

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **3104**

INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
RAFAEL V. MARIANO

EXPLANATORY NOTE

In the last two decades, our government has redesigned the disposition of our agricultural lands as part of our economic reconstruction along the thrust of economic liberalization. The liberalization process imposed by the International Monetary Fund (IMF) and later, the World Trade Organization (WTO) and other similar "free trade agreements" (FTAs) has been intended to open new areas for local and foreign investments supposedly in order to wean our economy from agriculture dependence and place it on track toward private sector-led and export-oriented "industrialization."¹

In pursuance of such thrust, the government rolled out different development blueprints that built on and exponentially expanded the World Bank-inspired "integrated-area development" (IAD) model of land use plan that was first applied in the country when the Marcos regime erected the foundation of "export processing zones" and implemented the Green Revolution. These development blueprints went by different names: "industrial corridor" during the Aquino administration, "growth areas" during Ramos, "strategic agriculture and fisheries development zones" with their cores of "regional industrial centers" during Estrada, and "super regions" under the present Arroyo administration. But they have one essential feature: they disposed our land resources toward providing the spatial requirements for attracting local and foreign investments.

In the main, those requirements include allotting lands for building investment basins and infrastructure development that served to connect the investment basins to the export market. The difference is that the lands allocated have been getting bigger and wider with each name and development blueprint. With the First Calabarzon Project as prototype, each development model went from integrating provinces to integrating regions, requiring the massive allocation of lands in a scale that the country had never seen before, with the land allocation running in hundreds of thousands of hectares (such as Estrada's "SAFDZs" and Arroyo's "super regions"). To illustrate the land scope, the First Calabarzon Project covers over 900,000 hectares.

¹The development trajectory pursued in the post-Marcos period was actually the second stage of implementation of the "export-oriented industrialization" platform that was started during the early years of the Marcos dictatorship but sputtered in implementation as the dictator lost popular support. For instance, the First Calabarzon Project was actually first hatched in the late 1970s. It was implemented by the Aquino regime retaining about 90% of its component projects.

This triggered an unprecedented eruption of wholesale reclassification of our agricultural lands from the national level down to local government units to force open our land resources to local and foreign investments. The policies and rules on land use were also relaxed to release our lands from their actual agricultural use and tenure, enhance their commodification and to facilitate the penetration of investments. In addition, laws were passed to batter down the structural restrictions to the entry of foreign investments into our agriculture.² This led the local land market and real estate industry, together with speculators, land hoarders and "buccaneers" to set out a new wave of land accumulation that preys on the possession of small farmers and even agrarian reform beneficiaries.

All these measures were done with the government failing to enact a national land use plan to guide the content and course of investments on the ground. In the highly liberalized economy that unfolded, the only government's role in these development programs was to designate the areas for investment and infrastructure to build up. As to the investment content of these areas, it is left to the private sector initiative.

With the release of our land resources to private sector-led investment forays, local and foreign investors have had their "season in the sun" encroaching on land reform areas, speculating on the burgeoning land market and converting agricultural lands to other uses. This, in turn, spiked land prices that animated many landlords and real estate speculators to "strike while the iron is hot". And they struck with such frenzy that it assumed the dimension of a mindless real estate invasion on our peasant communities and agricultural lands.

In a naked display of private sector abuse, prime rice lands that once lined both sides of the highways going to Central Luzon and Southern Tagalog were wiped out by land use conversion in just a matter of four years (1990-1994). Even the highly irrigated rice lands were not spared. The rice lands that used to serve the basic needs of the majority were replaced by real estate projects that mainly serve the luxuries of the elite. So it is not only that these projects took our agricultural lands away from real productive use, they also had narrow and short term benefits.

As a national phenomenon, land use conversion first conquered the plains since such topography give the real estate projects their supposed "competitive edge" (proximity and accessibility to urban-based facilities). Even before the plains were exhausted, it started going into the interior of the country. When the expanded version of the prototypical Calabarzon Project was replicated to other regions of the country, more lands fell to the mindless land use conversion. In some parts of the country, after exhausting our prime agricultural lands, it even climbed up to watershed areas, laying siege on our environment in the name of "eco-tourism". While the government of the day and real estate investors hailed the dawning in the country of a "real estate boom", our farmers decried the rapid shrinking of our prime agricultural lands and the loss of their farms and livelihood.

Because of private sector abuse of their right to profit and with land use conversion going uncontrolled, the country lost a lot of intangibles that proved disastrous to our economy in the long term. Foremost of these intangibles are the productive forces in our agriculture that were destroyed by land use conversion. According to the National

² Foremost of these laws is the Foreign Investors Land Lease Act which gives foreign investors the right to lease public agricultural lands for a period of 50 years and renewable for another 25 years. The law, authored by then Sen. Gloria Macapagal-Arroyo, was passed in 1994.

Statistics Office (NSO), over 800,000 hectares of lands had been converted to other uses since 1972. It can be fairly estimated that about three-fourth of this figure were converted during the post-Marcos implementation of the "export-oriented industrialization" program. On the equation that a hectare can employ 4-5 farm workers, that means the loss of 2 to 3 million jobs and livelihood in agriculture. On the average 3-hectare landholding, the figure also means that some 200,000 displaced farmers were added to the landless rural population, exacerbating thereby the problem of landlessness in the countryside.

If these lands were planted to *palay*, that also means the country's loss of no less than 1.8 million metric tons (MT) of rice. Thus, in addition to lost employment and increasing landlessness, land use conversion had also banished our food security to oblivion. In 1996, our rice imports volume started climbing to the heights of 1 million MT a year. It reached the 2 million MT mark in 1998 when the country experienced "El Nino". It went down to the vicinity of 700,000 MT a year during 1999 -2002 but in 2002 -2005, it hovered at 1.1 million MT a year. For 2010 requirements, the past government ordered 2.45 million MT of rice.

The employment and livelihood that land use conversion destroyed and the landlessness it left on its wake bears upon the growing inequality in our society and reversed previous attempts to attain social justice for the poor. While landlords and real estate companies raked in the profit windfall from the "real estate boom" and scaled the ladder of the "top 100 corporations" of the country, the dispossessed farmers became poorer and more vulnerable to the violence of poverty. Land distribution was shunted aside as land use conversion over ran areas covered by agrarian reform or otherwise claimed by farmers through quasi-legal means. This is not to mention that land use conversion disrupts the decades of peace of our peasant communities.

Moreover, the loss of our prime agricultural lands to land use conversion is a factor to the further weakening and deterioration of our agriculture. It wasted away our most productive lands, driving our dispossessed farmers to marginal areas of our hinterlands. This adds more pressure to our depleted land resources. It is also driving our farmers out of agriculture. Since land use conversion is a threat to the security of tenure of our farmers over their farms, it exacerbates the insecurities and risks that they are experiencing due to the government's all-out liberalization of our agriculture.

For all the intangibles our country had given up, the frenzied land use conversion in the last nineteen years had not really brought our country any closer to "industrialization" since many of the projects that were put up were speculative and, therefore, non-essentials. Most of these projects were golf courses, so-called "self-contained communities" with hotels and supermalls as their core, recreation and vacation get-away complexes and high-end residential enclaves that cater to the elite. Given such wasteful disposition of our land resources, its trade-offs have been costly. While the "real estate boom" displaced thousands of farmers, it employed little from among our large technical labor force and absorbed almost nothing from the displaced laboring force in agriculture.

Its greatest impact, however, has been on the fundamentals and health of our economy. The "estate bubble" channeled investments away from real production. It is interesting to note that during the peak of the "real estate bubble" (1992-1997) industrial output declined, indicating that whatever growth the country attained from the "boom" was as hollow as it was unproductive. The projects of the "real estate bubble" being driven by speculation and fund leveraging, their stocks and added value were blown out of their real worth so much so that the "bubble" proved to be the tinderbox for the implosion in the country of the financial crisis that engulfed Asia in 1997.

Finally, the shrinking of our rice and prime agricultural lands came home to roost. For the past 5 years, our annual rice imports have been well over one million MT. Unfortunately, our government and its economic managers seemed not to have learned anything from these crises.

Land is a finite resource. On this ground alone, its use must be regulated. But what adds urgency to put some sobering control over the disposition of our land resources is the fact that our country had reached the end of its land frontier as early as the 1960s. That means that our country no longer has the capacity to expand nor the luxury to fritter our lands away to inefficient and unwise use.

The purpose of this bill is to seek regulation on land use conversion so as to prevent the unbridled abuse of our land resources by landlords and speculators to the detriment of our agriculture and our small farmers. Pending the enactment of a national land use plan that should guide investments, regulation is here sought to be attained by prohibiting the conversion into other uses of our prime agricultural lands while strictly delineating the conditions under which the land use conversion of non-prime agricultural lands may be allowed. The prohibition part of the bill aims to put a stop to the decimation of our prime agricultural lands as a way of protecting our agriculture and our farmers as well as the environment. By so doing, it is hoped that we can reverse the slide toward total loss of our food security.

The regulation part, on the other hand, aims to ensure that the land use conversion of non-prime agricultural lands will not affect the economic viability and sustainability of prime agricultural lands. It also aims to ensure that land use conversion will not disturb the peace of our peasant communities and will not violate the tenure of our farmers over their farms. It is hoped that through such regulation, our country can have its desired development without displacing large sections of our population.

It is, therefore, earnestly requested that this bill be urgently approved.



RAFAEL V. MARIANO
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**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
RAFAEL V. MARIANO**

**AN ACT
PROHIBITING THROUGHOUT THE COUNTRY
THE CONVERSION OF PRIME AGRICULTURAL LANDS INTO OTHER USES AND
REGULATING THE CONVERSION OF NON-PRIME AGRICULTURAL LANDS AND
PROVIDING PENALTIES FOR VIOLATIONS THEREFOR
AND FOR OTHER PURPOSES**

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

Section 1. Title. - This Act shall be known as the ***"Land Use Conversion Prohibition Act of 2010"***.

Section 2. State Principles and Policies. The State realizes that land use conversion is a serious threat to the sustainability of a primarily agricultural economy as well as the food security of our country. It has displaced farmers and destroyed their livelihood which immensely contributed to the increase of landlessness and unemployment in the countryside. It has disrupted, if not defiled, the ecological balance of our environment which has an impact on local climate change and imminent water crisis.

The State also realizes that agricultural lands are the primary means of livelihood of seventy percent (70 %) of our population. Land is a finite resource whose use must be regulated to prevent the depletion of our agricultural lands, attain efficient and wise use of our land resources and achieve balanced growth in agriculture and industry.

It is the policy of the State to preserve and conserve our agricultural lands. Toward this end, the State shall regulate land use conversion to resuscitate the sustainability of our agriculture, prevent the total loss of our food security, protect our ecology and environment and promote industrial development without displacing our farmers and destroying their livelihood.

Section 3. Definition of terms. For the purpose of this Act, the following terms were defined as:

- a. **Agricultural land** refers to lands, regardless of classification, suitable for agricultural production, both crops and livestock, or such other activity connected with agricultural production;

- b. **Biodiversity** refers to the variation of life forms within a given ecosystem of an area;
- c. **Crop conversion** refers to the change in the devotion of an agricultural land from one crop to another (as for example, from rice to cauliflower or banana);
- d. **Ecological habitat** refers to an ecological or environmental area that is inhabited by a particular species of animal, plant or another type of organism;
- e. **Irrigation** refers to the system and infrastructure of supplying water to cultivated agricultural lands. It includes natural irrigation systems that can be had from lakes, rivers, rivulets, streams, waterfalls, springs, and rainfall;
- f. **Land use conversion** refers to the act of changing the current use of a piece of agricultural land into some other use;
- g. **Non-prime agricultural land** refers to lands whose suitability to agricultural production or use is below the averaged 3.0 grade of the combined factors of soil fertility, climate, biodiversity, terrain, irrigation and other infrastructure development;
- h. **Prime agricultural land** refers to lands whose suitability for agricultural production or use has an averaged 3.0 grade or above of the combined factors of soil fertility, climate, biodiversity, terrain, irrigation and other infrastructure development;
- i. **Reclassification** refers to the act of specifying how agricultural lands shall be utilized for non-agricultural uses, as embodied in the land use plan, subject to the requirements and procedures for land use conversion.

Section 4. National survey to delineate prime agricultural lands from non-prime agricultural lands. To implement the mandate of this Act, the Department of Agriculture (henceforth, the Department) shall conduct a national survey to delineate prime agricultural lands from non-prime agricultural lands in accordance with the definitions of this Act. The National Mapping and Research Information Authority (NAMRIA) will also be involved in the national survey. The survey shall be completed within six (6) months after the effectivity of this Act.

Section 5. Formula for determining prime agricultural lands and non-prime agricultural lands. The survey to be conducted by the Department shall determine agricultural lands whether they are prime or non-prime by grading such lands on a scale of 1 to 10 according to the factors of soil fertility, climate, biodiversity, terrain, irrigation and other infrastructure development. The grade for each factor shall then be cumulatively averaged. Agricultural lands with a median grade of 3.0 and above shall be categorized as prime agricultural lands while agricultural lands with a median grade of below 3.0 shall be considered non-prime.

Section 6. Segregation of prime agricultural lands. In the conduct of the survey mentioned in Section 4, prime agricultural lands situated within zones or areas declared by any law or executive issuance as reserved for specific purposes, such as, but not limited to, special economic zones, tourism zones, human settlements, military reservations, campus sites, and the likes or otherwise covered by reclassification ordinance, zoning ordinance or land used plans of local government units, where such

lands have remained agricultural in actual use or undeveloped in the last three (3) years regardless of any reason, shall be segregated from the portion of the reservations actually developed or used for the specific purpose for which they have been reserved by law, executive issuance or reclassification ordinance/zoning ordinance/land use plan.

Section 7. Strict prohibition of land use conversion of prime agricultural lands. The conversion of prime agricultural lands to other uses shall be strictly prohibited until Congress has enacted a national land use plan.

Section 8. Strict prohibition of other non-prime agricultural lands. Until Congress has enacted a national land use plan, the conversion of non-prime agricultural lands to other uses shall also be strictly prohibited in the following instances:

- a. where the non-prime agricultural lands have been devoted to the production of rice, corn and other staple food of the community;
- b. where the non-prime agricultural lands have been occupied and made productive for at least three (3) years by settlers, tiller-occupants or farmers; and
- a. where the non-prime agricultural lands are the host of watershed areas.

Section 9. Prohibition of destruction of the ecological habitat of agricultural lands. It is likewise strictly prohibited of any person to perform such acts that cause the diminution of the economic viability or productivity of prime agricultural lands, or such acts that destroy or undermine the sustainability of production in prime agricultural lands, including the destruction of their ecological habitat. Such acts include the following:

- a. destroying water systems, whether natural or man-made, or diverting or impeding their flow that causes prime agricultural lands to lose their sources of irrigation, making it appear that the affected lands are no longer economically viable;
- b. large-scale cutting of trees that destroys the biodiversity of prime agricultural lands;
- c. quarrying that will have the same of destroying the biodiversity of prime agricultural lands;
- d. contaminating the water systems that irrigate prime agricultural lands with mercury and similar harmful elements or chemicals; and
- e. failure to prevent the spill of mine wastes to prime agricultural lands.

Section 10. Regulating the conversion of non-prime agricultural lands. If the agricultural land is non-prime and not suffering from any of the instances mentioned in Section 8, the land maybe converted to other uses subject to the following requisites and conditions:

- a. The conversion is for the construction of public schools, housing projects of the National Housing Authority, or public works that primarily serve agricultural production such as farm-to-market roads, bridges, irrigation,

public markets, public warehouses for agricultural products, and similar public purposes;

- b. The conversion shall not affect or interfere into the natural rhythm and cycle of the biodiversity of the entire environment of the area; and
- c. The conversion shall not diminish the productivity and the suitability for agricultural use of prime agricultural lands within the vicinity of the project.

Section 11. Disapproval by law of all pending applications for land use conversion.

All applications for land use conversion authority over prime agricultural lands already filed with the proper office of the Department of Agrarian Reform (DAR) but not yet acted upon as of December 31, 2008 are hereby declared disapproved by this Act. The lands covered by the disapproval shall automatically revert to agricultural classification.

As to applications for land use conversion authority over non-prime agricultural lands already filed with the proper office of the DAR as of December 31, 2008, such applications shall be acted upon in accordance with Sections 8 and 10 of this Act.

Section 12. Revocation of approved land use conversion authority for undeveloped projects. All approved land use conversion authorities over agricultural lands covered by Sections 8 to 10 but whose development projects have not started or with portions that have remained undeveloped as of December 31, 2008 are hereby declared revoked by this Act. Such lands or their undeveloped portion shall automatically revert to agricultural classification.

Section 13. Lands under disapproved or revoked land use conversion authority to be distributed to farmers. All agricultural lands whose conversion authority has been disapproved or revoked shall be turned over to the DAR for distribution to qualified farmer-beneficiaries.

Section 14. Development requirement before another reclassification by local government units. Local government units shall not enact a new land use plan, zoning ordinance or another reclassification of agricultural lands unless four-fifth (4/5) of the lands previously reclassified has been developed.

Section 15. Land reclassification review mechanism. When a local government unit reclassifies non-prime agricultural lands, it shall create a Task Force for the purpose of reviewing the proposed reclassification. The Task Force shall be composed of the following:

- a. representative from the farmers' sector;
- b. representative from the Barangay Agrarian Reform Council;
- c. representative from the irrigators' association;
- d. representative from the local government unit;
- e. representative from the National Irrigation Authority (NIA);
- f. representative from the National Food Authority (NFA); and
- g. representative from the civil society and other civic organizations.

The Task Force shall ensure consultation and public hearings. No reclassification of rice lands shall be made by local government units without the recommendation of the Task Force.

Section 17. Penalties. Any person found to have violated the provisions of this Act shall be punished with an imprisonment of not less than six (6) years and a fine of not less than One Hundred Fifty Thousand Pesos (P150,000.00) but not more than Three Hundred Thousand Pesos (P300,000.00).

If the conversion has been completed or irreversible, the building or infrastructure shall be confiscated by the State. The confiscated property shall be turned over to the local government with jurisdiction for public use or for public auction.

If the violator of this Act is a corporation, partnership, or any other juridical entity, the penal provisions hereof shall be applied to the president or chief executive officer of the corporation, the managing partner in the case of partnership, or the equivalent head in the case of any other juridical entity or any other person acting in their behalf. In the case of corporations, the indictment shall include the manager of the department directly responsible for the construction or conversion.

If the violator is a government official, he/she shall suffer the additional penalty of permanent disqualification from employment in the government or any of its subdivisions, instrumentality, or government-owned or controlled corporations.

Any person who evicts a farmer tilling an agricultural land to make it appear that the land has no present tiller or occupant or who changes the crop of the land to make it appear that the land is not devoted to rice, corn and other staple food shall be punished with an imprisonment of not less than one (1) year but not more than three (3) years.

Section 18. Implementing Rules and Regulations. Within thirty (30) days after the effectivity of this Act, the Department of Agrarian Reform (DAR), in consultation with the Department of Agriculture (DA) and the Department of Environment and Natural Resources (DENR), shall issue the Implementing Rules and Regulations of this Act.

Section 19. Suppletory Application. All previous or existing laws, decrees, executive orders, rules and regulations, and other issuances consistent with this Act shall have suppletory effect.

Section 20. Repealing Clause. All previous or existing laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

Section 21. Separability Clause. If, for any reason, any section or provision of this Act is declared null and void, no other section, provision, or part thereof shall be affected and the same shall remain in full force and effect.

Section 22. Effectivity Clause. This Act shall take effect immediately after publication in at least two (2) national newspapers of general circulation.

Approved.