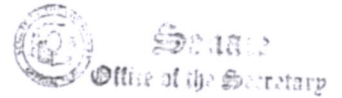


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



'18 APR -3 P1:56

SENATE

RECEIVED BY: _____

S.B. No. 1772

Introduced by Senator **SONNY ANGARA**

AN ACT
PROVIDING FOR BUSINESS-FRIENDLY TAX REMEDIES IN LOCAL
GOVERNMENT UNITS BY AMENDING CERTAIN PROVISIONS IN BOOK II OF
REPUBLIC ACT 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT
CODE OF 1991

EXPLANATORY NOTE

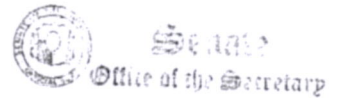
The proposed bill seeks to introduce further amendments to Republic Act No. 7160, otherwise known as the Local Government Code of 1991, as amended, that will ensure and uphold the right of taxpayers to due process in the passage of local tax ordinances. This amendatory bill seeks, among others, to institutionalize legal measures which are aimed at curbing the practice of local *sanggunians* promulgating tax ordinances without conducting prior public hearings and affording proper notice.

Further, the subject bill likewise aims to provide additional measures to ensure the observance of procedural due process in the exercise of remedies afforded to taxpayers, particularly in disputing tax assessments and in filing of claims for tax refund.

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

SONNY ANGARA

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**AN ACT
PROVIDING FOR BUSINESS-FRIENDLY TAX REMEDIES IN LOCAL
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REPUBLIC ACT 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT
CODE OF 1991**

*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) days
7 from the date a copy thereof is posted in a bulletin board at the entrance of
8 the provincial capitol or city, municipal, or barangay hall, as the case may be,
9 and in at least two (2) other conspicuous places in the local government unit
10 concerned] **FIFTEEN (15) DAYS FOLLOWING THE COMPLETION OF
11 THEIR NEWSPAPER OF GENERAL OR LOCAL CIRCULATION.**

12 (b) x x x

13 x x x "

14

1 **SEC. 2.** Section 187 of the Code is hereby amended to read as follows:

2 **“SEC. 187. Procedure for Approval and Effectivity of Tax Ordinances and**
3 **Revenue Measures; Mandatory Public Hearings. –**

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

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

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

16 **(2) IN ADDITION TO THE REQUIREMENT FOR PUBLICATION OR**
17 **POSTING, THE SANGGUNIAN CONCERNED SHALL CAUSE THE**
18 **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 DATES**
24 **AND VENUE OF THE PUBLIC HEARING OR HEARING. THE**
25 **INITIAL PUBLIC HEARING SHALL BE HELD NOT EARLIER THAN**
26 **TEN (10) DAYS FROM THE SENDING OUT OF NOTICE OR**
27 **NOTICES, OR THE LAST DAY OF PUBLICATION, OR DATE OF**
28 **POSTING THEREOF, WHICHEVER IS LATER.**

1 (4) AT THE PUBLIC HEARING OR HEARINGS, ALL AFFECTED OR
2 INTERESTED PARTIES SHALL BE ACCORDED AN OPPORTUNITY
3 TO APPEAR AND PRESENT OR EXPRESS THEIR VIEWS,
4 COMMENTS AND RECOMMENDATIONS, AND SUCH PUBLIC
5 HEARING OR HEARINGS SHALL CONTINUE UNTIL ALL ISSUES
6 HAVE BEEN PRESENTED AND FULLY DELIBERATED UPON
7 AND/OR CONSENSUS IS OBTAINED, WHETHER FOR OR
8 AGAINST THE ENACTMENT OF THE PROPOSED TAX
9 ORDINANCE OR REVENUE MEASURE: PROVIDED, FURTHER,
10 THAT TAXPAYERS ARE ALLOWED A SUFFICIENT PERIOD OF
11 TIME TO SUBMIT POSITION PAPERS.

12 (5) THE SECRETARY OF THE SANGGUNIAN CONCERNED SHALL
13 PREPARE THE MINUTES OF SUCH PUBLIC HEARING AND SHALL
14 ATTACH TO THE MINUTES THE POSITION PAPERS,
15 MEMORANDA, AND OTHER DOCUMENTS SUBMITTED BY THOSE
16 WHO PARTICIPATED.

17 (C) NO TAX ORDINANCE OR REVENUE MEASURE SHALL BE ENACTED OR
18 APPROVED IN THE ABSENCE OF A PUBLIC HEARING DULY
19 CONDUCTED IN THE MANNER PROVIDED IN THIS ARTICLE.

20 (D) ANY QUESTION ON NON-COMPLIANCE WITH THE PROCEDURAL
21 ASPECT OF PASSING AN ORDINANCE MAY BE RAISED ON APPEAL
22 WITHIN THIRTY (30) DAYS FROM THE EFFECTIVITY THEREOF:
23 PROVIDED, THAT ANY QUESTION ON NON-COMPLIANCE WITH THE
24 PROCEDURAL ASPECT OF PASSING AN ORDINANCE MAY BE RAISED
25 ON APPEAL WITHIN THIRTY (30) DAYS FROM THE EFFECTIVITY
26 THEREOF: Provided, further, That any question on the constitutionality or
27 [~~legality of tax ordinances or revenue measures~~] VIOLATION OF COMMON
28 LIMITATIONS ON THE TAXING POWERS OF LOCAL GOVERNMENT
29 UNITS AS PROVIDED UNDER SECTION 133 OR CONSTITUTIONALITY
30 OF ORDINANCES may be raised on appeal [~~within thirty (30) days from the~~
31 effectivity thereof] ANYTIME to the Secretary of Justice, who shall render a

1 decision within [~~sixty (60)~~] **ONE HUNDRED TWENTY (120)** days from the
2 date of receipt of such appeal: *Provided, however,* That such appeal shall not
3 have the effect of suspending the effectivity of the ordinance and the accrual
4 and payment of the tax, fee, or charge levied therein, **UNLESS OTHERWISE**
5 **PROVIDED BY THE ORDER OF THE SECRETARY OF JUSTICE:** *Provided,*
6 *finally,* That within thirty (30) days after receipt of the decision or the lapse of
7 the [~~sixty~~] **120**-day period without the Secretary of Justice acting [~~upon the~~]
8 **ON SUCH** appeal **WITHOUT NECESSARILY RENDERING A DECISION**
9 **THEREON,** the aggrieved party may file appropriate proceedings with [~~a court~~
10 ~~of competent jurisdiction~~] **THE REGIONAL TRIAL COURT, THE DECISION**
11 **OF WHICH MAY FURTHER BE APPEALED TO THE COURT OF TAX**
12 **APPEALS."**

13 **SEC. 3.** Section 188 of the Code is hereby amended to read as follows:

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

29

1 **SEC. 4.** Section 195 of the Code shall be amended to read as follows:

2 **"SEC. 195. *Protest of Assessment.*** – When the local treasurer or his duly
3 authorized representative finds that correct taxes, fees, or charges have not
4 been paid, he shall issue a notice of assessment **WITHIN THE PERIOD FOR**
5 **ASSESSMENT AND COLLECTION OF TAXES UNDER SECTION 194 OF**
6 **THIS CODE** stating the nature of the tax, fee, or charge, the amount of
7 deficiency, the surcharges, interests [~~and~~] penalties, **AND THE FACTS AND**
8 **LAW UPON WHICH SUCH ASSESSMENT IS BASED, OTHERWISE, THE**
9 **ASSESSMENT SHALL BE VOID.** Within sixty (60) days from the receipt of
10 the notice of assessment, the taxpayer may file a written protest with the local
11 treasurer contesting the assessment; otherwise, the assessment shall
12 become final and executory. The local treasurer shall decide the protest within
13 sixty (60) days from the time of its filing. If the local treasurer finds the protest
14 to be wholly or partly meritorious, he shall issue a notice cancelling wholly or
15 partially the assessment. However, if the local treasurer finds the assessment
16 to be wholly or partly correct, he shall deny the protest wholly or partly with
17 notice to the taxpayer. The taxpayer shall have thirty (30) days from the
18 receipt of the denial of the protest or from the lapse of the sixty (60) day
19 period prescribed herein within which to appeal with the [~~court of competent~~
20 ~~jurisdiction~~] **SECRETARY OF FINANCE, WHO SHALL RENDER A**
21 **DECISION ON SUCH APPEAL WITHIN SIXTY (60) DAYS FROM RECEIPT**
22 **THEREOF** otherwise the assessment becomes conclusive and unappealable.
23 **WITHIN THIRTY (30) DAYS FROM THE RECEIPT OF THE DENIAL OF THE**
24 **PROTEST OR FROM THE LAPSE OF THE SIXTY (60) DAY PERIOD**
25 **PRESCRIBED HEREIN WITHIN WHICH TO DECIDE, THE AGGRIEVED**
26 **PARTY MAY FILE APPROPRIATE PROCEEDINGS WITH THE COURT OF**
27 **TAX APPEALS.**

28 **THE NOTICE OF ASSESSMENT REFERRED TO IN THIS SECTION**
29 **PERTAINS TO THE ASSESSMENT FOR THE PAYMENT OF DEFICIENCY**
30 **TAXES, FEES OR CHARGES PURSUANT TO SECTION 171. THIS IS**
31 **DIFFERENT FROM THE ACT OF ISSUING ASSESSMENT OR BILLING**
32 **FORMS FOR THE PAYMENT OF TAXES, FEES OR CHARGES, WHICH IS**

1 BASED ON SELF-ASSESSMENT, DURING THE APPLICATION FOR THE
2 ISSUANCE OR RENEWAL OF BUSINESS PERMITS.

3 UNDER NO CIRCUMSTANCE SHALL THE LOCAL TREASURER
4 REQUIRE THE PAYMENT AS A PRECONDITION FOR ENTERTAINING A
5 PROTEST. NEITHER SHALL THE LOCAL TREASURER WITHHOLD THE
6 ISSUANCE OF BUSINESS PERMIT ON ACCOUNT OF THE PENDING
7 PROTEST.”

8 **SEC. 5.** Section 196 of the Code shall be amended to read as follows:

9 “**SEC. 196. Claim for Refund of Tax Credit.** – No case or proceeding shall
10 be maintained in any court for the recovery of any tax, fee, or charge
11 erroneously or illegally collected until a written claim for refund or credit has
12 been filed with the local treasurer **WITHIN TWO (2) YEARS FROM THE**
13 **DATE OF THE PAYMENT OF SUCH TAX, FEE, OR CHARGE OR FROM**
14 **THE DATE THE TAXPAYER IS ENTITLED TO A REFUND OR CREDIT,**
15 **WHICHEVER IS LATER. THE LOCAL TREASURER SHALL HAVE SIXTY**
16 **(60) DAYS FROM THE DATE OF RECEIPT OF SUCH CLAIM WITHIN**
17 **WHICH TO DECIDE ON SUCH CLAIM. THE DECISION OR INACTION OF**
18 **THE LOCAL TREASURER MAY BE APPEALED WITHIN THIRTY (30)**
19 **DAYS TO THE SECRETARY OF FINANCE, WHO SHALL RENDER A**
20 **DECISION ON SUCH APPEAL WITHIN SIXTY (60) DAYS FROM RECEIPT**
21 **THEREOF. THE PARTY ADVERSELY AFFECTED BY THE DECISION OR**
22 **INACTION OF THE SECRETARY OF FINANCE MAY APPEAL TO THE**
23 **COURT OF TAX APPEALS WITHIN THIRTY (30) DAYS FROM RECEIPT**
24 **OF THE DECISION OR LAPSE OF THE 60-DAY PERIOD TO DECIDE. [No**
25 ~~case or proceeding shall be entertained in any court after the expiration of two~~
26 ~~(2) years from the date of the payment of such tax, fee, or charge, or from the~~
27 ~~date the taxpayer is entitled to a refund or credit.]~~”

1 **SEC. 6.** Section 226 of the Code shall be amended to read as follows:

2 “**SEC. 226. Local Board of Assessment Appeals.** – Any owner or person
3 having legal interest in the property who is not satisfied with the action of the
4 provincial, city or municipal assessor in the assessment of his property may,
5 within sixty (60) days from the date of receipt of the written notice of
6 assessment, **FILE A WRITTEN PROTEST THEREOF WITH THE LOCAL**
7 **ASSESSOR, WHO SHALL HAVE THIRTY (30) DAYS TO ACT ON SUCH**
8 **PROTEST. WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE**
9 **ADVERSE DECISION OF THE LOCAL ASSESSOR OR THE LAPSE OF**
10 **THE PERIOD GIVEN TO THE LOCAL ASSESSOR TO RENDER A**
11 **DECISION, THE AGGRIEVED PARTY MAY** appeal to the Board of
12 Assessment Appeals of the province or city by filing a petition under oath in
13 the form prescribed for the purpose, together with copies of the tax
14 declarations and such affidavits or documents submitted in support of the
15 appeal.

16 **SEC. 7.** Section 229 of the Code shall be amended to read as follows:

17 “**SEC. 229. Action by the Local Board of Assessment Appeals.** –

- 18 (a) The **LOCAL** Board shall decide the appeal within one hundred twenty (120)
19 days from the date of receipt of such appeal. The **LOCAL** Board, after
20 hearing, shall render its decision based on substantial evidence or such
21 relevant evidence on record as a reasonable mind might accept as adequate
22 to support the conclusion.
- 23 (b) In the exercise of its appellate jurisdiction, the **LOCAL** Board shall have the
24 power to summon witnesses, administer oaths, conduct ocular inspection,
25 take depositions, and issue subpoena and subpoena duces tecum. The
26 proceedings of the **LOCAL** Board shall be conducted solely for the purpose of
27 ascertaining the facts without necessarily adhering to technical rules
28 applicable in judicial proceedings.

1 (c) The secretary of the **LOCAL** Board shall furnish the owner of the property or
2 the person having legal interest therein and the provincial or city assessor
3 with a copy of the decision of the **LOCAL** Board. In case the provincial or city
4 assessor concurs in the revision or the assessment, it shall be his duty to
5 notify the owner of the property or the person having legal interest therein of
6 such fact using the form prescribed for the purpose. The owner of the property
7 or the person having legal interest therein or the assessor who is not satisfied
8 with the decision of the **LOCAL** Board, may, within thirty (30) days after
9 receipt of the decision of said **LOCAL** Board **OR AFTER THE LAPSE OF**
10 **THE 120-DAY PERIOD GIVEN TO THE LOCAL BOARD TO ACT ON SUCH**
11 **APPEAL**, appeal to the Central Board of Assessment appeals, as herein
12 provided. The decision of the Central Board **MAY BE APPEALED TO THE**
13 **COURT OF TAX APPEALS WITHIN THIRTY (30) DAYS FROM RECEIPT**
14 **OF THE DECISION OR AFTER THE LAPSE OF THE 120 DAY PERIOD**
15 **GIVEN TO THE CENTRAL BOARD TO ACT ON SUCH APPEAL.**

16 **SEC. 8.** Section 252 of the Code is hereby amended to read as follows:

17 "**SEC. 252. *Payment Under Protest.*** – (a) No protest shall be entertained
18 unless the taxpayer first pays the tax. There shall be annotated on the tax
19 receipts the words "paid under protest". The protest in writing must be filed
20 within [~~thirty (30)~~] **SIXTY (60)** days from payment of the tax to the provincial,
21 city treasurer or municipal treasurer, in the case of a municipality within
22 Metropolitan Manila Area, who shall decide the protest within sixty (60) days
23 from receipt.

24 (b) x x x

25 (c) x x x

26 (d) x x x

27 **(E) THE DECISION OR INACTION OF THE LOCAL TREASURER MAY BE**
28 **APPEALED WITHIN THIRTY (30) DAYS TO THE SECRETARY OF**
29 **FINANCE, WHO SHALL RENDER A DECISION ON SUCH APPEAL**
30 **WITHIN SIXTY (60) DAYS FROM RECEIPT THEREOF. THE PARTY**
31 **ADVERSELY AFFECTED BY THE DECISION OR INACTION OF THE**

1 SECRETARY OF FINANCE MAY APPEAL TO THE COURT OF TAX
2 APPEALS WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE
3 DECISION OR LAPSE OF THE 60-DAY PERIOD TO DECIDE.”

4 **SEC. 9. *Repealing Clause.*** – All general and special laws, acts, city charters,
5 decrees, executive orders, proclamations and administrative regulations, or part or
6 parts thereof which are inconsistent with any of the provisions of this Act are hereby
7 repealed or modified accordingly.

8 **SEC. 10. *Separability Clause.*** – If, for any reason or reasons, any part of
9 provision of this Act shall be held unconstitutional or invalid, other parts or provisions
10 hereof which not affected thereby shall continue to be in full force and effect.

11 **SEC. 11. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days after
12 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,