

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



23 FEB -9 P3:19

SENATE
S. No. 1863

RECEIVED BY: _____

INTRODUCED BY SENATOR JOSEPH VICTOR G. EJERCITO

AN ACT
AMENDING SECTIONS 59, 187, 188, 195, 196, 226, 229 AND 252 OF
REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE "LOCAL
GOVERNMENT CODE OF 1991"

EXPLANATORY NOTE

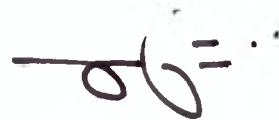
The power of the local government units (LGUs) to levy taxes, fees and charges is provided in the 1987 Constitution, Section 5, Article X of the Constitution, which specifically provides:

Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees and charges shall accrue exclusively to the local governments.

Consequentially, the abovementioned guidelines and limitations are spelled out in Book II of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code of 1991. Book II provides the legal basis and parameters for the taxing and revenue-raising powers of local governments. However, Sections 59, 187, 188, 195, 196, 226, 229 and 252 of the same lacks procedural details in upholding the taxpayers' right to due process in the administration and collection of taxes. It should be guided by certain philosophical framework and economic principles to ensure equity, efficiency, fairness and acceptability.

Thus, this proposed measure seeks to introduce amendments to the R.A. No. 7160. This is to specifically strengthen the remedies available to taxpayers by clarifying publication, posting and public hearing requirements in the passage of tax ordinances; and institutionalizing procedures in the exercise of taxpayer's remedies such as appeals, dispute of assessments and claims for refund.

Hence, the immediate approval of this bill is earnestly sought.

A handwritten signature in black ink, appearing to read 'J. Ejercito', with a horizontal line extending to the left.

JOSEPH VICTOR G. EJERCITO

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

1 Section 1. Section 59 of Republic Act No. 7160, otherwise known as the Local
2 Government Code of 1991, hereinafter referred to as the "Code" is hereby amended
3 to read as follows:

4 "Sec. 59. *Effectivity of Ordinances or Resolutions.* – (a) Unless otherwise
5 stated in the ordinance or the resolution approving the local development plan
6 and public investment program, the same shall take effect after [~~ten (10)~~]
7 **FIFTEEN (15)** days from the date a copy thereof is posted in a bulletin board
8 at the entrance of the provincial capitol or city, municipal, or barangay hall, as
9 the case may be, and in at least two (2) other conspicuous places in the local
10 government unit concerned, **AS WELL AS THE POSTING OF A DIGITAL**
11 **COPY THEREOF THROUGH THE USE OF THE INTERNET.**

12 **THE PERIOD FOR POSTING SHALL BE SIMULTANEOUS WITH**
13 **THE REQUIREMENT FOR PUBLICATION IN A NEWSPAPER OF**
14 **GENERAL OR LOCAL CIRCULATION.**

15 (b) x x x

17 XXX."

18 Sec. 2. Section 187 of the Code shall be amended to read as follows:

1 "Sec. 187. *Procedure for Approval and Effectivity of Tax Ordinances and*
2 *Revenue Measures; Mandatory Public Hearings.* –

3 **(A)** The procedure for approval of local tax ordinances and revenue
4 measures shall be in accordance with the provisions of this Code: *Provided,*
5 That public hearings shall be conducted for the purpose prior to the enactment
6 thereof.

7 **(B) THE CONDUCT OF PUBLIC HEARINGS SHALL BE GOVERNED BY**
8 **THE FOLLOWING PROCEDURE:**

9 **(1) WITHIN TEN (10) DAYS FROM FILING OF ANY PROPOSED**
10 **TAX ORDINANCE OR REVENUE MEASURE, THE SAME SHALL**
11 **FIRST BE PUBLISHED FOR THREE (3) CONSECUTIVE DAYS IN**
12 **A NEWSPAPER OF LOCAL CIRCULATION AND SHALL BE**
13 **POSTED SIMULTANEOUSLY IN AT LEAST FOUR (4)**
14 **CONSPICUOUS PUBLIC PLACES WITHIN THE TERRITORIAL**
15 **JURISDICTION OF THE LGU CONCERNED.**

16 **(2) IN ADDITION TO THE REQUIREMENT FOR PUBLICATION**
17 **AND POSTING, THE SANGGUNIAN CONCERNED SHALL CAUSE**
18 **THE SENDING OF WRITTEN NOTICES OF THE PROPOSED**
19 **ORDINANCE, ENCLOSING A COPY THEREOF, TO THE**
20 **INTERESTED OR AFFECTED PARTIES OPERATING OR DOING**
21 **BUSINESS WITHIN THE TERRITORIAL JURISDICTION OF THE**
22 **LGU CONCERNED.**

23 **(3) THE NOTICE OR NOTICES SHALL SPECIFY THE DATE OR**
24 **DATES AND VENUE OF THE PUBLIC HEARING. THE INITIAL**
25 **PUBLIC HEARING SHALL BE HELD NOT EARLIER THAN TEN**
26 **(10) DAYS FROM THE SENDING OUT OF NOTICE OR NOTICES,**
27 **OR THE LAST DAY OF PUBLICATION AND DATE OF POSTING**
28 **THEREOF, WHICHEVER IS LATER.**

29 **(4) AT THE PUBLIC HEARING, ALL AFFECTED OR**
30 **INTERESTED PARTIES SHALL BE ACCORDED AN**
31 **OPPORTUNITY TO APPEAR AND PRESENT OR EXPRESS THEIR**
32 **VIEWS, COMMENTS AND RECOMMENDATIONS, AND SUCH**

1 PUBLIC HEARING SHALL CONTINUE UNTIL ALL ISSUES HAVE
2 BEEN PRESENTED AND FULLY DELIBERATED UPON AND/OR
3 CONSENSUS IS OBTAINED, WHETHER FOR OR AGAINST THE
4 ENACTMENT OF THE PROPOSED TAX ORDINANCE OR
5 REVENUE MEASURE: PROVIDED, FURTHER, THAT TAXPAYERS
6 ARE ALLOWED A SUFFICIENT PERIOD OF TIME TO SUBMIT
7 POSITION PAPERS.

8 (5) THE SECRETARY OF THE SANGGUNIAN CONCERNED
9 SHALL PREPARE THE MINUTES OF SUCH PUBLIC HEARING
10 AND SHALL ATTACH TO THE MINUTES THE POSITION PAPERS,
11 MEMORANDA, AND OTHER DOCUMENTS SUBMITTED BY
12 THOSE WHO PARTICIPATED.

13 (C) NO TAX ORDINANCE OR REVENUE MEASURE SHALL BE
14 ENACTED OR APPROVED IN THE ABSENCE OF A PUBLIC HEARING
15 DULY CONDUCTED IN THE MANNER PROVIDED IN THIS SECTION.

16 (D) ANY QUESTION ON NON-COMPLIANCE WITH THE PROCEDURE
17 OF PASSING AN ORDINANCE MAY BE RAISED ON APPEAL WITHIN
18 THIRTY (30) DAYS FROM THE EFFECTIVITY THEREOF: *Provided,*
19 [*further,*] That any [~~question on the~~] VIOLATION OF THE COMMON
20 LIMITATIONS ON THE TAXING POWERS OF LOCAL GOVERNMENT
21 UNITS AS PROVIDED UNDER SECTION 133 OF THE CODE OR OF
22 THE constitutionality or legality of tax ordinances or revenue measures may
23 be raised on appeal [~~within thirty (30) days from the effectivity thereof~~]
24 ANYTIME to the Secretary of Justice, who shall render a decision within
25 [~~sixty (60)~~] ONE HUNDRED TWENTY (120) days from the date of receipt
26 of the appeal: *Provided, however,* That such appeal shall not have the effect
27 of suspending the effectivity of the ordinance and the accrual and payment
28 of the tax, fee, or charge levied therein, **UNLESS OTHERWISE**
29 **PROVIDED BY THE ORDER OF THE SECRETARY OF JUSTICE:**
30 *Provided, finally,* That within thirty (30) days after receipt of the decision or
31 the lapse of the [~~(60)~~] ONE HUNDRED TWENTY (120)-day period
32 without the Secretary of Justice acting [~~upon the~~] **ON SUCH** appeal

1 **WITHOUT NECESSARILY RENDERING A DECISION THEREON**, the
2 aggrieved party may file appropriate proceedings with [~~a court of competent~~
3 jurisdiction] **THE REGIONAL TRIAL COURT, THE DECISION OF**
4 **WHICH MAY FURTHER BE APPEALED TO THE COURT OF TAX**
5 **APPEALS.**

6 Sec. 3. Section 188 of the Code shall be amended to read as follows:

7 "Sec. 188. *Publication **AND POSTING** of Tax Ordinances and Revenue*
8 *Measures.* – Within [~~ten (10)~~] **FIFTEEN (15)** days after their approval, certified
9 true copies of all provincial, city, and municipal tax ordinances and revenue
10 measures shall be published in full for three (3) consecutive days in a
11 newspaper of **GENERAL OR** local circulation, **AS WELL AS THE POSTING**
12 **OF A DIGITAL COPY THEREOF THROUGH THE USE OF THE INTERNET,**
13 ~~AND: *Provided, however,* That in provinces, cities and municipalities where~~
14 ~~there are no newspapers of local circulation, the same may be posted in **A**~~
15 **BULLETIN BOARD AT THE ENTRANCE OF THE PROVINCIAL CAPITOL**
16 **OR CITY, MUNICIPAL, OR BARANGAY HALL, AS THE CASE MAY BE,**
17 **AND IN** at least two (2) conspicuous and publicly accessible places **WITHIN**
18 **THE LOCAL GOVERNMENT UNIT CONCERNED: *PROVIDED, FURTHER,***
19 **THAT NOTWITHSTANDING ANY PROVISION IN THE TAX ORDINANCE**
20 **OR REVENUE MEASURE PROVIDING FOR THE EFFECTIVITY THEREOF,**
21 **NO TAX ORDINANCE OR REVENUE MEASURES SHALL BE VALID**
22 **WITHOUT COMPLYING WITH THE PROVISIONS OF THIS SECTION."**

23 Sec. 4. Section 195 of the Code shall be amended to read as follows:

24 "Sec. 195. *Protest of Assessment.* – When the local treasurer or his duly
25 authorized representative finds that correct taxes, fees, or charges have not
26 been paid, he shall issue a notice of assessment **WITHIN THE PERIOD FOR**
27 **ASSESSMENT AND COLLECTION OF TAXES UNDER SECTION 194 OF**
28 **THIS CODE** stating the nature of the tax, fee, or charge, the amount of
29 deficiency, the surcharges, interests, [~~and~~] penalties, **AND THE FACTS AND**
30 **LAW UPON WHICH SUCH ASSESSMENT IS BASED, OTHERWISE, THE**
31 **ASSESSMENT SHALL BE VOID.** Within sixty (60) days from the receipt of
32 the notice of assessment, the taxpayer may file a written protest with the local

1 treasurer contesting the assessment; otherwise, the assessment shall become
2 final and executory. The local treasurer shall decide the protest within sixty
3 (60) days from the time of its filing. If the local treasurer finds the protest to
4 be wholly or partly meritorious, he shall issue a notice cancelling wholly or
5 partially the assessment. However, if the local treasurer finds the assessment
6 to be wholly or partly correct, he shall deny the protest wholly or partly with
7 notice to the taxpayer. The taxpayer shall have thirty (30) days from the receipt
8 of the denial of the protest or from the lapse of sixty (60) day period prescribed
9 herein within which to appeal with the [~~court of competent jurisdiction~~]
10 **SECRETARY OF FINANCE, WHO SHALL RENDER A DECISION ON SUCH**
11 **APPEAL WITHIN SIXTY (60) DAYS FROM RECEIPT THEREOF** otherwise
12 the assessment becomes conclusive and unappealable. **WITHIN THIRTY**
13 **(30) DAYS FROM THE RECEIPT OF THE DENIAL OF THE PROTEST OR**
14 **FROM THE LAPSE OF THE SIXTY (60) DAY PERIOD PRESCRIBED**
15 **HEREIN WITHIN WHICH TO DECIDE, THE AGGRIEVED PARTY MAY**
16 **FILE APPROPRIATE PROCEEDINGS WITH THE COURT OF TAX**
17 **APPEALS.**

18 **THE NOTICE OF ASSESSMENT REFERRED TO IN THIS SECTION**
19 **PERTAINS TO THE ASSESSMENT FOR THE PAYMENT OF DEFICIENCY**
20 **TAXES, FEES OR CHARGES PURSUANT TO SECTION 171 OF THE CODE.**

21 **UNDER NO CIRCUMSTANCES SHALL THE LOCAL TREASURER**
22 **REQUIRE THE PAYMENT AS A PRECONDITION FOR ENTERTAINING A**
23 **PROTEST. NEITHER SHALL THE LOCAL TREASURER WITHHOLD THE**
24 **ISSUANCE OF BUSINESS PERMIT ON ACCOUNT OF THE PENDING**
25 **PROTEST."**

26
27 Sec. 5. Section 196 of the Code shall be amended to read as follows:

28 "Section 196. *Claim for Refund [of] OR Tax Credit.* – No case or
29 proceeding shall be maintained in any court for the recovery of any tax, fee, or
30 charge erroneously or illegally collected until a written claim for refund or credit
31 has been filed with the local treasurer **WITHIN TWO (2) YEARS FROM THE**
32 **DATE OF PAYMENT OF SUCH TAX, FEE, OR CHARGE OR FROM THE**

1 **DATE THE TAXPAYER IS ENTITLED TO A REFUND OR CREDIT,**
2 **WHICHEVER IS LATER. THE LOCAL TREASURER SHALL HAVE SIXTY**
3 **(60) DAYS FROM THE DATE OF RECEIPT OF THE CLAIM WITHIN**
4 **WHICH TO DECIDE THE CLAIM.**

5 **WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE DECISION**
6 **OR THE LAPSE OF THE SIXTY (60)-DAY PERIOD WITHOUT THE LOCAL**
7 **TREASURER ACTING UPON CLAIM, THE TAXPAYER MAY FILE AN**
8 **APPEAL WITH THE SECRETARY OF FINANCE WHO SHALL RENDER A**
9 **DECISION WITHIN SIXTY (60) DAYS FROM RECEIPT THEREOF. THE**
10 **PARTY ADVERSELY AFFECTED BY THE DECISION OR INACTION OF**
11 **THE SECRETARY OF FINANCE MAY APPEAL TO THE COURT OF TAX**
12 **APPEALS WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE**
13 **DECISION OR FROM THE LAPSE OF THE SIXTY (60)-DAY PERIOD**
14 **WITHIN WHICH TO DECIDE.** ~~[No case or proceeding shall be entertained~~
15 ~~in any court after the expiration of two (2) years from the date of payment of~~
16 ~~such tax, fee, or charge, or from the date the taxpayer is entitled to a refund~~
17 ~~or credit.]~~

18 Sec. 6. Section 226 of the Code shall be amended to read as follows:

19 "Section 226. *Local Board of Assessment Appeals.* – Any owner or person
20 having legal interest in the property who is not satisfied with the action of the
21 provincial, city or municipal assessor in the assessment of his property may,
22 within sixty (60) days from the date of receipt of the written notice of
23 assessment, **FILE A WRITTEN PROTEST THEREOF WITH THE LOCAL**
24 **ASSESSOR, WHO SHALL HAVE THIRTY (30) DAYS TO ACT ON SUCH**
25 **PROTEST. WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE**
26 **ADVERSE DECISION OF THE LOCAL ASSESSOR TO RENDER A**
27 **DECISION, THE AGGRIEVED PARTY MAY** appeal to the Board of
28 Assessment Appeals of the province or city by filing a petition under oath in the
29 form prescribed for the purpose, together with copies of the tax declarations
30 and such affidavits or documents submitted in support of the appeal."

31 Sec. 7. Section 229 of the Code shall be amended to read as follows:

1 "Section 229. *Action by the Local Board Assessment Appeals.* –

- 2 a. The **LOCAL** Board shall decide the appeal within one hundred twenty (120)
3 days from the date of receipt of such appeal. The **LOCAL** Board, after
4 hearing, shall render its decision based on substantial evidence or such
5 relevant evidence on record as a reasonable mind might accept as adequate
6 to support the conclusion.
- 7 b. In the exercise of its appellate jurisdiction, the **LOCAL** Board shall have the
8 power to summon witnesses, administer oaths, conduct ocular inspection,
9 take depositions, and issue subpoena and subpoena duces tecum. The
10 proceedings of the **LOCAL** Board shall be conducted solely for the purpose
11 of ascertaining the facts without necessarily adhering to technical rules
12 applicable in judicial proceedings.
- 13 c. The secretary of the **LOCAL** Board shall furnish the owner of the property
14 or the person having legal interest therein and the provincial or city assessor
15 with a copy of the decision of the **LOCAL** Board. In case the provincial or
16 city assessor concurs in the revision or the assessment, it shall be his duty
17 to notify the owner of the property or the person having legal interest
18 therein or the assessor who is not satisfied with the decision of the **LOCAL**
19 Board, may, within thirty (30) days after receipt of **LOCAL** Board **OR**
20 **AFTER THE LAPSE OF ONE HUNDRED TWENTY (120)-DAY PERIOD**
21 **FOR THE LOCAL BOARD TO ACT**, appeal to the Central Board of
22 Assessment appeals, as herein provided. The decision of the Central Board
23 **MAY BE APPEALED TO THE COURT OF TAX APEALS WITHIN THIRTY**
24 **(30) DAYS FROM RECEIPT OF THE DECISION OR AFTER THE LAPSE**
25 **OF THE ONE HUNDRED TWENTY DAY (120) DAY PERIOD GIVEN TO**
26 **THE CENTRAL BOARD TO ACT ON SUCH APPEAL.**

27 Sec. 8. Section 252 of the Code shall be amended to read as follows:

28 "Section 252. *Payment Under Protest.* –

- 29 a. No protest shall be entertained unless the taxpayer first pays the tax. There
30 shall be annotated on the tax receipts the words "paid under protest". The
31 protest in writing must be filed within [~~thirty (30)~~] **SIXTY (60)** days from
32 payment of the tax to the provincial, city treasurer or municipal treasurer,

1 ~~[in the case of a municipality within Metropolitan Manila Area,~~ who shall
2 decide the protest within sixty (60) days from receipt.

3 b. x x x

4 c. x x x

5 d. x x x

6 **E. THE REASON OR INACTION OF THE LOCAL TREASURER MAY BE**
7 **APPEALED WITHIN THIRTY (30) DAYS TO THE SECRETARY OF**
8 **FINANCE, WHO SHALL RENDER A DECISION ON SUCH APPEAL**
9 **WITHIN SIXTY (60) DAYS FROM RECEIPT THEREOF. THE PARTY**
10 **ADVERSELY AFFECTED BY THE DECISION OR INACTION OF THE**
11 **SECRETARY OF FINANCE MAY APPEAL TO THE COURT OF TAX**
12 **APPEALS WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE**
13 **DECISION OR LAPSE OF THE SIXTY (60)-DAY PERIOD TO DECIDE.”**
14

15 *Sec. 9. Implementing Rules and Regulations.* – The Department of Interior and
16 Local Government, in coordination with the Department of Finance and Department
17 of Justice shall issue the necessary rules and regulations to implement the provisions
18 of this Act within sixty (60) days from its effectivity.

19 *Sec. 10. Repealing Clause.* – All general and special laws, acts, city charters,
20 executive orders, presidential proclamations, issuances, rules and regulations, or parts
21 thereof which are contrary to or inconsistent with any of the provisions of this Act are
22 hereby repealed, amended, or modified accordingly.

23 *Sec. 11. Separability Clause.* – If any portion or provision of this Act is
24 subsequently declared invalid or unconstitutional, other provisions hereof which are
25 not affected thereby shall remain in full force and effect.

26 *Sec. 12. Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
27 publication in the Official Gazette or in a newspaper of general circulation.

Approved,