



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila
Thirteenth Congress
First Regular Session



HOUSE BILL NO. 2830

Introduced by Honorable Roger G. Mercado

EXPLANATORY NOTE

This bill seeks to provide measures to enhance the acceptability of agricultural lands as security for loans obtained from lender banks and other financial institutions thereby promoting access to rural credit. This bill provides farmer-beneficiaries access to credit. It also guarantees the availability of funds to answer for the farmers' obligations in case of default in the payment of loans.

The Department of Agrarian Reform (DAR) in its 2003 accomplishment report stated that it has distributed 126,661 hectares of agricultural lands, including the 26,490 hectares on leasehold. To date, DAR has distributed a total of 3,408,118 hectares against its total working scope of 4,290,453 hectares. More than 1,700,000 agrarian reform beneficiaries directly benefited from the Comprehensive Agrarian Reform Program (CARP). Sixteen years after the passage of the Comprehensive Agrarian Reform Law (RA 6657), the State has launched numerous programs, projects, incentives and facilities for the realization of the CARP.

A basic qualification of a beneficiary of the CARP or any land grant of the government is his willingness, aptitude, and ability to cultivate and make the land awarded to him as productive as possible. In order that the beneficiary shall not become negligent or shall not misuse the land grant, the CARP and other related laws provide support services such as farm-to-market roads, bridges, irrigation facilities, potable water supply, educational

and health facilities, solar dryers, post harvest facilities and other infrastructure and public works projects.

Becoming landowners was the easy part of the CARP or land grants. However, finding the financial means to cultivate their lands is the biggest worry of these farmer-beneficiaries because agricultural credit services are inadequate. They risk forfeiting their land grants and they realize too late the difficulty in making the land they till productive and income generating.

In this context, it has been observed that farmer-beneficiaries have not been freed totally from the bondage of poverty and dependence on government subsidies.

These farmer-beneficiaries need financial assistance to cultivate their lands productively. One measure to provide them assistance is to authorize financial institutions to accept agricultural lands as collateral for loans. This will enable them to secure financing for their farms thereby freeing them from usurious interests charged by "loan-sharks". This bill also limits the use of loan proceeds exclusively for agricultural activity, such as agricultural production, land development and post harvest facilities.

To make the bill more responsive, the mortgage of the awarded lands should be limited to authorized private and government financial institutions, and credit cooperatives. This process is for easy monitoring of mortgages and transfer activities, and to ensure that they are done within existing laws.

This measure is in line with the government's program to give priority and special attention to the agricultural sector of the country. Greater access to financial institutions will help the farmer-beneficiaries develop their full production potentials, resulting in the increase of the country's food supply.

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



ROGER G. MERCADO



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AN ACT
PROVIDING MEASURES TO ENHANCE THE ACCEPTABILITY
OF AGRICULTURAL LANDS AS SECURITY FOR LOANS FROM
BANKS AND OTHER FINANCIAL INSTITUTIONS THEREBY
PROMOTING ACCESS TO RURAL CREDIT AND PROVIDING
MECHANISMS THEREFOR

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

SECTION 1. ***Title.*** – This Act shall be known as the “Enhanced
Collateral Value of Farm Lands Act of 2004.”

SEC. 2. ***Declaration of Policy.*** – It is hereby declared the policy of
the State to promote a more equitable distribution of opportunities, income
and wealth, a sustained increase in the amount of goods and services
produced by the nation for the benefit of the people, and an expanding
productivity as the key to raising the quality of life for all, especially the

underprivileged. Towards this end, the State shall ensure that the agrarian reform beneficiaries and other rural and agricultural sectors of the economy shall be given optimum opportunity to develop in order to promote the welfare of the agriculture and rural population by increasing their income. To maximize productivity, promote efficiency and equity, provide infrastructure network, and accelerate the modernization of the rural and agricultural sectors of the country, credit shall be directed to the said sectors.

SEC. 3. **Coverage.** – This Act shall apply to the following categories of agricultural lands devoted to agricultural activity as defined in RA 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, as amended:

- a) Lands not yet covered by any agrarian reform program;
- b) Lands with agricultural lessees, whether or not it has been the subject of the landowner's prior exercise of retention rights granted by law without prejudice to the rights of the agricultural lessee;
- c) Lands covered and fully paid under P.D. No. 27, or R.A. 6657 and beyond the 10-year prohibition period;
- d) Lands covered by homestead grants and free patents;
- e) Lands covered by R.A. 6657 but not yet fully paid and neither within nor beyond the 10-year prohibition period; and

- f) Lands covered and fully paid under R.A. No. 6657 but still within the 10-year prohibition period.

SEC. 4. *Acceptability as Loan Collateral.* – All agricultural lands enumerated under Section 3 of this Act shall be accepted as collateral by any lender bank and other financial institution to secure loans of the registered owner as appearing in the Emancipation Patent, Homestead Patent, Free Patent, Certificate of Land Ownership Award, Original Certificate of Title or Transfer Certificate of Title. The proceeds of the loan obtained herein shall be used exclusively for agricultural activity such as agricultural production, land development, post-harvest facilities, shallow tube well and pump irrigation facilities, distribution and marketing, livelihood or other related activities. When feasibility or investment studies are required by the lender bank or financial institution, the Department of Agrarian Reform (DAR) and Department of Agriculture (DA) shall provide technical assistance in the preparation of such documents.

SEC. 5. *Land Bank Authorization of the Loan; Additional Requirements.* – For partially paid and unpaid lands, all loans that are to be granted by lending institutions are deemed to be with the authorization and consent of the Land Bank of the Philippines (LBP) and DAR and subordinated to any or all prior encumbrance existing in favor of the LBP.

The consent of the co-owners, in the case of co-owned lands, and the ratification of the majority of the members, in the case of cooperative-owned lands, shall likewise be obtained without prejudice to the submission of standard documentary requirements of banks and other lending institutions for the processing of loans as provided by pertinent banking laws, rules and regulations.

SEC. 6. ***Evaluation.*** – For those lands covered under Section 3, DAR and LBP shall undertake measures to disseminate the valuation formula and provide technical assistance to all other lending institutions, based on applicable laws, rules and regulations.

SEC. 7. ***Access to Guarantee.***– Farmer-beneficiaries and owners of encumbered or non-transferable lands classified under Sub-sections d), e), and f) of Section 3, shall be provided with credit guarantee by the Quedan and Rural Credit Guarantee Corporation (Quedancor): *Provided*, That the guarantee cover shall not exceed the principal amount of the loan: *Provided further*, That the principal amount of the loan shall not exceed the amount determined by Quedancor and DA based on the agricultural productivity and locality in which such is proposed: *Provided finally*, That credit guarantees shall be subject to prior approval by Quedancor.

SEC. 8. ***Default and Foreclosure of Mortgage.*** – In the event of default by the borrower under this Act, the lender bank or financial

institution may proceed against the security for the loan in accordance with existing laws and subject to the provisions of this Act: *Provided*, That in the case of encumbered or non-transferable lands offered as security classified under Sub-section d), e) and f) of Section 3, the lender bank or financial institution shall be paid the guarantee only after assigning the mortgage credit to Quedancor which in turn shall assign the same mortgage credit to LBP: *Provided further*, That if the farmer-beneficiary has not yet fully paid the amortization of the land awarded to him or her under the CARP or any land grant, the agricultural productivity loan shall be added to the total loans owed to the government: *Provided finally*, That in case the farmer-beneficiary has fully paid for the land awarded, the agricultural productivity loan shall be secured by the awarded land.

Foreclosure of mortgages constituted over unencumbered and transferable lands categorized under Sub-section a), b), c) and d) of Section 3, shall be governed by existing laws subject to Section 71, 72 (b) and 73 – A of R.A. No. 6657 as amended by R.A. No. 7881.

The foreclosure of mortgage by the LBP constituted over unencumbered or non-transferable lands categorized under Sub-section d), e) and f) of Section 3 of this Act, shall be in accordance with Paragraph Two of Section 26 and Paragraphs Two and Three of Section 27 of R.A. No. 6657.

SEC. 9. ***Bidders in Auction Sale of Agricultural Land.*** – In all cases of foreclosure of mortgages constituted over lands described in Section 3 of this Act, whether by the LBP, lender banks, or other financial institutions, no person shall be allowed to bid in the auction sale nor shall the agricultural land be sold to any person not qualified to own agricultural land as determined by DAR in accordance with Sections 6 and 70 of RA No. 6657.

SEC. 10. ***Exercise of Right of Redemption.*** – In case the landholding is sold to a third person through public auction for failure of the borrower to pay the loan, the owner or farmer-beneficiary shall have the right to redeem the same at a reasonable price and consideration including interest thereon: *Provided*, That the entire landholding must be redeemed: *Provided further*, That if there are more than one redemption owner or farmer- beneficiary, each shall be entitled to the said right of redemption only to the extent of the area actually cultivated by him or can afford to pay but not exceeding the three (3) hectares award limit. The right of redemption under this section may be exercised within two (2) years from the date of registration of the sale, and shall have priority over any other right of legal redemption.

SEC. 11. ***Monitoring of Loan and Bond Proceeds.*** – The DAR shall be responsible for the monitoring of the utilization of the loan proceeds of borrowers under this Act: *Provided*, That banks and financial institutions

shall provide semi-annual reports to the BSP, furnishing copies to DAR, DA and Quedancor, on the status of the loan as well as issues affecting the implementation of the agricultural activity project for the latter government entities to submit policy corrective actions and/or recommendations: *Provided further*, That Quedancor shall provide quarterly reports on the status of the utilization of bond proceeds to the Department of Finance (DOF) and BSP furnishing copies to DAR and DA.

SEC. 12. ***Guarantee Fund.*** – There is hereby created a Guarantee Fund for agricultural and agrarian reform beneficiary borrowers in the amount of Five Billion Pesos (P5,000,000,000.00).

The Guarantee Fund shall be managed and administered by the Quedancor and funded from the proceeds of the Agri-Agra Reform Bonds to be issued by the Department of Finance (DOF), and guaranteed by the Republic of the Philippines: *Provided*, That the DOF in coordination with the DAR may increase or decrease the amount of the Guarantee Fund in accordance with the total level of utility and demand for credit: *Provided further*, That one percent (1%) of the total loanable funds of all public and private banking institutions under the ten percent (10%) agrarian reform credit in Section 3 of PD No. 717 (Agri-Agra Law) shall be invested exclusively, without any alternative mode of compliance, for the purchase of the Agri-Agra Reform Bonds: *Provided furthermore*, That the DOF shall

determine and fix the features of the Agri-Agra Reform Bonds and shall be competitive with existing bonds and securities in domestic market circulation: *Provided finally*, That the BSP shall draft the incentive program to encourage all public and private banking institutions to purchase such bonds.

SEC. 13. *Assistance for Capacity Building and Feasibility Studies.* –

The DAR and DA shall provide technical assistance in capacity building and preparation of feasibility or investment studies as may be required by the lender bank or financial institution. For this purpose, the Office of the President shall increase the appropriations for Capacity Building and Feasibility Studies under the Program Beneficiaries Development Component of the CARP to support the farmer-beneficiaries under this Act, the additional funding of which shall be included in the General Appropriations Act of the year following its enactment and thereafter.

SEC. 14. *Compliance with PD NO. 717(Agri-Agra Law) and Other Incentives.* – The purchase of Quedancor Agri-Agra Reform Bonds and loans granted under this Act shall form part of compliance with PD No. 717 (Agri-Agra Law) by the lending institution.

Any transaction of sale, transfer or conveyance of lands under this Act shall be exempt from the payment of capital gains tax, registration fees, and

all other taxes and fees for the conveyance or transfer thereof as provided for under Sections 66 and 67 of RA No. 6657.

SEC. 15. ***Penalties.***— For lands which had been already covered under RA No. 6657, PD No. 27 or related agrarian law, violations and other prohibited acts contrary to the exclusivity of loan purpose as defined under Section 4 hereof, such as misuse or diversion of financial and support services extended to agrarian reform beneficiaries or a deviation by the mortgagor in the use of loan proceeds, shall result in the cancellation of Emancipation Patent or Certificate of Land Ownership or perpetual disqualification to be agrarian reform beneficiaries, or both: *Provided*, That if the offender is a public official or employee found to be in collusion to defraud the agrarian reform beneficiary, lender bank and other financial institution or the government, the penalty shall be prison mayor with absolute disqualification as accessory penalty and a fine of not more than double the amount of fraud but not less than one hundred thousand pesos (P100,000.00): *Provided further*, That if the offender is a juridical person, the penalty shall be imposed on the responsible officers thereof.

Loans secured by lands that are not yet covered under R.A. No. 6657, PD No. 27 or related agrarian law, or those lands, which have been retained pursuant to agrarian law, shall be governed by existing administrative and

penal sanctions under the pertinent banking laws and rules and regulations of the BSP.

SEC. 16. ***Transitory Provision.*** – An independent review of the ten (10) year period of prohibition on the sale, transfer or conveyance of lands acquired by agrarian reform beneficiaries under the CARP shall immediately be undertaken by the Presidential Agrarian Reform Council (PARC) upon the effectivity of this Act to determine and recommend changes and other measures to induce the participation of the private sector in lending to agrarian reform beneficiaries.

The recommendations of the review shall be given to the appropriate congressional committees within one (1) year from date of effectivity of this Act for possible legislative actions and to the Office of the President for policy and program changes immediately after submission.

SEC. 17. ***Implementing Rules and Regulation.*** – The DAR, in consultation with concerned government agencies, such as DA, LBP, DOF, QUEDANCOR and the Cooperative Development Authority (CDA), representatives of agrarian reform beneficiaries, farmer-beneficiaries and cooperatives, and the banking and financial institution sectors, shall formulate the implementing rules and regulations of this Act within ninety (90) days after its approval. Such rules and regulations shall take effect

fifteen (15) days after publication in a newspaper of general circulation in the Philippines.

SEC. 18. *Separability Clause*.— In the event any of the provision of this Act is declared unconstitutional, the validity of the other provisions shall not be affected by said declaration.

SEC. 19. *Repealing Clause*. – All existing laws, Executive Orders, issuances, rules and regulations, or part thereof inconsistent with the provisions of this Act, are hereby repealed or modified accordingly. Nothing in this Act shall be construed to amend existing policies, rules and regulations on collateral-free loans to small farmers and other marginalized sectors by government financial institutions and other institutions engaged in micro-finance activities.

SEC. 20. *Effectivity Clause*. – This Act shall take effect immediately after publication either in the Official Gazette or in at least two (2) newspapers of general circulation in the Philippines.

Approved,