

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5563



INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
FERNANDO L. HICAP

EXPLANATORY NOTE

In the last two decades, the government has systematically and aggressively carried out the redistribution of the country's agricultural lands along the thrust of economic liberalization. Liberalization, as 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 the economy away from agriculture dependence and place it on track toward a private sector-led and export-oriented "industrialization."¹

Pursuing such direction, the government over the years has rolled out one development blueprint after another that built on and exponentially expanded the World bank-inspired concept of *integrated-area development* (IAD), a land use plan model that was first applied in the country at the outset of the Marcos regime's "export processing zones" and Green Revolution. Going by different catch-phrases – "industrial corridor" during the time of Cory Aquino, "growth areas" under Ramos, "strategic agriculture and fisheries development zones" and "regional industrial centers" under Estrada, "super regions" under Arroyo, and the "public-private partnership" program areas of the current Aquino administration – these development

¹ The development trajectory pursued in the post-Marcos period was actually the second stage of implementation of the "export-oriented industrialization" platform 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 Cory Aquino regime retaining about 90% of its component projects.

blueprints nonetheless all share in one basic orientation: disposing the country's land resources for the purpose of attracting local and foreign investments.

The scope of land redistribution or land use conversion has become more expansive with each development model as seen in the trend of integrating whole provinces and even regions in the indiscriminate allocation of thousands of hectares of land. For the First Calabarzon Project, for example, 900,000 hectares of agricultural and public lands have already been converted or are still under threat of conversion where farmers and fisherfolk communities are engaged in agrarian conflicts with landlords-turned-land developers.

In 2013 alone, the Department of Agrarian Reform (DAR) has approved 1,023 conversion applications involving a total of 35,932 hectares of land spread in every region of the country, with regions IV-A, III and VI having the highest number of converted hectareage.

Such surge of wholesale reclassification of agricultural lands, from the national level down to local government units, has effectively forced open the country's land resources to local and foreign investments in commerce, real estate, eco-tourism and other non-productive enterprises. The policies and rules on land use have consequently been relaxed or deferred to discharge the lands from their actual agricultural use and tenure, enhance their commodification prospect, and facilitate the unimpeded penetration of investments. In addition, laws have also been passed to circumvent structural restrictions against the entry of foreign investments into our agriculture.² This has likewise empowered speculators, land hoarders and "buccaneers" of the local land market and real estate industry, to prey on the possessions of small farmers and even agrarian reform beneficiaries in an unprecedented wave of land accumulation.

The extensive conversion of farmlands for non-agricultural purposes has invariably led to the cancellation of Certificates of Land Ownership Award (CLOA) and Emancipation Patents (EP) of thousands of peasants and their eviction from their places of livelihood. According to IBON Foundation, as of December 2006, 5,049 EPs and 103,092 CLOAs have been cancelled involving 204,579 hectares of land. CLOA and EP cancellation increased by 3,890 percent from the 1995 figure of 2,780 while hectares of land involved

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.

increased by 1,162 percent from 16,213 hectares. Moreover, there are at present some 50,000 cases pending before the DAR in connection with the unmitigated incidents of CLOA and EP cancellation as a result of the alarming nationwide rate of land use conversion.

Land use conversion ultimately is a grave threat to the country's food security as it continues to significantly reduce the size of land available for rice and other agricultural production. Between 1991 and 2002, total national farm area hectarage has dramatically shrunked by 304,078 hectares. In Cavite alone, from 1983 to 1989, the number of hectares of rice lands decreased from 14,710 to 12,800. Prime rice lands that once lined both sides of the highways going to Central Luzon and Southern Tagalog have practically been erased in just a matter of four years (1990-1994) because of land conversion. Even the highly irrigated rice lands have not been spared to give way to non-productive projects that have narrow and short-term benefits such as real estate "developments" that mainly serve the luxuries of the elite.

Consequently, the country, an otherwise rice-producing nation, has had to increase its rice importation requirements to the further detriment of the local producers. In 1996, rice imports volume started climbing to 1 million metric ton (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 between 1999 and 2002, but between 2002 and 2005, it hovered at 1.1 million MT a year. For 2014, the present government has said that the country needs to import at least 1.7 MT.

As a national phenomenon, land use conversion first conquered the agricultural plains given its relatively advantageous topography for real estate projects and its proximity and accessibility to urban-based facilities. Yet even before the plains had all been exhausted, the prototypical Calabarzon Project had already been replicated in the other regions of the country, with some projects reaching watershed areas and laying siege on previously untouched ecosystems all in the name of "eco-tourism." While the government and real estate investors have been hailing the dawning in the country of a "real estate boom," the Filipino farmers on the other hand have been decrying the rapid shrinking of prime agricultural lands and the loss of their farms and livelihood.

According to the National Statistics Office (NSO), over 800,000 hectares of lands have already 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. This can very well mean, on the equation that a hectare can employ 4-5 farm workers, that 2 to 3 million jobs and livelihood in agriculture have already been lost. And if the average landholding is 3 hectares, it can be concluded that some 200,000 displaced farmers have been added to the landless rural population due to land conversion, exacerbating thereby the problem of landlessness in the countryside.

The loss of employment and livelihood and the landlessness that land use conversion has left in its wake have immensely aggravated inequality in the country and have easily offset and reversed previous attempts to attain social justice for the poor. While landlords and real estate companies have been sharing in the lucrative profit windfall from the “real estate boom,” the dispossessed farmers have become poorer and more vulnerable to the violence of poverty and hunger. Land distribution has been shunted aside as land use conversion has overran areas either covered by agrarian reform or previously won by farmers through quasi-legal struggles.

Moreover, the loss of our prime agricultural lands to land use conversion has been a factor to the further weakening and deterioration of our agriculture. It has wasted away the most productive lands, driving the dispossessed farmers to marginal areas of the hinterlands. This has in fact added greater pressure to the country’s depleting land resources. It has also driven farmers out of agriculture. Since land use conversion is a threat to the security of tenure of farmers and their farms, it has exacerbated the insecurities and risks attendant to government’s all-out liberalization of agriculture.

Land use conversion in the last two decades has not brought our country any closer to industrialization. Many of the projects that were put up have generally been speculative and, therefore, non-productive. Most of these projects have been 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 very 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.

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. Add to this the fact that the unabated contraction of agricultural lands has directly been undermining the country’s food security and clearly it can be said that land use conversion has severely affected the health of the entire economy itself.

One recent example of the debilitating effects of land use conversion to agriculture and to peasant communities is the current plight of farmers in Hacienda Yulo, Barangay Canlubang in Calamba, Laguna. Thousands of farmers are now being threatened with displacement and ejectment due mainly to the conversion of around 7,000 hectares of agricultural land in Hacienda Yulo. Land use conversion is likewise being seen as the cause of the growing threat to the livelihood and settlement of peasant and Ayta communities found in the 36,000-hectare Clark Green City Project in the provinces of Tarlac and Pampanga.

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

Previously filed in the Fifteenth Congress on September, 2010, by then Anakpawis Representative Rafael Mariano, this bill is being refiled with the original intent and purpose of preventing the unbridled abuse of our land resources by landlords and speculators to the detriment of our agriculture and our small farmers. The bill seeks the prohibition of conversion into other uses of our prime agricultural lands and the strict delineation of the conditions under which the 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. In so doing, it is hoped also that we can reverse the slide toward total food insecurity.

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 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 section of our population.

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



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**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
FERNANDO L. HICAP**

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 2014”**.

SECTION 2. State Policies and Principles. The State realizes that the 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 lands** refer to lands, regardless of classification, that are devoted to agricultural production and such other uses connected with agriculture such as cattle and livestock farms aquaculture, including foreshore, pasture farms, and lands that are agricultural in dominant use or with the potential for agricultural use;
- 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 average 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 average 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
- c. 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 effect 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, 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, 2013 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 ,2013, such applications shall be acted upon in accordance with sections B 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 by 8 to 10 but whose development projects have not started or with portions that have remained undeveloped as of December 31, 2013 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 juridical entity or any other person acting in their behalf. In the case of corporations, the

indictment shall include the manager of the department 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 Regulation.* 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 Regulation 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.