

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

7 JAN 29 25 09

SENATE
S.B. No. 2572

RECEIVED BY: Tsq

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

Republic Act No. 7160, also known as the Local Government Code of 1991, Section 40(d) provides that a person with dual citizenship is disqualified from running for any elective local position. However, the Supreme Court in the case of *Mercado v. Manzano*, 307 SCRA 630, stated that Section 40(d) should be understood to mean dual allegiance and not dual citizenship.

Said the Supreme Court:

“Clearly, in including §5 in Article IV on citizenship, the concern of the Constitutional Commission was not with dual citizens *per se* but with naturalized citizens who maintain their allegiance to their countries of origin even after their naturalization. Hence, the phrase “dual citizenship” in R.A. No. 7160, Section 40(d) and in R.A. No. 7854, Section 20 must be understood as referring to “dual allegiance.” Consequently, persons with mere dual citizenship do not fall under this disqualification. Unlike those with dual allegiance, who must, therefore, be subject to strict process with respect to the termination of their status, for candidates with dual citizenship, it should suffice if, upon the filing of their certificates of candidacy, they elect Philippine citizenship to terminate their status as persons with dual citizenship considering that their condition is the unavoidable consequence of conflicting laws of different states.” (Emphasis supplied)

This bill aims to correct the oversight in the drafting of Section 40(d) of R.A. No. 7160, in order to make Section 40 (d) conform to the Constitution and the ruling of the Supreme Court in the case mentioned above.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

7 JAN 29 1959

SENATE
S.B. No. 2578

RECEIVED BY: Tung

Introduced by Senator Miriam Defensor Santiago

AN ACT
AMENDING SECTION 40(D) OF REPUBLIC ACT NO. 7160 ALSO KNOWN AS
THE LOCAL GOVERNMENT CODE OF 1991, AS AMENDED

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

SECTION 1. Section 40 (d) of Republic Act No. 7160, also known as the Local Government Code of 1991, on disqualifications of local elective officials is hereby amended to read as follows:

SEC. 40. *Disqualifications.* – The following persons are disqualified from running for any elective local position:

- (a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;
- (b) Those removed from office as a result of an administrative case;
- (c) Those convicted by final judgment for violating the oath of allegiance to the Republic;
- (d) Those with dual ALLEGIANCE;
- (e) Fugitives from justice in criminal or nonpolitical cases here or abroad;
- (f) Permanent residents in a foreign country or those who have acquired the right to reside abroad *and continue* to avail of the same right after the effectivity of this Code; and
- (g) The insane or feeble-minded.

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

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

Approved,