - Any and all third party claims in connection with or arising from any seized or forfeited asset under the Corporation’s custody shall be directed to and resolved by the agency, tribunal, or court having jurisdiction over the action or proceeding covering the asset.

SEC. 12. Corporate By-Laws. - The Corporation shall adopt its by-laws within ninety (90) days from the effectivity of this Act. The by-laws of the Corporation may be amended through a resolution of the Board approved by a majority of all its Members.

SEC. 13. Principal Office. - The Corporation shall have its principal office in Metro Manila, but the Board may establish and maintain branch, field, or satellite offices in such other places, as may be needed for effective discharge of the mandate and functions of the Corporation.
SEC. 14. Capitalization. — The capital of the Corporation shall be five hundred million pesos (P500,000,000.00) to be fully subscribed by the Republic of the Philippines, one hundred million pesos (P100,000,000.00) of which shall be fully paid for by the National Government upon the effectivity of this Act and the balance to be paid for within a period of three (3) years thereafter in such manner and form as the National Government, through the Secretary of Finance and Secretary of Budget and Management, may thereafter determine.

SEC. 15. Proceeds of Operations. — Proceeds derived from the management or disposition of seized or forfeited assets shall be remitted by the Corporation to the National Treasury or to the proper government office or agency, as may be required by law; provided, that the Corporation shall be entitled to deduct therefrom the following:

(a) actual expenses incurred in the conservation, administration, and disposition of said assets; and

(b) management fees equivalent to ten percent (10%) of the net proceeds; provided, that the amount of management fees may be adjusted based on relevant industry and market standards and considerations; provided, that any adjustment must be subject to a detailed study and approved by the Board.

SEC. 16. Reimbursements for Expenses. — The Corporation shall be entitled to reimbursement of actual and necessary costs for the maintenance, preservation, and conservation of seized assets, in the event that the court adjudicates the same against the State; provided, that such costs shall be reimbursed by the prevailing party in an amount to be equitably fixed by the court; provided further, that the Corporation shall render periodic reports to the proper courts regarding the status of assets under its custody and the costs incurred for their maintenance,
preservation, and conservation, which shall be considered by the said courts for purposes of
fixing the amount of reimbursements due to the Corporation upon final judgment.

SEC. 17. Fiscal Autonomy. – All moneys earned by the Corporation from the collection of
management fees and the payment or reimbursement of expenses and costs for the maintenance,
conservation, administration, and disposition of seized or forfeited assets shall be used solely to
fund the operations of the Corporation and shall be properly and prudently administered with a
view to preserving the Corporation’s viability.

SEC. 18. Annual Report. – The Corporation shall prepare and submit an annual report to the
President of the Philippines, the Senate, and the House of Representatives on its
accomplishments at the close of each fiscal year. The fiscal year of the Corporation shall begin
on January first and end on December thirty-first of each year.

SEC. 19. Exemption from the GOCC Governance Act of 2011. – The provisions of Republic
Act No. 10149, otherwise known as the GOCC Governance Act of 2011, except Section 19
(Fiduciary Duties of the Board and Officers), Section 20 (Trustee Relation to the Properties,
Interests and Monies of the GOCC), Section 21 (Care, Diligence and Skill in the Conduct of the
Business of the GOCC), and Section 24 (Restitution) thereof, shall not apply to the Corporation.

SEC. 20. Dissolution of the Privatization and Management Office. – Upon the effectivity of
this Act, the Privatization and Management Office (“PMO”) shall wind up its affairs and be
dissolved pursuant to applicable laws. The existing staff of the PMO shall be absorbed by the
Corporation and become its core unit; provided, that PMO personnel absorbed by the
Corporation shall not suffer any diminution of benefits or disturbance of tenure; provided further,
that PMO personnel who choose not to be employed by the Corporation shall be deemed
separated from the service and shall be entitled to separation benefits, as provided by law;
provided finally, that the Corporation shall not be considered as a continuation of the legal
personality of the PMO.

SEC. 21. Separability Clause. – If any provision of this Act is declared invalid or
unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

SEC. 22. Repealing Clause. – All laws, decrees, executive orders and issuances,
proclamations, rules and regulations, and other issuances or parts thereof that are inconsistent
with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 23. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at
least two newspapers of general circulation.

Approved,