

REPUBLIC OF THE PHILIPPINES }
CONGRESS OF THE PHILIPPINES }
 Second Regular Session

H. No. 10696
S. No. 1509

REPUBLIC ACT NO. 7661

AN ACT AMENDING REPUBLIC ACT NUMBERED SEVEN THOUSAND ONE HUNDRED AND EIGHTY-ONE, ENTITLED "AN ACT EXTENDING THE LIFE OF THE COMMITTEE ON PRIVATIZATION AND ASSET PRIVATIZATION TRUST"

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

SECTION 1. Section 1 of Republic Act No. 7181 is hereby amended to read as follows:

"SECTION 1. The term of the Committee on Privatization and the Asset Privatization Trust created by Proclamation No. 50 'Proclaiming and Launching a Program for the Expeditious Disposition and Privatization of Certain Government Corporations and/or the Assets thereof, and Creating the Committee on Privatization and the Asset Privatization Trust' is hereby extended from December 31, 1993 to June 30, 1995: *Provided*, That prior to the beginning of its extended term on January 1, 1994, the President may appoint new members of the Asset Privatization Trust.

"During the said extension period, the Committee on Privatization and the Asset Privatization Trust shall continue to exercise the powers, duties and responsibilities provided under Proclamation No. 50, as amended: *Provided*, That all disposition of any and all assets shall be primarily for cash: *Provided, however*, That the use of government financial instruments and sales by installment may be allowed: *Provided, further*, That the Committee on Privatization shall serve as the central agency of the privatization program and, accordingly, is further empowered:

"(a) To designate the disposition entity for all assets intended for privatization, including all assets and properties recovered by the Presidential Commission on Good Government (PCGG) and government idle properties; and

"(b) When necessary, to appoint a representative to the governing board of a government corporation or corporation with government transferred assets which has been identified for privatization who shall, for the purpose of facilitating privatization, have the powers and privileges of a member of such board, except the right to vote: *Provided*, That such appointee shall not receive any additional salary or emolument by reason of such appointment: *Provided, further*, That the appointee shall not be eligible for employment in any capacity whatsoever in the said corporation within two (2) years after privatization.

"Upon the effectivity of this Act, all receipts from the sale of assets of the Asset Privatization Trust shall be remitted to the National Treasury in the following proportion: sixty percent (60%) to the special account of the Agrarian Reform Fund and forty percent (40%) to the general fund: *Provided, however*, That within the ten-year period of implementation of the Comprehensive Agrarian Reform Program the total initial amount of Fifty billion pesos (P50,000,000,000) shall be satisfied and completed from all sources pursuant to the pertinent provisions of Republic Act No. 6657 and Executive Order No. 229, dated July 1987: *Provided, further*, That except for subsidiaries of the Government Service Insurance System and the Social Security System, all government-owned or -controlled corporations shall remit to the National Government at least fifty percent (50%) of the net proceeds derived from the sale of shares or assets effective October 1, 1992: *Provided, finally*, That net proceeds shall mean gross proceeds less related liabilities and selling expenses.

"All assets held by the Asset Privatization Trust, all moneys and other properties belonging to it, and all its liabilities outstanding upon the expiration of its term shall revert to and be assumed by the National Government. The President of the Philippines shall designate by an executive order the government office or entity to which the assets and liabilities of the Asset Privatization Trust shall be transferred.

"All cash advances and all unsettled obligations incurred after the effectivity of this law by the officers and employees of the Committee on Privatization or the Asset Privatization Trust, as finally determined by the proper agency or court of law, must be liquidated on or before June 30, 1995."

SEC. 2. Section 2 of the same Act is hereby amended to read as follows:

"SEC. 2. The following conditions shall be adhered to in privatization:

"(a) In the disposition of assets in corporate form, there shall be no undue dislocation of labor unless all benefits as provided by existing laws or Collective Bargaining Agreements (CBA) shall be complied with: and *Provided*, That the old qualified personnel shall be given preference in the hiring of new personnel by the new owners.

"(b) Assets for disposal shall not revert to previous owners who after final judgment by the proper agency or a court of law, have been found to have mismanaged or diverted the resources of the assets which resulted in loss and bankruptcy: *Provided*, That if assets are to be reverted back to the previous owner, the price shall not be less than the original transfer price.

"(c) Privatization of government assets classified as a strategic industry by the National Economic and Development Authority (NEDA) shall first be approved by the President of the Philippines.

"(d) The disposition of assets shall be governed by an abiding concern to expand the ownership base of property.

"(e) In the disposition of assets, due regard for improving competition in business and preventing the creation or perpetuation of monopolies and cartels shall be made.

"(f) A minimum of ten percent (10%) of the sale of assets in corporate form shall first be offered to small local investors, including Filipino overseas workers and, where practicable, also in the sale of any physical assets.

"(g) Sale of all assets shall be published in at least three (3) national newspapers of general circulation for three (3) consecutive days: *Provided*, That the first publication shall occur at least ten (10) days prior to the scheduled bidding date or date of negotiation."

SEC. 3. The same Act is hereby amended by inserting between Sections 2 and 3 thereof a new section to read as follows:

"SEC. 2-A. No court or administrative agency in the Philippines shall issue any restraining order or writ of preliminary injunction against the Asset Privatization Trust or the Committee on Privatization and any of its duly designated disposition entities in connection with acquisition, sale or disposition of assets pursuant to Proclamation No. 50, nor shall such order or writ be issued against the purchaser of assets sold or disposed by the Trust, the Committee, or the disposition entities to prevent such purchaser from taking possession of such assets.

In the event that any court or administrative agency issues a permanent restraining order or writ of injunction against the Trust, the Committee, and the disposition entities or the purchaser, as the case maybe, may secure the immediate lifting of such order or writ by filing with the judge or clerk of court a bond in an amount equal to that of the bond posted by the applicant of the order to writ.

SEC. 4. Section 6 of the same Act is hereby amended to read as follows:

"SEC. 6. The provisions of Sections 3, 10, 31 and 34 of Proclamation No. 50, as amended, in particular, all other provisions of the proclamation as well as other laws, orders, promulgations, rules and regulations or parts thereof, which are inconsistent herewith, are hereby amended, repealed or modified

accordingly. All other provisions of the proclamation which are not otherwise in conflict with any provision hereof shall remain valid and in full force and effect."

SEC. 5. Implementing guidelines and regulations shall be issued by the Committee on Privatization to fully implement this Act within forty-five (45) days from the date of approval of this Act.

SEC. 6. This Act shall take effect after its publication in two (2) newspapers of general circulation.

Approved, December 23, 1993.