

H. No. 6410
S. No. 3164

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

[REPUBLIC ACT NO. 10349]

AN ACT AMENDING REPUBLIC ACT NO. 7898,
ESTABLISHING THE REVISED AFP MODERNIZATION
PROGRAM AND FOR OTHER PURPOSES

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

SECTION 1. Section 4(b), (d) and (e) of Republic Act No. 7898, otherwise known as the "AFP Modernization Act", is hereby amended to read as follows:

"SEC. 4. *Components of the Revised AFP Modernization Program.* - The Revised AFP Modernization Program shall consist of the following components:

"(a) x x x

"(b) Capability, materiel, and technology development – The AFP Modernization Program entails the development and employment of certain capabilities that can address the assessed threats: *Provided*, That the acquisition of air force, navy and army equipment and materiel of such types and quantities shall be made in accordance with the need to develop AFP capabilities pursuant to its modernization objectives: *Provided, further*, That the acquisition of new equipment and weapons systems shall be synchronized with the phase-out of uneconomical and obsolete major equipment and weapons systems in the AFP inventory: *Provided, even further*, That no major equipment and weapons system shall be purchased if the same are not being used by the armed forces in the country of origin or used by the armed forces of at least two countries: *Provided, furthermore*, That only offers from suppliers who are themselves the manufacturers shall be entertained: *Provided, finally*, That no supply contract shall be entered into unless such contract provides for, in clear and unambiguous terms, an after-sales services and the availability of spare parts.

"(c) x x x

"(d) Human resource development – The human resource development component of the Revised AFP Modernization Program shall have the following objectives:

"(1) x x x

"(2) To develop and transform the AFP into a multi-mission oriented force capable of effectively addressing internal and external security threats;

"(3) x x x

"(4) x x x

"(5) x x x

"(6) x x x

"(e) Doctrines development – The Department of National Defense and the AFP shall be responsible for the generation, evaluation, consolidation and formalization of doctrines; the conduct of periodic review and validation of doctrines through field application, testing and exercises; and the dissemination of approved doctrines at all levels of command.

"The Secretary of National Defense shall formulate guidelines to implement this section in accordance with the objectives of the modernization program enumerated in the preceding section."

SEC. 2. Section 6 of the same Act is hereby amended to read as follows:

"SEC. 6. *Period of Implementation.* – The Revised AFP Modernization Program under this Act shall be implemented over a period of fifteen (15) years effective upon the date of the approval of this Act: *Provided, however,* That payments for amortization of outstanding multi-year contract obligations incurred under the Revised AFP Modernization Act may extend beyond this period."

SEC. 3. Section 7 of the same Act is hereby amended to read as follows:

"SEC. 7. *Submission of the Revised AFP Modernization Program.* – (a) Within sixty (60) days from the effectivity of this Act, the President, upon the recommendation of the Secretaries of National Defense and Budget and Management, shall submit the Revised AFP Modernization Program as provided for in this Act to Congress. The Program shall indicate or show *inter alia*:

"(1) The size and shape of the AFP in terms of personnel, equipment, and facilities during the various phases of the modernization program;

"(2) The modernization projects under it, including the major weapon and non-weapon equipment and technology acquisitions sought by the respective services and units of the AFP, any major infrastructure construction or improvement to be made and the particular objective(s) and component(s) under Sections 3 and 4, respectively, of this Act to which such intended acquisition, construction or improvements belongs; and

"(3) The priorities, schedules as well as estimated average cost of each modernization project or upgrading to be undertaken: *Provided*, That in the implementation of the AFP Modernization Program, the acquisition of equipment or upgrading to be undertaken shall be devoted towards the development of the AFP with shifting capability to meet internal and external threats.

"(b) The Revised AFP Modernization Program, as submitted to Congress shall be the basis for subsequent executive and legislative actions to implement the Revised AFP Modernization Program from year to year until its complete and full realization."

SEC. 4. Section 8 of the same Act is hereby amended to read as follows:

"SEC. 8. *Appropriations for the Revised AFP Modernization Program.* - The annual appropriations for the Revised AFP Modernization Program shall include the amounts necessary to support the funding requirements for all modernization projects submitted to Congress under the preceding section.

"The funds to be appropriated by Congress under this Act shall be treated as a distinct and separate budget item from the regular appropriation for the Department of National Defense (DND) and the AFP and shall be administered by the Secretary of National Defense.

"The Revised AFP Modernization Program shall be based on an amount of at least Seventy-five billion pesos (P75,000,000,000.00) for the first five (5) years."

SEC. 5. Section 9(b) and (c) of the same Act are hereby amended to read as follows:

"SEC. 9. *Multi-year Contracts and Other Contractual Arrangements.* – (a) x x x

"(b) For multi-year contracts, Congress shall, upon issuance of a multi-year obligational authority by the Department of Budget and Management (DBM), make the corresponding appropriation for the ensuing fiscal years: *Provided, That* the DND and the DBM shall issue the implementing guidelines to ensure consistency with the Revised AFP Modernization Program and existing guidelines in the contracting of multi-year projects.

"(c) The Secretary of National Defense shall submit to Congress, through the Chairpersons of the Senate Committees on National Defense and Security and Finance and the Chairpersons of the House Committees on National Defense and Security and Appropriations, copies of these multi-year contracts and other agreements/arrangements to enable Congress to appropriate funds."

SEC. 6. Section 11 of the same Act is hereby amended to read as follows:

"SEC. 11. *The Revised AFP Modernization Act Trust Fund.* — There is hereby created a trust fund, to be known as the Revised AFP Modernization Act Trust Fund. Said trust fund, which shall be used exclusively for the AFP modernization program, including all necessary expenses to implement the procurement of equipment such as expenses for pre-selection and post-qualification stages, but not to include salaries and allowances, shall be funded out of the following:

"(a) Appropriations for the Revised AFP Modernization Program;

"(b) The proceeds from the sale of military reservations, as may be authorized by Congress, pursuant to the provisions of existing laws and regulations governing sales of government properties, including such immovable and other facilities as may be found therein, not otherwise covered by the Bases Conversion and Development Authority, as provided for in Republic Act No. 7227, as amended;

"(c) The proceeds from the lease or joint development of military reservations, as may be authorized by the President, pursuant to the provisions of existing laws and regulations governing lease or joint development of government properties, including such immovables and other facilities as may be found therein, not specifically enumerated under Republic Act No. 7227, as amended;

"(d) Shares of the AFP from the proceeds of the sale of military camps provided for under Republic Act No. 7227, as amended, and at least fifty percent (50%) of the proceeds, net of direct expenses authorized to be deducted from such proceeds from the lease and/or joint venture agreements and such other dispositions pertaining to the same camps in accordance with applicable and/or existing orders, rules, regulations and issuances.

"The DND or the AFP may assign to the Bases Conversion and Development Authority or designate it as disposition entity for the sale, lease or joint development of military reservations or portions thereof or facilities and immovables located therein not otherwise covered under Republic Act No. 7227, as amended, subject to the parameters set by the DND or the AFP and applicable laws, rules, regulations and other related issuances;

"(e) The proceeds derived from public-private partnerships entered into by the DND or the AFP, as may be authorized by the President, pursuant to the provisions of existing laws and regulations;

"(f) Proceeds from the sale of the products of the Government Arsenal and/or, in case of joint venture, all incomes earned from the equity share of the Government Arsenal from the joint venture;

"(g) The proceeds from the disposal of excess and/or uneconomically repairable equipment and other movable assets of the AFP and the Government Arsenal;

"(h) Funds from budgetary surplus, if any, as may be authorized by Congress subject to the provisions of Section 8 of this Act;

"(i) Donations coming from local and foreign sources, specifically earmarked to be used for the Revised AFP Modernization Program; and

"(j) All interest income of the trust fund.

"Funds from the foregoing sources, regardless of income source, shall be directly deposited to a special account in the general fund created specifically for the Revised AFP Modernization

Program. The corresponding allotment and cash allocation shall be released to the AFP subject to the submission of a special budget. Thereafter, the cash allocation shall be transferred to the Revised AFP Modernization Trust Fund which shall be administered by the Secretary of National Defense in accordance with existing government budgeting and auditing rules and regulations. The DND shall conduct periodic studies on how to maximize the utilization of the trust fund and how additional revenues can be generated to fund the Revised AFP Modernization Program."

SEC. 7. Section 12 of the same Act is hereby amended to read as follows:

"SEC. 12. *Modernization of the Government Arsenal.* -- The modernization of the Government Arsenal, for the development of production capabilities to enhance self-sufficiency in defense requirements, shall be part of the Revised AFP Modernization Program. The Government Arsenal shall be effectively utilized in the production of basic weapons, ammunition and other munitions for the use of the AFP, the Philippine National Police (PNP) and other uniformed government agencies, and for the sale and export of products in excess of the requirements of the AFP, the PNP and other uniformed government agencies. The Government Arsenal may use such production facilities as it may own or be provided with under this Act or as it may arrange, under joint venture, co-production or similar agreements with local and foreign entities."

SEC. 8. Section 14 of the same Act is hereby deleted and in lieu thereof, a new Section 14 shall be inserted to read as follows:

"SEC. 14. *Modernization Planning and Procurement.* -- The Revised AFP Modernization Program Planning and Procurement shall be

conducted in accordance with the Defense System of Management (DSOM) which is defined as a strategy-driven, capability-based multi-year planning and execution process. In this regard, strategic planning, capability assessment and planning, acquisition planning, procurement and contracting, and resources planning and financial management shall be treated as an integrated and wholistic process."

SEC. 9. Section 16 of the same Act is hereby amended to read as follows:

"SEC. 16. *Reports.* – (a) Not later than the end of the first quarter of the succeeding year, the Secretary of National Defense shall submit to the President and Congress an annual report on the status of the Revised AFP Modernization Act Trust Fund, as provided for in Section 11 of this Act;

"(b) The Chief of Staff, AFP, shall submit to the President and Congress, through the Secretary of National Defense, a quarterly report containing the progress of the implementation of the modernization program under this Act to include the AFP modernization activities implemented prior to the approval of this Act."

SEC. 10. Insert three (3) sections after Section 16 of the same Act which shall now become the new Sections 17, 18 and 19, respectively, which shall read as:

"SEC. 17. *Exemption from Value-Added Tax and Customs Duties.* – The sale of weapons, equipment and ammunitions to the AFP, which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from the value-added tax: *Provided,* That the

importation of the same by the AFP shall likewise be exempt from the value-added tax and customs duties.

"SEC. 18. *Congressional Oversight Committee.* – There is hereby created a Congressional Oversight Committee to monitor and oversee the implementation of the provisions of this Act. The Committee shall be composed of six (6) members from the Senate and six (6) members from the House of Representatives with the Chairpersons of the Committees on National Defense and Security of both Houses as Joint Chairpersons. The five (5) other members from each Chamber shall be designated by the Senate President and the Speaker of the House of Representatives, respectively. The Minority shall have at least two (2) representatives from both Chambers.

"SEC. 19. *Sunset Review.* – As the need arises or within five (5) years after its effectivity, the Congressional Oversight Committee shall conduct a sunset review of this Act. The term 'sunset review' shall mean a systematic evaluation of the accomplishments and impact of this Act, as well as the performance and organizational structure of its implementing agencies, for purposes of determining remedial legislation."

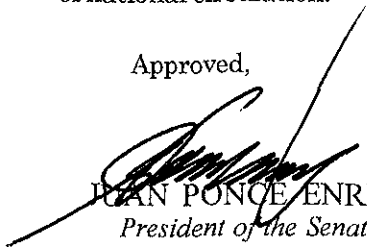
SEC. 11. All sections of the same Act are hereby amended and renumbered accordingly.


SEC. 12. *Repealing Clause.* – All laws, executive orders, rules and regulations inconsistent with or contrary to this Act are hereby deemed accordingly repealed or amended.

SEC. 13. *Separability Clause.* – If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

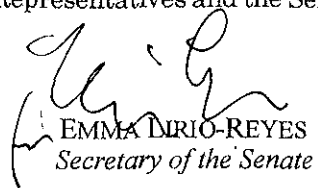
SEC. 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

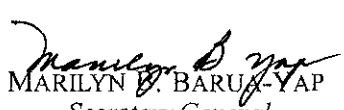
Approved,


JUAN PONCE ENRILE
President of the Senate

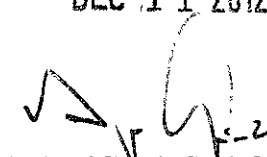

FELICIANO BELMONTE JR.
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 6410 and Senate Bill No. 3164 was finally passed by the House of Representatives and the Senate on September 19, 2012.


EMMA DURO-REYES
Secretary of the Senate


MARILYN B. BARUA-YAP
Secretary General House of Representatives

Approved: DEC 11 2012


BENIGNO S. AQUINO III
President of the Philippines



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