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SENATE
S. No. **3063**

DATE: _____
BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 10, Section 3, provides:

Section 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum...

The Constitution, Article 10, Section 8, provides:

Section 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.

Pursuant to the Constitution, the Republic Act No. 7160, or the Local Government Code, provides for the power of recall, which may be exercised against a local elective official, when due to loss of confidence, registered voters of a local government unit (LGU) petition for a recall election against such official.

The provisions on the power of recall, however, do not address the three-term limit rule mandated by the Constitution. In the case of *Socrates v. Comelec*,¹ the petitioner filed for the disqualification of the respondent during the recall elections since the respondent had already served three consecutive terms. The Supreme Court decided, however, that the respondent was entitled to run during the recall elections since he did not run immediately after his third term ended. Thus, his not running for office during the immediately succeeding elections after his

¹ G.R. Nos. 154512, 154683, 155083-84, November 12, 2002.

third term constituted a break in service. The Supreme Court therefore allowed him to run for the recall elections.


In *Borja v. Comelec*,² the Supreme Court held that “the purpose of the constitutional provision in limiting the number of terms elective local officials may serve is to prevent a monopolization of political power.”

Local Government Code, Section 43 (b) also provides:

(b) No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

The rule was established to prevent the establishment of political dynasties and to enhance the freedom of choice of the people. The Supreme Court thus held that “to consider, therefore, only stay in office regardless of how the official concerned came to that office – whether by election or by succession by operation of law – would be to disregard one of the purposes of the constitutional provision in question.”

In order to embody the true meaning of the Constitutional provision prescribing the term limit for local elective officials, this bill proposes that recall elections must be considered as one term for purposes of counting the three term limit imposed upon a local elective official. This will avoid “the evil of a single person accumulating excessive power over a particular territorial jurisdiction as a result of a prolonged stay in the same office.”³

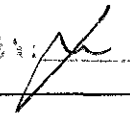
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MIRIAM DEFENSOR SANTIAGO

² G.R. No. 133495. September 3, 1998.

³ *Id.*

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Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 AMENDING SECTION 74 OF REPUBLIC ACT NO. 7160, ALSO KNOWN AS THE LOCAL
3 GOVERNMENT CODE, ON LIMITATIONS ON RECALL

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

4 SECTION 1. Section 74 of Republic Act No. 7160, also known as the Local Government
5 Code of the Philippines, as amended, is hereby further amended to read as follows:

6 "Section 74. Limitations on Recall. -

7 (a) Any elective local official may be the subject of a recall election only
8 once during his term of office for loss of confidence.

9 (b) No recall shall take place within one (1) year from the date of the
10 official's assumption to office or one (1) year immediately preceding a regular
11 local election.

12 (C) NO LOCAL ELECTIVE OFFICIAL WHO HAS SERVED FOR
13 THREE CONSECUTIVE TERMS MAY RUN FOR RECALL ELECTIONS
14 HELD IMMEDIATELY AFTER THE NEXT REGULAR ELECTION FOR THE
15 SAME OFFICE FOLLOWING THE END OF THE THIRD CONSECUTIVE
16 TERM; PROVIDED, THAT SUCH SHALL NOT BE APPLICABLE TO THE
17 TERM OF THE OFFICIAL SOUGHT TO BE RECALLED."

18 SECTION 2. *Repealing Clause.* – Any law, presidential decree or issuance, executive
19 order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent
20 with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

1 SECTION 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
2 publication in at least two (2) newspapers of general circulation.

Approved,

/mamt26/11/2011