

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**

Quezon City, Metro Manila

**SEVENTEENTH CONGRESS**

First Regular Session

HOUSE OF REPRESENTATIVES	
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REGISTRATION UNIT BILLS AND INDEX SERVICE	

**HOUSE BILL NO. 2739**

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Introduced by **ENGR. CARLITO S. MARQUEZ**  
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**EXPLANATORY NOTE**

This bill seeks to correct the flaws of Proclamation 1064 and exempt Boracay from existing laws deemed unsuitable for the island and institute a system for the sustainable development and use of the island, defining for the purpose the mode of acquisition for certain parcels of its public domain classified as agricultural land which is open to disposition under Proclamation No. 1064 and providing environmental safeguards therefor. This would exempt property claimants in Boracay from certain requisites for land ownership under the Public Land Act and other laws and would eventually permit long-term land occupants on the island to have their *terra firma* titled.

The magnificent island, with its powdery white sand beaches and warm crystalline waters, is reputedly a premier Philippine tourist destination. The island is also home to 28,369 inhabitants (*as of 2010 census*) who live in the bone-shaped island's three barangays. It is

situated approximately 315 km (200 miles) south of Manila and 2 km 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*).

The Philippine Bill of 1902, Act No. 926, and Proclamation No. 1801 did not convert a big chunk of the island into an agricultural land. The island remained an unclassified land of the public domain and, applying the Regalian doctrine, is considered State property. The Regalian Doctrine dictates that all lands of the public domain belong to the State, that the State is the source of any asserted right to ownership of land and charged with the conservation of such patrimony. All lands that have not been acquired from the government, either by purchase or by grant, belong to the State as part of the inalienable public domain.

With this doctrine, only about a third of the island (292 hectares), belonging to the heirs of Ciriaco Tirol, are titled, according to the DENR. Titling application has been a big issue on the island since Presidential Proclamation 1801 was issued in 1978 and Philippine Tourism Authority Circular No. 3-82 implementing the said Proclamation, in opposition to applications for confirmation of imperfect title or free patent on the island. This Proclamation 1801 declares certain islands, coves and peninsulas in the Philippines as tourist zones and marine reserves under the administration and control of the Philippine Tourism Authority. The Supreme

Court in *Secretary of DENR vs. Yap* came out with a ruling upholding Proclamation No. 1801, as well as Philippine Tourism Authority Circular No. 3-82 that said decrees did not convert the whole of Boracay into an agricultural land. Simply put, the proclamation is aimed at administering the islands for tourism and ecological purposes. It does not address the areas' alienability. By the same token, in the early part of 2006, a new Proclamation No. 1064 was issued which concerns land valuation and titling procedures such as Administrative Titling through Free patent and Judicial Titling through local courts which have all been made possible through P.D. 1064. It classified 628.96 hectares of the 1,032-hectare island or 60.94 percent of the total land area, as alienable and disposable on the premise that the whole of Boracay is government property. While this presidential proclamation declared parts of Boracay as government lands, the Supreme Court clarified that this does not mean automatic ouster from the residential, commercial and other areas occupied by private individuals and corporations. The proclamation actually paves the way for the consolidation of ownership and titling of lands by the present occupants as the Supreme Court upheld the right to possess and the right to claim good faith as builders of improvements.

Consistently with this ruling of the Supreme Court and to protect the private investments in Boracay, the Philippine Congress is proposing for an enacting a law to entitle present occupants to acquire title to their occupied lots or to exempt them from certain requirements under the present land laws.

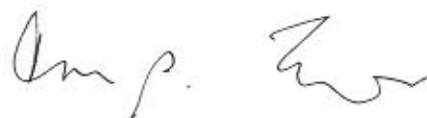
The bill would allow occupants of land on the island to be issued free patent if they have been continuously occupying their lots for at least 30 years prior to the passage of the bill. The patent is limited to a maximum of 12 hectares per applicant. The 30-year period would also include the occupancy of previous occupants of the property being applied for patent. Under present land ownership laws, land claimants over public lands will have to wait for 30 years after the land is declared alienable and disposable before they can apply for titling. In the case of Boracay, that would mean 30 years after the issuance of Presidential Proclamation 1064 in 2006, which is in 2036.

With the issuance of Proclamation 1064, there is a necessity to establish a mechanism wherein the sustainable development and use of the island is guaranteed. The decree bestowed the essential 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, 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.

This bill will once and for all resolve the land ownership problem on Boracay and will provide safeguards including a mandate to respect the rights of the indigenous cultural communities to their ancestral lands. The bill allows occupants of land on the island to be issued free patent if they have been continuously occupying their lots for at least 30 years prior to the passage of the bill. The patent is limited to a maximum of 12 hectares per applicant. The 30-year period would also include the occupancy of previous occupants of the property being applied for patent.

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



**ENGR. CARLITO "Lito" MARQUEZ**



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**SEVENTEENTH CONGRESS**  
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**HOUSE BILL NO. 2739**

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Introduced by **ENGR. CARLITO S. MARQUEZ**

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**AN ACT**  
**ESTABLISHING 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**

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

**SECTION 1.** *Declaration of Policy* – Pursuant to Article XII, Section 1 of the 1987 Philippine Constitution that the goals of the national economy are a more equitable distribution of opportunities, income and wealth, the State hereby adopts a policy of ensuring the fair and expeditious titling of alienable and disposable agricultural lands of the public domain. Towards this end, the State shall facilitate the titling of lands in favor of qualified Filipinos to provide them with

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security of land tenure. Further, in recognition of the need to accelerate the country's development without compromising the protection and conservation of the country's natural resources, the State shall undertake measures to adopt sustainable development strategies of forestlands, national parks and the resources therein and provide environmental safeguards while at the same time spurring local economic growth.

**SECTION 2.** *Coverage* – The provisions of this Act shall apply to the 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 through *Proclamation No. 1064*. The aforementioned agricultural lands are likewise hereby excluded from the operation of Presidential Proclamation No. 1801, dated 10 November 1978, entitled, "*Declaring Certain Islands, Coves and Peninsulas as Tourist Zones and Marine Reserves under the Administration and Control of the Philippine Tourism Authority*".

**SECTION 3.** *Mode of Acquisition* – The Department of Environment and Natural Resources shall alienate the agricultural lands identified in Section 2 hereof, subject to the limitations provided for in this Act, through the issuance of a free patent over any parcel thereof to any citizen of the Philippines who for at least thirty (30) years prior to the effectivity of this Act has continuously occupied and/or cultivate 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. Such qualified

person shall be entitled under this Act to have a free patent issued to him for such tract of land not to exceed twelve (12) hectares per applicant; *Provided*, That the Department of Environment and Natural Resources shall also reserve lands or lots of sufficient size and strategic location to the local government of Malay, the Province of Aklan and other agencies of the national government for essential public purpose and/or services such as school building, public plazas, health centers and similar offices and similar purpose including necessary avenues, streets and alleyways; *Provided Further*, That any title that may be issued over lands for public purpose shall be in the name of the Republic of the Philippines and all roads, avenues, streets, alleyways shall be in the name of the Province of Aklan. The provisions of Commonwealth Act No. 141, as amended, otherwise known as the "*Public Land Act*", not inconsistent herewith, shall be applicable.

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

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

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



(c) Three (3) meters landward on both sides of creeks and canals. Such forestlands shall be conserved, preserved and regulated by the Department of Environmental and Natural Resources, jointly with the Municipal Government of Malay, the Provincial Government of Aklan and concerned national agencies pursuant to the provisions of *Presidential Decree No. 705*, as amended, otherwise known as the "*Revised Forestry Code of the Philippines*", *Republic Act No. 9072*, otherwise known as the "*National Caves and Cave Resources Management and Protection Act*", their implementing rules and regulations, as well as other pertinent laws, proclamations, issuances and administrative orders on conservation and environmental protection.

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

**SECTION 6.** *Implementing Rules and Regulations.* – The Department of Environment and Natural Resources, in coordination with the Provincial Government of the Province of Aklan and a representative from the Office of the Congresssman of the Lone District of Aklan, shall

within ninety (90) days from the enactment of this Act, promulgate the rules and regulations necessary for the implementation of this Act.

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

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

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

*Approved.*