

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Sixteenth Congress
Second Regular Session



House Bill No. **5301**

Introduced by
Rep. Ibarra "Barry" M. Gutierrez III (AKBAYAN),
Rep. Walden F. Bello (AKBAYAN), and
Rep. Christopher Y. Belmonte (6th District, Quezon City)

EXPLANATORY NOTE

Corollary to the general powers granted to a local government unit is the specific grant of the power of eminent domain in Section 19 of Republic Act No. 7160 (*Local Government Code of 1991*), a power that has become very relevant in the implementation of local urban land reform and housing programs.

Guided by the *1987 Philippine Constitution* and provisions of pertinent laws, a local government unit may expropriate land for the benefit of the poor and the landless. This power of eminent domain is limited by Section 9 of Republic Act No. 7279 (*Urban Development and Housing Act of 1992*), which sets an order of priority on which type of land may be expropriated for socialized housing—the least priority to be privately-owned lands. Thus, following the strict letter of the law, the Supreme Court upheld and recognized the order in Section 9 of RA 7279 by invalidating ordinances passed by local government units which sought to expropriate privately-owned lands occupied by informal settler families.

The identification of a particular area to be expropriated for socialized housing is within the competence of a local government unit. A local government unit is not only mandated under law to provide for the general welfare of residents within its territorial jurisdiction but is also exposed to the realities on the ground, realities that call for the balancing of the

interests of the members of informal settler families against the demands of local urban development and interests of private landowners. The order of priority in Section 9 puts a local government unit in a straightjacket as regards identification of land for socialized housing, removing well-grounded exercise of discretion.

Added to this, private landowners have used Section 9 of RA 7279 to shift the burden on the local government unit to prove the propriety of expropriation despite a factual and judicial finding of public use. This burden slows the provision of adequate socialized housing by the local government to informal settler families.

The local government's competence and exposure to realities on the ground call for the grant of a wider discretion in identifying areas to be expropriated for socialized housing. Recognizing the legitimacy of identifying these areas, private landowners should also be prevented to use the provisions of Section 9 of RA 7279 against informal settlers, who are the beneficiaries of the provisions of the said law. There is, therefore, a need to recognize the legitimacy of the identification of areas for socialized housing by local government units.

In view of the foregoing, immediate passage of this bill is earnestly sought.



IBARRA "BARRY" M. GUTIERREZ III

WALDEN F. BELLO



CHRISTOPHER Y. BELMONTE

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AN ACT
STRENGTHENING THE RIGHT OF LOCAL GOVERNMENT UNITS TO
EXPROPRIATE LANDS FOR THE BENEFIT OF THE LANDLESS AS
PROVIDED IN SECTION 19 OF THE LOCAL GOVERNMENT CODE OF
1991, AMENDING FOR THIS PURPOSE SECTION 9 OF REPUBLIC ACT
NO. 7279 OTHERWISE KNOWN AS THE "URBAN DEVELOPMENT AND
HOUSING ACT OF 1992"

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

1 **SECTION 1. *Amendatory provision.***—Section 9 of Republic Act No. 7279 otherwise
2 known as the *Urban Development and Housing Act of 1992*, is hereby amended to read as
3 follows:

4
5 "Section 9. ~~*Priorities in the Acquisition of land.*~~—~~The~~
6 ~~following~~ lands may be acquired for socialized housing;
7 ~~shall be acquired in the following order:~~

- 8
9 (a) Those owned by the Government or any of its
10 subdivisions, instrumentalities, or agencies, including
11 government-owned or –controlled corporations and their
12 subsidiaries;
13 (b) Alienable lands of the public domain;
14 (c) Unregistered or abandoned and idle lands;

- (d) Those within the declared areas for priority development, zonal improvement program sites, and slum improvement resettlement program sites which have not yet been acquired;
- (e) Bagong Lipunan Improvement of Sites and Services of BLISS sites which have not yet been acquired; and
- (f) Privately-owned lands.

~~Where open-site development is found more practicable and advantageous to the beneficiaries, the priorities mentioned in this section shall not apply. The local government units shall give budgetary priority to on-site development of government lands.~~

The power to identify and to prioritize the particular area to be expropriated shall be with the local government unit or the proper expropriating agency subject only to provisions of the Constitution and pertinent laws on expropriation. For this purpose, the enumeration in this Section shall not, in any way, be interpreted as setting an order of priority."

SECTION 2. *Separability clause.*—If, for any reason, any part, section or provision of this Act is held invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in full force and effect.

SECTION 3. *Repealing clause.*—The *Urban Development and Housing Act of 1992* (R.A. No. 7279) is hereby amended accordingly.

All laws, decrees, executive orders, proclamations, rules and regulations, and other issuances, or part or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 4. *Effectivity clause.*—This Act shall take effect fifteen (15) days after the completion of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,