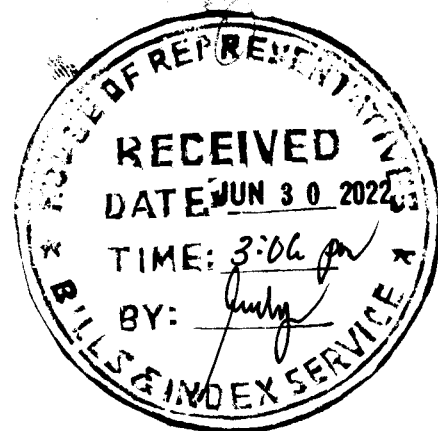


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL No. 211



Introduced by
ACT Teachers Party-List Rep. FRANCE L. CASTRO,
GABRIELA Women's Party Rep. ARLENE D. BROSAS,
and **KABATAAN Party-List Rep. RAOUL DANNIEL A. MANUEL**

AN ACT
TO ENSURE THAT THE PARTY-LIST SYSTEM IS RESERVED
FOR THE MARGINALIZED AND UNDERREPRESENTED AMENDING
FOR THAT PURPOSE REPUBLIC ACT 7941, OTHERWISE KNOWN
AS THE "PARTY-LIST SYSTEM ACT"

EXPLANATORY NOTE

There is an urgent need to restore the party-list system to its original purpose, which is to give the marginalized sectors representation and voice in Congress. The party-list system has been bastardized throughout the years, and there is therefore an even more urgent need now to strengthen and further improve it so as not to make useless and illusionary the representation of marginalized and underrepresented sectors of our country.

The party-list system was first instituted in 1987 via the Constitution itself. By letter, spirit, and history of our fundamental law, the party-list system is the mechanism by which labor, peasant, urban poor, indigenous cultural communities, women, youth, and such other sectors participate in the steering of the course of our country. They cannot come into national politics as major players by any other means. Due to painful experience under martial law and the regimes before it, the framers and the Filipino people who ratified the Constitution considered it indispensable for these sectors have a "special place" in the new political system. Indeed, the Constitutions protect these sectors—and, consequently, the party-list system itself—in the context of social justice, human rights, and the national objective of reducing social, economic, and political inequalities (Article XIII).

Unfortunately, the question of whether the party-list is intended for the marginalized and underrepresented was made an issue during the course of the implementation of the Constitution and Republic Act 7941 or the *Party-List System Act*. At first, the Supreme Court in *Bayan Muna vs. COMELEC, et al.* (G.R. No. 147613, June 26, 2001, consolidated with *Bagong Bayani vs. COMELEC*) ruled thus:

The party-list system is a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable lawmakers themselves, empowered to participate directly in the enactment of laws designed to benefit them. It intends to make the marginalized and the underrepresented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy.

But despite the said ruling, the Commission on Elections effectively reversed the Supreme Court when it allowed nominees to run for the party-list elections who have not demonstrated their membership or advocacy. As long as she or he is a member of a supposed marginalized and underrepresented group at least ninety days before the elections, such nominee can have the chance to sit as congressman or congresswoman using the party-list system as a “backdoor” and alternative to district representation.

Party-list representatives may be 20% of the total number of Members of the House of Representatives, but in the past few elections and particularly in the 19th Congress, there is a growing concern on the domination of party-lists and nominees who **do not truly represent the marginalized and underrepresented** but come from powerful, economic, dynastic and political interests. The impact of the entry of those who do not belong to the marginalized and underrepresented is disastrous like a raging tsunami—this practically obliterates the constitutional intent. By allowing those who form part of the 80% to also invade the constitutionally reserved seats of the 20%, the marginalized and underrepresented have been marginalized and underrepresented in their own turf. This also closes off the venue for the expression of the voice and interest of the poor and the already underrepresented.

The Supreme Court in *Atong Paglaum vs. COMELEC* (2013) completely overturned itself on the progressive idea for a “Filipino-style” and “social justice tool” party-list system, and ruled that national and regional parties or organizations and political parties—all of which already dominate not just the Lower House but the entire political scene—need not come from the marginalized and underrepresented to participate in the party-list system. This practically opened the floodgates for the rich and the powerful elites to freely participate in the party-list elections, thereby further limiting, even obliterating, the only and tiny space for the poor and underrepresented sectors to become active participants in legislation and in crafting laws that will benefit their sectors.

Changes have to be made to make sure that the COMELEC, the Supreme Court, or any other can no longer interfere with what the Constitution mandates.

The main purpose of this bill is to address this violation of the constitutional and statutory intent for the party-list system by amending the *Party-list System Act*. It proposes to provide eligibility requirements and set up mechanisms to democratize the party-list system in order to secure what the Constitution seeks to protect.

This bill proposes that:

1. The intent and the purpose of the Constitution to reserve 20% of the Members of the House of Representatives for the marginalized and underrepresented be strictly complied with by adopting certain specific measures to implement the intent of both RA 7941 and the Constitution as defined in the Supreme Court's decision in *Bayan Muna vs. COMELEC*, and *Ang Bagong Bayani-OFW Labor Party, et al. vs. COMELEC et al.*. Additional criteria for nominees should be also enforced for a stricter compliance with the intent of the Constitution regarding party-list representation.
2. The appropriate decision-making body of a party-list group be given the power to recall its representatives for violation of any provision of the party-list's governing charter.
3. The nomination of party-list representative be done by the highest policy-making body of the party-list group. This will enable its membership to democratically choose their nominees.

We must fulfill our historic duty of amending the party-list law to make sure that the very law's original intent, and that of the Constitution, survives.

The Makabayan Bloc first filed this measure as House Bill 4464 in the 15th Congress. It was refiled during the 16th Congress as HB 179 and was approved at the committee level. Then, it was refiled during the 17th and 18th Congresses as HB 8524 and HB 242, respectively.

Immediate passage of this bill is therefore earnestly sought.



Rep. FRANCE L. CASTRO
ACT Teachers Party-List



Rep. ARLENE D. BROSAS
GABRIELA Women's Party



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KABATAAN Party-List

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

SECTION 1. Title. This Act shall be known as the "***Genuine Party-List Group and Nominee Act.***"

SEC. 2. Section 5 of Republic Act 7941, otherwise known as the "***Party-List System Act,***" is hereby amended to read as follows:

Section 5. Registration. Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than [ninety (90)] **ONE HUNDRED TWENTY (120)** days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: Provided, That the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities,

elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

The COMELEC shall publish the petition in at least two (2) national newspapers of general circulation.

NO GROUP, ORGANIZATION OR POLITICAL PARTY SHALL BE ELIGIBLE FOR REGISTRATION AS A PARTY-LIST GROUP UNLESS IT HAS PROVEN IN AN EVIDENTIARY PUBLIC HEARING THAT SHALL BE CONDUCTED BY THE COMELEC THAT IT TRULY REPRESENTS MARGINALIZED AND UNDERREPRESENTED SECTOR/S AND ITS NOMINEES BELONG TO THE SECTOR/S HE OR SHE SEEKS TO REPRESENT; *PROVIDED, THAT* COMELEC SHALL NOTIFY ALL DULY REGISTERED AND ACCREDITED PARTY-LIST GROUPS, ORGANIZATION OR POLITICAL PARTIES OF THE HEARING AT LEAST TEN DAYS PRIOR TO THE SAID HEARING.

The COMELEC shall, after due notice and hearing, resolve the petition within fifteen (15) days from the date it was submitted for decision but in no case not later than ninety (90) days before election.

SEC. 3. Section 8 of the said Act is hereby amended to read as follows:

Section 7. *Certified List of Registered Parties.* The COMELEC shall, not later than [sixty] **NINETY [(60)] (90)** days before election, prepare a certified list of national, regional, or sectoral parties, organizations or coalitions which have applied or who have manifested their desire to participate under the party-list system and distribute copies thereof to all precincts for posting in the polling places on election day. The names of the party-list nominees shall not be shown on the certified list.

SEC. 4. Section 8 of the said Act is hereby amended to read as follows:

Section 8. *Nomination of Party-List Representatives.* – Each registered party, organization, or coalition shall submit to the Commission on Elections (COMELEC) not later than **SIXTY (60)** days before the election a list of names, not less than **SIX (6)**, from which party-list representatives shall be chosen in case it obtains the required number of votes. **THE LIST OF NOMINEES TO BE SUBMITTED TO THE COMELEC MUST BE APPROVED BY THE HIGHEST DECISION-MAKING BODY OF THE PARTY-LIST GROUP.**

A person may be nominated in one (1) list only. Only persons who have given their consent in writing may be named in the list. The list shall

not include any candidate for any elective office of person who has lost his bid for an elective office in the immediately preceding election. No change of names or alteration of the order of the nominees shall be allowed after the same shall have been submitted to the COMELEC except where the nominee dies, [or withdraws in writing his nomination] or becomes incapacitated, in which case the name of the substitute nominees shall be placed last in the list. Incumbent sectoral representatives in the House of Representatives who are nominated in the party-list system shall not be considered resigned.

NO PERSON OCCUPYING AN APPOINTIVE OR ELECTIVE POST SHALL BE INCLUDED IN THE LIST UNLESS HE/SHE ENCLOSES THEREIN HIS/HER LETTER OF RESIGNATION TO THAT OFFICE AND THE DUE ACCEPTANCE OR APPROVAL THEREOF.

SEC. 5. Section 9 of the said Act is hereby amended to read as follows:

Section 9. *Qualifications of Party-List Nominees.* No person shall be nominated as party-list representative unless he is a natural-born citizen of the Philippines, a registered voter, a resident of the Philippines for a period of not less than one (1) year immediately preceding the day of the election, able to read and write, a bona fide member of the party or organization which he seeks to represent for at least ninety (90) days preceding the day of the election, and is at least twenty-five (25) years of age on the day of the election.

In case of a nominee of the youth sector, he must at least be twenty-five (25) but not more than thirty (30) years of age on the day of the election. Any youth sectoral representative who attains the age of thirty (30) during his term shall be allowed to continue in office until the expiration of his term.

9.1 ALL NOMINEES, INCLUDING THOSE OF THE YOUTH SECTOR, SHALL NOT BE QUALIFIED TO BECOME A PARTY-LIST NOMINEE IF HE OR SHE IS A PERSON:

(a) WHO WAS ELECTED AND SERVED OFFICE AT ANY TIME AS VICE MAYOR, MAYOR, VICE GOVERNOR, GOVERNOR, DISTRICT REPRESENTATIVE, SENATOR, VICE PRESIDENT AND PRESIDENT;

(b) WHO IS RELATED BY AFFINITY OR CONSANGUINITY TO THE 3RD DEGREE, TO

INCUMBENT GOVERNMENT OFFICIALS REFERRED TO IN PARAGRAPH (a) ABOVE;

(c) WHO WAS APPOINTED AND SERVED OFFICE FROM THE POSITION OF BUREAU CHIEF UP TO ANY POSITION IN THE CABINET WITHIN FIVE YEARS FROM THE PARTY-LIST ELECTION HE OR SHE IS BEING NOMINATED FOR;

(d) WHO SERVED AS THE PROVINCIAL DIRECTOR OF THE PNP OR BATTALION COMMANDER OF THE AFP OR ANY HIGHER POSITION WITHIN FIVE YEARS FROM THE PARTY-LIST ELECTION HE OR SHE IS BEING NOMINATED FOR; AND

(e) WHOSE INCOME IS MORE THAN THE BASE PAY OF A PARTY-LIST MEMBER OF THE HOUSE OF REPRESENTATIVES IN THE CONGRESS DURING THE PARTY-LIST ELECTION HE OR SHE IS NOMINATED FOR.

NOMINEES SHALL SUBMIT TO THE PARTY-LIST ORGANIZATION THEY WISH TO REPRESENT AND THE COMELEC UPON THE FILING OF THEIR ACCEPTANCE OF NOMINATION, THEIR LATEST INCOME TAX RETURN AND STATEMENT OF ASSETS AND LIABILITIES (SALN) WHICH SHALL BE OPEN TO THE SCRUTINY OF THE PUBLIC AND ANY INTERESTED PARTY.

SEC. 6. A new Section 16 shall be inserted after Section 15, to read as follows:

SECTION 16. *RECALL OF PARTY-LIST REPRESENTATIVE.* THE HIGHEST DECISION-MAKING BODY OF THE PARTY-LIST GROUP IS EMPOWERED TO RECALL ITS REPRESENTATIVES IN CONGRESS FOR LOSS OF CONFIDENCE OR FOR VIOLATIONS OF ANY PROVISION OF ITS GOVERNING CHARTER: *PROVIDED, THAT* SUCH RECALL, IS EXPRESSED THROUGH A RESOLUTION PASSED BY THE HIGHEST DECISION-MAKING BODY OF THE PARTY-LIST GROUP, A COPY OF WHICH SHOULD BE FURNISHED TO THE HOUSE OF REPRESENTATIVES THROUGH ITS SECRETARY-GENERAL, THE COMELEC AND THE HOUSE OF REPRESENTATIVES TO IMPLEMENT SUCH RECALL UNLESS DULY RESTRAINED BY AN ORDER FROM THE APPROPRIATE COURT.

SEC. 7. Sections 16 up to 22 of the said Act shall be renumbered as Sections 17 to 23.

SEC. 8. *Separability Clause.* If any section or provision of this Act shall be declared unconstitutional or invalid, the other sections or provisions not affected thereby shall remain in full force and effect.

SEC. 9. *Repealing Clause.* All laws, decrees, orders, rules and regulations and other issuance inconsistent with the provisions of this Act are deemed modified, revoked or repealed accordingly.

SEC. 10. *Effectivity.* This Act shall take effect fifteen (15) days after its publication in two (2) leading newspapers of general circulation.

Approved,