

THIRTEENTH CONGRESS OF THE REPUBLIC)  
OF THE PHILIPPINES )  
First Regular Session )

'04 JUN 30 12:12

SENATE

RECEIVED BY: 

S. NO. 10

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Introduced by Senator Juan M. Flavier

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### EXPLANATORY NOTE

The Comprehensive Agrarian Reform Law of 1988 states that "It is the policy of the State to pursue a Comprehensive agrarian Reform Program (CARP). The welfare of the landless farmers and farmworkers will receive the highest consideration to promote social justice and to move the nation towards sound rural development and industrialization, and the establishment of owner cultivatorship of economic-size farms as the basis of Philippine agriculture." (Section 2. Declaration of Principles and Policies).

Despite these lofty aspirations, the implementation of the program has been saddled by the lack of support services to ensure productivity of farmer beneficiaries, illegal conversion of lands, landowners' resistance, delay in the delivery of agrarian justice and so on. Even those farmers who have been issued Emancipation Patents (EPs) or Certificate of Land Ownership Awards (CLOAs) have not been spared their own share of difficulties. After prolonged engagements with the government and former landowners to obtain EPs and CLOAs, the farmers remain uncertain over their claim to the land they are tilling.

This uncertainty is caused by the fact that EPs and CLOAs are apparently viewed as not having the same characteristics as other land titles by landowners and even some farmers and judges. In fact, past experiences have shown that these EPs and CLOAs can be cancelled anytime though existing laws grant EPs and CLOAs the same status as that of any other land title.

Presidential Decree No. 266 provides that "After the tenant-farmer shall have fully complied with the requirement for the grant of title under P.D. No. 27, an EP and/or grant shall be issued by the DAR on the basis of a duly approved survey plan." Full compliance, in this matter, includes completion of full payment of the awarded agricultural land. In addition, Section 106 states that "the Registry of Deeds (ROD) shall complete the entries on the aforementioned EP and shall assign an original certificate (OCT) number in case of unregistered land, and in case registered property, a corresponding transfer certificate title (TCT) without requiring the surrender of the owner's duplicate of title to be canceled." (emphasis ours). Further, Executive Order No. 228, issued on July 17, 1987, declares that qualified farmer beneficiaries are deemed full owners of the lands awarded to them under presidential Decree No. 27 (October 21, 1972).

Republic Act No. 657, on the other hand, provides that "the rights and responsibilities of the beneficiary shall commence from the time the Department of Agrarian Reform (DAR) makes an award of the land to him, such award shall be completed within one hundred eighty (180) days from the time the DAR takes actual possession of the land. *Ownership of the beneficiary shall be evidenced by the CLOA, such shall contain the restrictions and conditions provided for in this Act, and shall be recorded in the ROD and annotated on the Certificate of Title.*" (emphasis ours).

Some of us here in Congress may have heard of the cancellation of CLOAs in Hacienda Looc, Batangas, Sumilao, Bukidnon and Hacienda Maria, Agusan del Sur. These are only some of the 2,555 cases involving cancellation of EPs and CLOAs which covers 29,682 hectares of land. To be specific, the case of Hacienda Maria in Agusan del Sur involves ninety-four (94) farmers that were already in possession of the land with titles issued more than ten years ago. These titles are now facing cancellation, apparently on the ground that the former Ministry of Agrarian Reform has erroneously covered that piece of land under Presidential Decree No. 27.

One of the grounds for cancellation under DAR Administrative Order No. 2, series of 1994 is when "the land is found to be exempted/excluded from P.D. No. 27/E.O. No. 266 or CARP coverage or to be part of the landowner's retained areas as determined by the Secretary or his authorized representative." On the lands voluntarily offered under section 19 of Republic Act No. 6657 but which are found to be outside the coverage of CARP.

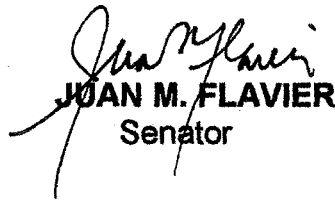
While the grounds for cancellation of EPs and CLOAs under DAR AO No. 2, s. of 1994 are generally valid, setting a prescriptive period for the cancellation of EPs and CLOAs is in order. Truly, it is the height of callousness to cancel EPs or CLOAs of farmer beneficiaries who have been, for years, diligently amortizing payments to their lands. With regard to DAR AO No. 3, s. 1996, it would also be unjust that farmer beneficiaries be made to suffer in a fault they did not have any part of. In awarding parcels of land to farmer beneficiaries, it is the DAR that negotiates with the landowners and farmer beneficiaries. The latter two parties do not have direct negotiation with each other except if the land will be under the direct payment scheme. In addition, it is the government and not the farmer beneficiaries that determines which lands would be covered by land reform. The farmer's participation only starts after the DAR has finished negotiations with the landowners and EPs or CLOAs are awarded to them. As such, the farmer beneficiaries should be regarded as "innocent purchasers for value."

This bill has six objectives. First, this legislation reaffirms that EPs and CLOAs are land titles under Presidential Decree No. 1529; second, it provides for prescriptive periods for the filing of petitions for the cancellation of EPs and CLOAs; third, it provides for compensation to landowners, whose lands were erroneously covered by land reform programs; and fourth, it ensures that the farmer beneficiaries do not bear the consequences of the DAR's errors in distributing lands that should have been exempted from coverage of our agrarian laws. Fifth, this legislation limits the effect of the Department of Justice Opinion o. 44, series of 1990 that excludes lands that have been reclassified or even without the concurrence of the Department of Agrarian Reform. The DOJ

Opinion, though not a law, has been continuously cited as a ground for cancellation of EPs and CLOAs.

Finally, it prevents the cancellation of EPs and CLOAs through the enactment of laws that further exempt lands from the coverage of agrarian reform laws. An example of this is the cancellation of EPs and CLOAs on the ground that the landowners were not paid just compensation. Truly, farmer beneficiaries should not be deprived of the lands awarded to them if the government is unable to fulfill its duties under the laws.

Passage of this bill is earnestly sought.

  
**JUAN M. FLAVIER**  
Senator

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**AN ACT  
ENSURING SECURITY OF TENURE FOR AGRARIAN REFORM  
BENEFICIARIES OVER LANDS AWARDED TO THEM UNDER  
PRESIDENTIAL DECREE NO. 27 (EMANCIPATION OF TENANTS) AND  
REPUBLIC ACT NO. 6657 (COMPREHENSIVE AGRARIAN REFORM LAW OF  
1988), PROVIDING GUIDELINES FOR THE CANCELLATION OF  
EMANCIPATION PATENTS AND CERTIFICATES OF LAND OWNERSHIP  
AWARDS ON THE GROUNDS OF EXEMPTION AND EXCLUSION,  
RETENTION OR NON-QUALIFICATION, DEFINING PENALTIES FOR  
VIOLATIONS THEREOF, AND FOR OTHER PURPOSES**

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

**SECTION 1. Declaration of Policy.** – It is the policy of the State to promote social justice and to establish owner cultivatorship of economic-size farms as the basis of Philippine agriculture. Towards this end, agricultural lands shall be distributed to qualified farmer beneficiaries. Their ownership shall be evidenced by Emancipation Patens (EPs) and Certificates of Land Ownership Awards (CLOAs).

**SEC. 2. Interpretation of this Act.** – All doubts pertaining to the interpretation of this Act shall be resolved in favor of the farmer-beneficiaries to promote social justice.

**SEC. 3. Indefeasibility of Emancipation Patents and Certificates of Land Ownership Awards.** – Emancipations Patents (EPs) or Certificates of Land Ownership Awards (CLOAs) are titles under the operation of the Torrens System, as such, they shall enjoy the same security afforded to all titles under the Torrens system of Registration; Provided, however, that:

1) The former landowners and other qualified beneficiaries, if any, have been duly notified by the DAR within fifteen (15) days before the Registry of Deeds has registered an EP or CLOA in accordance with these rules:

- a. The notice shall be served by handing a copy thereof to the landowners in person, or if he refuses to receive and sign for it, by tendering it to him:
- b. If, for justifiable causes, the notice can not be served to the former landowner in person, service may be effected (1) by leaving the copy of the notice at the former landowner's residence with some person of suitable age and discretion residing therein; or (2) by leaving the copy at the landowner's office or regular place of business to a competent person in charge thereof:
- c. Should there be other qualified beneficiaries as defined in Section 22 of R.A. No. 6657 and the provisions of P.D. No. 27, the service of notice shall be effected in accordance with any of the two (2) immediately preceding paragraphs whichever is applicable:

d. In all cases, a copy of the notice shall be posted in a conspicuous place in the city or municipal building and barangay hall of the place where the property is located;

2) The former landowners have been paid just compensation in accordance with agrarian reform laws;

*Provided, further, that this provision on notification of landowner's and other qualified beneficiaries, if any, shall apply prospectively; and Provided, finally, that no tiller of the soils or former landowner has filed a claim within one (1) year from notice of issuance of such titles.*

For this purpose, farmer beneficiaries who received EPs and CLOAs pursuant to the Comprehensive Agrarian Reform Law are hereby deemed innocent purchasers for value and are entitled to the rights and protection as such persons under existing laws.

**SEC. 4. Coverage.-** This act shall cover all actions for the cancellation of EPs or CLOAs issued to agrarian reform beneficiaries under Presidential Decree No. 27 and Republic Act No. 6657. The Petition for cancellation may be filed on the ground that said lands are excluded or exempted from distribution under agrarian laws or that they are found to part of the landowner's retained area or that they were issued to unqualified beneficiaries.

**SEC. 5. Who may File Action and When.** - only the for landowner of the property or his heirs or assignees, or the qualified beneficiary or his heirs or assignees may file an action for the cancellation of an EP or a CLOA within the period of one year from the date of registration of the EP or CLOA; *Provided, however, that for EPs and CLOAs issued before the enactment of this Act, the former landowner or the qualified beneficiary may file a petition for cancellation*

for grounds stated under this Act only within a period of one year from the time of registration of the said EP or CLOA or within three (3) months from the effectivity of this Act, whichever period is more favorable to him.

**SEC. 6. Where to File Action.** - The Provincial Agrarian Reform Adjudicator of the Department of Agrarian Reform Adjudication Board where the land is located shall have exclusive jurisdiction over petitions for CLOA or EP cancellation.

**SEC. 7. Prescriptive Period.** - The following rules shall be observe in the filing of petitions for the cancellation of EPs or CLOAs:

- a) No petition for cancellation of an EP or CLOA shall be entertained if the same is filed later that one year after the date of registration of the EP or CLOA or within three (3) months from the effectivity of this Act; *Provided*, the petitions for the cancellation of EPs or CLOAs for grounds other than the grounds provided in Section 4 hereof shall be pursued under the provisions of Presidential Decree No. 1529, other agrarian laws, and other administrative issuances;
- b) If the EP or CLOA was issued while there is a pending case for the exclusion or exemption of the subject land or another beneficiary claims to be the actual tiller of the soil, the prescriptive period shall be reckoned from the date of the final decision of the said case.

**SEC. 8. Other Prohibitions.** - 1) The reclassification of agricultural lands to anon-agricultural uses by government agencies without the concurrence of the Secretary of the Department of Agrarian Reform prior to June 15, 1998, will not exempt or exclude said properties from the coverage of the



comprehensive agrarian reform program, and the same shall not constitute a valid ground for the cancellation of an EP or CLOA;

- 2) Any amendment to agrarian reform laws issued subsequent to the distribution of an EP or CLOA shall not be a ground for its cancellation;
- 3) The issue of just compensation, shall be decided by agrarian reform courts in accordance with agrarian reform laws but shall not be a ground for the cancellation of an EP or CLOA.

**Sec. 9. Effect of Cancellation.** - If pursuant to the provisions of this Act, an EP or a CLOA is subsequently cancelled, all amortizations, including interests, paid by the farmer beneficiaries shall be reimbursed to said beneficiaries. Provided, however, that said farmer beneficiaries shall also be entitled to all rights and benefits accruing to purchasers in good faith under the New Civil Code, the Property Registration Decree, and other applicable laws.

**SEC. 10. Recovery of Damages.** - In case recovery of the property is barred, the owner may recover damages pursuant to sections 99 to 107 of Presidential Decree No. 1529.

**SEC. 11. Duty of the DAR.** - In case an EP or CLOA is cancelled pursuant to the provisions of this Act, the DAR shall inform the affected farmer of the decision within fifteen (15) days therefrom and discuss alternative arrangements to be pursued, including relocation to another site or assistance in negotiating with concerned agencies for direct acquisition in buying the land, if the farmer expresses interest therein. Provided, however, that in any case, the DAR shall ensure that the affected beneficiaries are provided with the available

lands and shall provide for the safe relocation of the farmer to such new land within a reasonable period of time.

**SEC. 12. Appeals.** – Appeals shall be governed by the Department of Agrarian Reform Adjudication Board implementing rules and regulations promulgated pursuant to P.D. No. 27 and R.A. 6657 on administrative adjudication and judicial review.

**SEC. 13. Penal Provisions.** – Any person who causes the cancellation of EPs or CLOAs in violation of the provisions of this Act shall be punished by imprisonment from six (6) years and one (1) day to twelve (12) years or a fine equivalent to the value of the land but not less than one hundred thousand pesos (P100,000.00) for every violation thereof, or both imprisonment and fine at the discretion of the Court.

In addition to the imprisonment and/or fine imposed by the preceding paragraph, any DAR provincial or municipal agrarian reform officer, who causes the issuance of EPs and CLOAs to two or more different farmer-beneficiaries resulting in multiple issuances of EPs and CLOAs over the same parcel of land, shall suffer the accessory penalty of perpetual absolute disqualification as defined in Article 30 of the Revised Penal Code.

**SEC. 14. Implementing Rules.** – the Department of Agrarian Reform shall issue the necessary rules and regulations consistent with the provisions of this Act.

**SEC. 15. Repealing Clause.** – Department of Agrarian Reform Administration Orders No. 02, series of 1994 and 03, series of 1996 and Department of Justice Opinion No. 44, series of 1990 are hereby modified

accordingly. All other laws and implementing rules and regulations inconsistent herewith are hereby repealed or modified accordingly.

**SEC. 16. Separability Clause.** - if any part of this Act is declared illegal or unconstitutional by a competent court, the same shall not affect the other provisions of this Act.

**SEC. 17. Effectivity.** - This Act shall take effect fifteen (15) days after its complete publication in the official Gazette or in two (2) newspapers of general circulation.

Approved,