

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

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

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 480

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

Explanatory Notes

In order to spur rural development, more capital must flow into the countryside. There is a need to freely open the access of small farmers to credit. According to the banking sector, they are willing to lend small farmers without collateral as long as the small farmers can demonstrate their income stream. Under the CARP extension with reforms law, agrarian reform beneficiaries will be given collateral-free loans by the Land Bank of the Philippines.

To enhance the access of small farmers to credit, this bill proposes to set up an environment where more financial institutions will be encouraged to extend collateral free loans to all farmers. The bill aims to include more banks and financial institutions to open loan windows to small farmers aside from the agrarian reform beneficiaries. It also provides a guarantee fund for the loans as insurance to the farmers when there is a crop failure or calamity. The small farmers will be provided with capacity building on how to make feasibility studies to comply with banks' loan requirements. The bill offers a package to mainstream credit for farmers.

In view of the foregoing, the immediate passage of the bill is earnestly sought.



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. 480

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

AN ACT
TO PROVIDE FARMERS BROADER ACCESS TO AGRICULTURAL CREDIT AND PROVIDING
MECHANISMS THEREFOR AND FOR OTHER PURPOSES

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 "Agricultural Credit Act of 2010".

Section 2. Declaration of Policy. - It is hereby declared the policy of the State to promote accelerated growth with equity and modernization of the agricultural sector to increase productivity and income by enhancing access and efficient use of agricultural credit by the agrarian sector and providing better environment for bank and non-bank financial institutions to extend agricultural credit to the said sector. Towards this end, the government shall ensure that the agrarian reform beneficiaries (ARBs) and other members of the agricultural sector shall be given optimum opportunity to develop in order to raise productivity, promote efficiency and equity, and increase income pursuant to the fundamental policy of the State to promote social justice and sustainable development. Henceforth, Certificates of Land Ownership Award (CLOAs) and Emancipation Patents (EPs), being indefeasible titles registered under the Torrens System, shall be made instruments for securing credit for farmers and direct investments to the agricultural sector. The state, in reducing social, economic and political inequalities, shall give highest priority to laws and measures concerning progressive land taxation, rationalized land use, continuing budgetary allocation for agrarian reform, and other pertinent reforms to ensure that the goals of this act are realized.

Section 3. Definition.

- (a) **Agricultural activity** - refers to the cultivation of the soil, planting of crops, growing of fruit trees, including but not limited to land preparation, seeding, planting, cultivation, harvesting, bagging and other activities and practices performed in conjunction with farming operations.
- (b) **Agricultural land** refers to lands devoted to or suitable for the cultivation of the soil, planting of crops, growing of fruit trees, raising of livestock, poultry, fish or aqua-culture production, including the harvesting of such farm products, and other farm activities and practices performed in conjunction with such farming operations done by persons whether natural or juridical;

Section 4. Coverage. - This Act shall apply to the following categories of agricultural lands devoted to agricultural activity, taking into account the pertinent provisions of agrarian reform laws and other related laws particularly the prohibitions on sale, transfer, or conveyance of agricultural lands:

- 4.1 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;
- 4.2 Lands covered and fully paid under the CARP and past the 10-year prohibition period;
- 4.3 Lands covered by homestead grants and free-patents;
- 4.4 Lands covered by the CARP but not yet fully paid and are either within or past the 10-year prohibition period;
- 4.5 Lands covered and fully paid under the CARP but still within the 10-year prohibition period.

Section 5. Acceptability of Loan Collateral and Guarantee. - All agricultural lands enumerated under Section 4 of this Act shall be accepted as collateral by any formal lending institution, whether bank or non-bank financial institution, to secure loans of the registered owners as appearing in the Certificate of Land Ownership Award, Emancipation Patent, Homestead Patent, Free Patent, Original Certificate of Title or Transfer Certificate of Title. Likewise, expected harvests of farmer-lessees as appearing in the registered agricultural leasehold contract shall be accepted as collateral by formal financial institutions to secure loans of the same. Farmer-beneficiaries who own agricultural lands under Sections 4.4-4.5 may avail of production loans using the guarantee scheme provided for under this Act.

Section 6. Use of Loan Proceeds. - The proceeds of loans that may be granted under this Act shall be used solely to finance any agricultural activities such as production, processing, storage and post-harvest facilities, shallow tube well and pump irrigation, distribution and marketing of agricultural products, and other related agricultural activities on the land being used as collateral, or in the case of farmer-lessees, on the land subject of the leasehold contract. Lands enumerated under 4.4 and 4.5, cannot be used as security or collateral for any obligation except the obligation to pay for the land acquisition cost of the government or any other amount that may be owed to the government resulting from the availment of production loans.

Section 7. Land Bank Authorization of the Loan and Additional Requirements. - For partially paid and unpaid lands used as collateral under this Act, 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 Department of Agrarian Reform (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 formal lending institutions for the processing of loans as provided by pertinent banking laws, rules and regulations.

Section 8. Valuation. - In order to assist bank and non-bank financial institutions to be fully aware of the land valuation formula under the agrarian reform program, the DAR and LBP shall undertake measures to disseminate the said valuation formula and provide technical assistance to bank and non-bank financial institutions such

that they may be able to evaluate the value of lands under Section 4 offered as security by borrowers.

Section 9. Access to Guarantee. – Farmer-beneficiaries who are owners of encumbered or non-transferable lands classified under Sub-Sections 4.4 and 4.5 and farmer-lessees shall be provided a credit guarantee by the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR): *Provided*, That the guarantee cover shall not exceed EIGHTY PERCENT (80%) of the principal amount of the loan: *Provided, further*, That the principal amount of the loan shall not exceed the amount determined by the QUEDANCOR and the Department of Agriculture (DA) based on the agricultural activity and locality in which such is proposed: *Provided, furthermore*, That credit guarantees shall be subject to prior approval by the QUEDANCOR: *Provided, finally*, That for all loans guaranteed by QUEDANCOR pursuant to this Act, the principle of excussion under Article 2058 and pertinent provisions of the New Civil Code shall not apply.

Section 10. Event of Default and Foreclosure of Mortgage. - In the event of default of the borrower under this Act, the bank and non-bank financial institutions may proceed against the security of the loan in accordance with existing laws and subject to the provisions of this Act: *Provided*, That in the case of encumbered and non-transferable lands classified under Sub-Sections 4.4 and 4.5, the bank and non-bank financial institutions shall be paid the guarantee only after assigning the loan receivables to the QUEDANCOR after which the QUEDANCOR shall assign the loan receivables to the LBP: *Provided, further*, That QUEDANCOR shall be paid the amount of the claim paid to the banks upon redemption: *Provided, furthermore*, That if the farmer-beneficiary has not yet fully paid the amortization of the land awarded to him under the CARP, the agricultural productivity loan shall be added to the total loans owed by the beneficiary to the government: *Provided, finally*, That in case the farmer-beneficiary, availing of the loan with guarantee owns land classified under Sec. 4.4, the agricultural productivity loan and the guarantee thereon shall be granted on the basis of pertinent eligibility criteria but not including the use of the awarded land as security or collateral thereto.

Creditors of farmer-lessees shall be paid by the guarantee provided by the QUEDANCOR. For this purpose, farmer-lessees shall execute a waiver on their claim on the expected harvests from the land they till in favor of the QUEDANCOR: *Provided*, That such waiver shall not include more than seventy-five per centum (75%) of the expected harvests from the land subject of the leasehold contract.

The LBP and the DAR shall provide for an appropriate mechanism to ensure that loan due the government are paid taking into account the objectives of making all agricultural lands productive.

Foreclosure of mortgages constituted over unencumbered and transferable lands categorized under Sub-Sections 4.1, 4.2, and 4.3 shall be governed by existing laws subject to Section 71, 72(b) and 73-A of the Comprehensive Agrarian Reform Law: *Provided*, That private lenders may not bid in the auction nor acquire title to the agricultural land unless they have complied with Section 11 of this Act.

LBP foreclosure of mortgages constituted over encumbered and non-transferable lands categorized under Sub-Sections 4.4 and 4.5 shall be in accordance with Section 26, paragraph two (2) and Section 37, paragraph four (4) of Republic Act (R.A.) No. 6657. *Provided*, That foreclosure of lands categorized under Sub-Section 4.5 shall be in accordance with the terms and conditions to be determined by the LBP and the DAR.

For mortgages of expected harvests of farmer-lessees, the QUEDANCOR shall impose the waiver executed by him/her under this Act and claim all or a portion of the actual harvests until such time that the outstanding debt of the farmer-lessee shall have been paid.

Section 11. Bidders in Auctions of Agricultural Land. - In all cases of foreclosure of mortgages constituted over lands described in Section 4 and Sub-sections 4.1, 4.2, and 4.3, of this Act, whether by the LBP or any other bank and non-bank financial institutions, no bidder in the auction shall be allowed to bid nor shall the agricultural land be sold to any person not qualified to own agricultural land as determined by the DAR in accordance with Sections 6 and 70 of R.A. No. 6657.

Section 12. Exercise of Redemption 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 three (3) hectares award limit. The right of redemption under this section may be exercised within one (1) year from the date of registration of the sale, and shall have priority over any other right of legal redemption.

Section 13. Monitoring of Loan Proceeds. - The DAR and the DA shall be primarily responsible for the monitoring of the utilization of loan proceeds of borrowers under this Act: *Provided*, That bank and non-bank financial institutions 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 loans as well as issues affecting the implementation of the project for the latter to submit policy corrective actions and/or recommendations: *Provided, further*, That QUEDANCOR shall likewise provide quarterly reports to the BSP, DAR and DA on the status of the implementation of the guarantee coverage under this Act.

Section 14. Guarantee Fund. - There is hereby created a Guarantee Fund for agricultural and agrarian borrowers with an amount of at least Five Billion Pesos (P5,000,000,000.00) which shall be managed and administered by the QUEDANCOR. An initial amount of one billion pesos (P 1,000,000,000.00) shall be sourced from fifty percent (50%) of the total funding allocation of the Comprehensive Agrarian Reform Program-Credit Guarantee Fund for Agricultural Landowners (CARP-CGFAL), proceeds of the sales of the Assets Privatization Trust (APT), receipts from assets recovered by the Presidential Commission on Good Government (PCGG), and a portion of the twenty-five percent (25%) allocation for support services under Sec. 36 of R.A. No. 6657. OF THE TOTAL GUARANTEE FUND, ONE BILLION FIVE HUNDRED MILLION PESOS (P1,500,000,000) SHALL BE SOURCED AND INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT. Other sources of funding or appropriations shall include the following:

1. 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 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 Presidential Decree (P.D.) 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 BSP shall draft the incentive program to encourage all public and private banking institutions to purchase such bonds; and
2. Other government funds not otherwise appropriated.

274 All funds appropriated to implement the provisions of this Act shall be considered
275 continuing appropriations during the period of its implementation.

276
277 Farmer-beneficiaries who desire to mortgage their lands through their
278 cooperatives or associations shall set-up a buffer fund solely intended to guarantee the
279 loans secured by the farmer-beneficiary. The cooperative or association shall set aside an
280 amount equivalent to at least five percent (5%) of the loaned amount and retain an
281 amount equivalent to at least ten percent (10%) of the annual net earnings of the farmer-
282 beneficiaries from his land in subsequent harvests until such time that the loan is fully
283 paid, as build-up capital of the buffer fund.

284
285 To further strengthen recovery of loans, non-cooperative farmer-borrowers living
286 in the same locality, will be encouraged to form or join a small group of farmer-borrowers
287 and guarantee each other following the successful credit models like the Self-Reliant
288 Team (SRT) of QUEDANCOR and the micro-finance scheme.

289
290 **Section 15. Capacity Building and Feasibility Studies Fund.** - The DAR,
291 the DA and the LBP shall provide technical assistance in capacity building and the
292 preparation of feasibility studies or investment studies as may be required by the
293 concerned banking or lending institution. For this purpose, there is hereby created a
294 capacity building and feasibility studies fund to support the training preparation of
295 feasibility studies and related capacity building activities of agricultural borrowers. The
296 Presidential Agrarian Reform Council (PARC) is hereby directed to set aside Three
297 Hundred Million Pesos (P300,000,000.00) from the Agrarian Reform Fund (ARF) in the
298 initial year of implementation of the law. Succeeding fund requirements shall be included
299 in the annual General Appropriations Act. The DAR and the LBP are hereby directed to
300 implement measures to generate additional funds for this purpose. The DAR shall draft
301 the rules and regulations of the utilization of the Fund.

302
303 **Section 16. Compliance with the Agri-Agra Law (P.D. No. 717) and Other**
304 **Incentives.** - The purchase of QUEDANCOR Agri-Agra Reform Bonds and loans granted
305 under this Act shall form part of compliance with the Agri-Agra Law (P.D. No. 717) by the
306 lending institution.

307
308 Any transaction of sale, transfer or conveyance of lands under this Act shall be
309 exempt from the payment of capital gains tax, registration fees, and all other taxes and
310 fees for the conveyance or transfer as provided for under Sections 66 and 67 of R.A. No.
311 6657.

312
313 **Section 17. Simplification of Loan Procedures.** - In order to expedite and
314 help facilitate timely access of farmers, agrarian reform beneficiaries and their
315 cooperatives to formal credit, the DAR, LBP, DA and QUEDANCOR, in consultation with
316 concerned government agencies, farmers, cooperatives and the banking sectors, shall
317 formulate, within ninety (90) days after the approval of this Act, a simplified, efficient and
318 practicable mechanics for processing and approving loan applications which would
319 demand only the necessary and most indispensable requirements from the loan applicant.

320
321 **Section 18. Penalties.** - For lands already covered under R.A. No. 6657, P.D.
322 No. 27 or related agrarian reform laws, violations and other prohibited acts contrary to
323 the exclusivity of loan purpose as defined under Section 6 hereof, such as misuse or
324 diversion of financial and support services extended to agrarian reform beneficiaries or a
325 deviation by the borrower in the use of loan proceeds, shall result in the cancellation of
326 EPs/CLOAs or perpetual disqualification to be agrarian reform beneficiaries, or both.

327 The DAR shall be responsible for monitoring compliance of the provisions under
328 Sections 6 and 13 of this Act, and shall initiate the necessary action against those who
329 violate the provisions thereof: *Provided*, That if the offender is a public official or
330 employee found to be in collusion to defraud the farmer, bank and other financial
331 institution, or the government, the penalty shall be imprisonment of *prision 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.

Section 19. *Implementing Rules and Regulations (IRR).* - The DAR, DA, DOF and LBP, in consultation with concerned government agencies, farmers, cooperatives and the banking 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 the publication in a newspaper of general circulation in the Philippines.

Section 20. *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 or loans using social collateral to small farmers and other marginalized sectors by government financial institutions and other institutions engaged in micro-finance activities.

Section 21. *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.

Section 22. *Effectivity Clause.* - This Act shall take effect immediately after publication in the Official Gazette or in at least two (2) national newspaper of general circulation.

Approved.