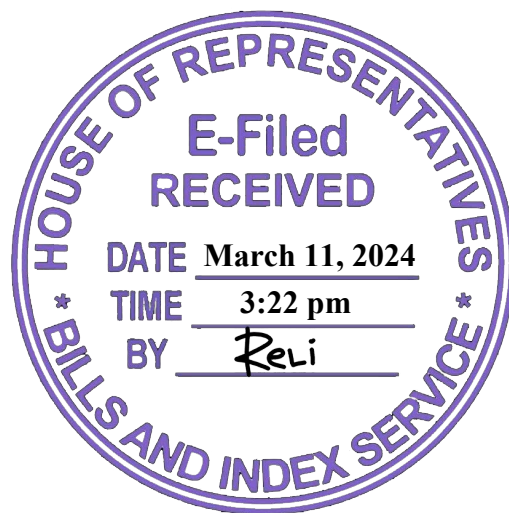




Republic of the Philippines
House of Representatives
Quezon City, Metro Manila



NINETEENTH CONGRESS
Second Regular Session

House Bill No. **10091**

Introduced by Representative TEODORICO "NONONG" T. HARESCO, JR.

AN ACT
PROVIDING FOR THE MODE OF DISPOSITION OF ALIENABLE AND
DISPOSABLE LANDS AND REGULATING THE USE AND DEVELOPMENT OF
THE AREAS IN BORACAY ISLAND, MUNICIPALITY OF MALAY,
PROVINCE OF AKLAN

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.

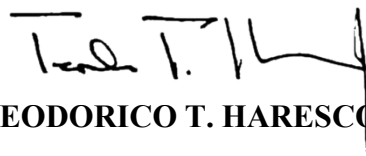
On May 22, 2006, then President Gloria Macapagal - Arroyo issued Proclamation No. 1064 classifying 628.96 hectares or 60.94 percent of the 1,032-hectare island as alienable and disposable on the premise that the whole of Boracay is government property. It also provides for a 15-meter buffer zone on each 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 disposition for certain alienable and disposable lands and regulation of the use and development of areas in Boracay Island shall 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 disposition for alienable and disposable lands in Boracay Island pursuant to existing laws, along with environmental safeguards therefor.

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 dispose the alienable and disposable lands in Boracay Island while also reserving parcels of land of sufficient size and strategic location to the local governments of the Municipality of Malay and Province of Aklan, and other agencies of the National Government for essential public purposes or services such as school buildings, public plazas, health centers and other improvements, including necessary roads, avenues, streets, and alleyways. The bill also provides for a non-impairment clause to ensure safeguards and respect the rights of marginalized groups, including the indigenous cultural communities and their right to ancestral lands.

This bill has been approved on third and final reading in the House of Representatives during the 18th Congress, but its counterpart version failed to pass in the Senate. It is the hope of this measure to further ignite economic development in the region and contribute to our nation's progress.

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



TEODORICO T. HARESCO, JR.



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

1 **SECTION 1. *Declaration of Policy.*** – It is the policy of the State to advance the goals of the
2 national economy towards a more equitable distribution of opportunities, income, and wealth
3 and ensure an orderly and expeditious manner of distributing its wealth and resources,
4 specifically lands which have been classified as alienable and disposable, without
5 compromising the protection and conservation of the country’s natural resources. Towards this
6 end, the State shall provide the mode of disposition of alienable and disposable lands and
7 regulate the use and development of the areas in Boracay Island, Municipality of Malay,
8 Province of Aklan, to stimulate local economic growth.

9
10 **SECTION 2. *Land Classification.*** – The classification of land in the Island of Boracay,
11 Municipality of Malay, Province of Aklan declared in Proclamation No. 1064, series of 2006,
12 entitled, “Classifying Boracay Island Situated in the Municipality of Malay, Province of Aklan
13 into Forestland (Protection Purposes) and into Agricultural Land (Alienable and Disposable)
14 Pursuant to Presidential Decree No. 705 or the “Revised Forestry Reform Code of the
15 Philippines” is adopted. The Department of Environment and Natural Resources (DENR) shall,
16 in coordination with the National Mapping and Resource Information Authority and the
17 concerned local government units, conduct a mandatory review of the land classification under
18 Presidential Proclamation No. 1064, particularly the alienable and disposable lands, for
19 purposes of recommending to Congress any correction or reclassification.

20
21 The alienable and disposable lands open to disposition for agricultural, commercial,
22 residential, and industrial purposes in Boracay Island are excluded from the operation of
23 Proclamation No. 1801, Series of 1978, entitled, “Declaring Certain Islands, Coves and
24 Peninsulas as Tourist Zones and Marine Reserve under the Administration and Control of the
25 Philippine Tourism Authority.”
26

SECTION 3. *Mode of Disposition.* – The DENR shall dispose the alienable and disposable lands in Boracay Island to any qualified citizens of the Philippines, subject to the limitations provided under this Act, pursuant to the provisions of Commonwealth Act No. 141, otherwise known as “The Public Land Act,” as amended. Individual applicants for the issuance of free patent shall establish proof that they or their predecessors-in-interest have, for at least thirty (30) years prior to the effectivity of this Act, continuously occupied, possessed or cultivated the parcels of land applied for or have paid the real property tax thereon. Any qualified applicant is entitled to a tract of land not to exceed twelve (12) hectares and a free patent and original certificate of title may be issued in the name of the applicant.

The DENR shall reserve parcels of land of sufficient size and strategic location to the local governments of the Municipality of Malay and Province of Aklan, and other agencies of the National Government for essential public purposes or services such as school buildings, public plazas, health centers and other improvements, including necessary roads, avenues, streets, and alleyways. Any title that may be issued over the reserved lands shall be in the name of the Republic of the Philippines.

SECTION 4. *Management of Forest Lands.* – The DENR shall conserve and preserve the forest lands in Boracay Island and regulate the use of these forest lands consistent with the provisions of Presidential Decree No. 705, Series of 1975, otherwise known as the “Revised Forestry Code of the Philippines,” as amended, and other pertinent laws, proclamation, issuances and administrative orders.

For ecological and rational land use considerations, the following are considered part of the protected forest lands:

- (a) Five (5) meters strip inland from the twenty-five (25) meters mandatory beach front easement, measured from the mean high-water mark; and
- (b) Three (3) meters landward on both sides of creeks and canals.

Roads and pathways classified as forest lands under Presidential Proclamation No. 1064 are removed from such classification and placed under the jurisdiction of the Department of Public Works and Highways.

SECTION 5. *Use and Development of the Island of Boracay.* – The local government of the Municipality of Malay, Province of Aklan shall strictly enforce the land use plan and the DENR shall strictly regulate the development and sustainable use of the areas in Boracay Island pursuant to existing rules and regulations, and pertinent laws, including Republic Act No. 9147, otherwise known as the “Wildlife Resources Conservation and Protection Act,” and Republic Act No. 8371, otherwise known as “The Indigenous Peoples’ Rights Act of 1997.”

SECTION 6. *Implementing Rules and Regulations.* – Within ninety (90) days from the effectivity of this Act, the Secretary of the DENR shall, in consultation with the local government of the Municipality of Malay, the provincial government of Aklan, and concerned national government agencies, issue the corresponding rules and regulations for the effective implementation of this Act.

SECTION 7. *Non-Impairment Clause.* – Nothing in this Act shall be construed as to diminish, impair, or repeal rights recognized, granted, or made available to disadvantaged, marginalized, or specific sectors under existing laws.

77 **SECTION 8. *Separability Clause.*** – If any part or provision of this Act is declared
78 unconstitutional or invalid, the remaining parts or provisions not affected shall remain in full
79 force and effect.

80
81 **SECTION 9. *Repealing Clause.*** – All laws, decrees, executive orders, proclamations, rules
82 and regulations, issuance or parts thereof inconsistent with the provisions of this Act are hereby
83 repealed or modified accordingly.

84
85 **SECTION 10. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in
86 the Official Gazette or in a newspaper of general circulation.

87
88 *Approved,*