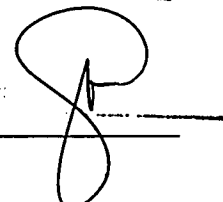


SENATE

20 NOV 11 P2:54

S. NO. 1914



Introduced by **SENATOR CYNTHIA A. VILLAR**

**AN ACT
CREATING THE BORACAY ISLAND DEVELOPMENT AUTHORITY, DEFINING
ITS POWERS AND FUNCTIONS, PROVIDING FINES, PENALTIES, AND
FUNDS THEREFOR AND OTHER PURPOSES**

EXPLANATORY NOTE

Under the 1987 Philippine Constitution, it is enunciated as the policy of the State "to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."¹

In line with the constitutional guarantee of ensuring a healthful ecology, landmark laws such as the Republic Act (RA) No. 9003 or the "Ecological Solid Waste Management Act" and RA No. 9275 or the "Philippine Clean Water Act" were enacted.

However, despite the existence of these laws, the environment continues to gravely suffer from degradation. This may be attributed to the combined weak implementation of the environmental laws by the authorities and indifference to these laws by the people.

The Boracay Island, which is one of the best beaches in the world and considered a world-famous jewel of Philippine tourism, was not spared from environmental degradation. Through the years, Boracay Island gained popularity

¹ Article II, Section 16, 1987 Philippine Constitution

and became a top tourism destination in the Philippines, thereby ushering in developments, such as hotels, resorts, restaurants, bars and rental houses that were built over the island to provide accommodation to the ever growing number of tourists. Boracay Island even became an entertainment hub as it played host to some of the biggest parties and festivities in the country, particularly during holidays. The exponentially increasing number of tourists became unsustainable and breached the island's carrying capacity. The apathetic concern for the environment amidst the thriving development in Boracay, along with the weak implementation of the environmental laws by the authorities eventually led to a polluted Boracay Island then.

In 2018, several news reports exposed the environmental problems besetting Boracay Island, particularly the improper solid waste management and deficient sewerage system. A materials recovery facility in Barangay Manoc Manoc in Boracay became an open dumpsite of mixed waste because segregation was not properly observed. As to the sorry state of the island's sewerage system, no less than President Rodrigo Roa Duterte remarked that "Boracay is a cesspool". It was revealed that the water concessionaires in the island have been found to have deficient wastewater treatment facilities; while some of the establishments were found to be illegally discharging their wastewater to the beach. Apart from these, it was discovered that several beachfront properties have built over the supposed easement from the shorelines, while some establishments have encroached on the island's natural wetlands.

The persistent environmental degradation of Boracay prompted the President to issue Proclamation No. 475 on April 26, 2018 declaring a temporary closure of the island as a tourist destination for six (6) months so that it could be rehabilitated. For this purpose, President Duterte likewise issued Executive Order No. 53 creating the Boracay Inter-Agency Task Force (BIATF) tasked to formulate, implement and oversee policies, as well as strictly enforce national laws and local ordinances, to ensure the rehabilitation and ecological sustainability of Boracay.

During the rehabilitation period, remedial measures were instituted to restore the ecological integrity of Boracay. These measures include, among others: observance of proper solid waste management that includes the maintenance of an efficient MRF; a massive crackdowns on erring tourist establishments found to be flagrantly violating environmental laws; dismantling of illegal structures in supposedly "no-build" zones along beachfronts as well as those encroaching the wetlands; prevention of the discharge of untreated wastewater from establishments near beachfronts; completion of road and drainage projects; and continuous rehabilitation of the wetlands in partnership with the private sector. These initiatives brought about an improved ecological condition of Boracay when it was opened to tourists after the rehabilitation period.

To sustain the efforts undertaken and to prevent the recurrence of the problems encountered in the past, the following regulations on the island were adopted, among others: accommodation of tourists are only limited within the carrying capacity of the island; prohibition of structures (day beds, tables, chairs, and beach umbrellas) on the shores easement; and regular conduct of environmental compliance monitoring and construction of more sewage treatment plants (MFR) to maintain good water quality.

For the long term sustainability of the rehabilitation done on the island, the BIATF proposes the creation of a Boracay Island Development Authority (BIDA), attached to the Office of the President, that will promote and accelerate the sustainable development and balanced growth of Boracay Island consistent with the necessity of maintaining a sound ecological balance on protecting and enhancing the quality of the environment.² The composition of BIDA will include representatives from the pertinent national government agencies – DENR, DILG, DOT, DPWH, DOH DOJ, the Governor of Aklan, the Mayor of the Municipality of Malay, all as *ex-officio* members, a General Manager to be appointed by the President and two (2) representatives from the private sector. The Authority shall have the following functions and responsibilities, among others: to operate, administer and develop Boracay Island; to formulate and implement short and long-term plans and

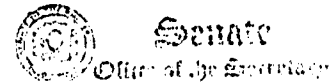
² BIATF Resolution No. 2020-01 dated June 11, 2020

strategies for eco-tourism development, environmental protection, social development, and infrastructure development only in Boracay Island; to establish a graded system of protection and development control over the whole of Boracay Island; to adopt and implement measures and standards, as formulated by standards setting bodies, for environmental pollution control of all areas within its territory; and to regulate the entry of people, vehicles, supplies, and materials to the island consistent with the prevailing carrying capacity of the island

In view of the foregoing, I earnestly seek the approval of this measure.



CYNTHIA A. VILLAR



SENATE

20 NOV 11 P2:54

S. NO. 1914

Introduced by **SENATOR CYNTHIA A. VILLAR**

**AN ACT
CREATING THE BORACAY ISLAND DEVELOPMENT AUTHORITY, DEFINING
ITS POWERS AND FUNCTIONS, PROVIDING FINES, PENALTIES, AND
FUNDS THEREFOR AND OTHER PURPOSES**

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

1 Section 1. *Short Title.* – This Act shall be known as the "Boracay Island
2 Development Authority".

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the national policy to
4 promote, and accelerate sustainable development and balanced growth of Boracay
5 Island consistent with the necessity of maintaining a sound ecological balance on
6 protecting and enhancing the quality of the environment. Towards this end, the
7 Boracay Island Development Authority (BIDA) shall formulate policies, plans,
8 programs, and projects for the rehabilitation, preservation, and enhancement of
9 Boracay Island which shall ensure environmental management and control,
10 advancement of the quality of human life and ecological systems, and the prevention
11 of undue ecological disturbances, deterioration and pollution.

12 Sec. 3. *Regulation of the Utilization and Development of the Boracay Island.* –
13 The utilization and development of Boracay Island shall be strictly regulated
14 pursuant to all laws and statutes on the utilization, conservation, preservation and
15 protection of natural resources and the environment. All utilization and development

1 shall strictly comply with the land use plan approved by the Boracay Island
2 Development Authority and the requirements imposed by existing environmental
3 laws, rules, regulations and other issuances, taking with utmost consideration at all
4 times the sustainable use and development of the area.

5 **Sec. 4. *The Boracay Island Development Authority.*** – For the purpose of
6 carrying out and effecting the declared national policy, there is hereby created a
7 body to be known as the Boracay Island Development Authority (BIDA), hereinafter
8 referred to as the 'Authority'.

9 Within the framework and subject to the mandate and limitations of the
10 Constitution, Boracay Island shall be developed into a sustainable commercial,
11 financial, investment, and tourism center to generate employment opportunities and
12 to attract foreign and local tourists and promote productive investments, taking into
13 account the protection and preservation of the natural resources and biodiversity.

14 The Authority is attached to the Office of the President and shall execute the
15 powers and functions herein vested and conferred upon it, in such a manner as will,
16 in its judgment, aid to the fullest possible extent in carrying out the goals and
17 purposes set forth below.

18 It shall be organized within ninety (90) days from the approval of this Act.

19 **Sec. 5. *Definition of Terms.*** – As used in this Act, the following terms are
20 deemed as follows:

21 a) "Boracay Island" refers to the tourist destination covering the
22 Barangays of Balabag, Manoc-Manoc, and Yapak in the Municipality of
23 Malay, Province of Aklan, located approximately 315km (200 miles)
24 south of Manila and 2km off the Northwest tip of the Island of Panay in
25 the Western Visayas Region of the Philippines;

26 b) "Sustainable development" means the improvement in the quality of
27 life of the present and future generations through the

1 complementation of development and environmental protection
2 activities and programs;

3 c) "Natural Resources" refer to life-support systems such as the sea, coral
4 reefs, soil, lakes, rivers, streams, and forests as well as useful products
5 found therein such as minerals, wildlife, trees and other plants,
6 including the aesthetic attributes of scenic sites that are not man-
7 made;

8 d) "Conservation" refers to the wise use of natural resources that assures
9 regeneration and replenishment for continuous benefit;

10 e) "Ecology" means the life-sustaining interrelationships and interactions
11 of organisms with each other and with their physical surroundings;

12 f) "Graded system of protection" refers to a system similar to zoning,
13 where different areas are subjected to differing levels of protection and
14 development, as appropriate;

15 g) "Forest lands" include the public forest, the permanent forest or forest
16 reserves, and forest reservations;

17 h) "Public forest" means the mass of lands of the public domain which has
18 not been the subject of the present system of classification for the
19 determination of which lands are needed for forest purposes and which
20 are not;

21 i) "Permanent forest or forest reserves" refers to those lands of the public
22 domain which have been the subject of the present system of
23 classification and determined to be needed for forest purposes;

24 j) "Forest reservations" refer to forest lands which have been reserved by
25 the President of the Philippines for any specific purpose or purposes;

26 k) "Easement" refers to the twenty-five (25) plus five (5) meters no build
27 area and setback observed in Boracay Island wherein no building or
28 structures of any kind neither commercial, business, recreational and
29 residential, whether permanent or temporary shall be constructed

1 and/or allowed to operate on the beaches around the island including
2 the offshore waters;

3 l) "Ancestral lands" refer to land occupied, possessed and utilized by
4 individuals, families and clans who are members of the ICCs/IPs since
5 time immemorial, by themselves or through their predecessors-in-
6 interest, under claims of individual or traditional group ownership,
7 continuously, to the present except when interrupted by war, force
8 majeure or displacement by force, deceit, stealth, or as a consequence
9 of government projects and other voluntary dealings entered into by
10 government and private individuals/corporations, including, but not
11 limited to, residential lots, rice terraces or paddies, private forests,
12 swidden farms and tree lots.

13 m) "General Manager" refers to the chief operating or executive officer of
14 the Boracay Island Development Authority (BIDA) duly appointed by
15 the President;

16 **Sec. 6. *Location of Principal Office.*** – The Authority shall maintain its principal
17 office in Boracay Island, but it may have branch offices in such other places as may
18 be necessary for the proper conduct of its business.

19 **Sec. 7. *Powers, Functions, and Responsibilities of the Authority.*** – The
20 Authority shall have the following powers, functions, and responsibilities:

- 21 a) To operate, administer, manage, and develop Boracay Island;
- 22 b) To formulate and implement short and long-term plans and strategies for
23 eco-tourism development, environmental protection, social development,
24 and infrastructure development only in Boracay Island;
- 25 c) To establish a graded system of protection and development control over
26 the whole of Boracay Island, including its tribal lands, forests, mines,
27 agricultural areas, settlement areas, biodiversity, mangroves, coral reefs,
28 seagrass beds and the surrounding sea and shall be carried out in

1 coordination with and shall not overlap with the protection and control
2 functions of existing government entities;

3 d) To protect, maintain, and develop forestlands, protected areas, and
4 wetlands; enforce the rules and regulations of DENR and other
5 government agencies directly involved in the above functions;

6 e) To adopt and implement measures and standards, as formulated by
7 standards setting bodies, for environmental pollution control of all areas
8 within its territory;

9 f) To update the prevailing carrying capacity study every three (3) years;

10 g) To approve or disapprove and issue necessary clearances for all plans,
11 programs, and projects by the local government offices/agencies within
12 the Island, public corporations and private persons or enterprises where
13 such plans, programs and/or projects are related to the mandate of the
14 Authority;

15 h) To undertake and regulate the establishment, operation and maintenance
16 of utilities, other services and infrastructure in the Island;

17 i) To order the demolition or removal of illegally constructed structures,
18 whether temporary or permanent, in public domain including but not
19 limited to easements and forest lands areas. Such demolition or removal
20 shall be carried out by the Department of Public Works and Highways;

21 j) To order the closure, cessation of operations, and suspension or stoppage
22 of development or construction of establishments for non-compliance of
23 applicable permits and licenses or violation of any provision of this act,
24 rules and regulations issued by the Authority, and existing laws;

25 k) To regulate the entry of people, vehicles, supplies, and materials to the
26 island consistent with the prevailing carrying capacity study;

27 l) To adopt, amend, and rescind such rules and regulations and impose
28 reasonable fines and penalties for the effective implementation of the
29 provisions of this Act; and

1 m) To perform such other powers as may be necessary under existing laws to
2 carry out the purposes of this Act.

3 **Sec. 8. Relationship of the Authority and the local government units. –**

4 a) In no case shall any provision of this Act result in the diminution of local
5 taxing authority, and the general supervision of higher level LGUs to lower
6 level LGUs; and

7 b) The decision of the Authority shall prevail in case of conflict between the
8 Authority and the local government units concerned on matters affecting
9 Boracay Island, except on the issue as mentioned in the immediately
10 preceding paragraph.

11 **Sec. 9. Composition of the Authority. –** The powers shall be vested in and
12 exercised by the Authority, composed of eleven (11) members, as follows:

13 a) The General Manager to be appointed by the President of the Philippines;

14 b) Secretary of the Department of Environment and Natural Resources as
15 Chairman;

16 c) Secretary of the Department of the Interior and Local Government as Vice
17 Chair;

18 d) Secretary of the Department of Tourism as Co-Vice Chair;

19 e) Secretary of the Department of Public Works and Highways;

20 f) Secretary of the Department of Health;

21 g) Secretary of the Department of Justice;

22 h) The Governor of the Province of Aklan as ex-officio member;

23 i) The Municipal Mayor of the Municipality of Malay as ex-officio member;
24 and

25 j) Two (2) representatives from the private sector.

26 The President of the Philippines shall appoint a General Manager from a list of
27 at least three nominees recommended by the Authority. The General Manager shall
28 be coterminous with the term of the President and shall not be reappointed for

1 another term. Appointment to any vacancy shall only be for the unexpired term of
2 the predecessor.

3 The Secretaries of the respective National Government Agencies shall appoint
4 a permanent alternate representative who shall be at least an Assistant Secretary in
5 rank. He/she shall attend meetings of the Authority in the absence of their
6 principals.

7 The two (2) representatives from the private sector shall be composed of one
8 (1) representative who shall be a resident of the Municipality of Malay representing
9 either civil society organizations whose principal purpose is environmental protection
10 and sustainable development or the local business organizations; and one (1)
11 representative from the Tourism Congress of the Philippines.

12 **Sec. 10. *Qualifications.*** – No person shall be appointed or designated as
13 General Manager unless he/she is a natural-born Filipino citizen, of good moral
14 character, of unquestionable integrity, and of recognized competence in relevant
15 fields including, but not limited to, economics, management, international relations,
16 law, or engineering.

17 **Sec. 11. *Functions of the Authority.*** – The Authority shall be the policymaking
18 body of the Authority and shall perform the following functions:

- 19 a) Determine the organizational structure of the Authority, define the duties
20 and responsibilities of all officials and employees and adopt a
21 compensation and benefit scheme as least equivalent to that of the
22 Bangko Sentral ng Pilipinas;
- 23 b) Create such other divisions and positions as may be deemed necessary for
24 the efficient, economical and effective conduct of the activities of the
25 Authority;
- 26 c) Appoint all officials down to the third level and authorize the General
27 Manager of the Authority to appoint all others, provided that all
28 appointments shall be on the basis of merit and fitness and all personnel

1 action shall be in pursuance of Civil Service laws, rules and regulations,
2 except those coterminous employees of the members of the Authority;

3 d) To decide with finality on matters affecting Boracay Island, except on the
4 issue as mentioned in Section 8, paragraph "a".

5 e) Prepare the annual and supplemental budgets of the Authority; and

6 f) Submit an annual report of the operation and such other reports as may
7 be required, including the details of the annual and supplemental budgets
8 of the Authority to the President of the Philippines, President of the
9 Senate, Speaker of the House of Representatives, and the National
10 Economic Development Authority.

11 **Sec. 12. *Meetings of the Authority.*** – The Authority shall meet at least once
12 every quarter and as the need arises. The Authority shall be convened by the
13 Chairman or upon written request signed by a majority of the members.

14 **Sec. 13. *Powers and Functions of the General Manager.*** – The General
15 Manager shall be the chief executive of the Authority. As such, he/she shall have the
16 following powers and duties:

17 a) Submit for consideration of the Authority the policies and measures which
18 he/she believes to be necessary to carry out the purposes and provisions
19 of this Act;

20 b) Execute and administer the policies, plans, programs and projects
21 approved by the Authority;

22 c) Direct and supervise the operation and internal administration of the
23 Authority. The General Manager may delegate certain of his/her
24 administrative responsibilities to other officers of the Authority subject to
25 the rules and regulations of the Authority;

26 d) Appoint officials and employees below the rank of division heads to
27 positions in the approved budget upon written recommendation of the
28 division head concerned using as guide the standard set forth in the
29 Authority's merit system;

- 1 e) Submit quarterly reports to the Authority on personnel selection,
2 placement, and training; and
3 f) Perform such other functions as may be provide by law.

4 **Sec. 14. *Appropriation and Funding.*** – The sum of One Hundred Fifty million
5 pesos (PHP 150,000,000.00) is hereby appropriated as initial operating fund.
6 Thereafter, such amount as may be necessary for the continuous operation of the
7 BIDA shall be included in the annual General Appropriations Act (GAA).

8 **Sec. 15. *Implementing Rules and Regulations.*** – The Authority, in consultation
9 with the stakeholders, shall issue the rules and regulations necessary to effectively
10 implement the provisions of this Act within ninety (90) days from the effectivity of
11 this Act.

12 **Sec. 16. *Penal and Civil Liability Clause.*** Any person, natural or juridical, shall
13 be liable for imprisonment of not exceeding three years or a fine not exceeding five
14 thousand pesos or both at the discretion of the Court for:

- 15 a) Obstructing or impeding the execution of demolition orders;
16 b) Disobeying cease and desist, closure, or suspension orders;
17 c) Operating business establishments without the necessary permits and
18 licenses from concerned government offices;
19 d) Violating the conditions stipulated in the clearances or permits issued by
20 the Authority; and
21 e) Violating any of the provisions of this Act or any rules or regulations
22 promulgated by the Authority.

23 If the violator be a corporation, partnership or association, the officer or
24 officers of the organization concerned shall be liable therefor.

25 The Authority may file criminal charges and pursue separate civil actions for
26 damages resulting from infractions of the provisions of this Act and rules and
27 regulations issued pursuant thereto.

1 **Sec. 17. *Transitory Provisions.*** – Upon the organization of the Authority, the
2 Boracay Inter-Agency Task Force (BIATF) created by Executive Order No. 53 and the
3 Boracay Inter-Agency Rehabilitation Management Group created by virtue of BIATF
4 Resolution No. 2018-31 shall be abolished. Their powers and functions shall be
5 absorbed by the Authority and all plans, programs, projects, and cases filed shall be
6 transferred to the Authority.

7 The officers and employees thereof shall continue in a holdover capacity until
8 such time as the new officers and employees of the Authority shall have been duly
9 appointed pursuant to the provisions of this Act.

10 **Sec. 18. *Separability Clause.*** – If any provision of this Act is declared invalid
11 or unconstitutional, the other provisions not affected thereby shall remain valid and
12 subsisting.

13 **Sec. 19. *Repealing Clause.*** – All laws, acts, executive orders, memorandum
14 circulars/guidelines and other issuances or parts thereof, which are inconsistent with
15 this Act, are hereby repealed or modified accordingly.

16 **Sec. 20. *Effectivity.*** – This Act shall immediately take effect upon its approval.

Approved,