

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS

First Regular Session

House Bill No. 2676



Introduced by Representative Hon. Christopher “Toff” P. de Venecia

**AN ACT
CREATING THE PHILIPPINE AUDIOVISUAL ARCHIVES AND PROVIDING FUNDS
THEREFOR**

EXPLANATORY NOTE

The production and release in 1919 of the very first Filipino-produced motion picture, *Dalagang Bukid*, is widely touted as an important cultural milestone in Philippine history. However, no one alive today has claimed to have seen the film as all copies were lost long ago. Almost none of the Filipino films produced before the Second World War have survived. The preservation of our audiovisual heritage has not been duly ensured by the State or the private sector. Even Filipino television programs produced as recently as the 1970s or 1980s have been lost forever. While the invention of film and audio recording had opened the opportunity for the preservation of the culture that we consume that any given time, the Philippines has not sufficiently taken advantage of the possibility. Future generations may be deprived of the opportunity not just of encountering landmark cultural moments, but the ways of life of previous generations.

This proposed Philippine Audiovisual Archive Act makes certain what is evident in Republic Act No. 10066, or the National Cultural Heritage Act of 2009 – that all films and audiovisual content produced by our Filipino creatives are cultural properties. They are products of human creativity. This bill establishes a defined framework aligned with R.A. No. 10066, for the preservation and promotion of the Filipino audiovisual works.

In view of the foregoing, the approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read "Toff de Venecia".

HON. CHRISTOPHER “TOFF” P. DE VENECIA
Fourth District, Pangasinan

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS

First Regular Session

House Bill No. 2676

Introduced by Representative Hon. Christopher V.P. de Venecia

AN ACT
CREATING THE PHILIPPINE AUDIOVISUAL ARCHIVES AND PROVIDING FUNDS
THEREFOR

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

SECTION 1. *Short Title.* – This Act shall be known as the “Philippine Audiovisual Archive Act.”

SECTION 2. *Declaration of Principles and Policies.* – It is hereby declared the policy of the State:

- a) To establish a permanent collection of diverse audiovisual works created or produced by the Philippines, pursuant to the mandate of the State under Article XIV, Section 15, Constitution to provide patronage, and to conserve, promote, and popularize the nation’s historical and cultural heritage and resources, as well as artistic creations; and
- b) To ensure the preservation of audiovisual works made or produced by Filipinos that are of historical importance or cultural merit, regardless of their content, pursuant to the mandate of the State under Article XIV, Section 14, to foster the preservation, enrichment and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

SECTION. 3. *Creation of the Philippine Audiovisual Archives (PAVA)* – A Philippine Audiovisual Archives, hereinafter referred to as the PAVA, is hereby established to archive audiovisual works and paratextual materials and to determine and implement policies and programs for their preservation. The PAVA shall be attached to the Office of the President, through the National Commission for Culture and the Arts (NCCA).

SECTION 4. *Definition of Terms*

- a) “Audiovisual works” refer to objects, materials, works, and intangibles relating to audiovisual recordings and documents, whether seen from a technical, industrial, cultural, historical, or other viewpoint, including recorded sound, radio, music, film, television, video games, digital, new media.
- b) “Orphan Work” refers to a copyright-protected work whose copyright owner is not readily identified or located.
- c) “Paratextual materials” refer to materials associated with and surrounding audiovisual works in print form, including scripts, stills, posters, album artwork, advertising materials, comics, magazines, newspapers, periodicals, manuscripts, scores, records, technical equipment, and production materials, or other productions or derivatives thereof, comprising moving images and/or recorded sounds, whether or not primarily intended for distribution to the public, both published and unpublished, in an audiovisual medium and format now known or yet to be invented.

SECTION 4. *Officers.* The PAVA shall be headed by an Executive Director with a rank equivalent to a bureau director and who shall be assisted by two Deputy Executive Directors.

To ensure autonomous and consultative governance for PAVA, the President of the Philippines shall appoint the Executive Director of PAVA from a list of qualified candidates nominated by private sector stakeholders, including non-governmental entities who have been historically active in the decentralized advocacy for audiovisual archiving, the Film Development Council of the Philippines, and the National Archive of the Philippines, and vetted by the National Commission for Culture and the Arts. The nomination process shall apply even to reappointments.

The Executive Director shall possess at least a Master’s Degree in one of the following fields: archives, records management, library and information science, communications, film, media studies, music, history, museum, heritage, or curatorial studies, Philippine studies, or other related disciplines specializing in audiovisual works, materials, cultural heritage, and/or curation: *Provided*, further, that the Executive Director shall have at least six (6) years of administrative and/or management experience in an archive, library, museum, cultural organization or academic institution that manages and/or studies audiovisual works. An extensive knowledge of Philippine audiovisual works, a strong background in archiving practice and standards, and a proven track record of leadership shall be expected as well of the Executive Director.

Should the Executive Director not possess the stipulated academic qualifications, they must have at least ten (10) years of relevant experience as described above. These qualifications apply as well to the Deputy Executive Directors.

The Executive Director shall serve for an initial term of six (6) years and shall be eligible for reappointment by succeeding presidential administrations: *Provided*, that no Executive Director shall serve more than three (3) consecutive terms: *Provided*, further, that if any Director fails to complete a term, the person appointed to fill the vacancy shall serve only for the unexpired

portion of the term of the Director whom he/she succeeds, unless re-appointed: *Provided*, finally, that such service of the unexpired portion shall not be counted as a term.

The term of a Deputy Executive Director is coterminous with the [nominating] Executive Director. The Deputy Executive Director is eligible for reappointment at the pleasure of the Executive Director and the President: *Provided*, That he/she be subjected to the same stipulated term limits; *Provided*, Further, that should a Deputy Executive Director be nominated to the Executive Director post, his/her service as Deputy Executive Director shall be deemed as a separate term; *Provided*, Finally, that at any instance, there shall be at least one (1) Director who possesses career executive service eligibility.

PAVA shall establish its own staffing pattern, and salary and compensation scheme, within six months from the effectivity of this Act, subject to the rules and regulations of the Department of Budget and Management (DBM) and the Civil Service Commission (CSC).

SECTION 5. Powers of the Philippine Audiovisual Archives. – The PAVA shall have the following powers and functions:

- a) Plan, formulate, and implement an archival administration program for the efficient recovery, restoration, conservation, preservation, maintenance, utilization, and disposition of audiovisual works, including the adoption of security measures and intellectual property protection program; *Provided*, That for purposes other than the efficient recovery, restoration, conservation, preservation of the audiovisual works, the consent of the copyright owner should at all times be obtained; *Provided, further*, that the program shall adhere to existing laws, successor legislation, and best practices concerning intellectual property rights, including orphan works and properties of the public domain;
- b) Review and approve films nominated for inclusion in the Philippine Audiovisual Archive;
- c) Establish policies, standards and guidelines related to audiovisual archiving, including the publication of guides, and inventories;
- d) Enter into agreements with any audiovisual archival institutions here and abroad to enhance the archival holdings of the Philippines;
- e) Facilitate the acquisition of a permanent and suitable building for the Philippine Audiovisual Archives to house the country's film archival holdings;
- f) Ensure the preservation and conservation of existing and future audiovisual archival resources of the government in coordination with the National Archives of the Philippines;
- g) Accept donations, contributions, grants, and bequests or gifts, in cash or in kind, from various sources, whether domestic or foreign. Said donations shall be deemed automatically appropriated for purposes specified by the donor or in the absence thereof; for the programs and projects as may be approved by the PAVA subject to the usual government accounting and auditing rules and regulations; *Provided*, that cash donations shall not be used to fund the

personal services requirements of the PAVA. Any donation, contribution, subsidy, or financial aid which may be made to the PAVA shall be exempt from taxes of any kind and shall constitute allowable deductions in full from the income of the donors, contributors, or givers for income tax purposes.

- h) Cause the repatriation of Filipino audiovisual works, subject to applicable provisions of international agreements and subject to the rights of the work's copyright holders; *Provided*, that audiovisual works covered by international agreements shall be coordinated with the Department of Foreign Affairs;
- i) Such other powers and functions as may be necessary for the accomplishment of the principles and policies as declared under this Act.

SECTION 6. *Governing Board.* – There is hereby created a PAVA Governing Board, hereinafter referred to as the Board, that shall exercise the powers of the PAVA. The Board shall be composed of the following:

- a) Chairperson of the Film Development Council of the Philippines (FDCP);
- b) Executive Director/Chairperson of the National Commission for Culture and the Arts (NCCA);
- c) Executive Director of the National Archives of the Philippines;
- d) Executive Director of the PAVA;
- e) One (1) Representative each from the following sectors:
 - i. Film;
 - ii. Music;
 - iii. Television;
 - iv. Radio;
 - v. Animation;
 - vi. Game Development;
 - vii. Digital Interactive Media; and
- f) Two (2) Representatives from the Academe

The Chairperson of the Board shall be elected by the members from among themselves.

The first four (4) members as listed are *ex-officio* members of the Board. They may designate their respective next-in-rank officials as permanent alternate representatives whose acts are considered as acts of their principals.

The rest of the members shall regular members of the Board. Every regular member shall be appointed by the President of the Philippines from a list of qualified candidates nominated by private sector stakeholders, including non-governmental entities who have been historically active in the decentralized advocacy for audiovisual archiving: *Provided*, that each of the nominees shall come from the private sector and must have at least ten (10) years of experience in the industry which the nominee belongs to: *Provided, further*, that each of the nominees shall have been endorsed by a business support organization or non-government organization relative to the

industry sought to be represented; provided, finally, that the representatives from the academe must be nominated by the university, college, or department where they are currently connected.

The regular members of the Board shall serve for a term of six (6) years, unless sooner separated from the service due to death, voluntary resignation, or removal for cause. In case of death, resignation, or removal for cause, their replacements shall serve only the unexpired portion of the replaced members.

The regular members of the Board shall receive *per diem* every meeting in accordance with existing rules and regulations.

SECTION 7. *Functions of the Executive Director.* – The Executive Director shall have the following functions:

- a) Examine, identify, and determine audiovisual materials and their corresponding classification as to its preservation, including maintenance, storage, and use;
- b) Execute suitable measures in preserving and conserving audiovisual materials under custody of the Philippine Audiovisual Archive;
- c) Enter into agreements with any audiovisual archival institutions here and abroad to enhance the archival holdings of the Philippines;
- d) Establish linkages with local and foreign stakeholders engaged in audiovisual archiving;
- e) Conduct archival research using materials here and abroad, including background studies about audiovisual works considered for inclusion in the Philippine Audiovisual Archive;
- f) Reproduce and authenticate copies of audiovisual works for the sole purpose of preserving such copies in the Philippine Audiovisual Archive, subject to copyright laws;
- g) Promote appreciation of and build cultural values from works in the Philippine Audiovisual Archives, in coordination with the Film Development Council of the Philippines, the National Commission for Culture and the Arts, the Department of Education, the Commission on Higher Education, the Presidential Communications Operations Office, and the relevant private sector stakeholders;
- h) Provide for access to the audiovisual works maintained by the PAVA for scholarly and research process, subject to reasonable guidelines and to the rights and consent of intellectual property rights holders;
- i) Make Filipino audiovisual works readily available for educational, historical, and cultural purposes to all segments of Philippine society, as well as the international community, subject to reasonable guidelines and to the rights and consent of intellectual property rights holders;

- j) Extend technical assistance to all government offices, instrumentalities, and agencies, whether national or local, in the planning, implementation and evaluation of their audiovisual archives administration program;
- k) Conduct training programs on audiovisual archives management, including the establishment of an archival systems, policies, and standards for both public and private sectors;
- l) Perform such other duties as may be assigned by the Board or which are necessary or incidental to the office.

SECTION. 8. *Submission of Works.* – Audiovisual companies or individual producers of audiovisual works that are either commercially exhibited within the Philippines, produced by Filipino producers, or created by a Filipino artist, are hereby required to submit a copy of their work to the Philippine Audiovisual Archive within two (2) years from its release for the singular purpose of preserving a copy of such cultural property for the archive. Such cost shall be negotiated by both the PAVA and the producer or artist. The PAVA shall likewise establish a procedure for the acceptance of voluntary submission of any audiovisual or cinematographic work in the Philippine Audiovisual Archive, *Provided*, That the consent of all persons possessing rights over the work under the Intellectual Property Code shall be secured prior to such submission; *Provided, further*, that the consent of such rights holder shall not be required should a work be duly designated as a National Cultural Treasure or an Important Cultural Property, as may be provided by law.

SECTION 9. *Acquisition.* – The PAVA SHALL acquire audiovisual works through purchases, deposits, and donations or gifts by individuals or institutions, or any other valid means as provided by law.

SECTION 10. *Accessibility.* – Access to audiovisual assets collected and/or deposited in the PAVA shall be subject to availability of an access copy and access processes as may be determined by the PAVA. Accessing of these transferred materials shall be subject to consent and approval from the intellectual property rights holders: *Provided*, that such consent and approval may not be required on a work duly designated as cultural treasure or an important cultural property and/or part of the public domain.

SECTION 11. *Public Access.* – The agency shall determine and categorize audiovisuals works restricted public access OR open public access. This however shall not limit the agency into providing additional categories as to the archived audiovisuals works’ accessibility to the public: *Provided*, that these categories and their corresponding definition shall be published and/or posted.

SECTION 12. *Ownership.* – Intellectual Property Rights Holders of the audiovisual works reserve the right over the audiovisual works collected and stored by PAVA. Assignment of rights, whether attributable to copyright or ownership, shall be upon agreement of all parties.

SECTION 13. *Use of Fees.* – For a more effective and expeditious implementation of this Act, the PAVA shall be authorized to retain all the fees and other charges collected by the PAVA

in accordance with the provisions of this Act, without need of a separate approval from any government agency, and subject only to existing accounting and auditing rules and regulations.

The proceeds shall be used for the operation and maintenance of the PAVA, such as upgrading of facilities, equipment outlay, human resource development, and the acquisition of the appropriate office and archive space, among others, to improve the delivery of its services to the public.

This amount, which shall be in addition to the program's annual budget, shall be deposited and maintained in a separate account or fund, which may be used or disbursed directly by the PAVA to achieve the objectives of this Act.

SECTION 14. *The Philippine Audiovisual Archive Trust Fund.* – There is hereby established a special account in the general fund with the National Treasury to be called the Philippine Audiovisual Archive Fund herein referred to as the Fund.

The fund shall be capitalized and administered by the Board in accordance with existing government budgeting, accounting and auditing rules and regulations. The Fund shall be sourced from the loans, contributions, grants, bequests, gifts, and donations whether from local or foreign sources: provided, that acceptance of grants, bequests, contributions and donations whether from local or foreign sources; provided, that acceptance of grants, bequests, contributions and donations from foreign governments shall be subject to the approval of the President upon recommendation of the Secretary of the Department of Foreign Affairs.

The program of Expenditure for the Programs, Projects, and Activities to be funded by the trust fund shall be itemized on a project-to-project basis and submitted annually to Congress. In the identification and prioritization of specific Programs, Projects, and Activities, the Board shall conduct prior consultation with the representatives of the private sector.

The fund shall be valid for five (5) years and shall be subject to review of the Board. Any remaining balance thereafter shall be reverted to the General Fund.

SECTION 15. *Transitory Provisions.* – Collections, personnel, properties, assets, and liabilities, functions, and responsibilities of the Philippine Film Archive OF the FDCP (FDCP-PFA) having functions similar to those of the PAVA shall be transferred to the PAVA.

All regular or permanent employees transferred from the FDCP-PFA shall not suffer any loss of seniority or rank or decrease in emoluments. Personnel of the FDCP-PFA not otherwise transferred to the PAVA shall be reassigned by the FDCP in any of its divisions: *Provided, however,* that any employee who cannot be accommodated shall be given all the benefits as may be provided under existing laws, rules and regulations.

SECTION. 16. *Implementing Rules.* – The PAVA [shall], in consultation with the Film Development Council, [the National Historical Institute], National Commission on Cultural and Arts, and the National Archives of the Philippines, as well as the relevant private sector stakeholders, shall issue the necessary rules and regulations to implement the provisions hereof.

SECTION. 17. Appropriations. – The amount of One Billion Pesos (P1,000,000.000.00) is hereby appropriated for the initial implementation of the Act. Thereafter, such sums as may be necessary for the continued implementation of the Act shall be included in the annual General Appropriations Act.

SECTION. 18. Repealing Clause. – Section 3 Paragraph (10) of Republic Act No. 9167, Republic Act No. 9470 or the “National Archives of the Philippines Act of 2007”, and all acts, decrees, executive orders, rules and regulations, and other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed, modified or amended.

SECTION. 19. Separability. – If for any reason, any portion or provision of this Act be declared unconstitutional, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION. 20. Effectivity. – This Act shall take effect fifteen (15) days after its publication either in the Official Gazette or in newspaper of general circulation.

Approved,