

Republic of the Philippines
House of Representatives
Quezon City

THIRTEENTH CONGRESS

First Regular Session

House Bill No. 247



Introduced by **HONORABLE RODRIGUEZ D. DADIVAS**

EXPLANATORY NOTE

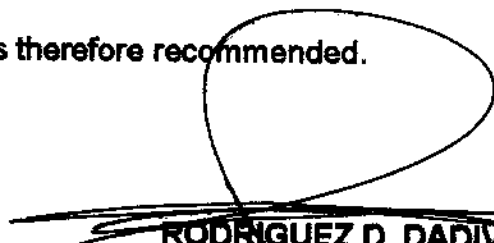
This bill seeks to provide measures to enhance the acceptability of agricultural lands as security for loans obtained from banks and other financial institutions. In the event that the acceptability of agricultural lands as collateral in loan applications is enhanced, access to rural credit will be upheld and encouraged.

The salient provisions of this measure and other points that are connected to other existing agrarian reform laws are projected to work toward the benefit of the poor and marginalized farming populace in our rural communities. Strengthening and empowering the capacity of the agrarian sector is a significant action to sustain and promote the welfare and interests of the farmers and other agrarian reform beneficiaries, thereby supporting and developing the nation's agriculture.

The value of farm lands as collateral is a foremost factor in loan and credit applications that are directed for use exclusively for agricultural activities such as land development, agricultural production, irrigation, post-harvest facilities, marketing and distribution and other livelihood or related activities. In enhancing the value of farm lands as collateral through the specific terms laid by this measure, the agrarian reform beneficiaries and other rural and agricultural sectors of the economy shall be given the optimal prospect and opportunity to develop. Credit, in this manner, is directed to the farming sector and other agrarian reform beneficiaries. In effect, the welfare of the agriculture and rural population is promoted and protected by increasing their income, productivity and efficiency is maximized and modernization of the rural and agricultural sectors of the country is encouraged.

This measure is subsequent to the version which was filed during the Twelfth Congress and is adapted from the Second Reading version of the consolidated measures in the House of Representatives. The consolidated version of this bill was already approved by the House of Representatives and was passed to the Senate for sponsorship. It was approved at the Senate and was already in the status of bicameral conference committee hearings but the insufficiency of time impeded its approval and passage into law.

The immediate approval of this bill is therefore recommended.



RODRIGUEZ D. DADIVAS
Representative-1st District, Capiz

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

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

SECTION 1. Short Title. - This Act shall be known as the "Enhanced Collateral Value of Farm Lands Act of 2004."

SECTION 2. Declaration of Policy. - It is hereby declared 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 sectors of the country, credit shall be directed to the said directors.

SECTION 3. Coverage. - This Act shall apply to the following categories of Agricultural Lands devoted to agricultural activity as defined in Republic Act NO. 6657 (Comprehensive Agrarian Reform Law of 1988) as amended:

(3.1) Lands not yet covered by any Agrarian Reform Program;

- (3.2) 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;
- (3.3) Lands covered and fully paid under Presidential Decree No. 27, or Republic Act No. 6557 and beyond the 10-year prohibition period;
- (3.4) Lands covered by homestead grants and free patents;
- (3.5) Lands covered by Republic Act No. 6657 but not yet fully paid neither within or beyond the 10-year prohibition period;
- (3.6) Lands covered and fully paid under Republic Act No. 6657 but still within the 10-year prohibition period.

SECTION 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 owners as appearing in the Emancipation Patent, Homestead Patent, Free Patent, Certificate of Land Ownership Award, Original certificate of Title or Transfer Certificate Title. The proceeds of the loan obtained herein shall be used exclusively for agricultural activity such as agricultural production, land development, post-harvest facilities, and shallow-tube well and pump irrigation, distribution and marketing, livelihood or related activities. When the 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.

SECTION 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 authorization and consent of the Land Bank of the Philippines (LBP) and the DAR 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.

SECTION 6. Valuation. – 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.

SECTION 7. Access to Guarantee. – Farmer-Beneficiaries and owners of encumbered or non-transferable lands classified under sub-sections 3.4, 3.5 and 3.6 shall be provided with credit guarantee by the Quedancor: *Provided*, That the guarantee cover shall not exceed the principal amount of the loan: *Provided, further*, That the principal amount shall not exceed the amount determined by

Quedancor and DA based on the agricultural activity and locality in which such is proposed: *Provided, finally*, That credit guarantees shall be subject to prior approval by Quedancor.

SECTION 8. Event of 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-sections 3.4, 3.5 and 3.6, the lender, bank or financial institution shall be paid the guarantee only after assigning the 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 Agrarian Reform Program, 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-sections 3.1, 3.2, 3.3 and 3.4 shall be governed by existing laws subject to Sections 71, 72(b) and 13-A of Republic Act No. 6657 as amended by Republic Act No. 7881.

LBP foreclosure of mortgages constituted over encumbered or non-transferable lands categorized under Sub-sections 3.4, 3.5 and 3.6 shall be in accordance to Paragraph Two (2) of Section 26 and Paragraph Four (4) of section 27 of Republic Act No. 6657 with the terms and conditions to be determined by LBP and DAR.

SECTION 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, bank, financial institution or any other lender, no person shall be allowed to bid in the auction sale nor shall be allowed to bin 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 Republic Act No. 6657.

SECTION 10. Exercise of Redemptions Right. – 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 agrarian reform 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 redemptionist owner or agrarian reform 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 3 hectares award limit. The right of redemption under this Section may be exercised within two (2) years

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from the date of registration of the sale, and shall have priority over any other right of legal redemption.

SECTION 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 institution shall provide semi-annual reports to the Bangko Sentral ng Pilipinas (BSP), furnishing copies to DAR, DA-Agricultural Credit Policy Council (ACPC) 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-ACPC.

SECTION 12. Guarantee Fund. – There is hereby created a Guarantee Fund for agricultural and agrarian borrowers with the amount of at least Five billion pesos (P 5,000,000,000.00). The Fund which shall be managed and administered by the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR) shall be funded from the proceeds of the Agri-Agra Reform Bonds to be issued by the 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 Guaranteed 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 Presidential Decree 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 competitive with existing bonds and securities in domestic market circulation: *Provided, finally*, That the Bangko Sentral ng Pilipinas (BSP) shall draft the incentive program to encourage all public and private banking institutions to purchase such bonds.

SECTION 13. Assistance for Capacity Building and Feasibility Studies. – The DAR and DA shall provide technical assistance in capacity and preparation of feasibility or investment studies as may be required by the lender, bank or financial institution. For this purpose, the Executive Department shall increase the appropriations for Capacity Building and Feasibility Studies under the Program Beneficiaries Development Component of the Comprehensive Agrarian Reform Program (CARP) to support the farmers in this Act, the additional funding of which shall included in the General Appropriations Act of the year following its enactment into law and thereafter.

SECTION 14. Compliance with the Agri-Agra Law (Presidential Decree No. 717) and Other Incentives. – The purchase of Quedancor Agri-Agra Reform

Bonds and loans granted under this Act shall form part of compliance with the Agri-Agra Law (Presidential Decree No. 717) by the lending institution.

Any transaction of sale, transfer or conveyance of lands under this Act shall exempt from the payment of capital gains tax, registration fees, and all other taxes and fees for the conveyance and transfer thereof as provided under Sections 66 and 67 of Republic Act No. 6657.

SECTION 15. Penalties. – For lands which have already been covered under Republic Act No. 6657, Presidential decree 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 Patents/ Certification of Land Ownership Awards (EPs/ CLOAs) 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 farmer, lender, bank and other financial institution or the government, the penalty shall be imprisonment or *prison mayor* with absolute disqualification as accessory penalty and a fine of not more than double the amount of fraud but 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 Republic Act No. 6657, Presidential Decree No. 27 or related agrarian reform 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 Bangko Sentral ng Pilipinas (BSP).

SECTION 16. Transitory Provision. – An independent review of the ten (10) year period of prohibition on the sale, transfer or conveyance of lands acquired by the beneficiaries under the agrarian reform program 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 beneficiaries of the agrarian reform program.

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

SECTION 17. Implementing Rules and Regulations. – The DAR, DA, LBP, DOF, QUEDANCOR and Cooperative Development authority (CDA) in consultation with concerned government agencies, farmers, cooperatives and

banking and financial institution sectors, shall formulate the implementing rules and regulation of this Act within ninety (90) days after its approval. Such rules and regulations shall take effect fifteen (15) days after the publication in a newspaper of general circulation in the Philippines.

SECTION 17. Separability of Clause. – In the event that any of the provision of this Act is declared unconstitutional, the validity of the other provisions shall not be affected by said declaration.

SECTION 18. Repealing Clause. – All existing laws, executive orders, issuance, rules and regulations, or parts thereof inconsistent with the provisions of this act re hereby repealed or modified accordingly. Nothing in this Cat shall be construed to amend existing policies, rules and regulations on collateral-free loans to small farmers and other marginalized sectors by the government financial institutions and other institutions engaged in micro-finance activities.

SECTION 19. Effectivity. – This Act shall take effect immediate after publication either in the *Official Gazette* or in at least two (2) national papers of general circulation.

Approved,