

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
1st Regular Session

HOUSE BILL NO. 138



Introduced by: **HON. FRANCIS GERALD AGUINALDO ABAYA**

EXPLANATORY NOTE

As a separate and co-equal branch of government, the Philippine Constitution recognizes the preeminent role of the judiciary in balancing our democracy by providing in Section 1, Article 8, to wit: "The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

The judiciary, as the final interpreter of laws and arbiter between the branches of our government, should be peopled with men and women of integrity, independence, loyalty to our Constitution and above all efficient public servants whose morality and integrity are beyond reproach and should not be beholden to any powers that be in order for them to perform their functions with zeal and excellence.

The composition of the Judicial and Bar Council (JBC) is provided for under Section 8, Article VIII of the 1987 Constitution. The function of the JBC is to recommend to the President appointees to the Judiciary and from among the nominees, the President appoints judges and justices without need for confirmation by the Commission on Appointments. Note should also be taken that the regular members of the JBC as provided for under Section 8 (2), Article VIII are also appointed by the President.

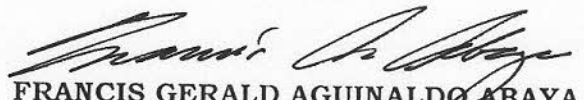
This bill seeks to ban reappointments to the JBC in order to avoid the possibility of instances where its members, in their desire to be reappointed to the Council, succumb to pressure from the executive to nominate individuals based on political considerations instead of their actual merits and qualifications, seriously undermining the quality of judicial appointments and the independence of the judiciary as a whole.

Moreover, reappointments to the JBC may also result in a loss of opportunity for other lawyers and legal experts to serve in the council, limiting the number of potentially talented individuals who might inform and enlighten the Council with their views and insights.

In the end, enhancing the independence of the JBC by avoiding political considerations and providing equal access and opportunity to

public office will strengthen the independence of our judiciary, ultimately promoting the fair administration of justice in this country.

For the foregoing reasons, the approval of this bill is earnestly sought.


FRANCIS GERALD AGUINALDO ABAYA
Representative, First District, Cavite

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
1st Regular Session

HOUSE BILL NO. 138

Introduced by: HON. FRANCIS GERALD AGUINALDO ABAYA

AN ACT
BANNING THE RE-APPOINTMENT OF A REGULAR MEMBER OF THE
JUDICIAL AND BAR COUNCIL (JBC) WHO HAS ALREADY SERVED
THE FULL TERM.

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

SECTION 1. *Short Title.* This Act shall be known as the "*Judiciary Independence Enhancing Act of 2013*".

SEC.2. *Declaration of Policy.* - It is hereby declared the policy of the State to enhance the independence of the judiciary by insulating it from political pressure.

SEC.3. *Definition.* - For purposes of this Act and pursuant to Section 8 (2), Article VIII of the 1987 Constitution, the following are the regular members of the Judicial and Bar Council, appointed by the President for a term of four years with the consent of the Commission on Appointments:

- a. Representative of the Integrated Bar of the Philippines;
- b. Professor of Law;
- c. Retired Member of the Supreme Court; and
- d. Representative of the Private Sector.

SEC.4. *Persons Covered* - A regular member of the Judicial and Bar Council who has completed the service of his/her term of office shall

be totally disqualified from being re-appointed to the same position in any capacity.

SEC.5. *Separability Clause.* – If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SEC.6. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC.7. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,