

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



SENATE
S. B. No. 840

'19 JUL 31 P 4:04

RECEIVED BY: _____

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 NO. 7160, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991"

EXPLANATORY NOTE

Chief Justice Marshall has once said that the power to tax is the power to destroy as it allows State interference with the property rights of the people by taking a portion of their hard-earned income for the support of the government. This is true for both national and local taxes.

The power to tax, although plenary, recognizes of certain limitations such as the constitutional limitation of due process which requires that the tax ordinance be fair, just and reasonable and that there be notice and hearing. Specifically, Sections 186 and 187 of Republic Act No. 7160 otherwise known as the Local Government Code of 1991 requires *Sanggunians* to conduct public hearings prior to the enactment of tax ordinances.

The proposed bill seeks to introduce amendments to the Local Government Code of 1991, to uphold the right of taxpayers to due process in the passage of tax ordinances; clarify publication, posting and public hearing requirements in the passage of tax ordinances; and institutionalize procedures in the exercise of taxpayer's remedies such as appeals, dispute of assessments and claims for 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 GOVERNMENT UNITS BY AMENDING CERTAIN PROVISIONS IN BOOK II OF REPUBLIC ACT NO. 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
5 otherwise stated in the ordinance or the resolution approving the local
6 development plan and public investment program, the same shall take
7 effect after [~~ten (10) days from the date a copy thereof is posted in a~~
8 ~~bulletin board at the entrance of the provincial capitol or city,~~
9 ~~municipal, or barangay hall, as the case may be, and in at least two~~
10 ~~(2) other conspicuous places in the local government unit concerned]~~
11 **FIFTEEN (15) DAYS FOLLOWING THE COMPLETION OF THEIR**
12 **PUBLICATION IN A NEWSPAPER OF GENERAL OR LOCAL**
13 **CIRCULATION.**

14 (b) x x x

15 XXX."

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*
3 *and Revenue Measures; Mandatory Public Hearings.* –

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

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

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

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

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

31 **(4) AT THE PUBLIC HEARING, ALL AFFECTED OR**
32 **INTERESTED PARTIES SHALL BE ACCORDED AN**

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

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

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

19 (D) ANY QUESTION ON NON-COMPLIANCE WITH THE
20 PROCEDURE OF PASSING AN ORDINANCE MAY BE RAISED ON
21 APPEAL WITHIN THIRTY (30) DAYS FROM THE EFFECTIVITY
22 THEREOF: *PROVIDED*, THAT ANY QUESTION ON NON-
23 COMPLIANCE WITH THE PROCEDURE OF PASSING AN
24 ORDINANCE MAY BE RAISED ON APPEAL WITHIN THIRTY
25 (30) DAYS FROM THE EFFECTIVITY THEREOF: *Provided, further,*
26 That any [~~question on the~~] VIOLATION OF THE COMMON
27 LIMITATIONS ON THE TAXING POWERS OF LOCAL
28 GOVERNMENT UNITS AS PROVIDED UNDER SECTION 133 OR
29 constitutionality or legality of tax ordinances or revenue measures may
30 be raised on appeal [~~within thirty (30) days from the effectivity~~
31 ~~thereof~~] **ANYTIME** to the Secretary of Justice, who shall render a
32 decision within [~~sixty (60)~~] **ONE HUNDRED TWENTY (120)** days

1 from the date of receipt of such appeal: *Provided, however,* That such
2 appeal shall not have the effect of suspending the effectivity of the
3 ordinance and the accrual and payment of the tax, fee, or charge
4 levied therein, **UNLESS OTHERWISE PROVIDED BY THE ORDER**
5 **OF THE SECRETARY OF JUSTICE:** *Provided, finally,* That within
6 thirty (30) days after receipt of the decision or the lapse of the [~~sixty~~]
7 **120**-day period without the Secretary of Justice acting [~~upon the~~] **ON**
8 **SUCH** appeal **WITHOUT NECESSARILY RENDERING A**
9 **DECISION THEREON,** the aggrieved party may file appropriate
10 proceedings with [~~a court of competent jurisdiction~~] **THE REGIONAL**
11 **TRIAL COURT, THE DECISION OF WHICH MAY FURTHER BE**
12 **APPEALED TO THE COURT OF TAX 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
16 approval, certified true copies of all provincial, city, and municipal tax
17 ordinances or revenue measures shall be published in full for three (3)
18 consecutive days in a newspaper of local circulation: *Provided,*
19 *however,* That in provinces, cities and municipalities where there are
20 no newspapers of local circulation, the same may be posted in **A**
21 **BULLETIN BOARD AT THE ENTRANCE OF THE PROVINCIAL**
22 **CAPITOL OR CITY, MUNICIPAL, OR BARANGAY HALL, AS THE**
23 **CASE MAY BE, AND IN** at least two (2) conspicuous and publicly
24 accessible places **WITHIN THE LOCAL GOVERNMENT UNIT**
25 **CONCERNED: PROVIDED, FURTHER, THAT,**
26 **NOTWITHSTANDING ANY PROVISION IN THE TAX**
27 **ORDINANCE OR REVENUE MEASURE PROVIDING FOR THE**
28 **EFFECTIVITY THEREOF, NO TAX ORDINANCE OR REVENUE**
29 **MEASURE SHALL BE VALID WITHOUT COMPLYING WITH THE**
30 **PROVISIONS OF THIS SECTION."**

31

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

31 **THE NOTICE OF ASSESSMENT REFERRED TO IN THIS**
32 **SECTION PERTAINS TO THE ASSESSMENT FOR THE PAYMENT**

1 OF DEFICIENCY TAXES, FEES OR CHARGES PURSUANT TO
2 SECTION 171.

3 UNDER NO CIRCUMSTANCE SHALL THE LOCAL TREASURER
4 REQUIRE THE PAYMENT AS A PRECONDITION FOR
5 ENTERTAINING A PROTEST. NEITHER SHALL THE LOCAL
6 TREASURER WITHHOLD THE ISSUANCE OF BUSINESS PERMIT
7 ON ACCOUNT OF THE PENDING 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
10 shall be maintained in any court for the recovery of any tax, fee, or
11 charge erroneously or illegally collected until a written claim for refund
12 or credit has been filed with the local treasurer **WITHIN TWO (2)**
13 **YEARS FROM THE DATE OF THE PAYMENT OF SUCH TAX, FEE,**
14 **OR CHARGE OR FROM THE DATE THE TAXPAYER IS ENTITLED**
15 **TO A REFUND OR CREDIT, WHICHEVER IS LATER. THE LOCAL**
16 **TREASURER SHALL HAVE SIXTY (60) DAYS FROM THE DATE**
17 **OF RECEIPT OF THE CLAIM WITHIN WHICH TO DECIDE THE**
18 **CLAIM.**

19 **WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE**
20 **DECISION OR THE LAPSE OF THE 60-DAY PERIOD WITHOUT**
21 **THE LOCAL TREASURER ACTING UPON THE CLAIM, THE**
22 **TAXPAYER MAY FILE AN APPEAL WITH THE SECRETARY OF**
23 **FINANCE WHO SHALL RENDER A DECISION WITHIN SIXTY**
24 **(60) DAYS FROM RECEIPT THEREOF. THE PARTY ADVERSELY**
25 **AFFECTED BY THE DECISION OR INACTION OF THE**
26 **SECRETARY OF FINANCE MAY APPEAL TO THE COURT OF TAX**
27 **APPEALS WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE**
28 **DECISION OR FROM THE LAPSE OF THE 60-DAY PERIOD**
29 **WITHIN WHICH TO DECIDE. [No case or proceeding shall be**
30 **entertained in any court after the expiration of two (2) years from the**
31 **date of the payment of such tax, fee, or charge, or from the date the**
32 **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
4 of the provincial, city or municipal assessor in the assessment of his
5 property may, within sixty (60) days from the date of receipt of the
6 written notice of assessment, **FILE A WRITTEN PROTEST**
7 **THEREOF WITH THE LOCAL ASSESSOR, WHO SHALL HAVE**
8 **THIRTY (30) DAYS TO ACT ON SUCH PROTEST. WITHIN**
9 **THIRTY (30) DAYS FROM RECEIPT OF THE ADVERSE**
10 **DECISION OF THE LOCAL ASSESSOR OR THE LAPSE OF THE**
11 **PERIOD GIVEN TO THE LOCAL ASSESSOR TO RENDER A**
12 **DECISION, THE AGGRIEVED PARTY MAY** appeal to the Board of
13 Assessment Appeals of the province or city by filing a petition under
14 oath in the form prescribed for the purpose, together with copies of
15 the tax declarations and such affidavits or documents submitted in
16 support of the appeal."

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

18 "Sec. 229. *Action by the Local Board of Assessment Appeals.* –

19 (a) The **LOCAL** Board shall decide the appeal within one hundred
20 twenty (120) days from the date of receipt of such appeal. The **LOCAL**
21 Board, after hearing, shall render its decision based on substantial
22 evidence or such relevant evidence on record as a reasonable mind
23 might accept as adequate to support the conclusion.

24 (b) In the exercise of its appellate jurisdiction, the LOCAL Board shall
25 have the power to summon witnesses, administer oaths, conduct
26 ocular inspection, take depositions, and issue subpoena and subpoena
27 duces tecum. The proceedings of the LOCAL Board shall be conducted
28 solely for the purpose of ascertaining the facts without necessarily
29 adhering to technical rules applicable in judicial proceedings.

30 (c) The secretary of the **LOCAL** Board shall furnish the owner of the
31 property or the person having legal interest therein and the provincial
32 or city assessor with a copy of the decision of the **LOCAL** Board. In

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

15 Sec. 8. Section 252 of the Code is hereby amended to read as follows:

16 "Sec. 252. *Payment Under Protest.* – (a) No protest shall be
17 entertained unless the taxpayer first pays the tax. There shall be
18 annotated on the tax receipts the words "paid under protest". The
19 protest in writing must be filed within [~~thirty (30)~~] **SIXTY (60)** days
20 from payment of the tax to the provincial, city treasurer or municipal
21 treasurer, [~~in the case of a municipality within Metropolitan Manila~~
22 ~~Area,~~] who shall decide the protest within sixty (60) days from
23 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**
28 **MAY BE APPEALED WITHIN THIRTY (30) DAYS TO THE**
29 **SECRETARY OF FINANCE, WHO SHALL RENDER A DECISION**
30 **ON SUCH APPEAL WITHIN SIXTY (60) DAYS FROM RECEIPT**
31 **THEREOF. THE PARTY ADVERSELY AFFECTED BY THE**
32 **DECISION OR INACTION OF THE SECRETARY OF FINANCE**

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

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

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

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

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

Approved,