

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session



HOUSE BILL NO. **4945**

Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
IMPROVING CONFIRMATION OF IMPERFECT TITLES UNDER
SECTION 14 OF PRESIDENTIAL DECREE NO. 1529, IMPROVING THE
PROCESSING OF AGRICULTURAL FREE PATENT UNDER
SECTION 44 OF COMMONWEALTH ACT NO. 141, AND REMOVING
THE PERIOD TO FILE APPLICATIONS THEREAT
UNDER REPUBLIC ACT NO. 9176

EXPLANATORY NOTE

Property rights are important to the country's growth and development. Unclear and unenforceable rights to property could lead to underinvestment, undervalued properties, land grabbing, fake titling and lack of access to credit. Land title is a clear proof of ownership and is important to protection of one's property rights.

In the Philippines, title to land can be obtained through either administrative mode or judicial mode. In 2010, under Republic Act No. 10023 (Residential Free Patent Act), Congress liberalized the titling process in residential lands by allowing administrative issuance of free patents to those who have been in actual occupation of residential public lands for a period of 10 years. Congress simplified the process of titling of residential lands, set a shorter period of possession for applicants to comply and at the same time, imposed upon the Department of Environment and Natural Resources (DENR) a period of 120 days to process applications. The law is an instant success and thousands of citizens filed free patent applications, with the DENR processing record breaking numbers in its first years of implementation with more than 382,529 titles¹ issued to date.

However, government data on public land titling show that only 5,174² titles were confirmed by the courts in the last 10 years. Court titling has steadily declined, with only around 140 titles³ issued in 2017.

¹ Residential free patents issued from 2011 to 2017, DENR data

² Decrees issued from 2008-2017, Land Registration Authority (LRA)

³ LRA

The steady decline in court-issued titles was due to the court's recent strict and literal interpretation on land laws. Although the court recognizes the countrywide phenomenon of untitled lands and the problem of informal settlement, the court puts the burden in Congress to improve land tenure in the country saying that:

"It could only be up to Congress to set forth a new phase of land reform to sensibly regularize and formalize the settlement of such lands, which in legal theory are lands of the public domain, before the problem becomes insoluble. This could be accomplished, to cite two examples, by liberalizing the standards for judicial confirmation of imperfect title, or amending the Civil Code itself..."⁴

Moreover, Republic Act No. 9176 that allows titling through judicial and administrative legalization of titles is about to expire on December 31, 2020, which means that titling will come to a grinding halt.

The proposed law aims to improve the efficiency of land titling by adopting the processes introduced under R.A. No. 10023 to Agricultural Free Patent under Section 44 of Commonwealth Act (CA) No. 141 (Public Land Act), integrate and liberalize court confirmation of imperfect titles under the provisions of Presidential Decree (PD) No. 1529 (Property Registration Decree) and CA No. 141, and remove the time period for application on both free patent and confirmation of imperfect title that is about to expire on December 31, 2020.

The immediate passage of this bill is earnestly sought.



JOEY SARTE SALCEDA

⁴ En Banc Decision in *Malabanan vs. Court of Appeals*, G.R. No. 179987, April 29, 2009 and in *Republic vs. Gielczyk*, GR No. 179990, October 23, 2013.

Extension of Filing, Improving the Process of Free Patents Applications on Agricultural Lands, and Confirmation of Imperfect Titles in Lands

Background

Land titling has long been considered as necessary in the development of the economy. Lack of property rights in land could undermine inclusive growth in various ways. Unclear and unenforceable rights to property could lead to underinvestment, as the returns from any improvements and investments could be seized by others. For low-income households, lack of access to secure property rights compounds their lack of access to credit by depriving them of potential collateral. This, in turn, further adds to their poverty and insecurity.

Since 1903, titling lands has been done through both administrative and judicial means. Titles obtained through the judicial process are known as decrees while titles obtained through the administrative process are known as patents. Patents are issued by the Department of Environment and Natural Resources (DENR) under the Public Land Act or Commonwealth Act (CA) No. 141 while decrees are issued under Property Registration Decree or Presidential Decree (PD) No. 1529.

Patents are processed at DENR Community Environment and Natural Resources Office (CENRO) and patents are generally signed and transmitted by the DENR Provincial Environment and Natural Resources Office (PENRO). DENR issues different kinds of patents depending on the sub-classification of the lands (agricultural, residential, commercial or industrial). DENR issues homestead patent, free patent and sales patent on alienable and disposable lands of the public domain. Residential Free Patent (RA No. 10023), Miscellaneous Sales Patent and Miscellaneous Sales Patent (RA No. 730) are issued to residential lands. Commercial and Industrial lands are issued Miscellaneous Sales Patent only.

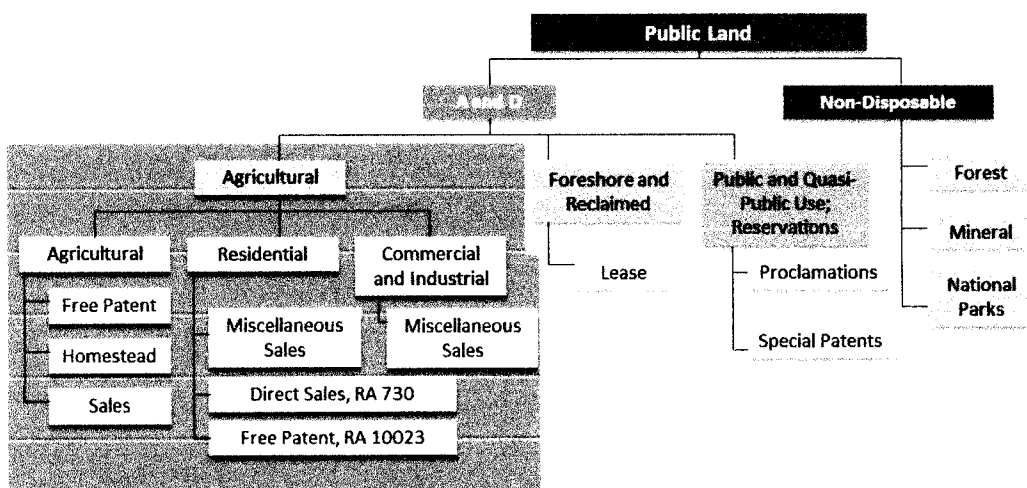


Figure 1. Types of patents issued for lands of the public domain

Application for a public land grant is administrative in nature although DENR is exercising in the process their quasi-judicial powers when adjudicating applications and has authority to determine conflicting claims of applicants and occupants of public land (Section 102, CA No. 141) subject to judicial review in case of fraud, imposition or mistake, other than error of judgment in estimating the value or effect of evidence.

Decrees are issued by the Land Registration Authority (LRA) from decisions made by courts on land registration proceedings. In court proceedings, the applicant should be able to present evidence to prove that the applicant has acquired through longtime possession, prescription or accretion private rights to lands. The applicant must be able to provide evidence of compliance with all the conditions sufficient for a court to confirm his/her title. Said application is opposed by the Solicitor General who acts in behalf of the State.

Recent Legislations

In 2010 under Republic Act (RA) No. 10023, Congress liberalized the titling process in residential lands by allowing the issuance of free patents to those who have been in actual occupation of residential public lands for a period of 10 years.¹ Congress simplified the process of acquisition of residential lands, set a shorter period of possession for applicants to comply and at the same time, imposed upon the Department of Environment and Natural Resources (DENR) a period of 120 days to process applications. Realizing the huge number of untitled residential lands and the capacity of DENR to process applications, Congress also removed the time or period for beneficiaries to avail of the law. Section 3 of RA No. 10023 does not set any timeline for applicant beneficiaries to apply considering the household finances since titling of land entails some costs.

The law is an instant success and thousands of citizens filed free patent applications, with DENR processing record breaking numbers in its first years of implementation. The figure below shows the number of residential free patents issued by DENR.

Prior to this law, titling of residential lands is a tedious and expensive process. As can be seen in Figure 2 from 2003 to 2010, very few people who occupy residential public lands cannot afford to formalize their land ownership.

¹ Republic Act No. 10023, An Act Authorizing the Issuance of Free Patents to Residential Lands

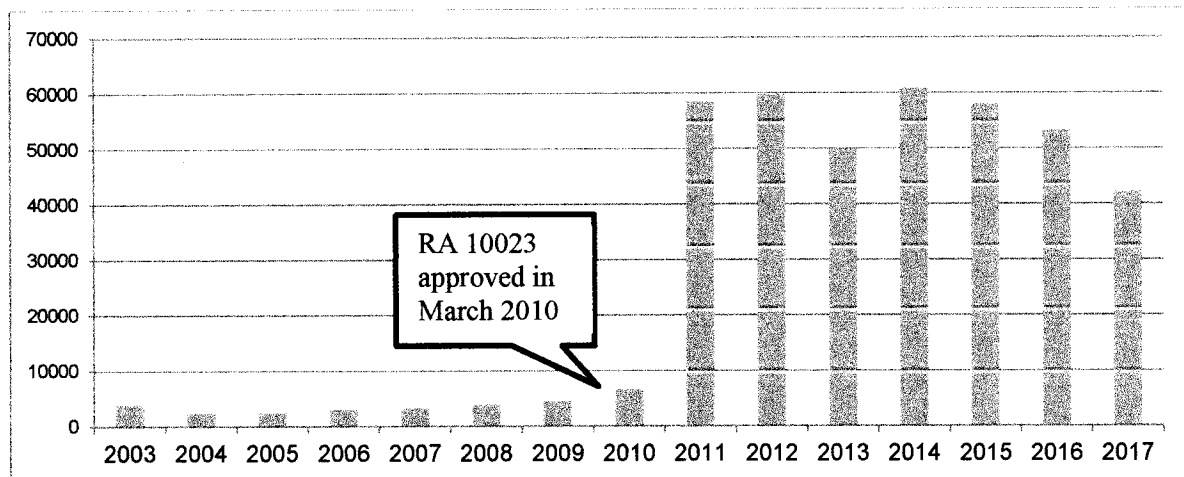


Figure 2. Number of Residential Free Patent Issued by the DENR 2011-2017

Data source: DENR

Early this year, Congress enacted Republic Act No. 11231 that removes restrictions on transactions involving agricultural free patent. RA 11231 is intended to create a more efficient land market by removing the barriers to free exchange. The law benefited rural land owners since the value of their lands increased upon the removal of the restrictions and it enabled them to make use of their land as collateral for agribusiness. This new legislation is expected to impact on the capital-scarce rural economy.

Problems in Judicial Titling

On the other hand, original titles issued through court proceedings are in a steady decline primarily due to the very strict standards set by the Supreme Court in confirmation of imperfect titles in recent years. The Supreme Court, although it recognizes the problem on titling of lands, strictly interpret land laws and then place the burden of liberalizing the standards for confirmation of imperfect title to Congress², saying:

"It could only be up to Congress to set forth a new phase of land reform to sensibly regularize and formalize the settlement of such lands which in legal theory are lands of the public domain before the problem becomes insoluble. This could be accomplished, to cite two examples, by liberalizing the standards for judicial confirmation of imperfect title, or amending the Civil Code itself to ease the requisites for the conversion of public dominion property into patrimonial."

The Supreme Court reasons that its hands are tied and is forced to reject application for titles because of the law, saying further that:

² Malabanan vs. Court of Appeals, G.R. No. 179987, April 29, 2009 and Republic vs. Gielczyk, GR No. 179990, October 23, 2013.

“Much as we want to conform to the State’s policy of encouraging and promoting the distribution of alienable public lands to spur economic growth and remain true to the ideal of social justice, our hands are tied by the law’s stringent safeguards against registering imperfect titles. In this case, we agree with the CA that petitioners have not presented sufficient proof of their compliance with the legal requirements for registration of imperfect titles.”³”

As a result of the Supreme Court’s very strict interpretations of land laws governing confirmation of imperfect titles, only 140 new titles were issued in 2017. If the Court is not inclined to liberally interpret land laws to promote tenure security, then Congress needs to clarify, remove, amend or liberalize the ambiguous provisions of land laws. Figure 3 below will show the small number of court issued titles and its steady decline in the last five years.

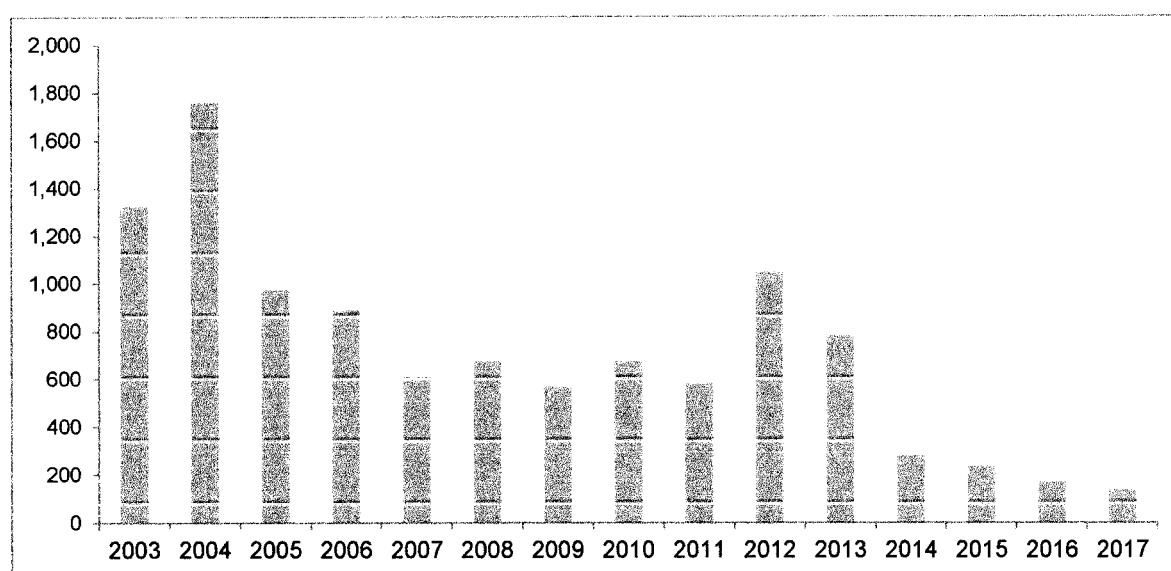


Figure 3. Court issued titles, 2003-2017

Data source: DENR

Moreover, prior to the enactment of PD No. 1529 in 1978, the only source of right for confirmation of an imperfect title is through Section 48 of the Public Land Act under Par. (a) from incomplete Spanish grants and Par. (b) from longtime possession of 30 years⁴ of agricultural lands of the public domain.⁵

In 1978, all property registration laws were codified under PD No. 1529. The Spanish Mortgage Law was discontinued and lands registered under this system were considered as unregistered lands, thus effectively ending the use of “Spanish Titles” as evidence in confirmation proceedings under Section 48, Par. (a) of CA No. 141. PD No. 1529 also

³ Menguito vs. Republic, G.R. No. 134308, December 14, 2000

⁴ Under Republic Act No. 1942, An Act to Amend Subsection (b) of Section Forty-Eight of Commonwealth Act Numbers One Hundred Forty-One, Otherwise Known As The Public Land Act

⁵ In 1977, PD No. 1073 limited Section 48 (b) to “alienable and disposable lands of the public domain” instead of the broader category of agricultural lands and the period of possession to acquire imperfect title to the land was changed from 30 years to June 12, 1945.

introduced three (3) modes of acquiring imperfect titles to alienable and disposable lands by adopting longtime possession under Section 44 (b) of CA No. 141, prescription and accession by accretion. There is no period provided under Section 14 of PD No. 1529 within which a qualified applicant can file for confirmation.

At present, most of the applications are denied by courts due to restrictive interpretations of land laws and on technical grounds like failure to submit proof of possession, defective submission of proof of alienability, among others.

Difficulty in Proving Possession since 1945

Applicants find it hard to prove possession prior to 1945 due to lack of government issued documents to support the more than two generations or 74 years of possessory land claim.

Courts consistently reject applications if the applicants could not produce tax declarations prior to 1945 or if the applicants fail to present witnesses on possession prior to said date. The courts seem unaware of the deliberate destructions of local and national government records in 1944-45 caused by World War II. Most local government lost its land taxation and civil registry records when the municipal buildings were burned during the liberation of the Philippines. Also, it is very difficult, if not impossible to find living witnesses that will testify on possession since 1945.

A restrictive adverse possession law causes problems to the economy because of the difficulty in accessing lands without legal or formal owners. Japan's restrictive adverse possession law, for instance, has resulted to land access problems as 11% of Japan's lands are left unclaimed.⁶

Difficulty in Presenting Evidence/s that Subject Lot is Alienable and Disposable (A and D)

Courts consistently reject land applications that are not supported by primary evidence or that are supported only by certifications coming from DENR delegated officials or surveys conducted by duly licensed geodetic engineers (GE) and approved by DENR designated authorities.

The following documents are deemed insufficient evidences:

1. Surveyor's notation on the plan that the land is inside A and D land,⁷
2. An approved survey plan is not enough to prove that the land is A and D,
3. The notation of the surveyor/geodetic engineer that the land is A and D is not sufficient to controvert the presumption that the land is alienable,⁹

⁶ "A startling amount of land in Japan has no official owner," The Economist. March 17, 2018. <https://www.economist.com/finance-and-economics/2018/03/17/a-startling-amount-of-land-in-japan-has-no-official-owner>

⁷ Menguito v. Republic, GR No. 134308, December 14, 2000; Republic v. Sarmiento, GR No. 169397, March 13, 2007

⁹ Republic v. Espinosa, G.R. No. 171514, July 18, 2012

4. The testimony of the Chief of Technical Service of DENR who is a geodetic engineer that the land is within A and D land,¹⁰
5. Mere certification of the DENR Community Environment and Natural Resources Officer (CENRO) that the land is A and D is insufficient,¹¹ and
6. The notation on the lower portion of the survey plan approved by the DENR.¹²

To prove that the subject land applied for is A and D, the applicant must present the following evidences:

1. A copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records¹³, and
2. CENRO Certification should be accompanied by an official publication of the DENR Secretary's issuance declaring the land alienable and disposable.¹⁴

These are very tedious requirements since courts reject certifications from delegated officials of the DENR coming from its field offices. Also, the original copies of a large number of the pre-war proclamations and Forestry Administrative Orders (FAO) releasing the lands were lost and only the land classification maps (LC Maps) derived therefrom are still existing in the records.

These requirements started in 2008 under ***Republic of the Philippines vs. T.A.N. Properties, Inc.***¹⁵ and was later adopted and used as grounds for denial of land applications. The pertinent part of the ruling states that:

"Further, it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable."

Once in a while, the Supreme Court rules against the doctrine in ***Republic vs. T. A. N. Properties, Inc.*** The case of ***Republic vs. CA and Ceniza*** ruled that the certification of the CENRO is *"sufficient since it enjoys the presumption of regularity in the absence of*

¹⁰ Republic v. Medida, G.R. No. 195097, August 13, 2012

¹¹ Republic v. Hanover Worldwide Trading Corporation, G.R. No. 172102, July 2, 2010

¹² Republic v. Sese, G.R. No. 185092, June 4, 2014;

¹³ Republic v. Jaralve, G.R. No. 175177, October 24, 2012

¹⁴ Republic v. Aboitiz, G.R. No. 174626, October 23, 2013

¹⁵ Republic v. T.A.N. Properties Inc, G.R. No. 154953, June 26, 2008

contradictory evidence".²¹ Though this ruling is the better appreciation of the requirement of the law, an applicant cannot rely on this decision in the presence of more numerous decisions using the ***Republic vs. T. A. N. Properties, Inc.*** ruling.

It should be stressed that the determination of whether a parcel of land is within or outside A and D requires the gathering of physical data with the use of precise surveying instruments, the methodical processing of these data, and the presentation of the result on graphs, plans, maps, and charts. Thus, a document certifying that the land is within A and D lands, even though given by the Secretary of the DENR, will not show the relative location of the land. Also, the projection of land parcels when plotted against old land classification (LC) maps often requires conversion of coordinates to update the coordinates of old LC Maps to the new geodetic reference system. This activity is actually part of the practice of Geodetic Engineering as defined under RA No. 8560 (Philippine Geodetic Engineering Law of 1998) as amended by RA No. 9200. The Supreme Court, however, refused to recognize the plotting and certification made by GEs as sufficient saying that the law requires the Secretary's actual signature.

Expiring Period to File for Free Patent and Confirmation under the Public Land Act

Under Republic Act No. 9176, filing of application of agricultural free patents and confirmation of imperfect titles under Sections 44 and 48 will expire on December 31, 2020. After this period, titling of agricultural lands through free patent will cease to exist. This will result to an impasse where unregistered owners of agricultural lands will not be able to formalize their ownership. If no law will be passed to extend or remove the period of application, no new agricultural free patent will be issued by DENR.

This provision on the period to file an application has been extended several times starting way back in 1919 (See Table No. 1). Unfortunately, applying for a land title is rather costly and though government has been extending help to occupants of land through cadastral surveying, most of the expenses are still shouldered by the landowner. As a result, numerous land parcels remain untitled. Removing the time period for application will ensure that options are made available to the land owner for him/her to decide on the approach which will best suit his/her need, particularly the process that is more convenient, more efficient and less costly.

²¹ Republic v. CA and Ceniza, G.R. No. 127060, November 19, 2002

Table 1. List of Laws amending/extending application period

Year/Law	Deadline of filing application
1903: Act No. 926	No deadline indicated
1919: Act No. 2874	1938; 48 (b) changed to occupation, etc. since July 26, 1894
1936: Commonwealth Act No. 141	1938
1938: Commonwealth Act No. 292	1941 (+3)
1947: Republic Act No. 107	1957 (+16)
1953: Republic Act No. 931	5 years to open cadastral proceedings
1957: Republic Act No. 1942	Section 48. Par. (b) was change to thirty years possession
1958: Republic Act No. 2061	1968 (+11); RPT payment removed
1971: Republic Act No. 6236	1976 (+5)
1977: Presidential Decree No. 1073	1987 (+19) also it changes the requirement under Section 48 (5) to occupation since June 12, 1945.
1990: Republic Act No. 6940	2000 (+13)
2002: Republic Act No. 9176	2020 (+20)
2010: Republic Act No. 10123	No Period

Removing the period to file is not a radical idea. In fact, Congress did not put a time period to file application for residential free patent under RA No. 10023 in recognition of the fact that there are still a huge number of untitled lands in the Philippines. Congress took a more practical approach by removing the time period in RA No. 10023 considering that seven laws were already passed extending land title applications since 1903.

Needed Provisions for Legislation to Improve Land Titling

The following measures are proposed to address problems in administrative and judicial titling:

1. Shorten and Harmonize the Period of Possession Required for Perfection of Imperfect Title

Possession, as a mode of acquiring ownership over lands of the public domain, is provided under Section 14 (1) and (2) of PD No. 1529 and Section 48 of CA No. 141 as amended, presented in the table below:

Table 2. Comparison of relevant provisions of PD No. 1529 and CA No. 141, as amended on acquiring ownership of public lands

Section 14. PD No. 1529 (1978)	Section 14. Who may apply. The following persons may file in the proper Court of First Instance an application for registration of title to land, whether personally or through their duly authorized representatives: (1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership since June 12, 1945, or earlier. (2) Those who have acquired ownership of private lands by prescription under the provision of existing laws.
Section 48(b). CA No. 141	"(b) Those who by themselves or through their predecessors in interest have been in open, continuous, exclusive, and notorious possession and occupation of agricultural lands of the public domain, under a bona fide claim of acquisition of ownership, for at least thirty years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to a certificate of title under the provisions of this chapter."
Section 48(b). CA No. 141 as amended by PD No. 1073 (1977)	Section 4. The provisions of Section 48(b) and Section 48(c), Chapter VIII of the Public Land Act are hereby amended in the sense that these provisions shall apply only to alienable and disposable lands of the public domain which have been in open, continuous, exclusive and notorious possession and occupation by the applicant himself or thru his predecessor-in-interest, under a bonafide claim of acquisition of ownership, since June 12, 1945.

In these two provisions, the period of possession of land required by law, sufficient for the occupant to acquire ownership was set at June 12, 1945. There is no provided period for filing of an application in court under Section 14 of PD No. 1529 while filing of an application under Section 48 of CA No. 141 is time-bound and will lapse in December 31, 2020 under Republic Act No. 9176.

As mentioned earlier, proving possession since June 12, 1945 is very difficult since the law requires both documentary and testimonial evidence to prove possession. Huge volume of land records that is needed to support the claim such as tax declaration prior to 1945 were destroyed during World War II. Aside from this, the Court requires testimonial evidence of actual possession. It is almost impossible to find living witnesses that will testify on actual possession of the applicant since 1945.

There is a long line of decision on this starting way back in 1908 in *Casimiro vs. Fernandez*²³ that requires payment of tax declarations alone is insufficient to prove ownership. Tax declarations should be accompanied by proof of testimonial evidence of actual possession.²⁴

²³ *Casimiro v. Fernandez, et. al*, G.R. No. L-4046. January 13, 1908

²⁴ *San Miguel Corporation v. Court of Appeals*, G.R. No. 57667 May 28, 1990

It is noteworthy to state that in almost all jurisdictions, laws on acquisition through adverse possession do not put a definite date of possession in its adverse possession laws and a maximum of 30 years is commonly required to acquire lands. England's Land Registration Act 2002²⁵ requires only **10 years** of adverse possession and this applies even to registered lands. In the United States, acquisitive prescription varies from **7 to 20 years** depending on the State (See Annex for more details). In Australia, the period of uninterrupted and exclusive possession is **12 years** in most states, and **15 years** in In South Australia and Victoria.²⁶ In New South Wales, **30 years** is required if the lands that the applicant is occupying is Crown Lands or lands that are owned by the State.²⁷ Republic Act No. 1942 requires only 30 years before it was changed to June 12, 1945 under PD No. 1073 in 1977.

Congress in recognition of this problem of proving longtime possession reduced the possessory requirement of RA No. 10023 to 10 years in order to ease the burden of applicants in looking for and producing ancient documents. Figure 2 shows the positive effect of this in the number of residential free patents issued from 2010.

The shortening of the period of possession from the present 74 years to 30 years, as it was under RA No. 1942 is reasonable and more consistent with other countries' period of prescription. Also, with the adoption of a 30-year acquisitive period, these two provisions on longtime occupation should be integrated into one single section. Section 14(2) on prescription can also be removed in Par. 14 since the period of prescription under the law is likewise 30 years making its inclusion redundant. Below is the suggested provision that will harmonize the two provisions and shorten the period of acquisition to 30 years:

SECTION __. *Judicial Confirmation of Imperfect Title.* – The qualifications provided in Section 14 of Presidential Decree No. 1529 and Sections 47 and 48, Chapter VII of Commonwealth Act No. 141, as amended, shall be amended to read as follows:

“The following persons may file at any time, in the proper Regional Trial Court an application for registration of title to land, not exceeding twelve (12) hectares, whether personally or through their duly authorized representatives:

²⁵ Under the LRA 2002 Schedule 6, paragraphs 1 to 5, after 10 years the adverse possessor is entitled to apply to the registrar to become the new registered owner. The registrar then contacts the registered title holder and notifies him of the application. If no proceedings are launched for two years to eject the adverse possessor, only then would the registrar transfer title. Prior to the 2002 Act, a land owner could simply lose title without being aware of it or notified. This was the rule because it indicated the owner had never paid sufficient attention to how the land was in fact being used, and therefore the former owner did not deserve to keep it. Before 2002, time was seen to cure everything. The rule's function was to ensure land was used efficiently.

²⁶ Farell, Paul, “Home free: when 'adverse possession' can mean good news for squatters,” The Guardian, June 9, 2016, <https://www.theguardian.com/australia-news/2016/jun/09/home-free-when-adverse-possession-can-mean-good-news-for-squatters>

²⁷ “Frequently asked questions: What is adverse possession?”, FindLaw Australia, <https://www.findlaw.com.au/faqs/2498/what-is-adverse-possession.aspx>

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership for at least thirty (30) years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. They shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under this Section.

(2) Those who have acquired ownership of private lands or abandoned river beds by right of accession or accretion under the existing laws.

(3) Those who have acquired ownership of land in any other manner provided for by law.

2. Simplify the Requirement for Certification of A and D Lands in Judicial Proceedings

Establishing the identity of the land in land titling and registration proceedings is a technical issue. The identity of the land, its location, size, geographic position, and other details is better proven by spatial information rather than by declaratory documents such as certifications by government officials alone. The activity of identifying lands for purposes of land titling and registration requires the gathering of documentary and physical data with the use of precision instruments, the methodical processing of these data, and the presentation of the result on graphs, plans, maps, and charts. Not everyone are allowed by law to engage in this activity since only geodetic engineers under RA No. 8560 can practice land surveying.

In fact, the land description contained in proclamations and releases of A and D lands are translated into spatial data and are integrated into the system of land surveys in accordance with current standards. Proving that the land is within A and D lands is more technical than mere narrative statements or certifications. The land description in legal documents, though an important input, is just part of the data inputs in preparing maps and plans. The geodetic engineer still has to convert this into spatial data and thereafter project the land subject of the application on the land classification map to check whether this is within or outside of the A and D lands.

To require an actual certification of the Secretary as a requirement is extraordinarily difficult especially for those living outside of Metro Manila. In addition, it does not contribute to any increase in the accuracy of the survey. Considering that survey is conducted by geodetic engineers under RA No. 8560, as amended. The GE shall be fully responsible and accountable for all plans, specifications and other documents issued under his/her seal or authorized signature.²⁸ DENR officials authorized by the Secretary shall verify and approve said map. This is more in line with the provisions of RA No. 8560, as amended,

²⁸ Sections 20 and 22 of RA No. 8560, as amended

and the thrust of the Government to decentralize the bureaucracy by delegating powers to its field officials.

Below is the suggested provision that will simplify the requirement for certification of A and D lands.

SECTION _ . Certification that the land is Alienable and Disposable. –

To comply with this requirement, it is sufficient that the applicant submit a projection map prepared and signed by a licensed geodetic engineer and verified and approved by DENR Official designated by the DENR Secretary showing that the land is within Alienable and Disposable lands of the public domain. The projection map shall contain a sworn statement by the geodetic engineer that the land is within the alienable and disposable lands of the public domain and shall state the applicable Forestry Administrative Order, DENR Administrative Order, Executive Order, Proclamations and the Land Classification Map Project covering the land.

3. Extending the Application of Agricultural Free Patent under Section 44 of CA No 141 and Improving

As stated earlier, the filing of application of agricultural free patents and confirmation of imperfect titles under Sections 44 will expire on December 31, 2020 under Republic Act No. 9176. If Congress will not pass a law removing the period or extending this, the result will be an impasse where unregistered owners of agricultural lands will not be able to formalize their ownership to land through free patent. Congress has been extending this mostly because there are still a good number of agricultural free patents that is issued by DENR. At present, about 30,000 free patents are issued yearly mostly in rural and agricultural areas of the country. If this will not be extended, poor rural farmers may not be able to title their lands considering that judicial titling is more expensive as compared to administrative titling.

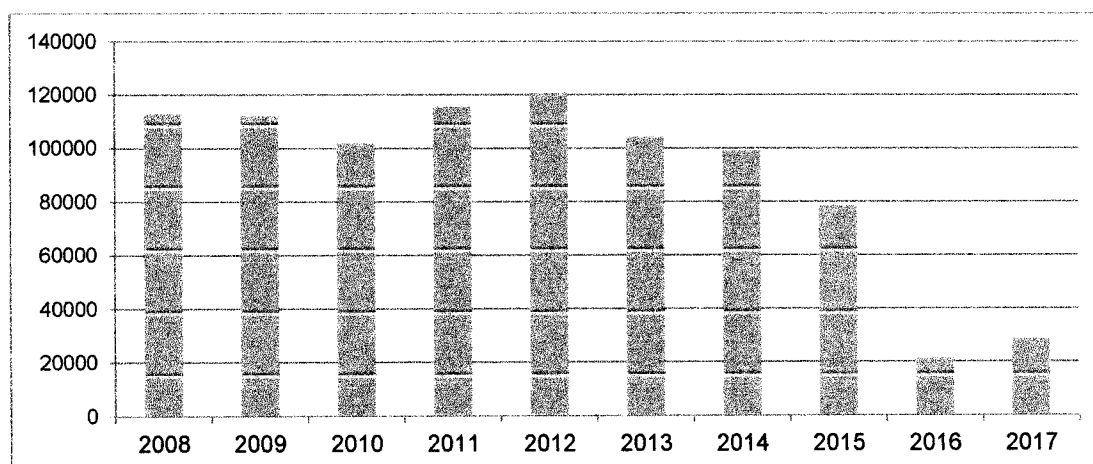


Figure 4. Agricultural Free Patents Issued, 2008-2017

Data source: DENR

Aside from extending or removing the period of filing, Congress also needs to improve the processing of agricultural free patent in order to hasten titling of agricultural lands. One of the reasons for the success of RA No. 10023 is the inclusion of the evidentiary requirements²⁹ and time period to process³⁰ to compel DENR to immediately act on the application of applicant beneficiaries. These provisions remove uncertainty and bureaucratic inaction from the application process.

These provisions on the period for application and the simplified requirements, contributed greatly to the ease of securing titles to residential public land and the success in terms of the number of applications processed and issued by DENR:

1. The responsible office of DENR that will process the application is specifically identified,
2. The time to process the application is set (120 days at the CENRO),
3. The time to approve processed application by the designated DENR official is specified (5 days for the PENRO to approve or disapprove),
4. The requirements and the conditions on the application are set,
5. The period of occupation is reduced to 10 years (adopted the Civil Code period of prescription in good faith),
6. Survey conducted by a license GE is sufficient evidence,
7. Affidavit of two (2) disinterested persons, and
8. Removed the period to apply (to ease pressure to household with financial constraint to apply within a certain date).

The adoption of these processes will help applicants in gathering evidence in support of titling, lessen bureaucratic delays, decrease costs and thus increase the number of agricultural free patents issued.

Below is the suggested provision that could be adopted by Congress.

SECTION ____. *Administrative legalization (Free Patent).* – Sections 44 par 1 and Section 45, Chapter VI of Commonwealth Act No. 141, as amended, is hereby amended to read as follows:

²⁹ Section 3. Application. - The application on the land applied for shall be supported by a map based on an actual survey conducted by a licensed geodetic engineer and approved by the Department of Environment and Natural Resources (DENR) and a technical description of the land applied for together with supporting affidavit of two (2) disinterested persons who are residing in the barangay of the city or municipality where the land is located, attesting to the truth of the facts contained in the application to the effect that the applicant thereof has, either by himself or through his predecessor-in-interest, actually resided on and continuously possessed and occupied, under a bona fide claim of acquisition of ownership, the land applied for at least ten (10) years and has complied with the requirements prescribed in Section 1 hereof.

³⁰ Section 6. Period for Application. - All applications shall be filed immediately after the effectivity of this Act before the Community Environment and Natural Resources Office (CENRO) of the DENR. The CENRO is mandated to process the application within one hundred and twenty (120) days to include compliance with the required notices and other legal requirements, and forward this recommendation to the Provincial Environment and Natural Resources Office (PENRO), who shall have five (5) days to approve or disapprove the patent. In case of approval, patent shall be issued; in case of conflicting claims among different claimants, the parties may seek the proper judicial remedies.

SECTION 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the filing of his/her application, has continuously occupied and cultivated, either by himself/herself or through his/her predecessors-in-interest a tract or tracts of alienable and disposable agricultural public lands subject to disposition and who shall have paid the real estate tax thereon shall be entitled to have a free patent issued to him for such tract or tracts of such land not to exceed twelve (12) hectares.

SECTION 45. Period for Application. - All applications shall be filed at any time after the effectivity of this Act before the Community Environment and Natural Resources Office (CENRO) or region of the DENR. The CENRO is mandated to process the application within one hundred and twenty (120) days to include compliance with the required notices and other legal requirements, and forward his/her recommendation to the Provincial Environment and Natural Resources Office (PENRO), who shall have five (5) days to approve or disapprove the patent. In case of approval, the patent shall be issued; in case of conflicting claims among different claimants, the parties may seek the proper judicial remedies. Provided, that in provinces with no CENRO, the application shall be filed with the PENRO.

CONCLUSION

Property rights are important to the country's growth and development. Unclear and unenforceable rights to property could lead to underinvestment, undervalued properties, land grabbing, fake titling and lack of access to credit. Land title is a clear proof of ownership and is important to protection of one's property rights.

Government data on public land titling show that only 5,174 titles were confirmed by courts in the last 10 years. Court titling has steadily declined, with only around 140 titles issued in 2017. The steady decline in court-issued titles is due to the Court's recent strict and literal interpretation on land laws. Although the Court recognizes the countrywide phenomenon of untitled lands and the problem of informal settlement, the Court puts the burden in Congress to improve land tenure in the country saying that it could only be up to Congress to set forth a new phase of land reform to sensibly regularize and formalize the settlement of such lands before the problem becomes insoluble.

Congress had led the way in land administration reform. In 2010 under Republic Act No. 10023 (Residential Free Patent Act), Congress liberalized the titling process in residential lands by allowing administrative issuance of free patents to those who have been in actual occupation of residential public lands for a period of 10 years. Congress simplified the process of acquisition of residential lands, set a shorter period of possession for applicants to comply and at the same time, imposed upon the DENR a period of 120 days to process applications. The law is an instant success and thousands of citizens filed free patent

applications, with DENR processing record breaking numbers in its first years of implementation with more than 382,529 titles being issued to date.

It is very timely for Congress to enact a law that will improve the efficiency of land titling by integrating and liberalizing court confirmation of imperfect titles under the provisions of PD No. 1529 and CA No. 141, adopting the processes introduced under R.A. No. 10023 to Agricultural Free Patent under Section 44 of Commonwealth Act No. 141, and removing the time period to apply for both free patent and confirmation of imperfect title.

Annex 1. Adverse possession requirements in US States

State	Adverse Possession Statute	Time Required (In Years) for Continuous Possession	In Order to Make an Adverse Possession Claim, You must have...
Alabama	Ala. Code Ann. § 6-5-200	10 (deed or taxes)	A document or deed, or paid taxes on the property during this time period.
Alaska	Alaska Stat. Ann. § § 09.10.030, 09.45.052	10, 7 (deed)	A document or deed in the shorter time period noted.
Arizona	Ariz. Rev. Stat. § § 12-522 and following	10, 5 (deed, taxes if city lot), 3 (deed, taxes)	A document or deed and paid taxes on the property during the shorter time period above.
Arkansas	Ark. Code Ann. § § 18-61-103, 18-11-106	7 (deed, taxes)	A document or deed and paid taxes on the property during the shorter time period above.
California	Cal. Civ. Proc. Code § 325	5 (taxes)	Paid taxes on the property in this state during this time period.
Colorado	Colo. Rev. Stat. § § 38-41-101, 38-41-108	18, 7 (deed, taxes)	A document or deed and paid taxes on the property during the shorter time period above.
Connecticut	Conn. Gen. Stat. Ann. § 52-575	15	
Delaware	Del. Code Ann. tit. 10 § 7901	20	
District of Columbia	D.C. Code Ann. § § 16-1113, 12-301	15	
Florida	Fla. Stat. Ann. § 95.12 and following	7 (deed or taxes)	A document or deed, or paid taxes on the property during this time period.
Georgia	Ga. Code Ann. § § 44-4-7, 44-5-14, 44-5-161 and following	20, 7 (deed)	A document or deed in the shorter time period noted.
Hawaii	Haw. Rev. Stat. § 657-31 to 31.5	20	
Idaho	Idaho Code Ann. § § 5-206 and following	20 (taxes)	Paid taxes on the property in this state during this time period.
Illinois	735 Ill. Comp. Stat. Ann. § § 5/13-105, 107, 109	20, 7 (deed or taxes)	A document or deed, or paid taxes on the property during this time period.
Indiana	Ind. Code Ann. § § 32-23-1-1, 34-11-2-11	10 (taxes)	Paid taxes on the property in this state during this time period.
Iowa	Iowa Code Ann. § 614.17A	10	
Kansas	Kan. Stat. Ann. § 60-503	15	

State	Adverse Possession Statute	Time Required (in Years) for Continuous Possession	In Order to Make an Adverse Possession Claim, You must have...
Kentucky	Ky. Rev. Stat. § § 413.010, 413.060	15, 7 (deed)	A document or deed in the shorter time period noted.
Louisiana	La. Civ. Code art. 3475, 3486	30, 10 (deed)	A document or deed in the shorter time period noted.
Maine	Me. Rev. Stat. tit. 14, § 801	20	
Maryland	Md. Ann. Code [Cts. & Jud. Proc.] § 5-103	20	
Massachusetts	Mass. Gen. Laws Ann. ch. 260, § 21	20	
Michigan	Mich. Comp. Laws Ann. § 600.5801	15	
Minnesota	Minn. Stat. Ann. § 541.02	15 (taxes)	Paid taxes on the property in this state during this time period.
Mississippi	Miss. Code Ann. § § 15-1-7, 15-1-13	10	
Missouri	Mo. Stat. Ann. § 516.010	10	
Montana	Mont. Code Ann. § 70-19-411	5 (taxes)	Paid taxes on the property in this state during this time period.
Nebraska	Neb. Rev. Stat. § 25-202	10	
Nevada	Nev. Rev. Stat. § § 11.070, 11.110, 11.150, 40.090	15 (taxes), 5 (deed, taxes)	A document or deed and paid taxes on the property during the shorter time period above.
New Hampshire	N.H. Rev. Stat. Ann. § 508:2	20	
New Jersey	N.J. Stat. Ann. § 2A:14-30	30	
New Mexico	N.M. Stat. Ann. § 37-1-22	10 (deed)	A document or deed in the shorter time period noted.
New York	New York Real Prop. Acts. Law § 501, 511	10	
North Carolina	N.C. Gen. Stat. § § 1-38, 1-40	20, 7 (deed)	A document or deed in the shorter time period noted.
North Dakota	N.D. Cent. Code Ann. § § 28-01-04 and following, 47-06-03	20, 10 (deed, taxes)	A document or deed and paid taxes on the property during the shorter time period above.
Ohio	Ohio Rev. Code Ann. § 2305.04	21	
Oklahoma	Okla. Stat. Ann. tit. 12, § 93	15	
Oregon	Or. Rev. Stat. § § 12.050, 105.620	10	
Pennsylvania	42 Pa. Cons. Stat. § 5530	21	
Rhode Island	R.I. Gen. Laws Ann. § 34-7-1	10	

State	Adverse Possession Statute	Time Required (in Years) for Continuous Possession	In Order to Make an Adverse Possession Claim, You must have...
South Carolina	S.C. Code Ann. § 15-67-210	10	
South Dakota	S.D. Codified Laws Ann. § § 15-3-1, 15-3-15	20, 10 (taxes, deed)	You must have a document or deed in the shorter time period noted.
Tennessee	Tenn. Code Ann. § § 28-2-101 to 28-2-103	7 (deed)	A document or deed in the shorter time period noted.
Texas	Tex. Civ. Prac. & Rem. Code Ann. § 16.021 and following	10, 5 (deed, taxes)	A document or deed and paid taxes on the property during the shorter time period above.
Utah	Utah Code Ann. § § 78B-2-208 to 78B-2-214	7 (taxes)	Paid taxes on the property in this state during this time period.
Vermont	Vt. Stat. Ann. tit. 12, § 501	15	
Virginia	Va. Code Ann. § 8.01-236	15	
Washington	Wash. Rev. Code Ann. § § 4.16.020, 7.28.050	10, 7 (deed or taxes)	A document or deed, or paid taxes on the property during this time period.
West Virginia	W. Va. Code § 55-2-1	10	

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. **4945**

Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
IMPROVING CONFIRMATION OF IMPERFECT TITLES UNDER
SECTION 14 OF PRESIDENTIAL DECREE NO. 1529, IMPROVING THE
PROCESSING OF AGRICULTURAL FREE PATENT UNDER
SECTION 44 OF COMMONWEALTH ACT NO. 141, AND REMOVING
THE PERIOD TO FILE APPLICATIONS THEREAT
UNDER REPUBLIC ACT NO. 9176

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

SECTION 1. *Declaration of Policy.* – It is the declared policy of the State to simplify, update and harmonize similar and related provisions of land laws in order to simplify and remove ambiguity in its interpretation and implementation. It is also the policy of the State to provide land tenure security by continuing judicial and administrative titling processes.

SEC. 2. *Judicial Confirmation of Imperfect Title.* – The qualifications provided in Section 14 of Presidential Decree No. 1529 and Sections 47 and 48, Chapter VII of Commonwealth Act No. 141, as amended, shall be amended to read as follows:

“The following persons may file at any time, in the proper Regional Trial Court an application for registration of title to land, not exceeding twelve (12) hectares, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession

and occupation of alienable and disposable lands of the public domain under a bona fide claim of ownership for at least thirty (30) years immediately preceding the filing of the application for confirmation of title except when prevented by war or force majeure. They shall be conclusively presumed to have performed all the conditions essential to a government grant and shall be entitled to a certificate of title under this Section.

(2) Those who have acquired ownership of private lands or abandoned riverbeds by right of accession or accretion under the existing laws.

(3) Those who have acquired ownership of land in any other manner provided for by law.”

SEC. 3. Certification that the land is Alienable and Disposable. – To comply with this requirement, it is sufficient that the applicant submit a projection map prepared and signed by a licensed geodetic engineer and verified and approved by DENR official designated by the DENR Secretary showing that the land is within Alienable and Disposable lands of the public domain. The projection map shall contain a sworn statement by the geodetic engineer that the land is within the alienable and disposable lands of the public domain and shall state the applicable Forestry Administrative Order, DENR Administrative Order, Executive Order, Proclamations and the Land Classification Project Map covering the land.

SEC. 4. Administrative legalization (Free Patent). – Sections 44 par 1 and Section 45, Chapter VI of Commonwealth Act No. 141, as amended, is hereby amended to read as follows:

“SECTION 44. Any natural-born citizen of the Philippines who is not the owner of more than twelve (12) hectares and who, for at least thirty (30) years prior to the filing of his/her application, has continuously occupied and cultivated, either by himself/herself or through his/her predecessors-in-interest a tract or tracts of alienable and disposable agricultural public lands subject to disposition and who shall have paid the real estate tax thereon shall be entitled to have a free patent issued to him/her for such tract or tracts of such land not to exceed twelve (12) hectares.

SEC. 45. Period for Application. All applications shall be filed at any time

after the effectivity of this Act before the Community Environment and Natural Resources Office (CENRO) or region of the Department of Environment and Natural Resources (DENR). The CENRO is mandated to process the application within one hundred and twenty (120) days to include compliance with the required notices and other legal requirements, and forward his/her recommendation to the Provincial Environment and Natural Resources Office (PENRO), who shall have five (5) days to approve or disapprove the patent. In case of approval, the patent shall be issued; in case of conflicting claims among different claimants, the parties may seek the proper judicial remedies. Provided, that in provinces with no CENRO, the application shall be filed with the PENRO.”

SEC. 5. *Removal of Restrictions.* – The provisions of Republic Act No. 11231 shall be applicable to Free Patents issued under this Act.

SEC. 6. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the Director of the Land Management Bureau of DENR shall promulgate the Implementing Rules and Regulations to carry out the provisions of this Act and shall see to it that such are gender responsive.

SEC. 7. *Repealing Clause.* – All laws, decrees, executive orders, executive issuances or letters of instruction, rules and regulations or any part thereof inconsistent with or contrary to the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SEC. 8. *Separability Clause.* – If, for any reason or reasons, any part or parts of this Act shall be declared unconstitutional or invalid by any competent court, other parts of this Act shall be thereby shall continue to be in full force and effect.

SEC. 14. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,