

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

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 2809

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

**AN ACT PROTECTING THE RIGHTS OF FARMERS AND TENANTS AND ENSURING
CONTINUOUS FOOD SECURITY AMID COMMERCIAL PRESSURES ON LAND
RESULTING FROM BIOFUEL PRODUCTION, AMENDING FOR THIS PURPOSE,
CERTAIN PROVISIONS OF REPUBLIC ACT. NO. 9367, OTHERWISE KNOWN
AS THE BIOFUEL ACT OF 2006, AND APPROPRIATING FUNDS THEREFOR.**

Prefatory Statement

The Biofuel Act of 2006 seeks to reduce dependence on imported fuels and invigorate over-all development by mandating the use of locally-grown biofuels purported to mitigate toxic and greenhouse gas emissions while at the same time increasing rural employment and income.

Experiences on the ground, however, have demonstrated that allowed to go unabated, biofuel production in large tracts of agricultural lands can result in competition with food production for scarce resources (land, water, etc.), and, contrary to glowing promises of improved rural income, can result in massive displacement of tenants and farmers and loss of livelihood. If the lands to be used for biofuel production have yet to be distributed under the Comprehensive Agrarian Reform Program (CARP), it must be ensured that the state policy encouraging biofuels not be used to thwart acquisition and distribution. If the lands are already distributed to agrarian reform beneficiaries, then minimum standards must be in place to protect the rights of the owner-cultivators from abuse.

Moreover, in light of the many commercial pressures on land wrought by global trends and the free market, and the diminishing supply of food reserves, it has become crucial to impose a cap on the lands to be used for biofuel production – enough to meet the domestic biofuel requirement in RA 9367, but leaving enough agricultural lands free to meet the food consumption needs of a burgeoning population.

Given the relentless assault on agricultural lands and the steady diminution of our food reserves, sustainable strategies must be swiftly institutionalized. The protection of our finite resources is this generation's urgent task and its obligation to future generations.

The passage of this bill is earnestly sought.



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



Hon. WALDEN BELLO
Representative, Akbayan Party-list

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3 **RESULTING FROM BIOFUEL PRODUCTION, AMENDING FOR THIS PURPOSE,**
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8 *Be it enacted by the Senate and the House of Representatives of the Philippines in*
9 *Congress assembled:*
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12 SECTION 1. ***Short Title.*** - This Act shall be known and cited as the "**Biofuels Reform**
13 **Act of 2010**".
14

15 SECTION 2. Section 2 of Republic Act 9367 is hereby amended to read as follows:

16 **SEC. 2. Declaration Policy**- It is hereby declared the policy of the
17 State to reduce dependence on imported fuels with due regard to
18 the protection of public health, the environment, and the natural
19 ecosystems consistent with the country's sustainable economic
20 growth that would expand opportunities for livelihood by mandating
21 the use of biofuels as a measure to:

22 a) Develop and utilize indigenous renewable and
23 sustainable-sources clean energy sources to reduce dependence on
24 imported oil.

25 b) Mitigate toxic and greenhouse gas (GSG) emissions;

26 c) increase rural employment and income; and **PROMOTE**
27 **COMMUNITY-BASED APPROACHES TO ENSURE THAT THE**
28 **BENEFITS OF BIOFUEL PRODUCTION REDOUND TO THE**
29 **COMMUNITIES WHERE THE BIOFUEL PRODUCTION SITES**
30 **ARE LOCATED;**

31 d) Ensure the availability of alternative and renewable clean energy
32 without any detriment to the natural ecosystem, biodiversity and
33 food reserves of the country, **AS WELL AS TO THE TENURIAL**
34 **SECURITY AND RIGHT TO LIVELIHOOD OF TENANTS,**
35 **FARMERS AND FARM WORKERS AS ARTICULATED IN**
36 **REPUBLIC ACT 9700.**

SECTION 3. Section 3 of RA 9367 is hereby amended to read as follows:

- a) *AFTA* - shall refer to the ASIAN free trade agreement initiated by the Association of South East Asian Nation;
- b) **AGRARIAN REFORM - MEANS REDISTRIBUTION OF LANDS, REGARDLESS OF CROPS OR FRUITS PRODUCED, TO FARMERS AND REGULAR FARMWORKERS WHO ARE LANDLESS, IRRESPECTIVE OF TENURIAL ARRANGEMENT, TO INCLUDE THE TOTALITY OF FACTORS AND SUPPORT SERVICES DESIGNED TO LIFT THE ECONOMIC STATUS OF THE BENEFICIARIES AND ALL OTHER ARRANGEMENTS ALTERNATIVE TO THE PHYSICAL REDISTRIBUTION OF LANDS, SUCH AS PRODUCTION OR PROFIT-SHARING, LABOR ADMINISTRATION, AND THE DISTRIBUTION OF SHARES OF STOCKS, WHICH WILL ALLOW BENEFICIARIES TO RECEIVE A JUST SHARE OF THE FRUITS OF THE LANDS THEY WORK.**
- c) **AGRICULTURAL LAND – LAND DEVOTED TO THE CULTIVATION OF THE SOIL, PLANTING OF CROPS, GROWING OF FRUIT TREES, RAISING OF LIVESTOCK, POULTRY OR FISH, INCLUDING THE HARVESTING OF SUCH FARM PRODUCTS, AND OTHER FARM ACTIVITIES AND PRACTICES PERFORMED BY A FARMER IN CONJUNCTION WITH SUCH FARMING OPERATIONS DONE BY PERSONS WHETHER NATURAL OR JURIDICAL.**
- d) *Alternative Fuel Vehicle/Engine* - shall refer to vehicle/engines that use alternative fuels such as biodiesel, bioethanol, natural gas, electricity, hydrogen and automotive LPG instead of gasoline and diesel; *Bioethanol fuel* - shall refer to ethanol (C₂H₃OH) produce from feedback and other biomass;
- e) *Biodiesel* - shall refer to Fatty Acid Methyl Ester (FAME) or mono-alkyl ester delivered from vegetable oil, or animal fats and other biomass-derived oils that shall be technically proven and approved by the DOE for use in diesel engines, with quality specifications in accordance with the Philippine National Standards (PNS)
- f) *Bioethanol fuels* - shall refer to the hydrous and anhydrous bioethanol suitably denatured for use as motor fuel with quality specifications in accordance with the PNS;
- g) *Biofuel* - shall refer to the bioethanol and biodiesel and other fuels made from biomass and primary used for motive, thermal power generation, with quality specifications in accordance with PNS;
- h) *Biomass* - shall refer to any organic matter, particularly cellulosic or ligno-cellulosic matter, which is available on a renewable or recurring basis, including trees, crops and associated residues, plant fiber, poultry litter and other animal wastes, industrial wastes and biodegradable component of solid waste;
- i) *DA* - shall refer to the Department of Agriculture created under Executive Order No. 116, as amended;
- j) **DAR – SHALL REFER TO THE DEPARTMENT OF AGRARIAN REFORM CREATED UNDER REPUBLIC ACT 6389.**
- k) *Diesel* - shall refer to the refined petroleum distillate, which may contain small amount of hydrocarbon or nonhydrocarbon additives to improve ignition quality or other characteristic, suitable for compression ignition engine and other suitable types of engines with quality specifications in accordance with PNS;

- 1 l) *DENR* - shall refer to the Department of Environment and
2 Natural Resources created under Executive No. 192, as
3 amended;
- 4 m) *DOE* - shall refer to the Department of Energy created under
5 Republic Act No. 7638, as amended;
- 6 n) *DOLE* - shall refer to the Department of Labor and Employment
7 created under Executive Order No. 126, as amended;
- 8 o) *DOF* - shall refer to the Department of Finance created under
9 Administrative Orders No. 127 and 127-A;
- 10 p) *DOST* - shall refer to the Department of Science and Technology
11 created under Republic Act no. 2069
- 12 q) *DOTC* - shall refer to the Department of Transportation and
13 Communication created under Executive Order No. 125-A, as
14 amended;
- 15 r) *DTI* - shall refer to the Department of Trade and Industry
16 created under Executive Order No. 133;
- 17 s) **FARMER - FARMWORKER IS A NATURAL PERSON WHO**
18 **RENDERS SERVICE FOR VALUE AS AN EMPLOYEE OR**
19 **LABORER IN AN AGRICULTURAL ENTERPRISE OR FARM**
20 **REGARDLESS OF WHETHER HIS/HER COMPENSATION**
21 **IS PAID ON A DAILY, WEEKLY, MONTHLY OR**
22 **"PAKYAW" BASIS. THE TERM INCLUDES AN**
23 **INDIVIDUAL WHOSE WORK HAS CEASED AS A**
24 **CONSEQUENCE OF, OR IN CONNECTION WITH, A**
25 **PENDING AGRARIAN DISPUTE AND WHO HAS NOT**
26 **OBTAINED A SUBSTANTIALLY EQUIVALENT AND**
27 **REGULAR FARM EMPLOYMENT.**
- 28 t) **FARM WORKER - NATURAL PERSON WHO IS**
29 **EMPLOYED, WHETHER ON A PERMANENT OR**
30 **SEASONAL BASIS BY AN AGRICULTURAL ENTERPRISE**
31 **OR FARM.**
- 32 u) *Feedstock* - shall refer to the organic sources such as molasses,
33 sugarcane, cassava, coconut, jatropha, sweet sorghum or other
34 biomass used in the production of biofuels;
- 35 v) **FOOD SECURITY – REFERS TO A CONDITION WHERE**
36 **ALL PEOPLE AT ALL TIMES HAVE PHYSICAL AND**
37 **ECONOMIC ACCESS TO SUFFICIENT, SAFE AND**
38 **NUTRITIOUS FOOD THAT MEETS THEIR DIETARY**
39 **NEEDS AND FOOD PREFERENCES FOR AN ACTIVE AND**
40 **HEALTHY LIFE.**
- 41 w) *Gasoline* – shall refer to volatile mixture of liquid hydrocarbon,
42 generally containing small amounts of additives suitable for use
43 as fuel in spark-ignition internal combustion engines with quality
44 specifications in accordance with the PNS;
- 45 x) *Motor fuel* - shall refer to all volatile and inflammable liquids and
46 gas produced, blended or compounded for the purpose of, or
47 which are suitable or practicable for, operating motor vehicle;
- 48 y) *MTBE* - shall refer to Methyl Tertiary Butyl Ether;
- 49 z) *NBB or Board* - shall refer to the National Biofuel Board created
50 under Section 8 of this Act ;
- 51 aa) *Oil Company* - shall refer to any entity that distributes and sells
52 petroleum fuel products;
- 53 bb) *Oxygenate* - shall refer to substances, which, when added to
54 gasoline, increase the amount of oxygen in that gasoline blend;
- 55 cc) *PNS*– shall refer to the Philippine National Standard; consistent
56 with section 26 of R.A. No. 8749 otherwise known as the
57 'Philippine Clean Air Act of 1999;
- 58 dd) *Renewable Energy Sources* - shall refer to energy sources that
59 do not have an upper limit on the total quantity to be used. Such
60 resources are renewable on a regular basis; and
- 61 ee) **RURAL WOMEN REFER TO WOMEN WHO ARE**
62 **ENGAGED DIRECTLY OR INDIRECTLY IN FARMING**

AND/OR FISHING AS THEIR SOURCE OF LIVELIHOOD, WHETHER PAID OR UNPAID, REGULAR OR SEASONAL, OR IN FOOD PREPARATION, MANAGING THE HOUSEHOLD, CARING FOR THE CHILDREN, AND OTHER SIMILAR ACTIVITIES.

ff) *WTO* - shall refer to the World Trade Organization.

SECTION 4. Sec. 8 of RA 9367 shall hereby read:

The National Biofuel Board is hereby created. It shall be composed of the Secretary of the DOE as chairman and the Secretaries of the DTI, DOST, DA, DOF, DOLE, **THE DAR**, and the Administrators of the PCA, and the SRA, as members.

The DOE Secretary, in his capacity as Chairperson, shall, within one month from the effectivity of this Act, convene the NBB.

THE BOARD SHALL ALSO BE COMPOSED OF THREE (3) REPRESENTATIVES OF FARMERS' AND FISHERFOLK ORGANIZATIONS FROM LUZON, VISAYAS AND MINDANAO AS ENDORSED BY THE NATIONAL ANTI POVERTY COMMISSION FARMERS AND FISHERFOLK SECTOR, PROVIDED THAT AT LEAST ONE OF THEM SHALL COME FROM INDIGENOUS PEOPLES, PROVIDED FURTHER THAT ONE OF THEM SHALL COME FROM A DULY RECOGNIZED NATIONAL ORGANIZATION OF RURAL WOMEN

The Board shall be assisted by a Technical Secretariat attached to the Office of the Secretary of the DOE. It shall be headed by a Director to be appointed by the Board. The number of staff of the Technical Secretariat and the corresponding positions shall be determined by the Board, subject to approval by the Department of Budget and Management (DBM) and existing civil services rules and regulations.

SEC. 5. Section 11 of RA 9367 shall hereby read:

SEC. 11. *Role of Government Agencies.* – To ensure the effective implementation of the NBP, concerned agencies shall perform the following functions:

a) The DOF shall monitor the production and importation of biofuels through the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC);

b) The DOST and the DA shall coordinate in identifying and developing viable feedstock for the production of biofuels;

c) The DOST, through the Philippine Council for Industry and Energy Research and Development (PCIERD), shall develop and implement a research and development program supporting a sustainable improvement in biofuel production and utilization technology. It shall also publish and promote related technologies developed locally and abroad.

d) The DA through its relevant agencies shall:

(1) Within three months from effectivity of this Act, develop a national program for the production of crops for use as feedstock

supply. For this purpose, the Administrators of the SRA and the PCA, and other DA-attached agencies shall, within their authority develop and implement policies supporting the Philippine Biofuel Program and submit the same to the Secretary of the DA for consideration;

(2) Ensure increased productivity and sustainable supply of biofuel feedstocks. It shall institutes program that would guarantee that a sufficient and reliable supply of feedstocks is allocated for biofuel production; and

(3) Publish information on available and suitable areas for cultivation and production of such crops.

e) The DOLE shall:

(1) Promote gainful livelihood opportunities and facilitate productive employment through effective employment services and regulation;

(2) Ensure the access of workers to productive resources and social coverage; and

(3) Recommend plans, policies and programs that will enhance the social impact of the NBP.

f) The Tariff Commission, in coordination with the appropriate government agencies, shall create and classify a tariff line for biofuels and biofuel-blends in consideration of WTO and AFTA agreements; and

g) The local government units (LGU) shall assist the DOE in monitoring the distribution sale in use of biofuels and biofuel-blends; **LIKewise THEY SHALL ALSO ENSURE THAT THE DEVELOPMENT OF BIOFUEL FEEDSTOCK PRODUCTION SITES SHALL COMPLY WITH THE LOCAL LAND USE PLAN AND THE LOCAL DEVELOPMENT PLAN, AND SHALL BE DONE IN CONSULTATION WITH LOCAL STAKEHOLDERS.**

h) The DAR SHALL ENSURE COMPLIANCE WITH AGRARIAN LAWS AND POLICIES, WHEN LANDS TO BE USED FOR BIOFUEL FEEDSTOCK PRODUCTION ARE LANDS TO BE COVERED UNDER CARP OR LANDS ALREADY DISTRIBUTED TO AGRARIAN REFORM BENEFICIARIES. THE DAR SHALL INSTITUTE A NATIONAL REGISTER OF ALL PRIVATE AGRICULTURAL LANDS TO BE USED FOR BIOFUEL FEEDSTOCK PRODUCTION OR CONVERTED TO BIOFUEL PRODUCTION SITES.

i) THE DENR SHALL ENSURE THAT APPLICATIONS FOR BIOFUEL FEEDSTOCK PRODUCTION AND BIOFUEL PRODUCTION SHALL INCLUDE AN ENVIRONMENTAL IMPACT STUDY (EIS). LIKEWISE, EXISTING BIOFUEL PRODUCTION AGREEMENTS SHALL BE SUBJECTED TO ENVIRONMENTAL IMPACT ASSESSMENT. ALL APPLICATIONS FOR BIOFUEL FEEDSTOCK PRODUCTION, REGARDLESS OF LAND AREA, SHALL SECURE AN ENVIRONMENTAL COMPLIANCE CERTIFICATE, WHICH SHALL SET SOCIO-CULTURAL IMPACT AS ONE OF THE CRITERIA FOR ISSUANCE.

Section 6. There shall be incorporated after Section 11 of RA 9367 the following provisions:

Section 12. BIOFUEL FEEDSTOCK PRODUCTION AGREEMENTS, WHEN THE SUBJECT LANDHOLDING IS CARP-DISTRIBUTED LAND, SHALL BE MADE DIRECTLY WITH THE AGRARIAN REFORM BENEFICIARY, WHO SHALL BE A PARTY TO THE CONTRACT; PROVIDED THAT PRIVATE AGRICULTURAL LANDS SUBJECT TO CARP SHALL FIRST UNDERGO THE LAND DISTRIBUTION AND ACQUISITION PROCESS OF THE PROGRAM BEFORE IT IS USED FOR BIOFUEL PRODUCTION. LEASEBACK AND OTHER NON-REDISTRIBUTIVE SCHEMES SHALL HEREBY BE PROHIBITED. BIOFUEL AGRI-BUSINESS AGREEMENTS OVER CARP LANDS SHALL BE SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF AGRARIAN REFORM, PROVIDED THAT NO AGREEMENT SHALL BE APPROVED WITHOUT A STIPULATION OF THE MINIMUM LEASE RENTAL WHICH SHALL BE BASED ON AN EQUITABLE SHARING SYSTEM AND SHALL TAKE INTO ACCOUNT THE PRODUCTIVITY OF THE LAND, THE EXISTING MARKET AND ZONAL VALUE, ENVIRONMENTAL CONDITIONS AND ECONOMIC AND SOCIAL IMPLICATIONS; PROVIDED FURTHER THAT PRIORITY SHALL BE GIVEN TO QUALIFIED AND WILLING ARB'S AND THEIR DEPENDENTS TO BE HIRED AS AGRICULTURAL WORKERS IN THE ENTERPRISE AND SHALL BE COMPENSATED IN ACCORDANCE WITH EXISTING LABOR LAWS AND POLICIES; PROVIDED FURTHER, THAT COST OF PRODUCTION AND ASSUMPTION OF RISK IN CASE OF FORCE MAJEURE OR CROP FAILURE SHALL BE BORNE SOLELY BY THE INVESTOR; PROVIDED FINALLY THAT NO CONTRACT FOR BIOFUEL FEEDSTOCK PRODUCTION SHALL EXCEED A PERIOD OF FIVE (5) YEARS, RENEWABLE FOR ANOTHER FIVE (5) YEARS UPON APPROVAL BY THE PRESIDENTIAL AGRARIAN REFORM COUNCIL.

Sec. 13. A COMPREHENSIVE INVENTORY SYSTEM IN CONSONANCE WITH THE NATIONAL LAND USE PLAN SHALL BE INSTITUTED BY THE NATIONAL BIOFUELS BOARD, IN ACCORDANCE WITH THE LOCAL GOVERNMENT CODE, FOR THE PURPOSE OF PROPERLY IDENTIFYING LANDS IDEAL FOR BIOFUEL FEEDSTOCK PRODUCTION AND LANDS ALREADY BEING DEVELOPED FOR THE SAME, PROVIDED THAT THIS INVENTORY SYSTEM SHALL BE RELEASED WITHIN SIX (6) MONTHS FROM THE PASSAGE OF THIS ACT AND SHALL BE MADE AVAILABLE TO THE PUBLIC; PROVIDED FURTHER THAT IN NO CASE SHALL THE AGRICULTURAL LANDS TO BE DEVELOPED FOR BIOFUEL PRODUCTION EXCEED FIVE PERCENT (5%) OF THE TOTAL AGRICULTURAL LAND AREA OF THE PHILIPPINES.

Sec. 14. CREATION OF AGRI-PEP FUND. EACH NEW BIOFUEL FEEDSTOCK APPLICATION SHALL BE LEVIED A TAX EQUIVALENT TO TWO (2) PERCENT OF THE FAIR MARKET VALUE OF THE LANDHOLDING TO BE USED FOR BIOFUEL PRODUCTION, PROVIDED THAT PROCEEDS THEREWITH SHALL BE USED FOR THE SOLE PURPOSE OF AGRICULTURAL PRODUCTIVITY AND ENVIRONMENTAL PROTECTION (AGRI-PEP) WITHIN THE LOCAL GOVERNMENT UNITS WHERE THE BIOFUEL SITES ARE TO BE CREATED; PROVIDED FURTHER THAT USE OF SUCH

1 FUND BY THE LOCAL GOVERNMENT UNITS MUST BE
2 CONSISTENT WITH THE PURPOSE OF THE FUND AND
3 WITH ITS LOCAL DEVELOPMENT AND LAND USE PLAN;
4 PROVIDED FINALLY THAT THE USE OF THE FUND SHALL BE
5 DETERMINED THROUGH ACTIVE COLLABORATION WITH
6 COMMUNITY STAKEHOLDERS, NON-GOVERNMENT
7 ORGANIZATIONS AND PEOPLE'S ORGANIZATIONS.

8
9 Sec. 15. *PROHIBITED ACTS.* ANY PERSON WHO FILES AN
10 APPLICATION FOR BIOFUEL PRODUCTION OR FOR
11 BIOFUEL FEEDSTOCK PRODUCTION WITH INTENT TO
12 AVOID THE APPLICATION OF AGRARIAN REFORM LAWS
13 AND TO DISPOSSESS FARMERS OF THE LANDS TILLED BY
14 THEM, OR ANY PERSON WHO AIDS AND ABETS THE SAME,
15 SHALL BE PUNISHED BY IMPRISONMENT OF NOT LESS
16 THAN SIX (6) YEARS TO NOT MORE THAN TWELVE (12)
17 YEARS OR A FINE OF NOT LESS THAN TWO HUNDRED
18 THOUSAND (200,000) PESOS AND NOT MORE THAN ONE
19 MILLION (1,000,000) PESOS, OR BOTH, AT THE
20 DISCRETION OF THE COURT.

21
22 ANY PERSON WHO APPROVES A BIOFUEL AGREEMENT IN
23 VIOLATION OF SECTION 12 and 13 OF THIS ACT SHALL BE
24 PUNISHED BY IMPRISONMENT OF NOT LESS THAN ONE
25 (1) MONTH TO NOT MORE THAN THREE (3) YEARS OR A
26 FINE OF NOT LESS THAN FIFTEEN THOUSAND (15,000)
27 PESOS AND NOT MORE THAN ONE HUNDRED THOUSAND
28 (100,000) PESOS, OR BOTH, AT THE DISCRETION OF THE
29 COURT, AND SHALL BE PERPETUALLY DISQUALIFIED
30 FROM GOVERNMENT SERVICE.

31
32
33 Section 7. ***Funding.*** - The initial funding requirements for the implementation of the provisions
34 of this Act shall come from the budgets of the DAR, DA, with respect to their respective functions
35 herein. The subsequent funding thereof shall be incorporated into their respective regular
36 appropriations.

37
38 Section 8. ***Implementing Rules and Regulations.*** There is hereby created an inter-agency
39 committee headed by the DAR and composed of all government agencies enumerated in Section
40 5 tasked to promulgate the Implementing Rules and Regulations within 30 days from the passage
41 of this Act.

42
43 Section 9. ***Separability Clause.*** - If any provision of this Act shall be held unconstitutional or
44 invalid, the other provisions not otherwise affected shall remain in full force and effect.

45
46 Section 10. ***Repealing Clause.*** - Any law, decree, rules and regulations which are inconsistent
47 with or contrary to the provisions of this Act are hereby amended or repealed.

48
49 Section 11. ***Effectivity Clause.*** - This Act shall take effect upon its publication in at least two (2)
50 national newspaper of general circulation.

51
52 Approved,