Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HB NO. 391

Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

The coconut industry is one of the major industries of the Philippine economy. Its average annual foreign exchange earnings amount to $ 600 million for the past ten years, making it one of the top earners of the country.

The total land area planted to coconut is 3.4 million hectares or about 30% of our total agricultural land. Sixty out of 75 provinces and 1,173 of our 1,554 municipalities are coconut-producing areas.

The coconut industry, however, is beset by problems that threaten its viability. One of the most serious of these problems is heavy dependence on foreign market which renders the industry vulnerable to trade barriers such as the campaign by the American Soybean Association (ASA) against the use of "saturated" fats which according to them include coconut oil. Another pressing concern affecting the coconut industry is the rapidly declining production due to the lack of coordination and cooperation among the government, the scientific, and business communities. As a result, the living condition of the small coconut farmers continues to deteriorate. Despite this, however, the government through the Philippine Coconut Authority (PHILCOA) was successful in collecting a huge amount of money from the coconut farmers from 1973 to 1982. The amount collected from so-called coconut levy approximately amounts to a staggering P 9.695 billion. This onerous levy was supposed to be used for the advancement of the welfare of the industry's dependents.

Among the assets derived from this fund are:

- the greater part of the local shares of stocks of one of the country's largest commercial banks, the United Coconut Planters Bank, the so-called coconut farmers bank and flagship of the levy-funded assets;
- one third (1/3) of the San Miguel Corporation shares of stock;
- five (5) coconut oil mills which are among the biggest in the country;
- the United Coconut Planters Life Assurance Corporation;
- the Coconut Marketing Corporation;

- the United Coconut Chemical , Inc.; and

- even the luxurious Coconut Palace, etc.

Altogether, these would be worth more than the amount the coconut farmers and the industry need.

But the coconut farmers are prevented from using these resources by certain provisions in the presidential issuances pertaining to the collection, treatment and uses of the levy which convert the same into private funds (PD No. 961, EO No. 490 in 1977 and PD No. 1468 in 1979):

> "... the intention being that said fund and disbursements thereof as herein authorized for the benefit of the coconut farmers shall be owned by them in their own private capacities ...." (Art.III, Sec. 5, P.D. No. 1468).

These provisions conveniently led to the channeling of substantial portions of the Fund to undertakings that hardly benefit the coconut industry.

The 33 million SMC shares, for instance, do not have anything to do with the industry . Even the UCPB, the so-called "Coconut Farmers Bank" has hardly given any assistance to them. How much has it lent to the coconut farmers? And to think that it was organized precisely to help solve their "perennial credit problems." And what about the Coconut Palace?

The appalling condition of the coconut farmers difficulties has now made more imperative immediate action on the recovery of these resources and utilization of the same, for the benefit of the farmers from whom the P 9.7 levy was painfully taken.

This bill, therefore, provides for the immediate recovery of the assets derived from our acquired using the levy by declaring the same public funds. In making this proposal, we are guided among others by the following considerations:

- When government collects a big sum of money like P 9.7 billion from a big number of people like the 1.4 million coconut farmers, that fund is by nature " public". It is impressed with public interest. As the Supreme Court said in GR No. 75713, Cocofed et al vs. PCGG at all, "the coconut levy funds are clearly affected with public interest."

It is true that the Marcos PDs and issuances religiously refer to the funds as "private." But even if Marcos were the legislature - which he was not - he could not by decree convert as " private". Funds which are by nature public. The present Congress may pass hundreds of legislation calling a horse a carabao. That however will never change the nature of the horse. It would remain a horse . Such is the case of the P 9.7 billion levy.

- UP College of Law Dean Pacifico Agabin who wrote an enlightening article on this had this to say: It may be asked whether the former ruler could by decree validly change the nature of what had been public funds into private funds. It is submitted that the authority to do so, even by legislation, is constitutionally suspect if the effect of the decree is to benefit only private enterprises. This is because under a republican government, taxes whether special or general , can be expended only for a public purposes and not for the advantages of private individuals .

- The declared policy of the Marcos PDs and issuances which authorized the levy imposition, was to pass on the benefits of the coconut industry " to the greatest number." The avowed intent of the issuances was to make them " direct participants in , and beneficiaries of " the industry's growth and development. If only the 700 million UCPB shares were distributed in compliance with the spirit, intent and mandate of the said issuances, the 1.4 million coconut farmers should have about 500 shares on the average. Surely, accumulation of one-half of the total 700 million shares in the hands of 64 individuals is not only violative of the spirit but also the very letter of said issuances. Indeed, if the stock holdings of the top 1,000 or so stockholders were to be taken out of the list, the rest of the supposed 1.4 million coconut farmers would have only about 20 to 30 shares on the average - compared to 5 million on the average each of the top 64.

- We are all aware that the country is sorely in need of capital. The people especially the small coconut farmers in the countryside, have practically no access to banks and other lending institutions. They just don't have any security to offer. Here then is a specific, available and collateral - free funding source.

- If liquefied, the levy-funded assets could generate an estimated P 35 billion. The then PCA Administrator, Virgilio David says it could amount to P60 million. The SMC shares alone could amount to P 30 billion. If the P 30 billion were to be deposited with the banks, it would earn at least P4.5 billion yearly. And yearly, some 100,000 small coconut farmers could borrow a P45,000 loan each from the interest earnings alone . Or 450,000 farmers could obtain a P10,000 loan each from that fund. The farmers could be charged nominal interest so that the fund could grow, even if modestly , and be availed of by them in perpetuity . Can we ever bring to the lives of thousands of the small coconut farmers.

- The proposed amnesty may not prove effective unless accompanied by concrete government efforts at uplifting the lives of the people especially in the barangays. This is one such concrete effort.

- To extent that we are able to help improve the farmer's livelihood, to that extent we would be able to help ease the peace and order and insurgency situation in the countryside. Our costly conflict may finally be resolved only if the roots of the poverty problem are truly addressed.

- Finally, we shall have been able to do justice to the 1.4 million coconut farmers who were made involuntary contributors to the fund and who to this day gotten nothing out of that painful exaction.

- This is our golden opportunity to correct a grievous wrong. Our people in the countryside have waited long enough.

Let us pass this measure now.

ROSELLER L. BARINAGA
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines)
Thirteenth Congress)
First Regular Session)

HOUSE OF REPRESENTATIVES

HB NO. 391

Introduced by **Rep. Roseller L. Barinaga**

AN ACT
STRENGTHENING THE PHILIPPINE COCONUT AUTHORITY, INCREASING THE SMALL COCONUT FARMERS' PARTICIPATION IN, AND THEIR BENEFITS FROM, THE COCONUT INDUSTRY, AND BOLSTERING THE INDUSTRY'S DEVELOPMENT, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NUMBERED FOURTEEN HUNDRED AND SIXTYEIGHT, AS AMENDED, OTHERWISE KNOWN AS THE REVISED COCONUT INDUSTRY CODE

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

SECTION 1. Section 2, Article of Presidential Decree No. 1468, as amended, is hereby amended to read as follows:

"SEC. 2. *Declaration of Policy.* - It is hereby declared to the policy of the State to promote the rapid integrated and sustainable development and growth of the coconut and other palm oil industry in all its aspects and to ensure that the coconut farmers, SPECIALLY THE SMALL COCONUT FARMERS, TILLERS, WORKERS AND OWNER CULTIVATORS WHO COMPRISE THE OVERWHELMING MAJORITYOF THE PEOPLE IN THE COCONUT INDUSTRY, become direct participants in, and beneficiaries of, such development and growth."

SEC. 2. Paragraphs (b), (c), (e) and (h) of Section 3, Article II of the Same Decree are hereby amended to read as follows :

"(b) to formulate and implement a nationwide replanting program using RECOMMENDED [precocious]

SEC. 3. Section 6, Article II of the same Decree is hereby amended to read as follows:

"SEC. 6. *Compensation of the Members of the Board.* – The members of he board shall receive *per diem* of [two hundred] TWO THOUSAND pesos for each

meeting actually attended: *Provided,* That such *per diem* shall not exceed [one] TEN thousand pesos during any month for each member.

SEC 4. A new article is hereby inserted after the last section of Article II to Be denominated as Article III to read as follows:

"ARTICLE III
COCONUT FARMERS

"SECTION 1. *PRINCIPAL BENEFICIARIES.* - WITHOUT PREJUDICE TO THE RIGHTS OF OTHER SECTORS, THE COCONUT FARMERS, ESPECIALLY THE SMALL COCONUT FARMERS, WHO CULTIVATE THE LAND PERSONALLYOR PHYSICALLY EITHER AS A TENANT OR LESSEE, FARM WORKER, OWNERCULTIVATOR AND WHO DERIVE THEIR MAJOR SOURCE OF INCOME FROM THE COCONUT FARM, AND THROUGH THEM THE ENTIRE COCONUT INDUS-TRY SHALL BE THE PRINCIPAL BENEFICIARIES OF THIS ACT.

"SEC. 2. *SELF – INITIATIVE AND SELF RELIANCE.* - IN ORDER TO BENEFIT FROM THE INDUSTRY ON A STABLE AND LONG–TERM BASIS. SMALL COCONUT FARMERS SHALL DEVELOP SELF–INITIATIVE AND SELF–RELIANCE FOR EFFECTIVE PARTICIPATION IN, AND OPTIMUM BENEFITS FROM, THE DEVELOPMENT OF THE INDUSTRY, AFTER CONSULTATION AND UPON REQUEST OF THE FARMERS, AND FOR THIS PURPOSE, THE AUTHORITY SHALL EXTEND TO THEM ALL POSSIBLE ASSISTANCE.

"SEC. 3. *ASSISTANCE TO SMALL FARMERS.* - UPON THE REQUEST OF THE COCONUT FARMERS, THE AUTHORITY SHALL ASSIST THEM N THE FOLLOWING WAYS AMONG OTHERS:

"A) INFORMING AND MAKING THEM MORE DEEPLY AWARE OF: THEIR SITUATION, THEIR PROBLEMS, THE PROBLEMS OF THE COCO NUT INDUSTRY INCLUDING THE OPPORTUNITIES AND PROSPECTS THEREOFAND AT THE SAME TIME ACCEPT INFORMATION FROM THE FARMERS THEMSELVES OF THEIR UNDERSTANDING OF THEIR OWN PROBLEMS AND OPPORTUNITIES;

"B) ENCOURAGING AND HELPING FORM AND STRENGTEN THEIR VOLUNTARY AND INDEPENDENT ORGANIZATIONS AND ELIMINATING THE OBSTACLES TO THE EXERCISE OF THEIR RIGHT YTO SELF- ORGANIZATION THROUGH A PROGRAM OF INFORMATION, EDUCATION, TRAINING AND THROUGH THER WAYS OF FACILITATING THE ESTABLISHMENT AND GROWTH OF THEIR OWN ORGANIZATION(S);

"C) TEACHING AND TRAINING THEM DIRECTLY OR THROUGH APPROPIATE AGENCIES, SUCH AS THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, TO FULLY UTILIZE THE

COCONUT AND ITS BY-PRODUCTS, LIKE COCONUT MEAT AND BAGASSE, COCONUT OIL, COCONUT WATER, COCONUT SHELL, COCONUT COIR AND DUSTY, AND OTHER BY–PRODUCT;

"D) ASSISTING THEM IN ACQUIRING THE LATEST TECHNOLOGY AND EQUIPMENT AS WELL AS IN RAISING FUNDS FOR THE PROCESSING OF ALL COCONUT PRODUCTS AND BY-PRODUCTS ON THE COTTAGE, VILLAGE, AND HIGHER LEVELS;

"E) PROVIDING THEM IN THE KNOW-HOW AND SKILLS FOR THE EFFICIENT MARKETING OF THEIR COCONUT PRODUCTS AND BY-PRODUCTS INDIVIDUALY OR THROUGH THEIR ORGANIZATIONS/ COOPERATIVES BOTH IN THE DOMESTIC AND IN THE INTERNATIONAL MARKET SO THAT THE BENEFITS THEREFROM WILL DIRECTLY ACCRUE TO THEM RATHER THAN THE MIDDLEMEN;

"F) COOPERATING WITH THEM INDIVIDUALLY AND ORGANIZATIONALLY IN THE MONITORING OF ILLEGAL CUTTING OF COCONUT TREES ILLEGAL CONVERSIONS OF COCONUT LANDS TO OTHER AGRICULTURAL OR NON-AGRICULTURAL PURPOSES, AND ALL CASES OF ILLEGAL EJECTMENT OR EXPLOITATION OF COCONUT FARMERS, TENANTS, LESSEES, WORKERS AND OWNER-CULTIVATORS, AND FILING, OR ASSISTING THEM IN THE FILING AND PROSECUTION OF, APPROPIATE ADMINISTRATIVE AND JUDICIAL CASES TO HELP PROTECT THEIR RIGHTS;

"G) HELPING THEM IN THE PRODUCTION AND/OR ACQUISITION OF ORGANIC FERTILIZERS AS WELL AS OF BIO-ORGANIC TECHNIQUES OF SOIL ENRICHMENT AND PEST CONTROL; AND

"H) HELPING THEM IN PRESSING FOR THE IMMEDIATE AND THROUGH IMPLEMENTATION OF AGRARIAN REFORM IN ALL COCONUT LANDS."

SEC. 5. The entire Article III, entitled LEVIES, of Presidential Decree No. 1468, as amended , is hereby renumbered as Article IV and substituted to read as follows:

"ARTICLE IV
" LEVIES

"SECTION 1. *LEVIES AND PUBLIC FUNDS.* - ALL COCONUT LEVIES ARE HEREBY REAFFIRMED AND DECLARED AS PUBLIC FUNDS.

"SEC. 2. *COCONUT INDUISTRY REHABILITATION AND DEVELOPMENT FUND.* - ALL THE FUNDS ESTABLISHED FROM THE PROCEEDS OF THE LEVIES, INCLUDING THE COCONUT INVESTMENT FUND, THE COCONUT CONSUMERS STABILIZATION FUND, THE COCONUT INDUSTRY

DEVELOPMENT FUND, THE COCONUT DEVELOPMENT FUND, AND OTHERS, AS WELL AS ALL THE ASSETS ACQUIRED OR ESTABLISHED THEREFROM, AND ALL OTHER ASSETS SET UP USING THE COCONUT LEVY COLLECTIONS SHALLFORM PART OF A SINGLE FUND WHICH IS HEREBY CREATED AND WHICH SHALL BE KNOWN AS THE COCONUT INDUSTRY REHABILITATION AND DEVELOPMENT FUND (CIRDF).

"SEC. 3. *NATURE AND PRIMARY PURPOSE OF CIRDF.* - THE COCONUT INDUSTRY REHABILITATION AND DEVELOPMENT FUND SHALL NOT BE PART OF THE GENERAL FUNDS OF THE NATIONAL GOVERNMENT AND SHALL BE USED EXCLUSIVELY FOR THE REHABILITATION AND DEVELOPMENT OF THE COCONUT INDUSTRY AND THE UPLIFTMENT OF THE LIVES OF THOSE DEPENDENT ON IT, PARTICULARLY THE SMALL COCONUT FARMERS. THE CIRDF SHALL BE SUBJECT TO AUDITING RULES AND REGULATIONS OF THE COMMISSION ON AUDIT.

"SEC. 4. *CIRDF UNDER THE PCA.* - THE COCONUT INDUSTRY REHABILITATION AND DEVELOPMENT FUND SHALL BE HELD, ADMINISTIRED UTILIZED, AND/OR DISPOSED OF UNDER THE PROVISION OF SECTION 11 HEREOF.

"SEC. 5. *INVENTORY OF COCONUT LEVY- FUNDED ASSETS.* –THE AUTHORITY AND THE COMMISSION ON AUDIT SHALL IMMEDIATELY CONDUCT A THOROUGH INVENTORY OF ALL ASSETS ACQUIRED OR FUNDED BY THE COCONUT LEVY COLLECTIONS. WITHIN SIX (6) MONTHS AFTER THE EFFECTIVITY OF THIS ACT. THE AUTHORITY AND THE COMMISSION ON AUDIT SHALL MAKE A PUBLIC DISCLOSURE OF THEIR FINDINGS.

"SEC. 6. *AUDITING OR EXPENDITURES MADE OUT OF THE LEVY COLLECTIONS.* - THE COMMISSION ON AUDIT SHALL CONDUCT AN AUDIT OF ALL THE DISBURSEMENT OR EXPENDITURES MADE OUT OF THE LEVY COLLECTIONS WITH THE END IN VIEW OF DETERMINING WHETHERTHOSE EXPENDITURES ARE IN ACCORDANCE WITH THE PURPOSES FORWHICH THE LEVIES WERE COLLECTED AND THE RULES AND REGULATIONSCONCERNING THE DISBURSEMENT OF PUBLIC FUNDS. ON THE IMPROPEROR ILLEGAL USE OF THE LEVY COLLECTION, THE COMMISSION ON AUDIT, THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT, THE AUTHORITY,THE OFFICE OF THE SOLICITOR GENERAL AND OTHER CONCERNED GOVERNMENT AGENCIES SHALL IMMEDIATELY INSTITUTE THE NECESSARYLEGAL ACTIONS WITH THE PRIMARY OBJECTIVE OF RECOVERING THE AMOUNT(S) IMPROPERLY USED.

"SEC. 7. *TRANSFER OF COCONUT LEVY-FUNDED ASSETS TO THE PCA.* – IN COORDINATION WITH THE OFFICE OF THE SOLICITOR GENERAL AND OTHER APPROPIATE GOVERNMENT AGENCIES, THE AUTHORITY SHALL DRAW UP PLANS OF ACTION FOR THE IMMEDIATE

TRANSFER OF THE COCONUT LEVY-FUNDED ASSETS TO THE AUTHORITY AS THE ADMINISTRATOR OF THE FUND.

"SEC. 8. *SAFEGUARDING AND UTILIZATION OF LEVY-FUNDED ASSETS.* - THE AUTHORITY SHALL, IN COORDINATION WITH AND WITH THE ONSENT OF, THE COCONUT FARMERS AND THEIR ORGANIZATIONS, STUDYIMPLEMENT THE BEST MANNER BY WHICH EACH OF THESE COCONUT LEVY-FUNDED ASSETS CAN BE SAFEGUARD AND EVENTUALLY UTILIZED FOR THE PROGRAM THAT THE AUTHORITY SHALL PURSUE, WITH EMPHASIS ON, AND PRIORITY FOR, THE UPLIFTMENT OF THE LIVES OF THE COCONUT FARMERS.

"SEC. 9. *UNITED COCONUT PLANTERS BANK.* - THE AUTHORITY, AS ADMINISTRATOR OF THE CIRDF, SHALL REDEFINE OR RE-DIRECT THE POLICIES OF THE UNITED COCONUT PLANTERS BANK TOWARDS PURSUANCE OF THE VERY PURPOSE FOR WHICH IT WAS ESTABLISHED, THAT IS, TO PROVIDE THE COCONUT FARMERS READILY AVAILABLE CREDIT FACILITIES AT REASONABLE RATES.

"SEC. 10. *COLLECTION OF UNCOLLECTED COCONUT LEVIES.* - THE AUTHORITY SHALL MAKE A PUBLIC DISCLOSURE OF BTHE COCONUT LEVIES THAT HAVE NOT YET BEEN COLLECTED. IT SHALL DRAW UP AND IMPLEMENT A MORE EFFECTIVE AND EFFICIENT WAY OF COLLECTING THE UNCOLLECTED LEVIES WHICH SHALL BE ADDED TO THE CIRDF.

"SEC. 11. *ADMINISTRATION AND DISPOSITION OF ALL FUNDS AND ASSETS.* - ALL FUNDS AND ASSETS HELD OR TO BE HELD BY THE AUTHORITY IN TRUST FOR, AND FOR THE BENEFIT OF, THE COCONUT FARMERS SHALL BE ADMINISTERED, UTILIZED AND/OR DISPOSED OF WHOLLY OR PARTIALLY UNDER EITHER OF THE FOLLOWING ARRANGEMENTS, DEPENDING ON THE MUTUAL AGREEMENT BETWEEN THE AUTHORITY AND THE ACCREDITED NATIONAL ORGANIZATIONS OF THE COCONUT FARMERS:

> "A) THE FUNDS AND ASSETS SHALL BE RETAINED BY THE AUHTORITY, AND THE AUTHORITY SHALL ADMINISTER, UTILIZE AND/OR DISPOSE OF THEM AS AGREED TO BY THE AUTHORITY AND THE DULY REGISTERED AND ACCREDITTED ORGANIZATIONS OF THE SMALL COCONUT FARMERS ; OR
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> "B) THE FUNDS AND ASSETS SHALL BE TRANSFERRED TO THE SMALL COCONUT FARMERS ORGANIZATIONS THROUGH A SINGLE ACCREDITED NATIONAL ORGANIZATION FORMED AND AUTHORIZED BY THEM, FOR THE BENEFIT OF THE COCONUT FARMERS: *PROVIDED,* THAT THE TRANSFER OF FUNDS AND ASSETS SHALL BE GRADUAL, DEPENDING ON THE CAPABILITY OF THE FARMERS AND THEIR ORGANIZATIONS TO HANDLE THEM: *PROVIDED, FURTHER*, THAT THE AUTHORITY SHALL ASSIST IN, AND EXERCISE CONTINUING SUPERVISION OVER, THE

ADMINISTRATIONUTILIZATION, AND DISPOSITION OF SAID FUNDS AND ASSETS TO INSURE THEIR HONEST AND EFFECTIVE MANAGEMENT FOR THE OPTIMUM BENEFIT OF THE COCONUT FARMERS: *PROVIDED, FURTHERMORE,* THAT FOR THIS PURPOSE, THE SIGNATURE AND APPROVAL OF THE AUTHORITY'S ADMINISTRATOR OR HIS REPRESENTATIVE SHALL BE REQUIRED FOR EVERYEPOSIY, ACQUISITION, UTILIZATION, DISBURSEMENT, AND ALIENATION OF SAID FUNDS, AS WELL AS FOR EVERY CONTRACTOR OR AGREEMENT ENTERED INTO CONCERNING SAID FUNDS; AND *PROVIDED, FINALLY,* THAT THE AUTHORITY AND THE ACCREDITED NATIONAL FEDERATION OF SMALL COCONUT FARMERS SHALL PROMULGATE THE RULES AND REGULATIONS FOR THE ENFORCEMENT AND OBSERVANCE OF ITS SUPERVISORY POWER."

SEC. 6. Articles IV and V of the same Decree are hereby renumbered as Articles V and VI, respectively.

SEC. 9. The incumbent members of the Board of the Philippine Coconut Authority shall continue to discharge their duties and responsibilities as such until their successors shall have been appointed and qualified.

SEC. 10. Any person who is criminally liable as of the effectivity of this Act for violating any of the laws relating to the coconut levies herein repealed or amended shall remain so criminally liable and nothing herein shall extinguish such criminal liability.

SEC. 11. If any part or provision of this Act is declared unconstitutional, the remaining parts or provisions not affected thereby, shall remain in full force and effect.

SEC. 12. All laws, decrees, executive orders, rules and regulations, and other issuances or parts thereof, inconsistent with this Act are hereby repealed, amended or modified accordingly .

SEC. 13. This Act shall take effect fifteen (15) days from its publication in the *Official Gazette* or in a national newspaper of general circulation.

Approved.