THE PROPOSED NATIONAL LAND USE ACT
A Class Legislation

We urge Congress to exercise extra care and judiciousness in scrutinizing the proposed National Land Use Act currently under consideration by the Committee on Natural Resources, in view of the grave legal and socio-economic consequences that it poses.

For, contrary to its declared policies, this proposed legislation does not truly seek a National Land Use Act that will ensure rational land use allocation for the benefit of all sectors of the economy and society.

Rather, in letter and intent, what is sought is purely a class legislation designed to expand CARP coverage, unjustly enrich the peasantry at the expense of all other sectors, and turn the country into an agricultural state by preserving virtually all lands exclusively for agriculture and agrarian reform.

This is clear from the following features of the proposed Act:

1. It proposes to cover all of the country's lands without distinction.

2. It redefines "agricultural lands" such as to remove the exception granted under RA 6657 and RA 8435 to lands reclassified for residential, commercial, industrial and other non-agricultural uses.

3. It provides that all these agricultural lands as redefined shall be included in the Network of Protected Areas for Agricultural Development (NPAAD).

4. It provides that agricultural lands, including but not limited to the NPAAD, shall be protected from conversion.

   In particular, all irrigated and irrigable lands, all potential croplands, and all lands covered by the DAR's various notices of CARP coverage – without distinction as to whether or not these notices have been legally or validly issued – are totally banned from conversion.

   However, such conversion ban will not be made to apply to lands awarded to CARP beneficiaries.

5. It proposes to totally ban LGUs from reclassifying or zoning for non-agricultural uses all the aforementioned "protected agricultural lands".

Taken together, these provisions would mean that no land will be made available for non-agricultural development activity, unless the land is first awarded to CARP beneficiaries and conversion is thereafter allowed exclusively upon the DAR's discretion.

This conclusion arises from the fact that any land is "irrigable" or can be made suitable for agriculture, further compounded by the fact that practically all lands – whether agricultural or not under the existing definition – have already been covered by the DAR's notices of CARP coverage.

Thus, virtually all lands will fall under the definition of "agricultural land", will be subject to inclusion in the NPAAD, and will be covered by the conversion ban and all other restrictive provisions of the proposed Act.

And if at all any non-awarded land may escape the conversion ban, the provision empowering the DAR to determine what percentage of the converted land's value will be imposed as disturbance compensation, will render conversion practically impossible.

This is due to the fact, as empirical data show, that the DAR's mindset has always been to impose the highest disturbance compensation that it can, and to require landowners to provide CARP beneficiaries with all sorts of other benefits – without regard to legality, justness, or socio-economic consequences.

In essence, therefore, this proposed legislation appears intended to repeal the reclassification laws that prescribe the non-agricultural uses of identified lands, as well as local ordinances that reclassify lands pursuant to local authority under the Local Government Code, and including Section 20 of RA 7160 itself.

Those reclassification laws are: PD 399 which prescribes the use of striplands for human settlements, RA 7279 which prescribed the use of urban lands for urban and housing development ,and RA 7916 which identify the lands to be used for Ecozone purposes.

Those existing laws, taken in relation to RA 6657 and RA 8435 which deal with agrarian reform and agricultural development, have been so designed as to enable all sectors to benefit – equally and justly along with the peasant sector – from the nation's patrimony.

Those are the laws that make available land on which to build homes for millions of underprivileged homeless families, and to establish commerce and industry that will provide jobs and income opportunities for millions of the employed and underemployed and billions in revenues to support government's socially-oriented programs.

By virtue of those laws and local zoning ordinances, private rights have already vested on these reclassified lands. By repealing those enactments, Congress in effect will be seriously impairing these rights, while unjustly enriching peasants by handing to them the entire country on a silver platter – at the sacrifice of the rest of the nation.

That the proposed Act is indeed intended as a class legislation is further evident from the following:

1. The non-impairment clause, which singles out only the marginalized sectors as not subject to impairment of vested rights – a provision that in effect would rewrite the Constitution itself; and

2. The apparent inconsistency between the proposed Act's avowed objective of ensuring food security/agricultural self-sufficiency on one hand, and on the other, the provision that agricultural lands may be converted after award to CARP beneficiaries.

   If food security is the real intent, then CARP awardees should be similarly banned from converting lands into non-agricultural use, just as all other landowners are so banned under the proposed Act.

All the foregoing concerns give rise to doubts as to whether or not this proposed enactment would be in accord with the Constitution, particularly in terms of:

1. The equal protection, due process and non-impairment clauses;

2. The limitations on the CARP under Article XIII Section 4;

3. The mandate for an urban land reform and housing program under Article XIII Section 9;

4. The mandate under Article XII Section 1 to provide all sectors of the economy with the optimum opportunity to develop; and

5. The mandate under Article II Section 25 and Article X Section 2 to promote and strengthen local autonomy.

It is CREBA's view that there is no need for a National Land Use Act such as that proposed. The goals sought to be attained – food security, environmental protection, agrarian reform, urban land reform, agricultural development, industrial development, etc – have already been addressed by the legislature under various existing laws.

Similarly, there is no dearth of laws to regulate and optimize land use. All that is necessary is simply the proper application and implementation of these existing laws.

If Congress is truly bent on such enactment, however, CREBA will have no objection, provided the aforementioned infirmities are cured by making it clear in the proposed Act that:

1. None of its provisions shall be made to apply to the following reclassified lands:

    a) All private striplands as defined under PD 399;

    b) All lands in all cities and municipalities defined as urban areas under RA 7279;

    c) All lands in all areas identified as Ecozones, or may be identified as such, under RA 7916;

    d) All lands in all areas identified by law or executive fiat for tourism development; and

    e) All lands reclassified, or may hereafter be reclassified, by LGUs pursuant to the Local Government Code.

2. Any notice of CARP coverage that may have been issued by the DAR to cover the aforementioned reclassified lands shall be deemed revoked, and the DAR henceforth shall not exercise any jurisdiction or authority over said lands except to require payment of disturbance compensation in cases where the land is legitimately tenanted – but strictly as provided under RA 3844 as amended by RA 6389.

3. Lands specifically excluded from CARP under Section 10 of RA 6657 as amended by RA 7881, and livestock/poultry farms by virtue of the Constitution as interpreted by the Supreme Court, shall remain excluded.

For this purpose, CREBA recommends that the proposed Act be amended as follows:

1. By modifying the definition of "agricultural lands", to wit:

    Sec. 4 (a) Agricultural lands refer to ...xxx... whether natural or juridical. Regardless of the agricultural suitability of the land, this definition shall not apply to all privately-titled lands in areas designated by existing law or local ordinance for residential, commercial, industrial, tourism and other non-agricultural and/or urban purposes, such as: all lands in all

urban areas as defined under RA 7279; all privately-owned striplands as defined under PD 399; all lands in all areas designated for Ecozone purposes under RA 7916; all lands in all areas set aside for tourism development under RA 7357, RA 7668 and other existing laws; and all lands in all areas zoned or reclassified by LGUs for non-agricultural use pursuant to the Local Government Code.

2. By including a separate provision, to wit:

Notwithstanding the scope of this Act as provided under Section 3 hereof, none of the provisions herein shall apply to all lands excluded from the definition of agricultural lands in Section 4 hereof.

A conversion order or certificate of CARP exemption from the DAR shall not be required in the issuance of a development permit and/or locational clearance for the development of said excluded lands. Any Notice of Compulsory Acquisition Stock Distribution Option, Production or Profit Sharing and Commercial Farm Deferment under the CARP issued by the DAR over reclassified lands of the public domain are hereby deemed revoked; provided, that any Voluntary Offer to Sell may be revoked upon application by the landowner.

Said excluded lands shall remain under the exclusive jurisdiction of the implementing agency as designated under the pertinent existing law, provided, that:

a) The sectoral development plans for said lands shall be formulated by the agency concerned in accordance with the provisions of the pertinent existing law, and shall be incorporated in the NPFP and the local development plans;

b) In all cases where development of said excluded lands will re-sult in displacement of legitimate farmer-tenants as may be identified by the DAR and the local government concerned, no development permit shall be issued unless the application therefor is accompanied by evidence of payment of disturbance compensation the amount of which shall be determined by the Department of Agriculture in accordance with the formula prescribed under Republic Act 3844 as amended by Republic Act 6389, for which the Department of Agriculture shall promulgate the implementing guidelines within thirty (30) days from effectivity of this Act;

c) Land development plans for said excluded lands shall incorporate applicable environmental protection measures prescribed by the DENR under existing laws and, in case of development projects in environmentally critical areas as identified pursuant to law, a Certificate of Environmental Clearance from the DENR shall be submitted together with the application for a development permit;

d) In case the land is irrigated by public funded irrigation facilities, the project proponent shall reimburse the Department of Agriculture for the cost of the irrigation facilities; and

e) Said excluded lands may be used for short-gestating agricultural production activities in the meantime that they await actual development or non-agricultural use; provided, that any arrangement to this effect between the landowner and third parties shall not be subject to provisions of agrarian reform laws and this Act.

3. By including a separate provision, to wit:

   Sec. ___. Nothing in this Act shall be construed as placing under the coverage of the CARP livestock farms, poultry farms, and all other agricultural land specifically exempted under Section 10 of RA 6657 as amended by RA 7881.

4. By deleting the non-impairment clause under Section 69, which is patently biased in favor of exclusively the marginalized sector.