COMMITTEE REPORT No. 396

Submitted by the Committee on Banks and Financial Intermediaries on March 6, 2023

Re: House Bill No. 7446

Recommending its approval in substitution of House Bill No. 4313.

Sponsor: Representative Tieng, Irwin, C.

Mr. Speaker:

The Committee on Banks and Financial Intermediaries to which was referred House Bill No. 4313, by Rep. Tieng, Irwin, C., entitled:

AN ACT
PROMOTING TRANSPARENCY GOVERNANCE AND INSTITUTING ANTI-CORRUPTION MECHANISMS IN THE OPERATION OF BANKS, AND OTHER FINANCIAL INSTITUTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405, OTHERWISE KNOWN AS “THE SECRECY OF BANK DEPOSITS LAW”

has considered the same and hereby recommends the approval of the attached House Bill No. 7446 entitled:

AN ACT
PROMOTING TRANSPARENT GOVERNANCE AND INSTITUTING ANTI-CORRUPTION MECHANISMS IN THE OPERATION OF BANKS AND OTHER FINANCIAL INSTITUTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405, ENTITLED “AN ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS WITH ANY BANKING INSTITUTION AND PROVIDING PENALTY THEREFOR”

in substitution of House Bill No. 4313, with Representatives Tieng, Atayde and Villarica as authors thereof.

Respectfully submitted,

IRWIN C. TIENG
Chairperson

THE SPEAKER
HOUSE OF REPRESENTATIVES
AN ACT
PROMOTING TRANSPARENT GOVERNANCE AND
INSTITUTING ANTI-CORRUPTION MECHANISMS IN THE OPERATION
OF BANKS AND OTHER FINANCIAL INSTITUTIONS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405, ENTITLED
“AN ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS
WITH ANY BANKING INSTITUTION AND PROVIDING PENALTY
THEREFOR”

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

SECTION 1. Section 2 of Republic Act No. 1405, entitled: “An Act Prohibiting
Disclosure of or Inquiry Into, Deposits With Any Banking Institution And Providing Penalty
Therefor” is hereby amended to read, as follows:

“SECTION 2. All deposits are hereby considered as of an absolutely confidential
nature and may not be examined, inquired or looked into by any person, government
official, bureau or office, except upon written permission of the depositor, or in cases of
impeachment, or upon order of a competent court in cases of bribery or dereliction of
duty of public officials, or in cases where the money deposited is the subject matter of
the litigation, OR IN CASES WHERE THE INQUIRY OR EXAMINATION IS
MADE BY THE BANGKO SENTRAL NG PILIPINAS (BSP), IN THE EXERCISE
OF ITS SUPERVISORY POWERS, ON THE DEPOSIT OF THE
STOCKHOLDER, OWNER, DIRECTOR, TRUSTEE, OFFICER OR
EMPLOYEE OF AN ENTITY THAT IS SUBJECT TO THE SUPERVISION OR
REGULATORY POWER OF THE BSP, THE REPRESENTATIVE OR AGENT,
THE RELATED PARTY, OR ANY OF THE CONSPIRATORS, OF THE
PERSON INVOLVED: PROVIDED, THAT, UPON DETERMINATION BY THE
MONETARY BOARD, THERE IS A REASONABLE GROUND TO BELIEVE
THAT FRAUD, SERIOUS IRREGULARITY OR UNLAWFUL ACTIVITY HAS
BEEN OR IS BEING COMMITTED BY THE ABOVEMENTIONED PERSONS,
AND THAT IT IS NECESSARY TO LOOK INTO THE DEPOSIT TO
ESTABLISH SUCH FRAUD, SERIOUS IRREGULARITY OR UNLAWFUL
ACTIVITY. THE AUTHORITY OF THE **BSP** TO INQUIRE AND EXAMINE Deposits shall also apply in the course of its investigation of closed banks.

As used in this act, **Deposits** shall refer to money or its equivalent received by a bank in the usual course of business, and for which it has given or is obliged to give credit to a commercial, checking, savings, time or thrift account, evidenced by a passbook, certificate of deposit, or other evidence of deposit, issued in accordance with **BSP** rules and regulations and other applicable laws, as well as such other obligation of a bank that forms part of its deposit liabilities pursuant to **BSP** rules and regulations.

The results of the inquiry or examination conducted by the **BSP** shall be for its exclusive use and shall not be made available to any person or entity, whether public or private, except to the securities and exchange commission, philippine deposit insurance corporation, anti-money laundering council, department of justice, and the courts: *Provided*, that the sharing of the results of the abovementioned inquiry or examination is necessary to prevent or prosecute any offense or crime.

The exemptions under this section shall apply to foreign currency deposits in banks operating in the philippines including off-shore branches of domestic banks: *Provided*, that these exemptions shall not apply to non-stock savings & loan associations (nsslas) that are catering only to their members.”

**SEC. 2.** Section 3 of the same act, is hereby amended to read as follows:

“**SECTION 3.** No bank or financial institution, or any of its directors, officers or employees, shall be subject to any action, claim or demand in connection with, and shall be held free and harmless from liability for, any act done in compliance with an order for inquiry or examination of deposits from the **BSP**.

However, it shall be unlawful for any official or employee, of a banking institution or the **BSP**, to disclose any information concerning said deposits to any person and under such conditions other than those mentioned in section **two** 2 hereof. **It shall also be unlawful for any person to use this act for persecution or harassment or as an instrument to hamper competition in trade and commerce.”
SEC. 3. Section 5 of the same Act, is hereby amended to read as follows:

“SECTION 5. Any violation of this law will subject THE offender upon conviction, to imprisonment of not LESS THAN TWO (2) YEARS NOR more than five TEN (10) YEARS or a fine of not LESS THAN FIFTY THOUSAND PESOS (P50,000) NOR MORE THAN twenty thousand TWO MILLION PESOS (P2,000,000), or both, in AT the discretion of the court.”

SEC. 4. Separability Clause. If any provision or section of this Act is held to be unconstitutional or invalid, the other provisions or sections hereof, which are not affected thereby shall continue to be in full force and effect.

SEC. 5. Repealing Clause.

a. Sections 2, 3 and 5 of Republic Act No. 1405 are hereby amended;

b. Sections 8 and 12-A of Republic Act No. 6426, as amended, also known as the “Foreign Currency Deposit Act of the Philippines,” with respect to foreign currency deposits, are hereby amended;

c. Section 33 of Republic Act No. 6848, also known as “The Charter of the Al-Amanah Islamic Investment Bank of the Philippines”, is hereby amended;

d. Section 26(a)(2) of Republic Act No. 7353, also known as the “Rural Act of 1992” is hereby amended; and

e. Section 21(a)(2) of Republic Act No. 7906, also known as the “Thrift Banks Act of 1995” is hereby amended.

All other Acts or parts of Acts, Special Charters, Executive Order, Rules and Regulations, which are inconsistent with the provisions of this Act, are hereby repealed.

SEC. 6. Effectivity. This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.
FACT SHEET

House Bill No. 7446
(In substitution of House Bill No. 4313)

AN ACT
PROMOTING TRANSPARENT GOVERNANCE AND
INSTITUTING ANTI-CORRUPTION MECHANISMS IN THE OPERATION OF
BANKS AND OTHER FINANCIAL INSTITUTIONS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405, ENTITLED “AN
ACT PROHIBITING DISCLOSURE OF OR INQUIRY INTO, DEPOSITS WITH
ANY BANKING INSTITUTION AND PROVIDING PENALTY THEREFOR”

(As approved by the Committee on Banks and Financial Intermediaries on November 17, 2022)

Introduced by: Representative Tieng, Irwin, C., Atayde, Juan Carlos “Arjo” C., and Villarica,
Linabelle, Ruth, R.
Committee Referral: Committee on Banks and Financial Intermediaries
Chairperson: Irwin C. Tieng

OBJECTIVES:

• To lift the barriers in the effective investigation and prosecution of corrupt or illegal
financial actions of stockholders, owners, directors, trustees, officers or employees
of entities supervised and regulated by the Bangko Sentral ng Pilipinas (BSP).

• To effectively combat tax evasion, money laundering and other financial crimes,
address the unintended consequences of bank secrecy laws, and comply with
international standards on transparency in financial transactions.

KEY PROVISIONS:

• Defines the term “Deposits” as money or its equivalent received by a bank in the
usual course of business and for which it is obliged to give credit to a commercial,
checking, savings, time or thrift account evidenced by a passbook, certificate of
deposit or other evidence of deposit, and other obligations of a bank which forms
part of its deposit liabilities under applicable BSP rules and regulations.

• Empowers the BSP to inquire into or examine deposits in the course of its
investigation of closed banks, or when, in the determination of the Monetary Board,
there is reasonable ground to believe that fraud, serious irregularity, or unlawful
activity has been committed by a stockholder, owner, director, trustee, officer, or employee of BSP-supervised institutions, the representative, agent, related party or conspirators.

- Limits the use of the results of bank examinations exclusively to the BSP, Securities and Exchange Commission, Philippine Deposit Insurance Corporation, Anti-Money Laundering Council, Department of Justice, and the courts.

- Provides a safe harbor clause exempting banks or financial institutions, their directors, officers, or employees from any action, claim, demand, or liability, for acts done in compliance with an order of inquiry or examination of deposits from the BSP.

- Prohibits officials or employees of the BSP and banking institutions from disclosing any information concerning deposits to any person other than those authorized under the law.

- Forbids the use of the Bank Secrecy Law for purposes of persecution or harassment, or as an instrument to hamper competition in trade and commerce.

- Punishes any person or entity found guilty of violating the law with imprisonment of not less than two (2) years but not more ten (10) years, or a fine of not less than Fifty thousand pesos (P50,000) or more than Two million pesos (P2,000,000), or both, at the discretion of the court.

RELATED LAWS

Republic Act No. 1405, as amended ("Secrecy of Bank Deposits Act")
Republic Act No. 6426, as amended ("Foreign Currency Deposit Act of the Philippines")
Republic Act No. 6848 ("Charter of the Al-Amanah Islamic Investment Bank of the Philippines")
Republic Act No. 7353, as amended ("Rural Banks Act of 1992")
Republic Act No. 7653, as amended (The New Central Bank Act)
Republic Act No. 7906 ("Thrift Banks Act of 1995")
Republic Act No. 8791 ("General Banking Law of 2000")