

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



18th Congress
First Regular Session

HOUSE BILL NO. 849

Introduced by Hon. Josephine Y. Ramirez Sato

EXPLANATORY NOTE

There are currently 1,652 local government units (LGUs) nationwide, mainly comprised of 38 cities and 1,514 municipalities. Under Sections 205 and 206 of P.D. No. 1096, otherwise known as the 1977 National Building Code of the Philippines (NBCP), all of these LGUs must have Building Officials to head the respective Offices of the Building Official (OBOs).

While the 1991 enactment into law of Republic Act (R.A.) No. 7160, otherwise known as the Local Government Code of 1991, was a most welcome development, its Section 477, concerning the interim appointment of City and Municipal Engineers (CMEs) to serve as the LGU Acting Building Officials (ABOs) eventually caused a major problem for the natural and built environments and for the parallel implementation and enforcement of physical planning and building laws, as well as professional regulatory laws (PRLs). One reason for this situation is that CMEs are academically trained and later tested by the State mainly for the horizontal components of the built environment e.g. roads, bridges, flood control, etc., and not actually for the vertical components of the built environment e.g. buildings and habitable structures, which is the expertise and domain of architects.

In consideration of the then exigencies 21 years ago, Sec. 477 of R.A. No. 7160 allowed the LGU CMEs to assume simultaneous jurisdiction over both horizontal and vertical infrastructures/ projects within their LGUs.

The first portion of Sec. 477 of R.A. No. 7160 (The Local Government Code of 1991) presently reads as follows:

SEC. 477. Qualifications, Powers and Duties. - (a) No person shall be appointed engineer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a licensed civil engineer. He must have acquired experience in the practice of his profession for at least five (5) years in the case of the provincial or city engineer, and three (3) years in the case of the municipal engineer. The appointment of an engineer shall be mandatory for the provincial, city, and municipal governments. The city and municipal engineer shall also act as the local building official."

As such, the CMEs were largely unable to focus on their primary tasks dealing with horizontal infrastructure such as road rights-of-way/ RROWS (including sidewalks), bridges, flood control, sewage collection and disposal, water supply, solid waste management, general civil works, traffic management, subdivision development (mainly horizontal components), mass housing, management of informal settlements, among a host of other functions. Being largely unqualified for reviewing and approving building plans, particularly architectural, site development and allied plans and designs, such CMEs eventually became an active party, apparently wittingly or unwittingly, to the damage continually wrought upon both the natural and built environments.

More than twenty (20) years after the R.A. No. 7160's passage, the result of appointing CMEs to the position of ABOs, has become all too apparent. The situation has been largely disappointing, with the quality of both horizontal and vertical works nationwide at such a dismal state, exacerbated by the apparently continuing and willful violations by/ through such CMEs as ABOs, of valid and subsisting laws such as P.D. No. 1096 itself, the National Building Code of the Philippines (NBCP), which the very same ABOs were supposed to directly implement and enforce, R.A. No. 9514 and its predecessor law P.D. No. 1185, otherwise known as the Fire Code of the Philippines, B.P. No. 344, the Law on Accessibility for the Disabled, P.D. No. 856, otherwise known as The Code on Sanitation, P.D. No. 1067, otherwise known as the Water Code of the Philippines, various environmental laws, and even the various PRLs such as R.A. No. 9266, otherwise known as The Architecture Act of 2004, and their latest implementing rules and regulations (IRRs) and derivative regulations (DRs), among others

On the other hand, Sec. 35 of R.A. No. 9266 (The Architecture Act of 2004) mandates that within (3) years from the effectivity of said law i.e. 10 April 2007, all existing and proposed

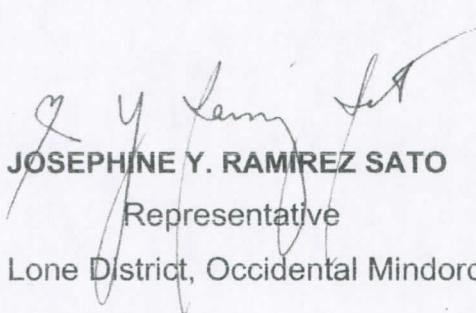
positions in the local and national government, whether career, permanent, temporary or contractual and primarily requiring the services of an architect shall be filled only by registered and licensed architects (RLAs), of which there are already about 14,500 (out of about 32,000 registered architects/ RAs who passed the only State licensure examination that is 100% about the physical planning and design of buildings and their grounds). One such position in Government requiring the services of RLAs is the position of LGU Building Official, which to date is substantially occupied by MCEs (performing a relatively unchecked dual role of exercising jurisdiction over both horizontal and vertical infrastructure).

Similarly, Section 206.2 of P.D. No. 1096 clearly states that a duly registered architect or civil engineer shall be appointed as a Building Official, placing the premium on a duly registered architect as the primary professional to be selected for the position by virtue of their superior training and State-tested qualifications relating to the physical planning and design of buildings and grounds, with the civil engineer only as an alternate choice for the position.

Lastly, CMEs have been occupying the post of ABOs only in an acting capacity for the last thirty-six (36) years and now have to relinquish the post to a more qualified registered and licensed professional (RLP) so that the CMEs will have more time to carry out their actual duties commensurate with their actual expertise.

This bill seeks to install only capable and duly-qualified registered and licensed professionals (RLPs) such as architects and civil engineers (other than CMEs) to help enable the country to somehow turn back the extensive damage brought upon the natural and built environments, again, largely occasioned by the apparently witting or unwitting acts of said CMEs who may have been unduly appointed as ABOs over the last thirty six (36) years.

The approval of this bill is urgently requested.



JOSEPHINE Y. RAMIREZ SATO

Representative

Lone District, Occidental Mindoro

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

18th Congress
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HOUSE BILL NO. 849

Introduced by Hon. Josephine Y. Ramirez Sato

ACT MANDATING THE APPOINTMENT OF REGISTERED AND LICENSED ARCHITECTS
OR CIVIL ENGINEERS OTHER THAN CITY/ MUNICIPAL ENGINEERS (CME) AS LOCAL
BUILDING OFFICIALS IN THE PHILIPPINES, AMENDING FOR THE PURPOSE SECTION
477 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE "LOCAL
GOVERNMENT CODE OF 1991", APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES.

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

Section 1. *Title.* - This Act shall be known as the "The Building Official Act".

Section 2. *Declaration of Policy.* - The State recognizes the important role of the Building Officials in nation-building. Towards this end, the State shall install Building Officials, whose technical competencies have been determined by credible licensure examinations that is focused on the planning and design of buildings and their grounds, whose standards of professional service and practice and adherence to the rule of law are nationally recognized, brought about by a regulatory environment, programs and activities that foster their professional growth and advancement and their official and civic responsibility to safeguard the natural and built environments.

Section 3. Objectives. - This Act shall expressly amend Sec. 477 of R.A. No. 7160 insofar as the appointment of Municipal and City Engineers (CMEs) to the position of Acting Building Official (ABO) is concerned.

Sec. 477 of R.A. No. 7160 is hereby amended to read as follows:

SEC. 477. Qualifications, Powers and Duties. - (a) No person shall be appointed engineer unless he is a citizen of the Philippines, a resident of the local government unit concerned, of good moral character, and a licensed civil engineer. He must have acquired experience in the practice of his profession for at least five (5) years in the case of the provincial or city engineer, and three (3) years in the case of the municipal engineer. The appointment of an engineer shall be mandatory for the provincial, city, and municipal governments. In no case shall the city and municipal engineer simultaneously act nor serve as the local building official.

Section 4. Coverage. This Act shall specifically provide for and govern the appointment of registered and licensed architects (RLAs) or civil engineers (CEs) other than CMEs as local (LGU) Building Officials (BOs) by the duly-designated National Building Official (NBO) in full accordance with law.

Section 5. Definition of Terms. - For the purpose of this Act, the following terms are hereby defined:

- a) Derivative Regulations (DR) - executive issuances by the national and local Governments which detail the implementing rules and regulations (IRRs) of valid and subsisting laws, thus completing the stream of State and local regulations, and which may take the form of, but not be limited to Executive Orders (EOs), Administrative Orders (AOs), Department Orders (DOs), Memorandum Circulars (MCs), Letters of Instruction (LOIs), Presidential Proclamations (PPs), Guidelines, Standards, Manuals of Procedure, and the like, whereby the pertinent special or general law shall be the primary legal basis for such issuances;
- b) Office of the Building Official (OBO) - an office forming part of the local government unit (LGU) but which is under the direct supervision and administrative control of the National Building Official (NBO), and whose primarily role shall be the full implementation and enforcement of the National Building Code of the Philippines (NBCP) and its various referral codes (RC) at

the LGU level, as well as the various laws that concern the natural and built environments, site and property developments, building and grounds construction and the various professional regulatory laws (PRLs);

- c) National Building Code of the Philippines (NBCP) - the law on the physical planning and design of buildings and their grounds/ sites;
- d) Building Official (BO) - refers to a natural person defined under the NBCP tasked with its full implementation and enforcement at the LGU level;
- e) National Building Official (NBO) - refers to a natural person defined under the NBCP tasked with its full implementation and enforcement at the national level;
- f) Referral Codes (RC) - are laws or regulations that are in direct support of the NBCP, consisting of but not limited to the following laws, codes or their successor laws/ codes:
 - (f.1) R.A. No. 9514, otherwise known as the Fire Code of the Philippines (FCP) of 2008 and its latest implementing rules and regulations (IRR) and derivative regulations (DRs);
 - (f.2) B.P. No. 344, An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments and Public Utilities to Install Facilities and Other Devices, and its latest IRR and DRs;
 - (f.3) Latest versions of the Architectural Code of the Philippines and its DRs;
 - (f.4) Latest versions of the Structural Code of the Philippines and its DRs;
 - (f.5) Latest versions of the Electrical Code of the Philippines and its DRs;
 - (f.6) Latest versions of the Mechanical Code of the Philippines and its DRs;
 - (f.7) P.D. No. 856, Code on Sanitation and its latest IRR and DRs;
 - (f.8) P.D. No. 1067, A 1976 Presidential Decree Instituting a Water Code, Thereby Revising and Consolidating the Laws Governing the Ownership, Appropriation, Utilization, Exploitation, Development, Conservation and Protection of Water Resources, otherwise known as The Water Code of the Philippines, and its latest IRR and DRs;
 - (f.9) R.A. No. 9275, The Philippine Clean Water Act of 2004, and its latest IRR and DRs;
 - (f.10) R.A. No. 9003, The Ecological Solid Waste Management Act of 2000, and its latest IRR and DRs;
 - (f.11) R.A. No. 8749, The Philippine Clean Air Act of 1999 and its latest IRR and DRs;

- (f.12) P.D. No. 1586, Establishing an Environmental Impact Statement System, Including Other Environmental Management Related Measures and for Other Purposes, and its latest IRR and DRs;
- (f.13) R.A. No. 9729, The Climate Change Act of 2009;
- (f.14) R.A. No. 10121, The Philippine Disaster Risk Reduction and Management Act of 2010;
- (f.15) R.A. No. 10066, the National Cultural Heritage Act of 2009; and
- (f.16) the various Professional Regulatory Laws (PRLs) such as R.A. No. 9266 (The Architecture Act of 2004), R.A. No. 544 (The Civil Engineering Law of 1950, as amended by R.A. No. 1582 in 1956), etc., including R.A. No. 8981, otherwise known as the Professional Regulation Commission (PRC) Modernization Act of 2000, and their latest IRR and DRs.

Section 6. Primary Responsibilities of the LGU Building Official (BO). For the purpose of this Act, the following are hereby defined as the primary responsibilities of the BO:

- a) always ensure the validity and currency of his/her certificate and license to practice a State regulated profession relating to the planning and design of buildings and their grounds;
- b) undertake continuing professional development/ education (CPD/E) to upgrade his/her stock knowledge or skillsets;
- c) implement and enforce Derivative Regulations (DR) when not in conflict with national law or State policy;
- d) fully implement and enforce the National Building Code of the Philippines (NBCP), the law on the planning and design of buildings and their grounds/ sites;
- e) together with the duly-qualified staff of the Office of the Building officials (OBO), cause the acceptance, process, review and approval of the architectural, engineering and allied plans, designs, specifications and related contract documents for a building and/or structure and its site/ grounds development, whether new or rehabilitated/ renovated/ expanded/ retrofitted, including the building/ structure contents such as furniture, furnishings, fixtures, equipment, signage and décor items, to attain full compliance with valid and subsisting laws on physical planning, the natural and built environments, buildings, land and property development, building and grounds construction and professional regulation;

- f) implement and enforce the referral codes (RC), which are laws or regulations that are in direct support of the NBCP; and
- g) perform such other duties and responsibilities under the NBCP or as mandated by law.

Section 7. Transitory Provisions. Within six (3) months from the effectivity of the IRR of this Act, all positions of Building Official (BO) in the LGUs shall be filled only by duly-qualified registered and licensed architects (RLAs) duly appointed by the National Building Official (NBO).

When no RLAs are available for the position, a registered and licensed civil engineer (RLCE), other than the Municipal or City Engineer (MCEs) may be appointed by the NBO to said position and occupy the same until an RLA becomes available for the position.

If no BO is appointed in a non-complying LGU, the position must be left vacant and the concerned LGU must secure building permits from the nearest LGU with a BO. The building permit and related fees shall therefore be shared, with seventy-five percent (75%) going to the permit-issuing LGU OBO and twenty five percent (25%) going to the original receiving LGU without a BO.

Failure to comply with the foregoing shall subject such Acting Building Officials/Building Officials to administrative charges or special complaints at the Office of the Ombudsman that may be filed by other public or private entities. Should the DPWH and DILG fail to require and monitor the respective compliances thereto, the responsible officials of said agencies shall be impleaded in the administrative or special complaint/s.

Section 8. Sanctions. Any person, natural or juridical, local or foreign, who unjustifiably refuses or fails to comply with this Act shall be imposed a fine of not less than One Hundred thousand pesos (Php100,000.00) but not more than Three hundred thousand pesos (Php300,000.00) on the first offense.

On the second offense, a fine of not less than Three hundred thousand pesos (Php300,000.00) but not more than Five hundred thousand pesos (Php500,000.00).

On the third offense, a fine of not less than Five hundred thousand pesos (Php500,000.00) but not more than One million pesos (Php1,000,000.00) and the cancellation or revocation of the applicable Government-issued permits or licenses to operate.

Heads, officials and employees of government institutions who violate this Act shall further be subject to the following administrative penalties:

- a) First offense - Automatic Suspension for one (1) to thirty (30) days reckoned from the filing of a verified complaint for violation of this Act;
- b) Second offense - Suspension for from thirty (30) to one hundred and eighty (180) days reckoned from the filing of a verified complaint for violation of this Act; and
- c) Third offense - Summary Dismissal from service reckoned from the filing of a verified complaint for violation of this Act.

The foregoing shall be without prejudice to other liabilities applicable under civil service law and rules.

Section 9. *Funding.* Inasmuch as the Office of the Building Official (OBO) and the Building Official (BO) are neither an office nor an official of the LGU, the funds generated by such an office/ official in relation to the performance of their official function, shall accrue directly to the OBO, which shall reimburse the LGU for the services, physical facilities or consumables furnished by the LGU. In the event of shortfalls in the operating budget of the OBO, these shall be covered by appropriated funds coming from the Department from which the NBO shall come.

Section 10. *Separability Clause.* - If any clause, provision, paragraph or part hereof shall be declared unconstitutional or invalid, such judgment shall not affect, invalidate or impair any other part hereof, but such judgment shall be merely confined to the clause, provision, paragraph or part directly involved in the controversy in which such judgment has been rendered.

Section 11. *Repealing Clause.* – The portions of Sec. 477 of R.A. No. 7160 and of Secs. 205 and 206 of P.D. No. 1096, which are inconsistent with this Act, are hereby expressly amended. All other laws, decrees, executive orders and administrative issuances and parts thereof which are inconsistent with the provisions of this Act are hereby modified, superseded or repealed accordingly.

Section 12. *Effectivity.* - This Act shall take effect-fifteen (15) days following its complete publication in the Officials Gazette or in at least two (2) newspapers of general circulation.

Approved,