

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**FIFTEENTH CONGRESS
First Regular Session**

HOUSE BILL NO. 4464

**Introduced by Reps. NERI JAVIER COLMENARES, TEDDY A. CASIÑO,
RAFAEL V. MARIANO, LUZVIMINDA C. ILAGAN, EMERENCIANA A. DE JESUS,
ANTONIO L. TINIO and RAYMOND V. PALATINO**

**AN ACT
TO ENSURE THAT THE PARTY-LIST SYSTEM IS RESERVED
FOR THE MARGINALIZED AND UNDERREPRESENTED
AMENDING REPUBLIC ACT NO. 7941, OTHERWISE KNOWN
AS THE "PARTY-LIST SYSTEM ACT" FOR THAT PURPOSE**

EXPLANATORY NOTE

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. Thus, allowing all individuals and groups, including those which now dominate district elections, to have the same opportunity to participate in party-list elections would desecrate this lofty objective and mongrelize the social justice mechanism into an atrocious veneer for traditional politics.

Chief Justice Artemio Panganiban
Supreme Court

The marginalized sectors saw Republic Act No. 7941, or the "Party-List System Act," as an opportunity to advance their interests and concerns in Congress. The 1987 Constitution mandated that party-list representatives shall constitute twenty percent (20%) of the total number of members of the House of Representatives, including those of the party-list coming from labor, peasant, urban poor, indigenous cultural communities, women, youth and other similar sectors.

Section 2 of the The Party-List System Act also provided that :

The State shall promote proportional representation in the election of representatives to the House of Representatives through a party-list system of registered national, regional and sectoral parties or organizations or coalitions thereof, which will enable Filipino citizens belonging to marginalized and under-represented sectors, organizations and parties, (to) contribute to the formulation and enactment of appropriate legislation that will benefit the nation xxx

Despite these provisions, the issue of whether the party-list system is for the marginalized and underrepresented remained an issue until the Supreme Court decided in favor of a petition by Bayan Muna party-list in the case of Bayan Muna vs. COMELEC (in that consolidated case the Court dismissed the petition in "Bagong Bayani vs. COMELEC"). In that case, the Supreme Court declared that only those who belong to the marginalized and underrepresented shall be allowed in the party-list election thus:

The intent of the Constitution is clear: to give genuine power to the people, not only by giving more law to those who have less in life, but more so by enabling them to become veritable lawmakers themselves. Consistent with this intent, the policy of the implementing law, we repeat, is likewise clear: "to enable Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties, x x x, to become members of the House of Representatives." Where the language of the law is clear, it must be applied according to its express term

xxx, it is not enough for the candidate to claim representation of the marginalized and underrepresented, because representation is easy to claim and to feign. The party-list organization or party must factually and truly represent the marginalized and underrepresented constituencies mentioned in Section 5. Concurrently, the persons nominated by the party-list candidate-organization must be "Filipino citizens belonging to marginalized and underrepresented sectors, organizations and parties."

The Court, in that historic decision which led to the disqualification of more than a hundred party-list groups, explained the reason for its decision thus:

In arguing that even those sectors who normally controlled 80 percent of the seats in the House could participate in the party-list elections for the remaining 20 percent, the OSG and the COMELEC disregard the fundamental difference between the congressional district elections and the party-list elections.

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Logic shows that the system has been opened to those who have never gotten a foothold within it – those who cannot otherwise win

in regular elections and who therefore need the "simplest scheme possible" to do so. Conversely, it would be illogical to open the system to those who have long been within it -- those privileged sectors that have long dominated the congressional district elections.

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Verily, allowing the non-marginalized and overrepresented to vie for the remaining seats under the party-list system would not only dilute, but also prejudice the chance of the marginalized and underrepresented, contrary to the intention of the law to enhance it. The party-list system is a tool for the benefit of the underprivileged; the law could not have given the same tool to others, to the prejudice of the intended beneficiaries

Despite this clear ruling, the Commission on Elections reversed in effect the Supreme Court when it allowed nominees to run for the party-list elections as long as s/he is a member of a supposed marginalized and underrepresented group at least "ninety days" before the party-list elections.

Although the number of party-list representatives has come close to 20% of the total number of members of the House, a growing concern is the entry of party-lists and nominees that are not TRULY representatives of the marginalized and underrepresented but are coming from powerful economic and political interests. The impact of the entry of those who do not belong to the marginalized and underrepresented is disastrous because like a raging tsunami it practically obliterated the constitutional intent of reserving 20% of the seats in Congress for the party-list system by allowing those who form part of the 80% to also invade the constitutionally secured seats of the already underrepresented. It also closed off the venue for the expression of the voice and interest of the poor and the already underrepresented. Changes have to be made to make sure that the COMELEC can no longer interfere with what the Constitution and Congress mandates.

The main purpose of this Bill is to address this violation of the constitutional and statutory intent for the party-list system by the amendment of 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 Congress and the Constitution sought to protect.

This bill proposes that:

1. The intent and purpose of the Constitution to reserve twenty (20) percent of the House of Representatives for the marginalized sectors be strictly complied with. The party-list system must be reserved exclusively for the marginalized and under-represented sectors of society by adopting certain specific measures to implement the intent of both RA 7941 and the Constitution as defined in the Supreme Court's

decisions in *Bayan Muna vs. COMELEC et al.* (G.R. No.147613, June 26, 2001), and *Ang Bagong Bayani-OFW Labor Party vs. COMELEC et al.* (G.R. No.147589, June 26, 2001) and recently reiterated in the 2010 case of *Bayan Muna vs. Comelec* (G.R. No. 179295) also known as *Banat vs. Comelec*. 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 representatives be done by the highest policy-making body of the party-list group. This will enable its membership to democratically choose their nominees.

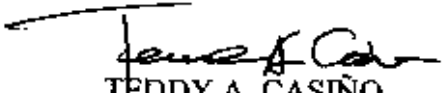
To save the party-list system, we must fulfill our historic duty of amending the party-list law if only to make sure that that very law's original intent survives.

Immediate passage of this bill is therefore earnestly sought.

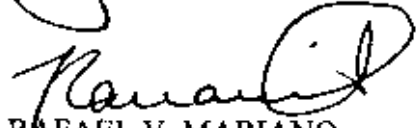
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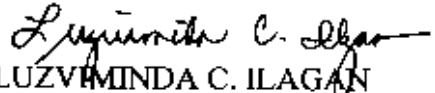
NERI JAVIER COLMENARES
Bayan Muna Party-List



TEDDY A. CASINO
Bayan Muna Party-List



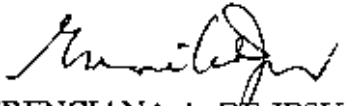
RAFAEL V. MARIANO
Anakpawis Party-List



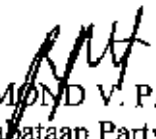
LUZVIMINDA C. ILAGAN
Gabriela Women's Party



ANTONIO L. TINIO
ACT Teachers Party



EMERENCIANA A. DE JESUS
Gabriela Women's Party



RAYMOND V. PALATINO
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*".

Section 2. Section 5 of Republic Act No. 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] ONE HUNDRED TWENTY [(90)] (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.

ELIGIBILITY REQUIREMENTS. 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 REPRESENT MARGINALIZED AND UNDERREPRESENTED SECTOR/S AND ITS NOMINEES TRULY BELONG TO THE SECTOR/S HE OR SHE SEEKS TO REPRESENT; PROVIDED THAT COMELEC SHALL NOTIFY ALL DULY REGISTERED AND ACCREDITED PARTY-LIST GROUP, ORGANIZATION OR POLITICAL PARTY 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 [sixty] NINETY [(60)] (90) days before election

Section 3. Section 7 of RA 7941 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.

Section 4. Section 8 of Republic Act No. 7941, 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 [forty-five (45)] SIXTY (60) days before the election a list of names, not less than [five (5)] 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 APPROPRIATE 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 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 nominee dies, or withdraws in writing his nomination or becomes incapacitated, in which case the name of the substitute nominee 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.

Section 5. Section 9 of Republic Act No. 7941 is hereby amended to read as follows:

Sec. 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, 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 during his term shall be allowed to continue 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 IN THE GOVERNMENT 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 BEING 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.

Section 6. Section 15 of Republic Act No. 7941 is hereby amended to read as follows:

Section 15. *Change of Affiliation; Effect.* Any elected party-list representative who changes his political party or sectoral affiliation during his term of office shall forfeit his seat: Provided, That if he changes his political party or sectoral affiliation within six (6) months before an election, he shall not be eligible for nomination as party-list representative under his new party or organization.

RECALL OF PARTY-LIST REPRESENTATIVE. THE APPROPRIATE 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 APPROPRIATE 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 COMMISSION ON ELECTIONS AND THE SUBJECT PERSON OF THE RECALL RESOLUTION. IT IS THE MINISTERIAL DUTY OF THE COMELEC AND THE HOUSE OF REPRESENTATIVES TO IMPLEMENT SUCH RECALL UNLESS DULY RESTRAINED BY AN ORDER FROM THE APPROPRIATE COURT.

Section 7. *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.

Section 8. *REPEALING CLAUSE.* All laws, decrees, orders, rules and regulations and other issuances inconsistent with the provisions of this Act are deemed modified, revoked or repealed accordingly.

Section 9. *EFFECTIVITY.* This Act shall take effect fifteen (15) days after its publication in two (2) leading newspapers of general circulation.

Approved,