

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

HOUSE OF REPRESENTATIVES
H. No. 111



Introduced by **Representative Teodorico T. Haresco, Jr.**

EXPLANATORY NOTE

Boracay Island, arguably the most popular tourist destination, is located approximately 315km (200 miles) south of Manila and 2km off the northwest tip of the island of Panay in the Western Visayas region of the Philippines. The island comprises the barangays of Manoc-Manoc, Balabag, and Yapak (3 of the 17 barangays which make up the municipality of Malay), and is under the administrative control of the Philippine Tourism Authority in coordination with the Provincial Government of Aklan.

On May 22, 2006, then President Gloria Macapagal – Arroyo issued Proclamation No.1064 classifying 628.96 hectares or 60.94 percent of the 1,032-hectare island as alienable and disposable on the premise that the whole of Boracay is government property. It also provides for a 15-meter buffer zone on each side of the centerline of roads and trails, which are reserved for right of way and which would form part of the area reserved for forestland protection purposes.

With the issuance of Proclamation 1064, there is a need to establish a mechanism wherein the sustainable development and use of the island of Boracay, Municipality of Malay, Province of Aklan is ensured. The mode of acquisition for certain parcels of its public domain classified as agricultural land open to disposition under the Proclamation and environmental safeguards to the island should also be provided clearly.

This bill seeks to establish 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.

Proclamation No. 1064 provided the necessary framework for such mechanism and its constitutionality was sustained by the Supreme Court. It is now left for Congress as the High Court suggested, to flesh out an Act that would fortify this mechanism. Subject to certain limitations, the proposed measure authorizes the Department of Environment and Natural Resources (DENR) to alienate 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 under Proclamation No. 1064, through the issuance of a free patent to any citizen of the Philippines who for at least thirty (30) years 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. The bill also provides for the putting in place of environmental safeguards including a mandate to respect the rights of the indigenous cultural communities to their ancestral lands.

Given the considerable contribution of Boracay Island to the economy and the tourism industry, the immediate approval of this measure is earnestly sought.


TEODORICO T. HARESCO, JR.
Representative

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11
12 **AN ACT**
13 **ESTABLISHING A MECHANISM FOR THE SUSTAINABLE DEVELOPMENT AND USE**
14 **OF THE ISLAND OF BORACAY, MUNICIPALITY OF MALAY, PROVINCE OF AKLAN,**
15 **DEFINING FOR THE PURPOSE THE MODE OF ACQUISITION FOR CERTAIN**
16 **PARCELS OF ITS PUBLIC DOMAIN CLASSIFIED AS AGRICULTURAL LAND OPEN TO**
17 **DISPOSITION UNDER PROCLAMATION NO. 1064 AND PROVIDING ENVIRONMENTAL**
18 **SAFEGUARDS THEREFOR, AND FOR OTHER PURPOSES**
19

20 *Be it enacted by the Senate and the House of Representatives of the Philippines in*
21 *Congress assembled:*
22

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

34 **SECTION 2.** *Coverage* - The provisions of this Act shall apply to the parcels of land
35 of the public domain located in the Island of Boracay, Municipality of Malay, Province of
36 Aklan delineated and declared as agricultural lands open to disposition for agricultural,
37 residential, commercial, industrial or other productive purpose through *Proclamation No.*
38 *1064*. The aforementioned agricultural lands are likewise hereby excluded from the
39 operation of Presidential Proclamation No. 1801, dated 10 November 1978, entitled,

1 "Declaring Certain Islands, Coves and Peninsulas as Tourist Zones and Marine Reserves
2 under the Administration and Control of the Philippine Tourism Authority".

3 **SECTION 3. *Mode of Acquisition.*** - The Department of Environment and Natural
4 Resources shall alienate the agricultural lands identified in Section 2 hereof, subject to the
5 limitations provided for in this Act, through the issuance of a free patent over any parcel
6 thereof to any citizen of the Philippines who for at least thirty (30) years prior to the
7 effectivity of this Act has continuously occupied and/or cultivated either by himself or
8 through his predecessors-in-interest or who shall have paid the real estate tax thereon while
9 the same has not been occupied by any other person. Such qualified person shall be
10 entitled under this Act to have a free-patent issued to him for such tract of land not to
11 exceed twelve (12) hectares per applicant; *Provided*, That the Department of Environment
12 and Natural Resources shall also reserve lands or lots of sufficient size and strategic
13 location to the local government of Malay, the Province of Aklan and other agencies of the
14 national government for essential public purpose and/or services such as school building,
15 public plazas, health centers and similar offices and similar purpose including necessary
16 avenues, streets and alleyways; *Provided. Further*, That any title that may be issued over
17 lands for public purpose shall be in the name of the Republic of the Philippines and all
18 roads, avenues, streets, alleyways shall be in the name of the Province of Aklan. The
19 provisions of Commonwealth Act No. 141, as amended, otherwise known as the "Public
20 Land Act", not inconsistent herewith, shall be applicable.

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

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

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

30 (c) Three (3) meters landward on both sides of creeks and canals. Such forestlands
31 shall be conserved, preserved and regulated by the Department of Environment and Natural
32 Resources, jointly with the Municipal Government of Malay, the Provincial Government of

1 Aldan and concerned national agencies pursuant to the provisions of *Presidential Decree N.*
2 *705*, as amended, otherwise known as the "Revised Forestry Code of the Philippines",
3 *Republic Act No. 9072*, otherwise known as the "National Caves and Cave Resources
4 Management and Protection Act", their implementing rules and regulations, as well as other
5 pertinent laws, proclamations, issuances and administrative orders on conservation and
6 environmental protection.

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

16 **SECTION 6.** *Implementing Rules and Regulations.* - The Department of Environment
17 and Natural Resources, in coordination with the Provincial Government of the Province of
18 Aldan, shall within ninety (90) days from the enactment of this Act, promulgate the rules and
19 regulations necessary for the implementation of this Act.

20 **SECTION 7.** *Separability Clause.* - If, for any reason, any provision of this Act is
21 declared unconstitutional or invalid, other provisions hereof which are not affected thereby
22 shall continue to be in full force and effect.

23 **SECTION 8.** *Repealing Clause.* - All laws, decrees, executive orders, proclamation
24 and administrative regulations, or parts thereof inconsistent herewith are hereby repealed or
25 modified accordingly.

26 **SECTION 9.** *Effectivity Clause.* - This Act shall take effect immediately after its
27 publication in at least two national newspapers of general circulation

28 *Approved,*