


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SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

RECEIVED BY: 

SENATE

S. B. No. 2447

Introduced by Senator TEOFISTO "TG" GUINGONA III

**AN ACT
TO ENABLE GOVERNMENT INFRASTRUCTURE PROJECTS AND
PUBLIC-PRIVATE PARTNERSHIP (PPP) PROJECTS BY AMENDING
REPUBLIC ACT NO. 8974, OTHERWISE KNOWN AS AN ACT TO FACILITATE THE
ACQUISITION OF RIGHT-OF WAY, SITES, OR LOCATION FOR NATIONAL
GOVERNMENT INFRASTRUCTURE, APPROPRIATING FUNDS THEREFOR, AND
FOR OTHER PURPOSES.**

EXPLANATORY NOTE

Government infrastructure projects are delayed or frustrated by expropriation laws and procedures that have, over the years, proven to be inhospitable to the timetables of project implementors. This contributes to the delay in our socio-economic development and causes us to lose much-needed investments due to a lack of critical infrastructure like roads and public transportation facilities. The results could not be clearer: Flooding, traffic congestion, poor public services and an overall deterioration of our quality of life.

While the people demand quick and visible solutions to their everyday problems, they only hear complicated excuses. This is partly because of deliberate corruption in government and partly because of a system that is slow, inefficient and unresponsive to real problems.

In order to move forward with Philippines 2015 in an emerging ASEAN 2015, we need to upgrade our procedures by speeding them up without sacrificing transparency and accountability. By introducing systematic improvements, we will be able to realize long-term plans and ensure that future projects are not lost in a legal and procedural limbo.

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


TEOFISTO "TG" GUINGONA III
Senator

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GOVERNMENT INFRASTRUCTURE, APPROPRIATING 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. Declaration of Policy.**— Article III, Section 9 of the Constitution states that
2 private property shall not be taken for public use without compensation. Towards this end, the
3 State shall ensure that owners of real property acquired for national government infrastructure
4 projects are promptly paid just compensation, while providing for the expeditious acquisition of
5 the required right-of-way for the projects.
6
7 **SECTION 2. National Government Projects.** – The term “national government projects”
8 shall refer to all national government infrastructure and its public service facilities, engineering
9 works and service contracts, including projects undertaken by government-owned and –
10 controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic
11 Act No. 7718, otherwise known as Build-Operate-and-Transfer Law, and other related and
12 necessary activities such as site acquisition, supply and/or installation of equipment and
13 materials, implementation, construction, completion, operation, maintenance, improvement,
14 repair and rehabilitation, regardless of the source of funding, subject to the provisions of the
15 local government code, local government units (LGUs) may also adopt the provisions of this act
16 for use in the acquisition of right-of-way for local government infrastructure projects.
17
18 **SECTION 3. Modes of Acquiring Real Property.** – The government may acquire real
19 property needed as right-of-way, site or location for any government infrastructure project
20 through donation, negotiated sale, expropriation or any other mode of acquisition as provided by

1 law. Pursuant to the objectives in Section 1 hereof, expropriation shall be considered as a
2 preferential mode of acquiring real property needed as a right-of-way, site or location for any
3 government infrastructure project.

4
5 In cases of lands granted thru Commonwealth Act 141 and its amendments, the Implementing
6 Agency shall:

7
8 (a) Follow the other modes of acquisition under Section 3 if landowner is not original
9 patent holder and not a holder thru gratuitous title; or

10
11 (b) Follow the provisions under Commonwealth Act 141 regarding acquisition of right-
12 of-way on patent lands, if the landowner is the original patent holder or his
13 acquisition of said land from the original patent holder is through gratuitous title.

14
15 The implementing agency shall utilize donation or similar mode of acquisition if the landowner
16 is a government-owned or controlled corporation.

17
18 **SECTION 4. Rules on Negotiated Sale.** – the implementing agency may offer to
19 acquire, through negotiated sale, the right-of-way, site or location for a national government
20 infrastructure project, under the following rules:

21
22 (a) The Implementing Agency shall make an offer only once to the property owner
23 concerned, as compensation price, the sum of:

24
25 i. The current market value of the land, as determined, pursuant to
26 Section 6 hereof by: (a) the implementing agency, (b) the provincial,
27 city or municipal assessor's office, (c) a government financing
28 institution with adequate experience in property appraisal or (d) an
29 independent property appraiser accredited by the Bangko Sentral ng
30 Pilipinas (BSP) or a professional association of appraisers recognized
31 by BSP to be procured as mentioned in Section 4(a). All relevant
32 agencies and/or associations shall, within 60 days from the approval of
33 this act, prepare an appraisal and/or accreditation program in
34 accordance with the provisions of this Act;

35
36 ii. The replacement cost of structures and improvements therein as
37 determined by Section 5(a)(ii); and

38
39 iii. The current market value of crops and trees therein. To determine the
40 said price offer, the implementing agency may engage services of a
41 Government Financing Institution with adequate experience in
42 property appraisal, or an independent property appraiser accredited by
43 the Bangko Sentral ng Pilipinas (BSP) or professional association of
44 appraisers recognized by BSP to be procured by the Implementing
45 Agency under the provisions of Republic Act No. 9184 and its
46 implementing rules and regulations pertaining to consulting services if

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the property owner does not accept this price offer, the Implementing Agency shall initiate expropriation proceedings pursuant to section 5, hereof.

The property owner is given thirty (30) days within which he shall decide whether to accept the offer as payment for his property or not. Upon refusal of the property owner of such offer or if he fails and/or refuses to submit documents necessary for payment, the implementing agency shall immediately initiate an expropriation proceeding as provided in Section 5 herein.

- b. The above provision pertaining to Section 4(a)(ii) shall also apply to all owners of structures and improvements who do not have legally recognized rights to the land and who meet all of the following criteria:
 - i. Must be a Filipino citizen.
 - ii. Must not own any real property or any other housing facility, whether in an urban or rural area.
 - iii. Must not be a professional squatter or a member of a squatting syndicate, as defined in Republic Act no. 7279, otherwise known as the Urban Development and Housing Act, as amended.

With regard to the taxes and fees relative to the transfer of title of the property to the republic through negotiated sale, the implementing agency shall pay, for the account of the seller, the capital gains tax, as well as the documentary stamp tax, transfer tax and registration fees while owner shall pay unpaid real property tax.

The implementing agency shall remit to the local government unit the amount corresponding to any unpaid real property tax, subject to deduction of this amount from the total negotiated price, provided, however, that the said amount is not more than the negotiated price;

- c. If requested by the property owner, the implementing agency shall remit to the LGU concerned the amount corresponding to any unpaid real property tax, subject to the deduction of this amount from the total negotiated price.
- d. The property owner and the Implementing Agency shall execute a deed of absolute sale, provided that the property owner has submitted to the implementing agency the transfer certificate of title, tax declaration, real property tax certificate, and other documents necessary to transfer the title to the Republic, the Implementing Agency shall cause the annotation of the deed of absolute sale on the transfer certificate of title.
- e. Upon execution of Deed of Sale, the Implementing Agency shall pay the property owner:

- 1 i. Fifty percent (50%) of the negotiated price of the affected land,
2 exclusive of taxes remitted to the LGU concerned under Section 4(d)
3 above; and
4
5 ii. Seventy percent (70%) of negotiated price of affected structures,
6 improvements, crops and trees, exclusive of real property tax in no. 5
7 above.
8
9 f. The Implementing Agency shall, at the times stated below, pay the property
10 owner the remaining fifty percent (50%) of the negotiated price of the affected
11 land, and thirty percent (30%) of the affected structures, improvements, crops
12 and trees, exclusive of unpaid taxes remitted to the LGU concerned under
13 Section 4(d) above, provided that the land is already completely cleared of
14 structures/improvements, crops and trees:
15
16 i. At the time of the transfer of title in the name of republic, in cases
17 where the land is wholly affected or
18
19 ii. At the time of the annotation of a deed of sale on the title, in cases
20 where the land is partially affected.
21

22 The provisions of Section 4(a) shall also apply to outstanding claims for right-of-
23 way payments, except that the amount to be offered shall be the price at the time
24 of taking of the property, including legal interest until fully paid.
25

26 **SECTION 5. Guidelines for Expropriation Proceedings.** – Whenever it is necessary to
27 acquire real property for the right-of-way, site or location for any national government
28 infrastructure through expropriation, the appropriating implementing agency, through the Office
29 of the Solicitor General, the Office of the Government Corporate Counsel, or their deputized
30 government or private legal counsel, shall immediately initiate the expropriation proceedings
31 and/or enforcement of lien proceedings for lands covered by free or homestead patents pursuant
32 to Commonwealth Act 141 before the proper court under the following guidelines:
33

- 34 (a) Upon the filing of the complaint or at any time thereafter, and after due notice to the
35 defendant, the implementing agency shall immediately deposit to the court in favor of the
36 owner the amount equivalent to the sum of:
37
38 i. One hundred percent (100%) of the value of the land based on the current
39 relevant zonal valuation of the Bureau of Internal Revenue (BIR), issued
40 not more than three years prior to the filing of the expropriation complaint
41 subject to Section 5(c) below;
42
43 ii. The replacement cost of structures and improvements therein as
44 determined pursuant to Section 4(a)(ii); and
45
46

1 iii. The current market value of crops and trees located within the property as
2 determined by a government financial institution or an independent
3 property appraiser to be selected as mentioned in Section 4(a).
4

5 For utility posts, pipes, wires and the like placed by utility companies with government
6 franchises, the costs of relocating them shall not be included in the cost determined
7 herein.
8

9 If, within seven (7) days after the deposit to the court of the amount equivalent to the sum of
10 Section 5(a)(i) to 5(a)(iii), the court has not issued to the implementing agency a Writ of
11 Possession for the affected property, then the counsel of the implementing agency shall
12 immediately seek from the court the issuance of the Writ of Possession *ex parte*. No hearing
13 shall be required in the issuance of such Writ of Possession. The court shall issue the Writ of
14 Possession within fifteen (15) days from the filing of the complaint.
15

16 In the enforcement of lien proceedings, the court shall immediately issue a Writ of Possession
17 similar to that granted in expropriation cases.
18

19 The court shall release the said amount to the owner upon presentation of sufficient proofs of
20 ownership.
21

22 (b) In case the owner cannot be found, unknown, or deceased in cases where the estate has
23 not been settled, after exerting due diligence, or there are conflicting claims over the
24 ownership of the property and improvements and/or structures thereon, the implementing
25 agency shall deposit the amount equivalent to the sum of Sections 5(a)(i) to 5(a)(iii)
26 above to the court for the benefit of the person to be adjudged in the same proceedings as
27 entitled thereto.
28

29 If, within seven (7) working days after the deposit to the court of the amount equivalent
30 to the sum of sections 5(a)(i) to 5(a)(iii), the court has not issued to the implementing
31 agency a Writ of Possession for the affected property, then the counsel of the
32 implementing agency shall immediately seek with the court the issuance of the Writ of
33 Possession.
34

35 The court shall release the said amount to the person adjudged in the same expropriation
36 proceeding as entitled thereto.
37

38 (c) In provinces, cities, municipalities and other areas where there is no land classification,
39 the city/municipal assessor is hereby mandated within the period of sixty (60) days from
40 date of filing of expropriation case, to come up with the required land classification and
41 the corresponding declaration of real property and improvement for said area. In
42 provinces, cities, municipalities and other areas where there is no zonal valuation, and/or
43 where the zonal valuation is more than three years, the BIR is hereby mandated within
44 the period of sixty (60) days from the date of filing of the expropriation case, to come up
45 with a zonal valuation for said area, based on the land classification done by the city or
46 municipal assessor.

- 1 (d) With reference to section 5(a)(i), in case the completion of a government infrastructure is
2 of utmost urgency and importance, and there is no land classification or no existing zonal
3 valuation of the area concerned and/or the zonal valuation is more than three years, the
4 implementing agency shall use the BIR zonal value and land classification of similar
5 lands within the adjacent vicinity, as the basis for the valuation.
6
- 7 (e) In any of the cases in Section 5(a), (b), (c), and (d) above upon its receipt of the Writ of
8 Possession issued by the court, the implementing agency may take possession of the
9 property and start the implementation of the project.
10
- 11 (f) In the event that the owner of the property contests the implementing agency's proffered
12 value, the court shall determine the just compensation to be paid the owner within sixty
13 (60) days from the date of filing of the expropriation case when the decision of the court
14 becomes final and executory, the Implementing Agency shall pay the owner the
15 difference between the amount already paid and the just compensation as determined by
16 the court.
17
- 18 (g) With regard to the taxes and fees relative to the transfer of title of the property to the
19 republic through expropriation proceedings, the implementing agency shall pay the
20 documentary stamp tax, transfer tax and registration fees, while the owner shall pay the
21 capital gains tax and any unpaid real property tax.
22

23 **SECTION 6. *Standards for the Assessment of the Value of the property subject to***
24 ***Negotiated Sale and expropriation.*** - In order to facilitate the determination of just
25 compensation, the court may consider, among other well-established factors, the following
26 relevant standards:
27

- 28 (a) The classification and use for which the property is suited;
29 (b) The developmental costs for improving the land;
30 (c) The value declared by the owners;
31 (d) The current selling price of similar lands in the vicinity;
32 (e) The reasonable disturbance compensation for the removal and/or demolition of certain
33 improvement on the land and for the value of improvements thereon;
34 (f) This size, shape or location, tax declaration and zonal valuation of the land;
35 (g) The price of the land as manifested in the ocular findings, oral as well as documentary
36 evidence presented; and
37 (h) Such facts and events as to enable the affected property owners to have sufficient
38 funds to acquire similarly-situated lands of approximate areas as those required from
39 them by the government, and thereby rehabilitate themselves as early as possible.
40

41 **SECTION 7. *Ecological and Environmental Concerns.*** - In cases involving the
42 acquisition of right-of-way, site or location for any national government infrastructure project,
43 the implementing agency shall take into account the ecological and environmental impact of the
44 project. Before any national government project could be undertaken, the agency shall consider
45 environmental laws, land use ordinances, and all pertinent provisions of Republic Act No. 7160,
46 as amended, otherwise known as the Local Government Code of 1991.

1
2 **SECTION 8. *Relocation of Informal Settlers.*** – The government, through the Housing
3 and Urban Development Coordinating Council (HUDCC) and the National Housing Authority
4 (NHA), in coordination with the LGU and implementing agencies concerned, shall establish and
5 develop resettlement site for informal settlers, including the provision of adequate basic services
6 and community facilities, in anticipation of informal settlers that have to be removed from the
7 right-of-way or site of future infrastructure projects, pursuant to the provisions of Republic Act
8 no. 7279. Whenever applicable, the implementing agency and/or concerned LGUs shall fund,
9 provide and administer the payment of financial assistance and/or resettlement sites.

10
11 In case the expropriated land is occupied by informal settlers who are unable or refuse to
12 demolish their structures and other improvements therein despite the Writ of Possession issued
13 by the court under Section 5, the court shall issue the necessary Writ of Demolition for the
14 purpose of dismantling any and all structures found within the subject property. The
15 implementing agency shall take into account and observe diligently the procedure provided for in
16 Sections 28 and 29 of Republic Act No. 7279.

17
18 **SECTION 9. *Appropriations for Acquisitions of Right-of-way, Site or Location for***
19 ***National Government Infrastructure Projects in Advance of Project Implementation.*** - The
20 Government shall provide adequate appropriations that will allow the concerned implementing
21 agencies to acquire the required right-of-way, site or location for any national government
22 infrastructure project in advance of project implementation. These appropriations shall cover the
23 funds needed to cover the following expenses for activities directly related to right-of-way
24 acquisition for the projects as provided in this act;

- 25
26 (a) Cost of parcellary surveys and appraisal of properties affected by the projects.
27 (b) Cost of development and implementation of resettlement projects covered by this act,
28 including planning, social preparation, and other activities under the resettlement
29 action plan.
30 (c) Related expenses of the Implementing Agency, including capital gains tax in the case
31 of negotiated sale under Section 4, documentary stamp tax, transfer tax and
32 registration fees for the transfer of titles, and other relevant administrative expenses
33 for right-of-way management.

34
35 In Public-Private Partnership (PPP) projects, the modalities of which are defined in Republic Act
36 7718, the Implementing Agency may, as part of the contract terms and conditions require the
37 project proponent to (a) advance the funds covering the cost of the right-of-way which shall be
38 reimbursed later by the Implementing Agency or (b) finance the right of way cost which shall be
39 recovered partly or fully by the proponent from the tolls, fees, or tariffs to be charged to the users
40 of the completed project.

41
42 **SECTION 10. *Entry into Private Lands for Subsurface or Subterranean Works.*** –
43 Whenever necessary for a government infrastructure and development project to construct or
44 install underground works like railroads or tunnels in the subsurface or subterranean portion of
45 lands owned, occupied or leased by other persons, the government or any of its authorized
46 representatives may not be prevented from entering into the subsurface or subterranean portions

1 of such private lands by the surface owners or occupants if such entry is made more than fifteen
2 (15) meters from the surface.

3
4 **SECTION 11. *Regulation of Developments within Declared Right-of-way.*** – upon the
5 approval of an infrastructure project by the head of the implementing agency concerned, with
6 funding authorized in the general appropriations act and with defined right-of-way, no National
7 Government Agency or LGU shall, within two years from date of notice of taking, allow any
8 development or construction, or issue any building, construction development or business permit,
9 which is contrary to the approved plans and purposes of the project, within the said right-of-way,
10 unless explicitly authorized by the head of the Implementing Agency for justifiable reasons.

11
12 **SECTION 12. *Sanctions.*** – Violation of this act shall subject the government official or
13 employee concerned to appropriate administrative, civil and/or criminal sanctions, including
14 suspension and/or dismissal from the government service and forfeiture benefits.

15
16 **SECTION 13. *Rules and Regulations.*** – A committee composed of the Secretary of the
17 Department of Public Works and Highways as Chairperson, and Secretaries of the Department of
18 Transportation and Communications, the Department of Energy, the Department of Justice, the
19 Department of Budget and Management, the National Economic and Development Authority,
20 the Chairman of the Housing and Urban Development Coordinating Council, and other
21 concerned entities as determined by the committee as members, shall prepare, in consultation
22 with key stakeholders the necessary rules and regulations for the proper implementation of this
23 act within sixty (60) days from its approval,

24
25 **SECTION 14. *Transitory Clause.*** – The provisions of this act shall apply to all right-of-
26 way transactions, except ongoing transactions which, as of the effectivity of this act, have
27 already reached a written agreement as to the price between the implementing agency and the
28 property owner.

29
30 **SECTION 15. *Separability Clause.*** – If any provision of this Act is declared
31 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall continue to
32 be in full force and effect.

33
34 **SECTION 16. *Repealing Clause.*** - All laws, decrees, executive orders, proclamations,
35 rules and regulations and other issuances or parts thereof which are inconsistent with the
36 provisions of this Act are hereby repealed or modified accordingly.

37
38 **SECTION 17. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days following
39 its publication in at least two (2) newspapers of general circulation.

40
41 Approved.