

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2100



Introduced by: **HON. J. MAYO Z. ALMARIO**

EXPLANATORY NOTE

This bill seeks to prohibit the rampant practice of issuing appointment papers and/or incurring loans and other obligations by outgoing elective officials in anticipation of the expiration of their term of office, or what is more popularly known as “midnight appointments or transactions”.

The temptation to resort to these kinds of practices especially of losing candidates is particularly strong. The Constitution, no less, explicitly recognizes this fact under Section 15, Article VII. However, the prohibition merely applies to the Office of the President, and understandably so because it is the Constitution, which is supposed to be the basic law of the land and not a complete repository of laws.

Be that as it may, the evils sought to be prevented by Section 15, Article VII of the Constitution is also real, and more telling in the case of local elective officials. In most cases, the appointments or particular transaction/s entered into by the outgoing elective official becomes binding on the incoming and newly elected official. He cannot just brush aside the appointments or transactions without violating civil service laws or subject himself to lawsuits by the other contracting party.

The enactment of a similar law prohibiting outgoing elective officials from making midnight appointments or transactions is thus necessary.

Hence, passage of this bill is earnestly sought.

J. MAYO Z. ALMARIO

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HOUSE BILL NO. 2100

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AN ACT
PROHIBITING LOCAL ELECTIVE EXECUTIVE OFFICIALS FROM
MAKING APPOINTMENTS AND INCURRING OBLIGATIONS
ON BEHALF OF THEIR RESPECTIVE LOCAL GOVERNMENT UNITS
NINETY (90) DAYS BEFORE THE NEXT REGULAR ELECTIONS
UNTIL THE END OF THEIR TERM

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

SECTION 1. *Title* – This Act shall be known as the “Anti-Midnight Appointments and Transactions Act of 2004”

SECTION 2. *Declaration of Policy* – It is the policy of the State to give newly elected officials of every Local Government Unit every opportunity of offering efficient, effective and good government to their constituents free from the vestiges, restrictions and obligations of the past. Pursuant thereto, the State shall take positive steps to curtail the rampant practice of issuing appointments and incurring loans or obligations by outgoing elective officials, commonly known as “midnight appointments or transactions”.

SECTION 3. *Coverage* – This Act shall apply to all elective executive officials of Local Government Units including Governors, Vice-Governors, Mayors, Vice-Mayors, and Punong Barangays.

SECTION 4. Ninety (90) days immediately before the next regular elections and up to the end of their term, no local executive officials as mentioned in Section 3 shall make appointments, except temporary appointments to executive positions when continued vacancies therein will prejudice public service or endanger public safety. Provided that, temporary appointments made may be revoked or changed by the incoming elected officials.

Neither shall any elective official as mentioned in Section 3 enter into any loan agreement or obligation on behalf of the Local Government Unit ninety (90) days immediately before the next regular elections and up to the end of his term.

SECTION 5. The Secretary of Interior and Local Government and the Secretary of Finance shall promulgate the rules and regulations necessary for the effective implementation of this Act.

SECTION 6. *Separability Clause* - If any provision or section of this Act is declared unconstitutional or invalid, such portions not affected thereby shall remain in full force and effect.

SECTION 7. *Repealing Clause* - All laws, decrees, executive orders, rules and regulations and other issuances inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 8. *Effectivity* - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

APPROVED.