COMMITTEE REPORT No. 861

Submitted by the Committee on Banks and Financial Intermediaries on MAR 14 2021

Re: House Bill No. 899

Recommending its approval in substitution of House Bill No. 8634

Sponsor: Representative Cua, Junie E.

Mr. Speaker:

The Committee on Banks and Financial Intermediaries to which was referred House Bill No. 8634, by Rep. Cua, Junie E., entitled:

AN ACT
AMENDING REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS
"THE SECRECY OF BANK DEPOSITS LAW"

has considered the same and hereby recommends the approval of House Bill No. 899 entitled:

AN ACT
PROMOTING TRANSPARENT GOVERNANCE
AND INSTALLING ANTI-CORRUPTION MECHANISMS
IN THE OPERATION OF BANKS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS "THE SECRECY OF BANK DEPOSITS LAW"

in substitution of House Bill No. 8634, with Representative Cua, Junie E. as author thereof.

Respectfully submitted,

JUNIE E. CUA
Chairperson

THE SPEAKER
HOUSE OF REPRESENTATIVES
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 8991
(in substitution of HB8634)

Introduced by Representative Junie E. Cua

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

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, otherwise known as “The
Secrecy of Bank Deposits Law” is hereby amended to read, as follows:

SECTION 2. All deposits of whatever nature, with banks or banking
institutions in the Philippines including investments in bonds issued by the
Government of the Philippines, its political subdivisions and its
instrumentalities, 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 or
invested 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,
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 THIS EXEMPTION 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 2 hereof (—information—concerning—said
deposits). 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, as amended, also known as the
“Secrecy of Bank Deposits Act”, 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 Banks
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. 8991

AN ACT
PROMOTING TRANSPARENT GOVERNANCE
AND INSTALLING ANTI-CORRUPTION MECHANISMS
IN THE OPERATION OF BANKS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 1405,
OTHERWISE KNOWN AS “THE SECRECY OF BANK DEPOSITS LAW”
(As approved by the Committee on Banks and Financial Intermediaries on February 26, 2021,
in substitution of House Bill No.8634)

Introduced by: Representative Cua, Junie E.
Committee Referral: Committee on Banks and Financial Intermediaries
Chairperson: Junie E. Cua

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. 7906 (“Thrift Banks Act of 1995”)
Republic Act No. 8791 (“General Banking Law of 2000”)
Republic Act No. 7653, as amended (The New Central Bank Act)