

SENATE

S. No. 232

FILED



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 four (4) exceptions while RA 6426 admits 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.


FRANCIS G. ESCUDERO

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SECRECY LAW AS PROVIDED FOR UNDER REPUBLIC ACT NUMBERS 1405
AND 6426**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assemble*

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

12 The aforesated written permission or waiver shall be submitted within thirty
13 (30) days from the date of their assumption of office: *Provided, however,* That public
14 officials and employees who are already exercising the functions of their respective

1 offices upon the effectivity of this Act shall submit the same not later than thirty (30)
2 days from the effectivity of the Rules and Regulations implementing this Act.

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

7 *Sec. 4. Limitation on Use.* – Only the Office of the Ombudsman shall obtain or
8 use the written permission or waiver, or any other information or data obtained by
9 virtue thereof: *Provided, however,* That the same shall be used exclusively for
10 investigating a duly verified complaint or for prosecuting a case before the courts:
11 *Provided, further,* That the written permission or waiver shall not be used for any
12 other purpose.

13 *Sec. 5. Lead Agency.* – The Office of the Ombudsman shall have the primary
14 responsibility to implement this Act: *Provided, however,* That it shall enllst the advice
15 of the Department of Justice and the Bangko Sentral ng Pilipnas in the drafting of the
16 written permission or waiver as provided in this Act.

17 *Sec. 6. Separability Clause.* – If any provision or part hereof is declared
18 unconstitutional, the remainder of this Act or any provision not affected thereby shall
19 remain in full force and effect.

20 *Sec. 7. Repealing Clause.* – All laws, acts, decrees, executive orders, issuances,
21 and rules and regulations or parts thereof which are contrary to and inconsistent with
22 this Act are hereby repealed, amended or modified accordingly.

23 *Sec. 8. Effectivity.* – This Act shall take effect fifteen (15) days after its
24 publication in the *Official Gazette* or at least two (2) newspapers of general circulation.

Approved,