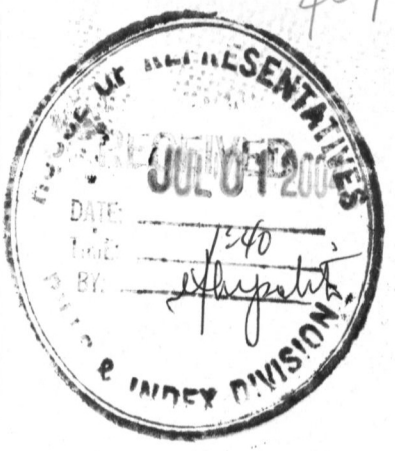
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HB No. 409

Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

The enactment of Republic Act No. 7941 (known as the Party-List System Act) is certainly a remarkable leap forward a genuine process of democratization of our political system. The law practically rationalizes and breathes life to the constitutional provision which calls for the election of representatives of the marginalized and the under-represented sectors in Congress as provided for in Section 5, paragraph (2), Article VI of the 1987 Philippine Constitution.

Since the enactment of the aforesaid Party-list Law, the two preceding party-list elections, namely, that of 1998 and the just so recently held (2001), reveal lessons which call on Congress' immediate action. One of the issues concerns the procedure in allocating seats for party-list representatives.

The 1998 electoral experience specifically showed a dilemma as to the interpretation of the principle and mechanism for the proportional representation. There are two contradicting opinions as to the interpretation of the principle and mechanism for proportional representation. The Commission on Elections (COMELEC) used the following method to interpret the allocation of seats: 2% up to 3.99% - 1 seat; 4% up to 5.99% - 2 seats; and 6% and up - 3 seats. The other contradicting view, however, is espoused in the existing provision of Section 12 of the above-said law. It provides that a qualifying 2% minimum vote is merely required for the ranking and entitlement of seats. There is no provision in the law which provides that each seat must correspond to 2% of the total votes cast for the party-list system, and further which provides that all the three (3) seats much each and separately have 2% of the votes.

Another issue is the liberal interpretation which allow mainstream political parties and organization and those traditionally non-marginalized sectors to join and participate in the party-list elections.

In this connection, this bill seeks to propose the following: 1) a mechanism that will bridge the gap in the existing law; and 2) to disallow mainstream political parties and non-marginalized

sectors from participating in the party-list elections. This also further proposes a continuing voter's education and procedural amendments.

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

ROSELLER L. BARINAGA
Representative, 2nd District
Zamboanga del Norte

THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
FIRST REGULAR SESSION)

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HB No. 409

Introduced by **Rep. Roseller L. Barinaga**

AN ACT
AMENDING REPUBLIC ACT NUMBERED SEVEN THOUSAND NINE HUNDRED FORTY-ONE, OTHERWISE KNOWN AS "THE PARTY-LIST SYSTEM ACT"

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

SECTION 1. Sections 3, para (d), Section 4, 5, 6, para (7), (8), and (9), Sections 7, 8, 10, 11, 12, 14, 15, and 17 of Republic Act Numbered Seven Thousand Nine Hundred Forty-One are hereby amended as enumerated:

"*SEC. 3.*(d) A Sectoral party refers to an organized group of citizens belonging to [any of the sectors enumerated in Section 5 hereof] MARGINALIZED AND UNDERREPRESENED SECTORS whose principal advocacy pertains to the special interests and concerns of their sector."

"SEC. 4. Manifestation to Participate in the Party-List System OF DULY REGISTERED PARTIES, ORGANIZATION AND SECTORS. Any party, organization, or coalition already registered with the Commission need not register anew. However, such party, organization or coalition shall file with the Commission, not later than ninety (90) days before the election, a manifestation of its desire to participate in the party-list system: PROVIDED, THAT, THE FIRST FIVE (5) MAJOR POLITICAL PARTIES ON THE BASIS OF PARTY REPRESENTATION IN THE HOUSE OF REPRESENTATIVES IN THE *IMMEDIATELY PRECEDING ELECTIONS SHALL NOT BE ENTITLED TO* PARTICIPATE IN THE PARTY-LIST ELECTIONS."

"SEC. 5. NEW Registration. - Any organized group of persons may registered 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 EIGHTY (180) 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 on 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 professional]. PROVIDED, THAT, THE PARTIES, ORGANIZATION OR COALITION THEREOF REPRESENT THE MARGINALIZED AND UNDERREPSENTED *SECTORS OF SOCIETY.*

FAILURE TO SUBMIT THE AFORECITED FORMAL REQUIREMENTS MAY BE A GROUND FOR DISMISSAL MOTU PROPIO BY THE COMELEC OF ITS PETITION; OTHERWISE, THE COMMISSION [The COMELEC] shall IMMEDIATELY publish the THE VERIFIED petition in at least two (2) [national] newspapers of general circulation SETTING THE SAME FOR HEARING AT AN APPOINTED TIME AND DATE.

The COMELEC shall, after due notice and hearing, resolve [the] SAID petition, INCLUDING A MOTION FOR ITS RECONSIDERATION within [fifteen (15)] THIRTY (30) days from the date [it was submitted for decision] OF ITS SUBMISSION FOR RESOLUTION but in no case not later than [sixty (60)] ONE HUNDRED TWENTY (120) days before election.

"SEC. 6. (7) [It has ceased to exist for at least one (1) year] IT WAS DISSOLVED, ABSORVED, MERGED, AND/OR HAS CEASED TO EXIST; *(8) IT IS A BUSINESS ORGANIZATION;*

[(8)] (9) It fails to participate in last two (2) IMMEDIATELY preceding elections; or HAVING [It] PARTICIPATED, fails to obtain at least two percentum (2%) of the PARTY-LIST votes THEREIN. *[cast under the party-list* system in the two (2) preceding election for the constituency in which it has registered.]"

"SEC. 7. Certified List of Registered Parties. - The COMELEC shall, not later than [sixty (60)] SEVENTY FIVE (75) days before election, prepare a certified list of national, region, or sectoral parties, organization 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.

SAID CERTIFIED LIST SHALL BE PUBLISHED, FREE OF CHARGE, IN A NEWSPAPER OF GENERAL CIRCULATION AT LEAST ONCE FOR TWO (2) CONSECUTIVE WEEKS. THEREAFTER, THE SAME SHALL BE DISTRIBUTED TO ALL POLLING PRECINCTS FOR POSTING IN EVERY POLLING PLACE ON ELECTION DAY."

"Sec. 8. Nomination of Party-List Representatives. - Each registered party, organization or coalition shall submit to the COMELEC not later than [forty-four (44)] NINETY (90) days before the election a list of names, not less than [five (5)] TEN (10), from which party list representatives shall be chosen in case it obtains the required number of votes.

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 EXCEPT FOR THE PARTY-LIST SYSTEM. *[The list shall not include any candidate for any elective* office or 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 nominees shall be allowed after the same shall have been submitted to the COMELEC except in cases where the nominees dies, or withdraws in writing, his nomination, becomes incapacitated in which case the name of the substitute nominee shall be placed last in the list. Incumbent [sectoral] PARTY-LIST representatives [in the House of Representatives] who are nominated in the party-list system shall not be considered resigned.

"XXX

"Sec. 10. Manner of Voting. - [Every voter shall be entitled to two (2) votes. The first is a vote for [candidate for member of the House of Representatives in his] legislative district, and the second, a vote for the PARTY-LIST REPRESENTATIVE [party organization, or coalition he wants represented in the House of Representatives: Provided, that a vote cast for a party, sectoral organization, or coalition not entitled to be voted for shall not be counted: Provided, finally, that the first election under the party-list system shall be held in May 1998.]

[The COMELEC shall undertake the necessary information campaign for purposes of educating the electorate on the mater of the party-list system.]"

SEC. 11. Number of Party. - The party-list representatives shall be at LEAST FIFTY (50) MEMBERS OR WHICH EVER IS HIGHER, twenty percentum (20%) of the total number of the members of the House of Representatives including those under the party list SYSTEM OF VOTING.

[For purposes of the May 1998 elections, the first five (5) major political parties in the basis of party representation in the House of Representatives at the start of the Tenth Congress of the Philippines shall not be entitled to participate in the party list system.

In determining the allocation of seats for the second vote, the following procedure shall be observed:

(a) The parties, organizations, and coalitions shall be ranked from the highest to the lowest based on the number of votes garnered during the elections.

(b) The parties, organizations, and coalitions receiving at least two percent (2%) of the total votes cast for the party-list system shall be entitled to one seat each: Provided, That those garnering more than two percent (2%) of the votes shall be entitled to additional seats in proportion to their total number of votes: Provided, finally, That each party, organization, or coalition shall be entitled to not more than three (3) seats."

"SEC. 12. Procedure in Allocating Seats for Party-List Representatives. - The COMELEC shall tally all the votes for the parties, organizations, or coalitions on a nationwide basis, rank them according to the number of votes received and allocate party list [representatives] SEATS proportionately according to the percentage of votes obtained by each party, organization, or coalition as against the total nationwide votes cast for the party-list system: PROVIDED, THAT A VOTE CAST FOR A PARTY, ORGANIZATION, OR COALITION NOT ENTITLED TO BE VOTED FOR SHALL NOT BE COUNTED: PROVIDED *FURTHER, THAT, IN DISTRIBUTING THE SEATS AMONG THE PARTY-*LISTS. ONLY THOSE WHO OBTAINED AT LEAST TWO PERCENT (2%) OF THE VALID SECOND VOTES IN THE LEGISLATIVE DISTRICTS SHALL BE INCLUDED: PROVIDED FINALLY, THAT, EACH PARTY, SECTORAL ORGANIZATION OR COALITION SHALL BE ENTITLED TO NOT MORE THAN TEN (10) SEATS.

THE SEATS RESERVED FOR THE PARTY-LIST NOMINEES SHALL BE DISTRIBUTED AMONG THE PARTY LIST ON THE BASIS OF THE SECOND VOTES CAST BY THE VOTERS AS FOLLOWS:

THE TOTAL NUMBER OF PARTY-LIST NOMINEES SHALL BE MULTIPLIED BY THE NUMBER OF SECOND VOTES OBTAINED BY *EACH PARTY-LIST IN ALL LEGISLATIVE DISTRICTS AND THE* PRODUCT DIVIDED BY THE SUM TOTAL OF SECOND VOTES OBTAINED BY ALL PARTY-LISTS TO BE TALLIED; FIRST, EACH PARTY SHALL RECEIVE ONE (1) SEAT FOR EACH WHOLE NUMBER ATTRIBUTED TO IT. *THE SEATS THEN REMAINING SHALL BE* ALLOCATED IN THE DESCENDING SEQUENCE OF DECIMAL FRACTIONS RESULTING FROM THE CALCULATION. IN CSE OF EQUAL FRATIONS, THE ASSIGNMENT OF THE LAST SEAT SHALL BE DICIDED BY THE COMMISSION ON ELECTIONS BY DRAWING LOTS. SHOULD THERE BE UNFILLED SEATS, THE SAME SHALL BE ALLOCATED AMONG THE PARTIES HAVING THE NEXT HIGHEST NUMBER OF VOTES BASED ON PLURALITY UNTILL ALL THE SEATS RESERVED UNDER THE PARTY-LIST SYSTEM HAVE BEEN ALLOCATED."

"XXX"

SEC. 14. Term of Office. - XXX

EVERY VOTER SHALL BE ENTITLED TO TWO (2) VOTES FOR THE HOUSE OF REPRESENTATIVES THE FIRST IS A VOTE FOR THE *THE PARTY-LIST SYSTEMS ALLOWED BY A BLANK ??, SHALL BE* SPECIFICALLY CONTAINED AND PROVIED FOR IN THE ELECTION BALLOT.

THE PARTY-LIST REPRESENTATIVES SHALL CONSTITUTE AT LEAST 50 MEMBERS OR WHICHEVER IS HIGHER. TWENTY (20%) PERCENTUM OF THE TOTAL NUMBER OF THE HOUSE OF REPRESENTATIVES INCLUDING THOSE UNDER THE PARTY-LIST SYSTEM OF VOTING."

"SEC. 15. Change of Affiliation Effect. - Any [elected] party-list representative who changes his [political party of sectoral] PARTY-LIST affiliation within six (6) months before an election, he shall not be eligible for nominations as party-list representative under his new party or organization."

"XXX"

"SEC. 17. Rights of Party-List Representatives. - Party-list representatives shall be entitled to the same salaries, emoluments, RIGHTS PRIVILEGES AND BENEFITS as DISTRICT [regular] members [of the House of Representatives]."

SEC. 2. A new provision shall be inserted in Republic Act Numbered Seven Thousand Nine Hundred Forty-One now to read as Section 18, to read:

"SEC. 18. VOTER'S EDUCATION. - THE COMELEC TOGETHER WITH AND IN SUPPORT OF A ACCREDITED CITIZEN'S ARMS SHALL CARRY OUT A CONTINUING AND SYSTEMATIC CAMPAIGN THROUGH NEWSPAPERS OF GENERAL CIRCULATION, RADIO AND OTHER MEDIA FORMS, AS WELL AS THROUGH SEMINARS, SYMPOSIA, FOR A AND OTHER NON-TRADITIONAL MEANS TO EDUCATE THE PUBLIC *AND FULLY INFORM THE ELECTORATE ABOUT THE PARTY-LIST* SYSTEM."

SEC. 3. Section 18 of Republic Act Numbered Seven Thousand Nine Hundred Forty-One is hereby amended now to read as Section 19, to read:

"SEC. [18] 19. Rules and Regulations. - The COMELEC, IN CONSULTATION WITH NON-GOVERNMENT ORGANIZATIONS, PEOPLE'S ORGANIZATIONS ADND OTHER INTERESTED PARTIES, shall promulgate the necessary rules and regulations as may be necessary to carry out the purpose of this Act. *SAID RULES AND REGULATIONS INCLUDE ALL*

RESOLUTIONS THAT SHALL GOVERN OR AFFECT PARTY-LIST ELECTIONS."

SEC. 2. Other Sections is hereby renumbered accordingly.

SEC. 3. If any part of this Act is held invalid or unconstitutional, the other parts or provisions thereof shall remain valid and effective.

SEC. 4. All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed.

SEC. 5. This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved.