

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. **469**

Introduced by AKBAYAN Party-List Representatives
Hon. Kaka Bag-ao and Hon. Walden Bello

EXPLANATORY NOTE

Since 1971 up to 1982, several coconut levies were collected from the production of copra. The levy was based on the per kilo price of copra.

The first coconut levy started in 1971 upon the enactment of Republic Act 6260, otherwise known as the Coconut Investment Fund Law. It was collected to establish the Coconut Investment Fund which shall be used to support the coconut industry through the financing of the producers and processors of coconut. The levy at that time was pegged at Php 0.55 for every 100 kilograms of copra sold. The amount was to be collected for a period of ten (10) years or until the amount of Php 100 million shall have been reached. Coconut receipts were supposed to have been given but the manner by which they were issued made it difficult to ascertain the effective owners resulting to the anomalous registration of receipts even to non-copra producers.

In 1973 a Coconut Industry Stabilization Fund (CCSF) was established by virtue of P.D. No. 276 imposing a levy of Php 15.00 for every 100 kilograms of copra. During the nine (9) year period of its implementation, the levy ballooned to Php 100.00 per 100 kilo grams depending on the export price, or Php 60.00 on the average. From the original CCSF, various other funds sprouted such as the Coconut Industry Development Fund (CIDF) and the Coconut Industry Investment Fund (CIIF).

In October 1981 and by virtue of P.D. No. 1851, a Php 50.00 assessment was imposed for every 100 kilo grams of copra. The collection was placed under the Coconut Industry Stabilization Fund (CISF) for economic and development projects in the coconut industry.

While a miniscule part of the funds was used to for programs that benefited real coconut farmers, the bigger portion was utilized to set-up a coconut monopoly (UCPB and UNICOM included) that benefited Marcos and his cronies. Some Php 4.75 billion administered by the UCPB as well as the Php 2.57 billion CIIF were utilized to put up and/or buy out various companies as a mechanism for total control all businesses within the coconut industry through an interlocking directorate. Investments were made even to non-coconut related firms such as the San Miguel Corporation.

Since the start of coco levy, total collection amounted to approximately PhP 9.7 billion. The money invested in various companies has been earning income. To date the entire coco levy is now estimated to be worth between PhP 120-130 billion.

There is much controversy as to the nature of the coconut levy fund. Under P.D. No. 276, the CCSF was declared as a public fund, but was not considered as part of the general fund of the Philippine Government. Furthermore, under this law, it was earmarked as a trust fund for the benefit of the coconut industry.

60 However, former President Marcos declared through Executive Order No. 490 and P.D.
61 No. 1468 that the nature of the funds shall be private

62
63 During the Aquino Administration, the change of the nature of the coco levy funds from
64 public to private was criticized for being unconstitutional because no tax can be imposed for a
65 private purpose.

66
67 Both the Ramos and Estrada administrations attempted to free the coco levy funds by
68 way of their respective E.O.s but to no avail.

69
70 The nature of the funds has been the subject of a legal battle between the government
71 and the private corporations and entities utilizing the coco levy funds. As a consequence, the
72 funds could not be utilized and were in fact not used for the benefit of their true owners, the
73 coconut farmers. It is ironic that after almost eighteen (18) years, the cases related to the coco
74 levy scam had never been concretely resolved in our courts to the great disadvantage of
75 millions of small coconut farmers and farm workers from whom the levy was collected.

76
77 During the Arroyo administration, the Presidential Commission on Good Governance and
78 the Office of the Solicitor-General have taken the position of resolving the issue through an out-
79 of-court settlement. This is a position that disregards the breakthrough jurisdiction issued by
80 the Supreme Court in favor of declaring the coco levy funds as public funds way back in
81 December 2001 that declares that the coco levy funds are *prima facie* public funds.

82
83 Unfortunately, the controversy over ownership of the coconut levy funds remains a
84 judicial question and cases are currently pending before the Supreme Court and the
85 Sandiganbayan. In the meantime, the industry and the more than 20 million people directly
86 and indirectly dependent on it continue to suffer.

87
88
89 We have decided to file this bill in order for Congress to be able to finally declare and
90 affirm that the coconut levy funds and the assets acquired through these funds are public in
91 nature. This affirmation and declaration is essential in achieving a just resolution of one of the
92 biggest issue of corruption in our country's history and expedite the utilization of these funds to
93 serve the interests of the small coconut farmer.

94
95 In this light, immediate passage of this bill is earnestly sought.
96
97
98
99
100

101
102
103
104
105



Hon. KAKA BAG-AO
Representative, Akbayan Party-list



Hon. WALDEN BELLO
Representative, Akbayan Party-list

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. _____

469

Introduced by AKBAYAN Party-List Representatives
Hon. Kaka Bag-ao and Hon. Walden Bello

AN ACT
DECLARING AND REAFFIRMING THE COCO LEVY FUNDS AND ASSETS AS PUBLIC
FUND AND CREATING THE PRESIDENTIAL COCONUT INDUSTRY DEVELOPMENT
COUNCIL FOR PURPOSES OF MANAGEMENT THEREOF

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

PRELIMINARY TITLE

SECTION 1. **Short Title.** This Act shall be known as the "Coco Levy Funds And Assets Are Public Funds Act"

SEC. 2. **Declaration of Policy.** It is the policy of the State to:

- (a) Adopt the necessary measures that will address the serious problems that beset industry, threatening its viability;
- (b) Promote the rapid integrated development and growth of the coconut and other palm oil industry in all its aspects and to ensure that the coconut farmers, especially the small coconut farmers, tillers, workers and owner-cultivators who comprise the overwhelming majority of the people in the coconut industry, become direct participants in, and beneficiaries of, such development and growth;
- (c) Promote and institutionalize the participation of people's organizations and non-government organizations in the coconut industry development process.

SEC. 3. **Definition of Terms.**

- (a) **Coconut Farmer** – refers to one who actually does the act of farming or performing labor in the production of coconuts in the farm. The farm work includes clearing, planting, caring for trees, harvesting, gathering, and piling of nuts, hauling, husking, and copra-making. Such farm activities, separately or otherwise, may also be referred to as "cultivation." A coconut farmer may be any of the following: (1) share tenant; (2) leasehold tenant or lessee; (3) owner-farmer/owner-cultivator; or (4) farmworker as herein defined.
- (b) **Landowner** – refers to a person who owns a parcel / parcels of coconut land but who does not participate in the farm work or labor involved in the production of coconuts;
- (c) **Owner-Farmer/Owner-Cultivator** – refers to one who owns the farm and who also does actual farm work thereon;

- (d) **Leasehold Tenant/Lessee** – refers to a person who, by himself or with the aid of his immediate farm household, cultivates the land belonging to, or possessed by another with the latter's consent for purposes of agricultural production, for a price certain in money or in produce or both.
- (e) **Share Tenant** – refers to a person who, by himself or with the aid of his immediate farm household, cultivates the land belonging to, or possessed by another (landholder) pursuant to a joint undertaking for agricultural production wherein one party furnishes land and the other (share tenant) his labor, with either of both party contributing one or several of the other items of production, and where the produce of the land is divided between the landholder and the tenant.
- (f) **Farmworker** – refers to one who does not own the farm he cultivates or works on, but is remunerated in terms of wages for farm work or labor conducted on the farm;
- (g) **Small Coconut Farmer** – refers to a person who is a share or leasehold tenant on a coconut farm of any size, or an owner-cultivator on a coconut farm of an area of not more than five (5) hectares. For the purposes of this Act, all farmworkers shall be considered as small coconut farmers regardless of the area of the farm being worked by him/ her.

SEC. 4. The whole 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. ANY FUTURE SIMILAR EXACTION IMPOSED ON SMALL COCONUT FARMERS SHALL ALSO BE PUBLIC FUNDS.

"SEC. 2. *COCONUT INDUSTRY REHABILITATION AND DEVELOPMENT FUND.* - ALL THE FUNDS ESTABLISHED FROM THE PROCEEDS OF THE LEVIES, INCLUDING THE COCONUT INVESTMENT FUND (CIF), THE COCONUT CONSUMERS STABILIZATION FUND (CCSF), THE COCONUT INDUSTRY DEVELOPMENT FUND (CIDF), THE COCONUT DEVELOPMENT FUND (CDF), THE COCONUT INDUSTRY STABILIZATION FUND (CISF), THE COCONUT RESERVE FUND (CRF) AND OTHERS, AS WELL AS ALL THE ASSETS ACQUIRED OR ESTABLISHED THEREFROM – SUCH AS THE UNITED COCONUT PLANTERS BANK ESTABLISHED AND/OR ACQUIRED UNDER PD 755, AND THE COCONUT INDUSTRY INVESTMENT FUND COMPANIES -- AND ALL THE OTHER ASSETS SET UP USING THE COCONUT LEVY COLLECTIONS SHALL FORM PART OF A SINGLE FUND WHICH IS HEREBY CREATED TO 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. *ADMINISTRATION OF THE CIRDF* - THE COCONUT INDUSTRY REHABILITATION AND DEVELOPMENT FUND SHALL BE HELD, ADMINISTERED, UTILIZED, AND/OR DISPOSED UNDER THE PROVISIONS OF TITLE III OF THIS ACT.

"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 PUBLIC DISCLOSURE OF THEIR FINDINGS.

"SEC. 6. *AUDITING OF EXPENDITURES MADE OUT OF THE LEVY COLLECTIONS.* - THE COMMISSION ON AUDIT SHALL CONDUCT AN AUDIT OF ALL THE DISBURSEMENTS OR EXPENDITURES MADE OUT OF THE LEVY COLLECTIONS WITH THE OBJECTIVE OF DETERMINING WHETHER THOSE EXPENDITURES ARE IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE LEVIES WERE COLLECTED AND THE RULES AND REGULATIONS CONCERNING THE DISBURSEMENT OF PUBLIC FUNDS. THE AUDIT REPORT SHALL BE PUBLISHED IN AT LEAST TWO NEWSPAPERS OF NATIONAL CIRCULATION. ON THE IMPROPER OR ILLEGAL USE OF THE LEVY COLLECTIONS, 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 NECESSARY ACTIONS WITH THE PRIMARY OBJECTIVE OF RECOVERING THE AMOUNT(S) IMPROPERLY USED."

SEC. 5. Articles IV and V of the same Decree are hereby renumbered as Articles V and VI, respectively.

SEC. 6. ***The Presidential Coconut Industry Development Council: Creation, Funding, Main Functions.*** There is hereby created a Presidential Coconut Industry Development Council, hereinafter referred to as the Council or PCIDC, under the immediate supervision of the Office of the President, funded by recovered coconut levies and charged with the main functions of: (a) administration and management of the coconut industry rehabilitation and development fund (CIRDF), as established under the immediately foregoing Article; and (b) implementation of the social component of the development of the coconut industry, as will be specifically defined under Section 16 (d) of this Title.

SEC. 7. ***Composition of the Presidential Coconut Industry Development Council.*** The Council shall be composed of nine (9) members, and assisted by a national secretariat. It shall have provincial officers that shall primarily take charge of the functions and activities of the Council at their respective jurisdictions.

SEC. 8. ***Composition of the Council.*** The Council shall be composed of nine (9) members, as follows:

- (a) Five (5) small coconut farmers, who shall be selected from among the nominees to be drafted by genuine small coconut farmers' organizations accredited by the Philippine Coconut Authority (PCA);
- (b) One (1) Non-government organization representative to be selected from among nominees of national non-government organizations working for the upliftment of the coconut farmers' sector;
- (c) The Chairperson of the UCPB-CIIF;
- (d) The Chairperson of the Presidential Commission on Good Government or of whatever agency eventually takes over its mandate and functions; and
- (e) The Administrator of the PCA.
- (f) At least four (4) of the Council's members shall be women.

The President shall designate the Chairperson of the Council.

The Council shall meet as often as the exigencies of service may demand. The presence of at least five (5) members shall constitute a quorum, and the vote of four members shall be necessary for the adoption of any policy, rule, resolution, or decision, or any other act of the Council.

The President of the Philippines may, after due consultation with coconut farmers' organizations and non-government organizations working for the upliftment of the coconut farmers' sector, revise the membership of the Council, whenever the President deems it necessary for the effective performance of the Council's functions, through an Administrative Order.

280 Except for the PCA Administrator, Chairpersons of the PCGG and UCPB-CIIF whose
281 membership in the Council shall be co-terminus with their incumbency, the other members of
282 the Council shall hold office for a term of three (3) years. Their performance shall be made
283 subject to a regular evaluation process. Membership to the Council shall only be to a maximum
284 of six years.

285
286 The benefits, privileges and emoluments of the Council shall be consistent with that of
287 the members of the PCA Governing Board.

288
289 SEC. 9. **Powers and Functions of the Council.** The Council shall have the following
290 powers and functions:

- 291
292 (a) In general, to formulate and implement policies in regard to the administration and
293 management of the coconut levy funds and assets heretofore pooled into the Coconut
294 Industry Rehabilitation and Development Fund (CIRDF);
295 (b) To inform and make coconut farmers more aware of their situation and problems and those
296 of the coconut industry, as a whole, as well as of the opportunities and prospects thereof;
297 (c) To review, and, if necessary, to redefine or redirect the policies of the establishments,
298 institutions, corporations, or any other entity acquired or established through the proceeds
299 of the coconut levies imposed by various decrees, in order that the purpose/s for which the
300 same were set up may be effectively pursued and/ or achieved;
301 (d) To formulate and implement programs for the social component of the development of the
302 coconut industry or such programs pertaining to: (1) organizing; (2) capacity and
303 capability-building; (3) cooperatives and entrepreneurial formations; (4) support services
304 for tenurial development; and (5) other relevant areas of concern germane to the social
305 aspect of the development of the industry;

306
307 With respect to organizing activities, the Council shall encourage and assist the formation
308 and/ or strengthening of coconut farmers' voluntary and independent organizations,
309 eliminating therefor the obstacles to the exercise of said farmers' right to self-organization;

- 310
311 (e) To cooperate with the coconut farmers, either individually, or organizationally, in the
312 monitoring of illegal cutting of coconut trees, illegal conversions of coconut lands to other
313 agricultural or nonagricultural purposes, and cases of illegal ejectment or exploitation of
314 coconut farmers, tenants, lessees, workers and owner-cultivators, and assisting them in the
315 filing and prosecution of, appropriate administrative and judicial cases to help protect their
316 rights;
317 (f) To extend all possible assistance to coconut farmers in pressing for the immediate and
318 thorough implementation of agrarian reform in all coconut lands. This includes the
319 implementation of both the land transfer scheme, and the non-land transfer scheme -- such
320 as leasehold implementation -- of the reform program;
321 (g) To serve as the core consultative mechanism on matters relative to the coconut industry;
322 (h) To conduct liaison and coordinating activities between various government agencies,
323 including local government units as regards, programs, projects, and activities that would
324 involve the coconut industry.

325
326 SEC. 10. **United Coconut Planters Bank.** The Council, as administrator of the CIRDF, shall
327 redefine or redirect the policies of the United Coconut Planters Bank towards pursuance of the
328 very purpose for which it was established.

329
330 SEC. 11. **Transfer Of Coconut Levy-Funded Assets to the Council.** In coordination with
331 the Office of the Solicitor General, the PCA, and other appropriate government agencies, the
332 Presidential Coconut Industry Development Council, shall draw up plans of action for the
333 immediate transfer of the coconut levy-funded assets to the Council as administrator of the
334 CIRDF.

335
336 SEC. 12. **Safeguarding and Utilization of Levy-funded Assets.** The Council shall, in
337 coordination with and with the consent of, the coconut farmers and their organizations, study
338 and implement the best manner by which each of these coconut levy-funded assets can be

safeguarded and eventually utilized for the programs to be implemented for the development of the coconut industry, the same programs being understood as ones that put emphasis on and priority for the upliftment of the lives of the coconut farmers.

SEC. 13. **Collection of Uncollected Levies.** The Council shall make a public disclosure of the coconut levies that have not yet been collected. It shall draw up and implement a more effective and efficient way of collecting the same, with the phrase "uncollected levies" being understood to refer to any of the following: (a) such amounts that have already been paid by or withheld from coconut farmers at the time of the sale of copra or other coconut products at the farmgate but have not been remitted by the end-users of said products; or (b) such amounts that have not yet been paid by end-users of copra and other coconut products at the time the burden of the levy was transferred -- by various Decrees -- from coconut farmers to coconut product end-users. Proceeds of the collection shall be added to the CIRDF.

SEC. 14. **Administration and Disposition of all Funds and Assets.** All funds and assets held or to be held by the Council in trust for, and for the benefit of, the coconut farmers shall be administered, utilized and/or disposed of wholly or partially under the following guidelines:

- (a) In general, the coconut levy funds and assets hitherto constituted as the Coconut Industry Rehabilitation and Development Fund (CIRDF) shall be retained by the Council;
- (b) The United Coconut and Planters Bank (UCPB) shall remain to be the financing / investment arm of the coconut industry, in order to secure reasonable returns for such portion of the funds capitalized for investment ventures authorized by the Council. For this purpose, the UCPB as well as the Coconut Industry Investment Fund - acquired companies shall retain such amounts or portion of the funds -- to be determined by the Council -- as will ensure the entities' continued operation, the viability of investment returns from on-going transactions, and the availability of funds necessary for the implementation of future projects;
- (c) Notwithstanding the foregoing, the UCPB's continued operation shall be steered by the overriding concern of providing effective and sustainable solution to the coconut farmers' credit problems, for which purpose, the bank shall retain such portions of the CIRDF, or profits therefrom, to be made available under a credit facility or scheme for the benefit of coconut farmers, priority being given to small coconut farmers, as herein defined;
- (d) Portions of the profits derived by UCPB and CIIF companies not needed for operation, authorized financial commitments, or the credit facility/scheme for coconut farmers shall be transferred to the Council for inclusion in the CIRDF;
- (e) The Philippine Coconut Authority, being the body in charge of the technical aspect of the development and rehabilitation of the coconut industry shall be allotted by the Council such amounts or portions of the CIRDF as will enable it to implement programs and projects relative to: (1) enhancement of coconut production; (2) preservation of the coconut industry's resources; (3) promotion of coconut products; (4) research and development; (5) prices and subsidies; and (6) exports and marketing, in general, all such areas of concern being provided for under PD 1468;
- (f) The Council, which is mandated to formulate and implement programs for the social component of the development and rehabilitation of the coconut industry, shall allocate funds necessary for the following: (1) organizing; (2) capacity and capability-building; (3) cooperatives and entrepreneurial formations; (4) support services for tenurial development; and (5) other relevant areas of concern germane to the social aspect of the development of the industry;
- (g) The implementation of the programs and projects of the PCA and the Council may be carried out through or with the assistance of non-government organizations with proven capability to undertake the same;
- (h) The Council shall promulgate the rules and regulations for the enforcement of aforesaid guidelines and shall publish the same in at least two (2) newspapers of general circulation.

SEC. 15. **Farmers' Representation in the respective Boards of the UCPB and CIIF-acquired Companies, etc.** The Board of the United Coconut Planters Bank, and that of the Coconut Industry Investment Fund-acquired companies, and all other institutions or entities, tasked to implement or monitor programs and projects for the coconut industry rehabilitation

and development, are hereby reconstituted to include such number of genuine coconut farmer representatives, as will be determined by the PCA.

The PCA shall, within six months from the effectivity of this law, issue and implement its guidelines concerning the coconut farmers' representation in the respective Boards of aforesaid institutions.

SEC. 16. ***Criminal Liability.*** Any person who is criminally liable as of the effectivity to the coconut levies herein repealed or amended shall remain criminally liable, and nothing herein shall extinguish such criminal liability.

SEC. 17. ***Separability Clause.*** If, for any reason, a provision of this Act is held void or unconstitutional, the same shall not effect the validity of the rest of the provisions of this Act.

SEC. 18. ***Repealing Clause.*** 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. 19. ***Effectivity.*** This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in a national newspaper of general circulation.

APPROVED,