


10 JUL -7 P4:13

SENATE

Senate Bill No. 727

RECEIVED BY 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The Island of Boracay is considered as the crown jewel of the Philippine tourism industry but has become a heavily developed island for residential, tourism and commercial purposes. Government records however show that the entire island remained unclassified, hence, pursuant the authority of the President to classify lands as alienable and disposable, Proclamation No. 1064 was issued in 22 May 2006 declaring certain parcels of land in the Island of Boracay as agricultural and open to disposition.

The Supreme Court, in *Secretary of Environment and Natural Resources vs Yap, et.al* (G.R. 167707, October 8, 2008), has pronounced that there is nothing invalid or irregular, much less unconstitutional about the classification of Boracay Island made through Proclamation No. 1064. It further declared that in issuing the said Proclamation, the government has taken the step necessary to open up the island to private ownership. Unfortunately, the said Proclamation is deficient as to the mode of acquisition of the lands declared as alienable and disposable. Thus, the Supreme Court in the same case affirmed that Congress may enact a law providing for the registration of title to the said lands, thereby enabling private parties to acquire title to their occupied lots.

Thus, this bill defines the mode of acquisition of the lands classified as agricultural land open to disposition in the Island of Boracay through a free patent system that will enable qualified citizens to have these lands titled in their name. Moreover, taking into consideration the importance of ensuring the sustainable use and development of the island, this proposed measure requires strict compliance with the land use plan approved by the local government unit and existing rules and regulations of the Department of Environment and Natural Resources. The environmental integrity of the island is likewise protected as the bill identifies protected forest areas and recognizes rights of indigenous cultural communities to their ancestral domain.

In sum, the intent of this bill is two-pronged to facilitate the titling of lands in favor of present, qualified occupants and to ensure the sustainable and balanced development and use of the Island of Boracay.

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


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT

ESTABLISHING A MECHANISM FOR THE SUSTAINABLE DEVELOPMENT AND USE OF THE ISLAND OF BORACAY, MUNICIPALITY OF MALAY, PROVINCE OF AKLAN, DEFINING FOR THE PURPOSE THE MODE OF ACQUISITION FOR CERTAIN PARCELS OF ITS PUBLIC DOMAIN CLASSIFIED AS AGRICULTURAL LAND OPEN TO DISPOSITION UNDER PROCLAMATION NO. 1064 AND PROVIDING ENVIRONMENTAL SAFEGUARDS THEREFOR, AND FOR OTHER PURPOSES.

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

SECTION 1. Declaration of Policy. - Pursuant to Article XII, Section 1 of the 1987 Philippine Constitution that the goals of the national economy are a more equitable distribution of opportunities, income and wealth, the State hereby adopts a policy of ensuring the fair and expeditious titling of alienable and disposable agricultural lands of the public domain, Towards this end, the State shall facilitate the titling of lands in favor of qualified Filipinos to provide them with security of land tenure. Further, in recognition of the need to accelerate the country's development without compromising the protection and conservation of the country's natural resources, the State shall undertake measures to adopt sustainable development strategies of forestlands, national parks and the resources therein and provide environmental safeguards while at the same time spurring local economic growth

SEC. 2. Coverage- The provisions of this Act shall apply to the parcels of land of the public domain located in the Island of Boracay, Municipality of Malay, Province of Aklan delineated and declared as agricultural lands open to disposition for agricultural, residential, commercial, industrial or other productive purpose through *Proclamation No. 1064* The aforementioned agricultural lands are likewise hereby excluded from the operation of Presidential Proclamation No. 1801, dated 10 November 1978, entitled, "Declaring Certain Islands, Coves and Peninsulas as Tourist Zones and Marine Reserves under the Administration and Control of the Philippine Tourism Authority".

SEC. 3. Mode of Acquisition. - The Department of Environment and Natural Resources shall alienate the agricultural lands identified in Section 2 hereof, subject to the limitations provided for in this Act, through the issuance of a free patent over any parcel thereof to any citizen of the Philippines who for at least thirty (30) years prior to the effectivity of this Act has continuously occupied and/or cultivated either by himself or through his predecessors-in-interest or who shall have paid the real estate tax thereon while the same has not been occupied

by any other person. Such qualified person shall be entitled under this Act to have a free-patent issued to him for such tract of land not to exceed twelve (12) hectares per applicant; *Provided*, That the Department of Environment and Natural Resources shall also reserve lands or lots of sufficient size and strategic location to the local government of Malay, the Province of Aklan and other agencies of the national government for essential public purposes and/or services such as school buildings, public plazas, health centers and similar offices and similar purposes including necessary avenues, streets and alleyways; *Provided, firther*, That any title that may be issued over lands for public purpose shall be in the name of the Republic of the Philippines and all roads, avenues, streets, alleyways shall be in the name of the Province of Aklan.

The provisions of Commonwealth Act No. 141, as amended, otherwise known as the "Public Land Act", not inconsistent herewith, shall be applicable.

SEC. 4. Protected Forest Lands. - Areas of the public domain within the Island of Boracay classified as forestlands pursuant to *Proclamation No. 1064* are hereby declared forestlands, under the sub classification of protection forests. For ecological and rational land use considerations, the following shall also constitute part of the protected forestlands and inalienable portions of the public domain, to wit:

(a) Five (5) meters strip inland from the twenty-five (25) meters mandatory beach front easement, measured from the mean high water mark

(b) Five (5) meters on each side of the centerline of roads, for road protection and widening and drainage; and

(c) Three (3) meters landward on both sides of creeks and canals.

Such forestlands shall be conserved, preserved and regulated by the Department of Environment and Natural Resources, jointly with the Municipal Government of Malay, the Provincial Government of Aklan and concerned national agencies pursuant to the provisions of *Presidential Decree No. 705*, as amended, otherwise known as the "Revised Forestry Code of the Philippines", *Republic Act No. 9072*, otherwise known as the "National Caves and Cave Resources Management and Protection Act", their implementing rules and regulations, as well as other pertinent laws, proclamations, issuances and administrative orders on conservation and environmental protection.

SEC. 5. Strict Regulation of the Utilization and Development of the Island. - The utilization and development of all areas along the Island of Boracay shall be strictly regulated by the Department of Environment and Natural Resources pursuant to all laws and statutes on the utilization and protection of natural resources and the environment, and must strictly comply with the land use plan approved by the local government unit and the requirements imposed by existing Department of Environment and Natural Resources rules, regulations and other issuances, taking into consideration the sustainable use and development of the area and at all times with utmost respect to the right of indigenous cultural communities to their ancestral lands.

SEC. 6. Congressional Oversight Committee. For the full and effective implementation of this Act, there shall be created a Congressional Oversight Committee, hereinafter referred to as the Boracay Island Congressional Oversight Committee, to be composed of four (4) members each from the Senate

and House of Representatives, which shall be the Chairpersons of the Senate Committees on Environment and Natural Resources, Tourism and Local Government and another senator who shall be appointed by the Senate President, and, Chairpersons of the House Committees on Natural Resources, Tourism and Local Government, and the elected Representative of the Province of Aklan subject to appointment by the Speaker of the House of Representatives. It shall be chaired by the Chairperson of the Senate Committee on Environment and Natural Resources, and the Vice-Chair shall be the Chairperson of the House Committee on Natural Resources.

The Boracay Island Congressional Oversight Committee shall be the principal body tasked to monitor and evaluate the implementation of the provisions of this Act. For such purpose, it may require, from time to time, the Department of Environment and Natural Resources and the local government unit to submit a comprehensive status and accomplishment report on the implementation of the provisions of this Act. The Secretary of the Department of Environment and Natural Resources shall promptly comply with any order of the Boracay Island Congressional Oversight Committee.

SEC. 7. *Implementing Rules and Regulations.* - The Department of Environment and Natural Resources, in coordination with the Provincial Government of the Province of Aklan and in consultation with the Boracay Island Congressional Oversight Committee, shall within ninety (90) days from the enactment of this Act, promulgate the rules and regulations necessary for the implementation of this Act.

SEC. 8. *Separability Clause.* - If, for any reason, any provision of this Act is declared unconstitutional or invalid, other provisions hereof which are not effected thereby shall continue to be in full force and effect.

SEC. 9. *Repealing Clause.* - All laws, decrees, executive orders, proclamations and administrative regulations, or parts thereof inconsistent herewith are hereby repealed or modified accordingly.

SEC. 10. *Effectivity Clause.* - This Act shall take effect immediately after its publication in at least two national newspapers of general circulation.

Approved,