

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. **3256**

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 24 AUG 2016

TIME: 1:40 PM

BY: [Signature]

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Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT REMOVING THE RESTRICTIONS UNDER SECTIONS 118, 119, 121, 122
AND 123 OF COMMONWEALTH ACT NO. 141, AS AMENDED,
ON FREE PATENTS ISSUED UN-DER SECTION 44 THEREOF

EXPLANATORY NOTE

Public land titling data from the Department of Environment and Natural Resources (DENR) showed that around 2.5 million agricultural patents were issued by the department and registered with the Register of Deeds in the last 30 years, most of these are through Free Patent. Agricultural free patent holders are successful farmers/cultivators of small size farms. The fact that these individuals were able to keep their agricultural landholding and had paid real property tax on their land since 1960¹ is an indication, at least, of their skills as farmer-entrepreneur. They are farmer-entrepreneurs and not tenant-farmer beneficiaries of Comprehensive Agrarian Reform Program.

Free patents and the less numerous homestead patents issued under the Public Land Act as amended, however, is subject to onerous restrictions against encumbrances or alienation for five (5) years and repurchased by the patentee and/or his widow and descendants within a period of five (5) years from the time of sale. Due to its restrictive features, agricultural patents are not as attractive in the rural land market, either as collateral or for acquisition.

The effect of the restriction is bad for the rural economy. It becomes a barrier to the earning potential of the land as it prevents patent holders from transferring or trading the land formally. More importantly, the restriction limits the ability of agricultural patentees to make use of the land as collateral for loan, which would, in effect, relax credit constraints. Banks and other financial institutions avoid agricultural patents as collateral because of the five (5) year right of repurchase that forces banks to hold agricultural patents for four (4) more years instead of just one (1) year for regular titles, in case of a foreclosure sale. In short, in the event of foreclosure, banks could not immediately liquidate an acquired agricultural patent thereby

¹ Continuous occupation and cultivation of the land and payment of real property taxes for at least thirty (30) years from 1990 is a condition for the issuance of Free Patent.

affecting the banks liquidity and its standing with the Bangko Sentral. As a result, agricultural patentees are forced to obtain unsecured loans with higher interest rates, instead of the lower interest business loans that are secured by mortgages.

Through the years, the State policy towards preservation of ownership through transfer restriction and right of repurchase has slowly been relaxed.² At present, only agricultural free patents and homestead patents are the last restricted patents in the land market. It has been recognized that such restrictions on the right to alienate or encumber the lands have worked against the people who are supposed to benefit from the law by depriving them of the full enjoyment and utilization of the property. These farmer entrepreneurs are not asking the government for financial support, what they needed from government only is full owners use of their lands since they are in the best position to evaluate the land in accordance to their needs.

While it is not automatic for landholders to use their land as collateral for credit, especially from formal credit suppliers, the repeal of these provisions is enough to widen the options for the agricultural patent landholders to get lower cost of credit, who for the moment are mostly dependent on the informal suppliers. This bill proposes to repeal Sections 118 and 119 of the Public Land Act in order to remove restrictions on agricultural patents and to make these agricultural land titles immediately tradable and bankable, provide patentees with much needed access to credit and create capital and investments, create jobs, increase productizing and reduce poverty in the rural areas.

In view of the foregoing consideration, the approval of this proposed bill is earnestly sought.



REP. JOEY SARTE SALCEDA

² Restrictions on Public Lands Disposed under Republic Act No. 47733 was removed under Presidential Decree Nos. 967 (1976) and 1304 (1978); restrictions on patents issued under Republic Act No. 730 was removed by Presidential Decree No. 2004 (1985); and Section 5 of Republic Act No. 10023 (2010) removes restrictions under Sections 118-123 of CA No. 141. Likewise, the Supreme Court latest interpretation on the right to repurchase has been relaxed in favor of the purchaser starting from Vargas and Vargas vs. Court of Appeals, GR No. L-35666, June 29, 1979.

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118, 119, 121, 122 and 123 OF COMMONWEALTH ACT NO. 141,
AS AMENDED, ON FREE PATENTS ISSUED UNDER SECTION 44 THEREOF**

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

Section 1. *Short Title* – This Act shall be known as the “**Agricultural Free Patent Reform Act.**”

Sec. 2. *Removal of Restrictions* – Subject to the Constitutional restrictions on foreign ownership of lands, agricultural public lands alienated or disposed in favor of qualified public land applicants under Section 44 of Commonwealth Act No. 141, as amended, shall not be subject to restrictions regarding encumbrances, conveyances, transfers or dispositions imposed under Sections 118, 119, 121, 122 and 123 of Commonwealth Act No. 141, as amended.

Sec. 3. *Retroactive Effect* – This Act shall have retroactive effect and restrictions regarding encumbrances, conveyances, transfers or dispositions imposed under Sections 118, 119, 121, 122 and 123 of Commonwealth Act No. 141, as amended, on free patents issued under Section 44 thereof before the effectivity of this Act shall likewise be removed and are hereby immediately lifted.

Sec. 4. *Repealing Clause* – All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 4. *Separability Clause* – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.

Sec. 12. *Effectivity* – This Act shall take effect after fifteen (15) days following the completion of its publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,