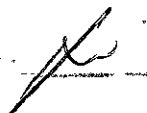


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SENATE

Senate Bill No. 725

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Pursuant to Article XIII, Section 1 of the 1987 Philippine Constitution, Congress is mandated to give highest priority to the enactment of measures that reduce social, economic and political inequalities and cultural inequities by equitably diffusing wealth and political power. The State shall, to this end, regulate the acquisition, ownership, use and disposition of property and its increments. The 1987 Constitution, in the same article, likewise upholds the rights of farmers to own directly the lands they till, and of fishermen to the preferential use of both inland and offshore communal marine resources.

However, 22 years after the ratification of the 1987 Constitution, the State has yet to fulfill this mandate. Land ownership continues to remain a dream for many landless farmers and fishermen. Thus, this bill proposes a mechanism that will ensure equitable access to and ownership of public lands by farmers and fisherfolk through a system of free patent. While the proposed measure extends the free patent system to qualified beneficiaries as defined, preferential right is given to (1) farmers and farm workers who have continuously occupied and cultivated either by themselves or their predecessors-in-interest a parcel of public land and (2) fisherfolk living along coastal areas and similar areas of the public domain near the fishing ground. As a safeguard for the qualified beneficiaries of the free patent system, any person who willfully obstructs or impedes the acquisition of a free patent by a qualified beneficiary, or who sells, transfers or acquires a land of public domain to circumvent the application of this bill, shall be criminally liable and meted out a penalty of fine and/or imprisonment.

The importance of land tenure security cannot be overstated. Ownership of land tenure facilitates transactions in land and enables land to be used as collateral for loans. More importantly, food security depends on land security tenure in direct and indirect ways - farmers and fishermen who are given security of land tenure contribute to food security through their own food production and through other economic activity using land as a resource. This bill thus provides hope not only for landless, marginalized farmers and fishermen but also to the general Filipino public.

In view of the foregoing, early passage of this bill is earnestly requested.


JINGGOY EJERCITO ESTRADA
Senator

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SENATE

Senate Bill No. 725

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AN ACT
PROVIDING A MECHANISM FOR THE EQUITABLE ACCESS TO AND
OWNERSHIP OF PUBLIC LANDS BY FARMERS AND FISHERFOLK,
MANDATING FOR THAT PURPOSE AN ADMINISTRATIVE PROCESS FOR
THE TITLING OF SUCH PUBLIC LANDS THROUGH THE ISSUANCE OF
FREE PATENT AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. - This Act shall be known as the "**Farmers' and
Fisherfolk Free Patent Act of 2010.**"

SEC. 2. Declaration of Policy. - It is hereby declared the policy of the
State to give utmost priority to the right of farmers and fisherfolk to an equitable
access to and ownership of land. Toward these ends, the State shall implement a
mechanism for an expeditious and affordable land titling process, thereby
providing farmers and farmworkers an opportunity to directly own land and
acquire security of land tenure. Further, the State shall endeavor to protect the
rights of fisherfolk and ensure their preferential use to communal marine and
fishing resources, both inland and offshore. Moreover, the State shall craft and
implement measures that will bring about the optimum use of land as a resource
and ensure the sustainable use and management of lands.

SEC. 3. Coverage. This Act shall cover only alienable and disposable
lands of the public domain classified as such in accordance with law.

SEC. 4. Qualified Beneficiaries. The provisions of any law, rules or
regulations to the contrary notwithstanding, any natural-born citizen of the
Philippines who is not a registered owner of more than twelve (12) hectares of
alienable and disposable public land and who for ten (10) years or prior thereto,
either by himself or through his *bona fide* predecessor-in-interest, has been
actually residing on, and continuously possessing and occupying, under a *bona
fide* claim of acquisition of ownership, a parcel of untitled land on the public
domain classified as alienable and disposable, shall, upon application, be entitled
to have a free patent issued to him for such parcel of land; *Provided*, That the
land applied for is not needed for public service or public use and that no such
free patent shall be issued for townsite reservations established under Chapter
XI of the Public Land Act; *Provided further*, That none of the provisions of
Presidential Decree No. 705, otherwise known as the *Revised Forestry Code* are
violated by the issuance of such patent; *Provided finally*, That the land for which

a free patent is applied for shall not be encumbered, sold, or converted into other uses by the applicant within five (5) years from the issuance of the free patent.

SEC. 5. Preferential Right to Free Patent. - Except when ownership of a parcel of land has already been acquired through homestead patents, judicial confirmation of title, or other modes of acquisition of title recognized under Commonwealth Act No. 141, otherwise known as the *Public Land Act*, the following shall have preferential right to apply for a free patent covering the public land which they occupy:

(1) Farmers and farmworkers who have continuously occupied and cultivated either by themselves or their predecessors-in-interest a parcel of public land; and

(2) Fishermen and fisherfolk living along coastal areas and similar areas of the public domain near the fishing ground.

For purposes of this Act, "farmer" shall refer to a natural person whose primary livelihood is cultivation of land or the production of agricultural crops either by himself or with the help of his immediate household, "farmworker" shall refer to a natural person who renders service for value as an employee or laborer in an agricultural enterprise or farm regardless of whether his compensation is paid on a daily, weekly, monthly or "*pakyaw*" basis and "fisherfolk" shall refer to any natural person directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources.

SEC. 6. Jurisdiction. The Provincial Environment and Natural Resources Officer or City Environment and Natural Resources Officer of the DENR shall have exclusive original jurisdiction over all applications for the issuance of a free patent under this Act for all alienable and disposable public lands within their area of jurisdiction. All protest and opposition to any application for the issuance of a free patent shall likewise be adjudicated exclusively by the Provincial or City Environment and Natural Resources Officer; Provided, *That*, jurisdiction over all conflicts and cases arising from ownership of private lands shall remain with the regular courts.

SEC. 7. Requirements. Every application under the provisions of this Act shall be made under oath and shall set forth

(1) The name and address of the applicant;

(2) That the applicant has all the qualifications required by this Act;

(3) That the application is made in good faith;

(4) That the application is made for the exclusive benefit of the applicant and not, either directly or indirectly for the benefit of any other person, or persons, corporation, association, or partnership,

(5) As accurate a description of the land as may be given, the city or municipality where it is located, and its limits and boundaries, specifying those having reference to accidents of the ground or permanent monuments, if any; and

(6) That the land applied for shall not be encumbered, sold, or converted into other uses by the applicant within five (5) years from the issuance of the free patent.

SEC. 8. *Publication.* All applications for a free patent filed under the provisions of this Act shall be posted in the Provincial or City Environment and Natural Resources Office and in the provincial capitol or city hall of the province or city where the land subject of the application is situated.

SEC. 9. *Registration of Title.* If, after having duly complied with the posting requirement, without any objection or opposition having been filed thereto, the land is determined to be an alienable and disposable land of the public domain and the applicant is a qualified beneficiary under the provisions of this Act, an order for the approval of application and issuance of a free patent shall be signed and issued by the Provincial Environment and Natural Resources Officer or the City Environment and Natural Resources Officer.

The duly-signed free patent shall be transmitted to the Register of Deeds of the province or city where the land subject of application is situated within five (5) working days from the time of its issuance for registration and the issuance of the corresponding certificate of title, in accordance with Section 103 of Presidential Decree 1529. It shall be the duty of the Register of Deeds to register the free patent within five (5) days from receipt thereof, whereupon a certificate of title shall be entered as in other cases of registered lands, and an owner's duplicate certificate of title be issued to the grantee.

SEC. 10. *Remedies.* Any person may file an objection or opposition under oath to any application on the grounds that the applicant is not qualified under the provisions of this Act, or that the land subject of the application is needed for public use and purposes.

The City Environment and Natural Resources Officer or the Provincial Environment and Natural Officer shall resolve the matter raised by the opposition in accordance with the existing mechanism and procedure for Settlement of Land Disputes.

SEC. 11. *Bar Against Conversions.* - Any land whose title is secured under the provisions of this Act for the benefit of farmers/ farm workers and/or fishermen/ fisherfolk shall not be allowed for any large-scale conversions whether for residential, industrial or commercial purposes for a period of twenty (20) years beginning from the date of issuance of the title. This twenty year bar against land conversions, as provided in this Section, shall be expressly noted in the land title issued under this Act.

SEC. 12. *Mandatory Support from Government Agencies.* - Any land whose title is secured under the provisions of this Act for the benefit of farmers/ farm workers and/or fishermen/fisherfolk shall be promptly given the adequate support from any government agency, particularly from the Departments of Trade and Industry, Agriculture and Environment and Natural Resources, which shall include such adequate entrepreneurial training, financial access programs, and such other administrative support services necessary to ensure that these lands and its use are maximized for the benefit of the farmers/fisherfolk and fishermen/fisherfolks.

SEC. 13. *Penalties.* Any person who, without having the qualifications required by this Act, shall by deceit or fraud secures or attempts to secure a certificate of title through a free patent, or induces or knowingly permits another to do the same, and any person aiding and abetting him therein shall, upon conviction, be punished by a fine of not less than 10% of the fair market value of the land applied for as determined by the local government unit or by

imprisonment of *prision mayor*, or both, in the discretion of the court; Provided, That if the offender is a public official, the penalty shall include removal from office, forfeiture of all retirement benefits and perpetual disqualification to hold any other appointive or elective positions.

Any person who willfully prevents or obstructs the acquisition of a free patent by a qualified beneficiary, or sells, transfers, acquires a land of the public domain for purposes of circumventing the provisions of this Act shall, upon conviction, be punished by a fine of not less than 20% of the fair market value of the land applied for as determined by the local government unit or by imprisonment of reclusion temporal, or both, in the discretion of the court; Provided, That if the offender is a public official, the penalty shall include removal from office, forfeiture of all retirement benefits and perpetual disqualification to hold any other appointive or elective positions.

Any violation of Section 11 of this Act shall be punishable by imprisonment of *prision mayor*, or both, in the discretion of the court; provided that, if the offender is a public official, the penalty shall include removal from office, forfeiture of all retirement benefits and perpetual disqualification to hold any other appointive or elective positions.

SEC. 14. Separably Clause. If, for any reason or reasons, any part or parts of this Act shall be declared unconstitutional or invalid by any competent court, other parts or provisions thereof not affected thereby shall continue to be in full force and effect.

SEC. 15. Repealing Clause. All laws, decrees, executive orders, executive issuances or letters of instruction, rules and regulations, or any part thereof, inconsistent with or contrary to the provisions of this Act, are hereby deemed repealed, amended or modified accordingly.

SEC. 16. Effectivity Clause. This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved,