

Republic of the Philippines
HOUSE OF REPRESENTATIVE
QUEZON CITY

SEVENTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **6091**



Introduced by: REP. FERDINAND L. HERNANDEZ

AN ACT
REMOVING THE RESTRICTIONS IN THE REGISTRATION OF LAND
TITLES UNDER SECTIONS 118, 119, AND OTHER RESTRICTIONS
AGAINST ENCUMBRANCE OR ALIENATION ON FREE PATENTS
ISSUED UNDER SECTION 44 OF COMMONWEALTH ACT NO. 141
OR THE PUBLIC LAND ACT, AS AMENDED

EXPLANATORY NOTE

Agriculture is a continuously developing sector with the highest share in total employment: data from the Philippine Statistics Authority (PSA) shows that out of the 37.61 million total employed in the country, 32% or 12.09 million are in the agricultural sector, while gross value of agricultural production in 2016 amounted to 456.4 billion, 1.35% higher than the previous year's record.¹ Nevertheless, from 2003 up to present, farmers are identified as the group with one of the highest poverty incidence among the country's basic sectors.² Many factors contribute to poverty in this sector, such as competition in key sectors, complex regulations, severe underinvestment by the government and the private sector, and insecurity of property rights; the main contributor to poverty that we want to tackle now, however, is the restriction in laws pertaining to the distribution of agricultural land.

Under the Public Land Act or Commonwealth Act No. 141, grantees of agricultural free patent and the less numerous homestead patents are restricted from mortgaging or selling their lands within five (5) years from the issuance of the free patent, and from repurchasing by the patentee and/or his widow and descendants

¹ Philippine Statistics Authority, "Performance of Philippine Agriculture, October to December 2016" <<https://www.psa.gov.ph/content/performance-philippine-agriculture-october-december-2016-0>>

² As identified by the National Statistical Coordination Board, "Rodriguez, Fritzie. "PH Agriculture: Why is it Important? Rappler website, September 1, 2015. <<http://www.rappler.com/move-ph/issues/hunger/52372-agriculture-hunger-food-security>, accessed August 30, 2016.>

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.

This restriction becomes a barrier to the earning potential of the land as it prevents patent holders from transferring or trading the land formally, bearing a negative effect on the rural economy. 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. Because of these restrictions, access of the grantees to credit has been impeded. Banks and other private financial institutions have low confidence in extending loans to these landowners as they deem patents as flawed titles when used 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. Thus, despite their ownership over these lands, agricultural patentees are forced to obtain unsecured loans with higher interest rates instead of the lower interest business loans that are secured by mortgages, thereby limiting their potential to increase economic gains with borrowed capital, and pushing the agricultural landowners further into poverty. This deprivation of access to credit markets fuels the informal credit markets, wherein grantees engage in trading their usufruct rights to the land at a disadvantage, which defeats the very purpose of the restrictions in the first place.³

At present, only agricultural free patents and homestead patents are the last restricted patents in the land market, and it has been established that such restrictions on the right to alienate or encumber the lands have worked against not just 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, but only for full use of their own lands since they are in the best position to evaluate the land in accordance to their needs – but also against the government, as they hinder potential capital turnover to the national economy. One study estimates that agricultural land/asset covered by the five-year restriction amounts to at least PhP 387 Billion, potentially rendered idle due to limits in disposition, and may even reach trillions of pesos if patents prior to 1980 are included.⁴

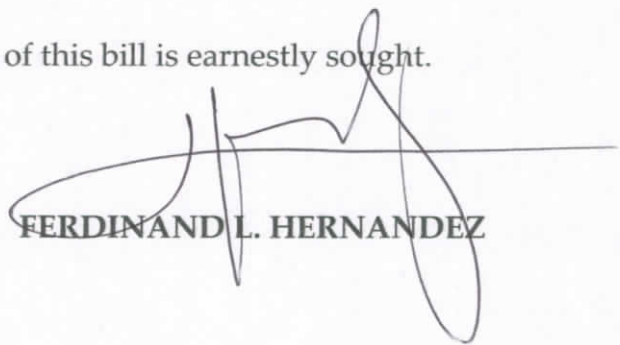
Although it is not automatic for landholders to use their land as collateral for credit, especially from formal credit suppliers, the repeal of these provisions is

³ Llanto, Gilberto M. and Ballesteros, Marife M. "Land Issues in Poverty Reduction strategies and the Development Agenda: Philippines." Philippine Institute for Development Studies Discussion Paper Series No 2003-03, March 2003. <<http://dirp3.pids.gov.ph/ris/pdf/pidsdps0303.pdf>, August 31, 2016.>

⁴ Tiamson, Erwin L. "Freeing the Land Market: How Legal Restrictions Hamper Agricultural Development and Poverty Reduction." Foundation for Economic Freedom, February 2016.

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. Hence, in the objective of increasing the potential productivity and income from land distributed through the agricultural free patent, 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. Through this measure, we can ensure the optimal utilization of the lands by the grantees, provide them with much needed access to credit and create capital and investments, create jobs, increase productivity, boost their financial capital, and ultimately reduce poverty in the rural areas.

It is in this light that the passage of this bill is earnestly sought.



FERDINAND L. HERNANDEZ

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SEVENTEENTH CONGRESS
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HOUSE BILL NO. 6091

Introduced by: REP. FERDINAND L. HERNANDEZ

AN ACT
REMOVING THE RESTRICTIONS IN THE REGISTRATION OF LAND
TITLES UNDER SECTIONS 118, 119, AND OTHER RESTRICTIONS
AGAINST ENCUMBRANCE OR ALIENATION ON FREE PATENTS
ISSUED UNDER SECTION 44 OF COMMONWEALTH ACT NO. 141
OR THE PUBLIC LAND ACT, AS AMENDED

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

1 Sec. 1. **Short Title.** – This Act shall be known as the “**Agricultural**
2 **Free Patent Reform Act of 2017**”

3 Sec. 2. **Declaration of Policy.** – It is the policy of the State to remove
4 the restrictions on free patents to allow the efficient and effective utilization
5 of these lands to contribute to wealth creation, entrepreneurship, and
6 economic development.

7 Sec. 3. **Removal of Restrictions.** – Agricultural public lands alienated
8 or disposed in favor of qualified public land applicants under Section 44 of
9 Commonwealth Act No. 141, as amended, shall not be subject to restrictions
10 regarding encumbrances, conveyances, transfers, or dispositions imposed
11 under Sections 118 and 119 thereof. Agricultural free patent shall now be

1 considered as title in fee simple and shall not be subject to any restriction
2 against encumbrance or alienation.

3 Sec. 4. **Retroactive Effect.** – This Act shall have retroactive effect and
4 restrictions regarding encumbrances, conveyances, transfers, or dispositions
5 imposed on agricultural free patents issued under Section 44 of
6 Commonwealth Act No. 141, as amended, before the effectivity of this Act
7 shall be removed and are hereby immediately lifted.

8 Sec. 5. **Repealing Clause.** – All laws, decrees, orders, rules and
9 regulations, or other issuances or parts thereof inconsistent with the
10 provisions of this Act are hereby repealed or modified accordingly.

11 Sec. 6. **Separability Clause.** – If any portion or provision of this Act
12 is declared unconstitutional, the remainder of this Act or any provision not
13 affected thereby shall remain in force and effect.

14 Sec. 7. **Effectivity.** – This Act shall take effect after fifteen (15) days
15 following the completion of its publication either in the Official Gazette or in
16 a newspaper of general circulation in the Philippines.

17 Approved,