

SIXTEENTH CONGRESS OF THE REPUBLIC }
OF THE PHILIPPINES }
Third Regular Session }



Senate
Office of the Secretary

'15 DEC -7 A11:35

SENATE

COMMITTEE REPORT NO. 330

Submitted by the Committee on Environment and Natural Resources on DEC 07 2015

Re : Senate Bill No. 2243

Recommending that it be archived.

MR. PRESIDENT:

The Committee on Environment and Natural Resources to which was referred Senate Bill No. 2243, introduced by Senator Binay, entitled:

**"AN ACT
PROVIDING FOR THE LEGAL FRAMEWORK TO GOVERN SPECIAL USE
AGREEMENTS IN PROTECTED AREAS"**

has considered the same and has the honor to report this bill back to the Senate with the recommendation that Senate Bill No. 2243 be archived.

The provisions of the aforementioned Senate bill have been made part of House Bill No. 6141, the House version of the proposed Expanded National Integrated Protected Areas System (ENIPAS) Act of 2015.

Respectfully submitted:



FRANCIS G. ESCUDERO
Chairman

Vice - Chairpersons:



GREGORIO B. HONASAN II



CYNTHIA A. VILLAR



LOREN LEGARDA

Members:



ANTONIO "SONNY" F. TRILLANES IV



PAOLO BENIGNO "BAM" AQUINO IV



RAMON BONG REVILLA JR.

GRACE POE

PIA S. CAYETANO

FERDINAND R. MARCOS JR.

AQUILINO "KOKO" PIMENTEL III



SONNY ANGARA



MARIA LOURDES NANCY S. BINAY



JOSEPH VICTOR G. EJERCITO



VICENTE C. SOTTO III

Ex - Officio Members:



RALPH G. RECTO
President Pro-Tempore

ALAN PETER "COMPAÑERO" S. CAYETANO
Majority Leader

JUAN PONCE ENRILE
Minority Leader

Hon. FRANKLIN M. DRILON
President
Senate of the Philippines
Pasay City

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



'14 MAY 26 P5 54

SENATE
S.B. NO. 2243

RECEIVED BY: *ji*

Introduced by Senator Maria Lourdes Nancy S. Binay

AN ACT PROVIDING FOR THE LEGAL FRAMEWORK TO GOVERN SPECIAL USE
AGREEMENTS IN PROTECTED AREAS

EXPLANATORY NOTE

Special Use Agreements in Protected Areas (SAPA) are issued to enable productive use of our protected areas as defined under National Integrated Protected Areas Act of 1992 while maintaining its status as a protective area. However, because SAPA as a tenurial instrument and the process for obtaining it, are principally governed by a mere administrative order (the DENR Department Administrative Order (DAO) 2007-17), the implementation of the same has been subject to the discretion of the Department of Environment and Natural Resources (DENR).

Sometime in 2011, the issuance of SAPA has been indefinitely suspended by the DENR. In the meantime, Regional Executive Directors of DENR have entered into so-called interim SAPAs through the use of Memorandum of Agreement. Aside from the fact that this appears to circumvent the indefinite suspension issued by the DENR itself, the legal status of the SAPA has been made uncertain.

This uncertainty should be removed.

The provisions of DAO 2007-17, which contains the salient provisions on SAPA should be given the status of a binding law giving only the DENR or the Protected Area Management Board limited discretion as to the procedure and technical requirements. Moreover, the status of the SAPA should be clarified in relation to other tenurial instruments for use of lands of public domain such as foreshore leases.

Finally, to curb abuses of the SAPA, any violation of its terms and conditions should be met with appropriate sanctions.

For this reason, the passage of this bill is earnestly recommended.


MARIA LOURDES NANCY S. BINAY
Senator

14 MAY 26 P5 54

SENATE
S.B. NO. 2243

RECEIVED BY: ji

Introduced by Senator Marla Lourdes Nancy S. Binay

1 AN ACT PROVIDING FOR THE LEGAL FRAMEWORK TO GOVERN SPECIAL USE
2 AGREEMENTS IN PROTECTED AREAS
3
4

5 *Be it enacted by the Senate and House of Representatives of the Philippines in Congress*
6 *assembled:*
7

8 SECTION 1. *Declaration of Policy.* The policy of the State provides for the conservation of
9 biodiversity and sustainable development in protected areas to maintain essential ecological
10 processes and life support systems.
11

12 The effective management of protected areas shall encourage cooperation between and
13 among stakeholders to
14 manage and develop the appropriate zones of protected areas through special use agreements.
15

16 SECTION 2. *Definition of Terms.* For the purpose of this Act, the following terms shall
17 mean as follows:
18

19 (a) Special Uses - include activities and introduction of development mentioned in
20 Section 4 of this law and consistent with the Protected Area Management Plan
21 pursuant to Republic Act No. 7586 or the National Integrated Protected Areas System
22 Act of 1992 (NIPAS Act).
23

24 (b) Special Use Agreement in Protected Areas (SAPA) - a binding instrument between
25 the Department of Environment and Natural Resources (DENR) through the
26 Protected Area Management Board (PAMB) as the first party and a second party as
27 defined in Section 6 and 7 hereof, and duly approved by the Secretary of the DENR.
28

29 (c) Strict Nature Reserve - is an area possessing some outstanding ecosystem features
30 and species of flora and fauna of scientific importance maintained to protect nature
31 and maintain processes in an undisturbed state in order to have ecologically
32 representative examples of the natural environment available for scientific study,
33 environmental monitoring, education, and for the maintenance of genetic resources in
34 a dynamic and evolutionary state.

35 Any other terms and conditions not heretofore defined shall have the meaning assigned to
36 them in the NIPAS Act or its Implementing Rules.
37

1 SECTION 3. *Scope and Coverage.* SAPA may be issued within protected areas except in
2 Strict Nature Reserves and shall be confined only to management zones of the protected area
3 appropriate for the purpose.
4

5 The SAPA can be issued only in protected areas whose management zones have been
6 identified and delineated.
7

8 SECTION 4. *Kinds of Special Uses.* The following are the special uses that may be allowed
9 but not limited to, within protected areas, subject to the issuance of an Environmental
10 Compliance Certificate and approval by the Secretary of the DENR or his duly authorized
11 representative:
12

- 13 (a) Ecotourism facilities;
- 14 (b) Camp Sites;
- 15 (c) Communication facilities;
- 16 (d) Transmission lines;
- 17 (e) Irrigation canals/waterways;
- 18 (f) Rights-of-way such as transmission lines, communication facilities and such other
19 purposes that may be identified by the DENR;
- 20 (g) Aqua culture;
- 21 (h) Scientific Monitoring Stations of PAGASA, PIILVOLCS and other relevant
22 government agencies;
- 23 (i) Agro-Forestry; and
- 24 (j) Forest Plantation.
25

26 SECTION 5. *Duration of the SAPA.* The SAPA may have duration of twenty-five years and
27 may be renewed subject to review and approval of the Secretary of the DENR or his
28 authorized representative upon endorsement of the PAMB. After expiration or non-renewal
29 of the SAPA, all improvements and structures in the area shall be turned over to the DENR
30 unless said structures pose dangers to the maintenance of the protected area.
31

32 SECTION 6. *Who May Apply.* The following may apply for SAPA:
33

- 34 (a) Indigenous Peoples/Indigenous Cultural Communities as defined under the
35 Indigenous People's Rights Act;
- 36 (b) Tenure Migrants as defined under the Implementing Rules of the NIPAS Act;
- 37 (c) Local Government Units;
- 38 (d) Other Government Agencies;
- 39 (e) Other stakeholders (corporations, partnerships, associations, cooperatives, non-
40 governmental organizations)
41

42 The PAMB shall develop a set of criteria as guide for the selection of applicants. Preference
43 shall be given to Indigenous Peoples and tenured migrants in the issuance of the SAPA.
44

45 SECTION 8. *Qualification of Applicants.* The following may apply for SAPA:
46

- 47 (a) Filipino citizen of legal age; or
- 48 (b) A corporation, partnership, association, cooperative or a juridical person,
49 including non-governmental organizations duly created and/or registered under
50 Philippine laws, at least sixty percent of the capital of which is owned by Filipino

1 citizens. In determining the nationality of an entity, the grandfather rule shall be
2 applied.

3
4 SECTION 9. *Grounds for the Cancellation of the SAPA.* The SAPA may be cancelled by the
5 Secretary or his authorized representative as recommended by the PAMB for any of the
6 following:

- 7
8 (a) Violation or noncompliance with any of the terms and conditions stipulated in the
9 SAPA, the ECC and permits issued by other Government Agencies;
10 (b) If the Agreement was obtained through fraud, misrepresentation or omission of
11 material fact existing at the time of the filing of the application;
12 (c) Abandonment of the area or failure to exercise the privilege granted within the
13 prescribed period of one (1) year from the issuance of the SAPA without justifiable
14 cause;
15 (d) Dissolution of the corporation, partnership, or association;
16 (e) Violation of environmental and natural resources laws, rules and regulations;
17 (f) When the national interest so requires as determined by the DENR Secretary;

18
19 SECTION 10. *Assignment or Transfer.* A SAPA holder may transfer the SAPA or any rights
20 therein or any assets used therewith, if authorized by the Secretary of the DENR provided
21 that the following conditions are met:

- 22
23 (a) The SAPA has been in existence for at least three (3) years;
24 (b) The SAPA holder has been faithfully complying with all the terms and conditions of
25 the SAPA;
26 (c) The transferee has all the qualifications and none of the disqualifications to hold a
27 SAPA; and
28 (d) The transferee shall assume all obligations and responsibilities of the transferor
29 specified in the SAPA and the ECC.

30
31 SECTION 11. *Appropriate Tenurial Instrument for Protected Areas.* The SAPA shall be the
32 appropriate tenurial instrument for the allowed uses in the Protected Areas including the use
33 of foreshore and offshore lands. Once an area is declared a Protected Area, all pending
34 foreshore lease applications shall be converted into applications for SAPA.

35
36 SECTION 12. *Penalties.* Any individual or entity in violation of the terms and conditions of
37 the SAPA and other relevant rules and regulations promulgated pursuant to this Act, shall be
38 fined with an amount not exceeding Fifteen Million Pesos (P15,000,000.00) in addition to its
39 liability under other special laws.

40
41 SECTION 13. *Separability Clause.* If any provision or part of this Act, or the application
42 thereof to any person or circumstance be held unconstitutional or be invalid, such parts not
43 affected thereby shall remain in full force and effect.

44 SECTION 14. *Repealing Clause.* All laws, decrees, executive orders, proclamations, rules
45 and regulations and other issuance of parts thereof, inconsistent with the provisions of this
46 Act are hereby repealed or modified accordingly.

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

3

4 Approved,

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