

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 4289

Introduced by **HONORABLE ANGELO B. PALMONES**

AN ACT
TO RATIONALIZE THE REHABILITATION AND RESTORATION OF THE
NATURAL FORESTS OF THE COUNTRY AND THE ESTABLISHMENT OF
FOREST PLANTATIONS AND AGRO-FORESTRY AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Forests and forest ecosystems are the anchors of the environment and by extension the life support of agriculture including fisheries. They provide the habitat of diverse plants and animals, protect the soil from erosion, mitigate flash floods by regulating the flow of water, reduce the impacts of strong winds and provide protection of coastal communities from strong waves and tsunamis, provide nurseries for fishes and crustaceans and other marine organisms. They also mitigate the impacts of climate change.

In addition these forests also provide timber and non-timber forest products which are the raw material base for forest industries for the production of construction materials and manufactured products for export such as furniture and handicraft. Many plants provide resources for food and for the manufacture of pharmaceuticals and medicines, fast expanding industries.

The country's forests which covered more than 17 million hectares of the country at the turn of the 20th century were once a major pillar of national development contributing significantly to GNP and to economic growth. However, unmitigated use and abuse of the forest through unsustainable logging including illegal logging and the practice of slash-and-burn agriculture, conversion of forestlands to settlement areas plus damages brought about by pests and diseases have reduced forest cover at an alarming rate. The estimated forest cover of the country at present is only about 7.2 million hectares.

There is therefore an urgent need to rehabilitate our denuded forestlands to bring back the forests so that they can continue to provide environmental services.

The reduced forest cover resulted in the importation of logs and lumber as well as other wood products such as plywood and fiberboards. The total estimated demand for raw logs in the Philippines is about 2.5 million cubic meters. Local production is only about 1.1 million cu

m, 80 percent of which comes from forest plantations. To be self-sufficient in wood, the Philippines has to embarked in a rigorous plantation development program.

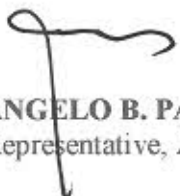
There have been forest restoration and rehabilitation programs in the late 1980 and up to the middle 1990s. The 2003 forest assessment conducted by the DENR showed that there are about 390,000 ha of forest plantations. This area was not disaggregated into commercial and protection plantations.

The 2003 Master Plan for Forestry Development by the DENR indicated that the country needs about 650,000 commercial plantations to meet the country's need for wood.

The Philippines is located in the typhoon belt where about 20 such weather events occur in a year. Many of these typhoons are of such intensity that agricultural crops as well as forest plantations, including major infrastructures are damaged. It is only reasonable that investors are protected from such natural calamities by making insurance available to them.

Plantation development efforts have been hobbled by deficient funding. The government alone does not have sufficient funds to support forest rehabilitation and plantation development. Commercial forest plantation would be through investments from the private sector. There is need for innovative means to finance government reforestation efforts such as the Payment for Environmental Services (PES).

This Act is needed to spur government and private sector efforts to rehabilitate our natural forest and develop commercial plantations. Its passage is urgently needed.



ANGELO B. PALMONES
Representative, AGHAM Party List

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Be enacted by the Senate and the House of Representatives of the Philippines in Congress Assembled:

SECTION 1. Title - This Act shall be known as the "National Forest Rehabilitation, Restoration and Plantation Development Act of 2011".

SECTION 2. Basic Policy - It is the policy of the State as embodied in the Constitution to "protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature". As such the State shall provide opportunities and support for the development of the environment through forest rehabilitation and restoration of the natural forest. It shall also support the development of commercial plantations including agro-forestry to meet the needs of the country for wood and non-wood forest products in terms of supportive policies, institutions, regulations and incentives.

SECTION 3. Objectives - It is the objective of this Act to improve the ecosystems services of the forests of the country and improve water resources through the rehabilitation and restoration about 4 million hectares of natural forests in watersheds and protected areas. It is also the objectives of this Act to make the Philippines self-sufficient in wood and forest products resources by developing about 1 million hectares of forest plantations and agro-forestry or a total of 5 million ha reforested areas in 6 years.

It is also the objectives of this Act to:

1. Improve the country's capability for climate change adaptation and mitigation;
2. Reduce risks of disasters from occurring; and
3. Reduce poverty and improve livelihood opportunities particularly the people in the uplands.

SECTION 4. Definition of Terms - The following terms shall have the meaning as used in this Act:

Agro-forestry - shall refer to a strategy for the sustainable management of lands by properly combining agricultural crops and/or livestock with forest crops simultaneously or sequentially through the application of management practices which are compatible with the local climate, topography, slope, soil, as well as the cultural patterns or customary laws of the local population

Commercial forest plantations – are forest plantations established for the purpose of growing trees or other forest crops mainly for commercial purposes

Community-based Forest management – refers to the strategy of placing a segment of the forest under the management of upland communities

Certificate of Ancestral Domain Title (CADT) – title granted to an indigenous community of the land they claimed to be their ancestral home

Certificate of Ancestral Land Claim (CALC) – Certificate issued by the DENR manifesting recognition of the claim of the indigenous peoples to the land they occupy

Department – shall refer to the Department of Environment and Natural Resources

Forest Charges - shall refer to the levy imposed and collected by the government on naturally growing timber and other forest products cut, harvested, or gathered from the forest lands and from Alienable and Disposable (A&D) lands.

Natural Forest - shall refer to forests composed mainly of indigenous trees, which are largely the result of natural succession processes.

Non-Timber Forest Products - shall refer to all biological materials and derivatives other than timber, which are extracted from forests for human use.

Program – shall refer to the comprehensive and integrated national program on the rehabilitation, restoration of the natural forests and commercial plantation and agro-forestry development.

Rehabilitation – the method of bringing back a forest to its original or near its original state before it was subjected to destruction activities, either from natural causes or human activities.

Restoration – the method to establish a forest where it once existed prior to being subjected for deforestation activities, mainly human activities

Watershed - shall refer to a land area drained by a stream or fixed body of water and its tributaries having a common outlet for surface runoff.

SECTION 5. National Rehabilitation and Restoration of Natural Forests and Forest Plantation and Agro-forestry Program – RA No. 9337 otherwise known as the Internal Revenue Code, mandates the local government to allocate 15 percent of their 50 percent share of the incremental revenues from the value-added-tax (VAT) to implement a comprehensive national reforestation program. There is however, no such comprehensive national reforestation program. For this purpose, there shall be established a national

rehabilitation and restoration of natural forests and forest plantation and agro-forestry development program of the country, which from hereon shall be referred to as Program. The Program shall take into consideration the watershed and forest protection areas that need immediate rehabilitation and restoration as well as the total area of commercial plantation and agro-forestry areas needed to meet the country's needs for timber and other forest products. In order to make the Program comprehensive it shall integrate and consolidate all existing government and private sector, including those of non-government organizations (NGOs), efforts in forest rehabilitation, restoration and commercial plantations and agro-forestry in both government and private lands.

The Program shall be formulated within 1 year from the approval of this Act.

SECTION 6. Area and Duration of the Program – At least 5 million hectares shall be covered by the Program in its first 6 years of implementation. Priority areas for this program will be identified from approved land use and/or management plans (ie., protected area management plan, watershed management plan, forest land use plan) to ensure site suitability and maximum impacts of development interventions. The Program shall include mangrove areas. At least 1 million ha of the total target area shall be commercial plantations and agro-forestry plantations in both government and private lands to be developed by the private sector.

SECTION 7. Priority Areas for Forest Restoration and Rehabilitation – This shall include degraded areas within protection zones of all NIPAS areas including critical and priority watersheds with completed land use and management plans.

SECTION 8. Priority Areas for Plantation Development - CBFM and CADT/CALC areas identified within the production zones (including areas within multiple use zones inside NIPAS areas) shall be the priority areas for commercial plantation and agro-forestry development in government lands. Private lands intended for plantation and agro-forestry development shall form part of priority areas for development under the Program.

SECTION 9. Species to be Used in the Program – For protection forest purposes, native species shall be used. Fruit-bearing trees shall also be planted in protection forest areas as food for birds and other mammals. For commercial plantation and agro-forestry purposes, the species shall depend upon the choice of the plantation owner. The commercial plantation developers including agro-forestry shall be encouraged to include fuelwood species in their plantations. Bamboo, fruit trees, rattan and other non-wood forest products may be used in agro-forestry areas.

SECTION 10. Capacity Building for Local Communities and Local Government Units – To ensure the success in the implementation of the Program it is imperative that implementers be capacitated. The DENR shall identify the training needs of the local communities and LGUs and develop the instruments for the training and cause the conduct the training. The training implementation shall be in coordination with the Department of Interior and Local Government (DILG), in particular the DILG Local Government Academy.

SECTION 11. Research and Development (R & D) – The latest technology in forest rehabilitation, and restoration as well as plantation and agro-forestry development shall be applied in the implementation of the Program. To continuously improve the technologies, research and development shall form an important component of the Program. The

Ecosystems Research and Development Bureau (ERDB) of the DENR as well as state universities and colleges (SUCs) with capabilities and competence for forestry research and development shall be responsible for generating new technologies needed by the Program. The R & D components shall include policy, economic, social, cultural and marketing aspects of the Program.

SECTION 12. Production of High Quality Planting Materials – The DENR shall ensure the production of high quality planting materials since the success of reforestation and plantation development hinges among other things in the use of high quality planting materials. R & D shall be directed to generate technologies that will improve the quality of planting materials.

SECTION 13. Role of the Department of Environment and Natural Resources – The Department of Environment and Natural Resources (DENR) shall be national and over-all coordinator of the Program. It shall formulate the integrated national program on rehabilitation and restoration of natural forests (in priority watersheds and protected areas) and commercial forest plantations and agro-forestry within one year after the approval of this Act. The program shall give priority to watersheds of existing hydro-electric, irrigation and domestic water systems and protected areas. The Program shall include the rehabilitation and restoration projects of other government agencies such as the National Power Corporation (NPC), non-government organizations (NGOs) and local government units (LGUs).

The commercial tree plantations and agro-forestry shall cover those developed in community-based forest management (CBFM) areas, in Integrated Forest Management Agreement (IFMA) areas, in Socialized Integrated Forest Management (SIFMA) areas, in Agro-forest and Tree Farm Lease (AFTFL) areas and all other tenured areas as well as those in private lands. Second growth forests in areas that are not proclaimed as Protected Areas are open for the development of rattan plantations.

The **Community Environment and Natural Resources Office (CENRO)** of DENR shall be responsible for identifying areas that will be included in the Program, both for rehabilitation and restoration of the natural forests in watersheds and those for commercial and agro-forest plantations. For this purpose they shall coordinate with the Municipal LGUs so that the forest land use plans of the latter can be incorporated in the Program.

The CENRO shall also be responsible for registering and issuing certificates of registration of commercial plantations in private lands within 3 months from the date of application for registration at no cost to the plantation owners. Failure of the CENRO to issue the certificate of registration within 3 months to the owners shall make the CENRO liable for the offense of negligence and punishable for such offense under the Civil Service Code. Repetition of the offence for three times shall be reason for expulsion of the offender from the service.

SECTION 14. Role of Local Government Units – Except for those that do not have forest lands and highly urbanized areas, Local Government Units (LGU) shall finalize the preparation of their Comprehensive Land Use Plans (CLUP) that include a forestry land use plan (FLUP) where areas for plantation development and for forest conservation as implementation areas of RA No. 9337 are identified. For this purpose the MLGU shall coordinate and work closely with the local offices CENRO of the DENR in the identification of areas for inclusion in the Program.

SECTION 15. Role of Other Government Agencies – All other government agencies (OGAs) undertaking forest rehabilitation and restoration shall coordinate with the DENR in the identification of areas for inclusion in the Program.

SECTION 16. Base Map of the Program – The DENR with the assistance of the National Mapping and Resources Information Administration (NAMRIA) shall prepare the base map of the Program under a Geographic Information System (GIS) using the latest satellite data available. This base map shall be up-dated annually or often as satellite data become available to monitor and assess the progress in the implementation of the Program.

SECTION 17. Forestry Bank of the Philippines – There shall be established a national bank, to be known as the **Forestry Bank of the Philippines (FBP)** that caters to the needs and requirements for funds of commercial plantation developers as well as those of the forest industries, both the primary as down stream processing industries. For this purpose, the Philippine Government shall allocate from the funds of the National Treasury Fifty Billion Pesos (P50 B) as seed capital.

Loans shall be provided to CBFM people's organizations (PO) or to individual family members of POs for the development of commercial plantations in CBFM areas. Such loans shall also be provided to commercial plantation development in private lands.

The Bank shall develop lending strategies for CBFM POs in order to enable them to be able to access development funds of the Bank. Such strategy shall include but not limited to providing loans to forest plantation developers to develop forest plantation and agro-forestry within CBFM areas. The CBFM POs in turn are allowed access loans that will be used to pay for the developed plantations from the developers. The developed plantations shall be used as collateral for the loan. The developers can move on to develop other CBFM areas and the process continues.

SECTION 18. Funds for the Program – The 4 million ha of forest rehabilitation and restoration of the natural forests to be developed in 6 years include those that are being implemented by government agencies such as the National Power Corporation (NPC), water districts and other agencies as well as those by non-government organizations (NGO). It is estimated that about 3.5 million ha will be developed by the national government. For those that will be developed by the national government, there shall be allocated P90,000 for each hectare to be developed or a total of P315 Billion. This includes formulation of the Program, preparation of base maps, establishment of forest nurseries, and plantation establishment and maintenance. From the total budget, P2,000 per hectare shall be allocated for capacity building and research and development.

Other sources of funds for the Program are as follows:

1. The funds provided for under RA No. 9337 shall be fully utilized by the LGUs in implementing the Program within their jurisdiction. This will be applied in the areas identified in their FLUPs. These rehabilitation areas shall form part of the Program.
2. In the case of Maynilad and Manila Water which are authorized by the Manila Water and Sewerage System (MWSS) to collect from their clients a fee for environmental conservation shall utilize the same for the rehabilitation and restoration of watersheds where they obtain their water supply. The rehabilitation program of Maynilad Water and Manila Water shall form part of the Program.

3. RA No. 9136 otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA) authorizes the National Power Corporation (NPC) to collect $\frac{1}{4}$ of one centavo per kilowatt hour (P0.0025/kwh) which shall accrue to an environmental fund to be used solely for watershed rehabilitation and management and to be managed by the NPC. The NPC shall continue to utilize that fund for the rehabilitation of their watersheds. The watershed rehabilitation program of NPC shall form part of the Program.
4. The forest charges collected by the DENR shall accrue to a Trust Fund that will be used to implement the Program.
5. All fees collected by DENR which are due from but not limited to licensing permits, government share in the implementation of joint ventures, co-production, or production-sharing agreements on forestry shall likewise accrue to a Trust Fund which shall be used in the implementation of the Program.
6. All export and import taxes on forest products shall accrue to a Trust Fund to implement the Program.
7. Voluntary carbon markets will also be accessed
8. Mechanisms for the collection of Payment of Environmental Services (PES) through the local water districts will be developed.

SECTION 19. Incentives for Private Plantation Development – The government shall encourage the development of private plantations including agro-forestry especially those established in private lands by providing incentives. Among the incentives to be provided are:

1. Free from payment of rent for the use of government lands for commercial plantation and agro-forestry development for the first plantation rotation but not longer than 12, which ever comes first;
2. Does not require a cutting permit for harvesting nor shall it need a transport permit for as long as the plantation is registered with the nearest Community Environment and Natural Resources Office (CENRO), all that is required is for the plantation owner to inform the CENRO that the plantations will be harvested in a given date including the estimated volume that will be harvested.
3. Free from payment of forest charges and other form of fees or taxes that local government units may impose;
4. Plantation logs shall not be subjected to inspection in check points;
5. Developers can access development loans from the Forestry Bank of the Philippines
6. Insurance coverage of plantations and plantation development equipment by the Philippine Forest Plantations Insurance Corporation
7. Tax free importation of plantation development equipment
8. Expenses incurred shall be allowed as deductible expenses for income tax purposes subject to the provisions of the National Internal Revenue Code of 1997, as amended. Provided, That the deduction shall only apply to the taxable period when the expenses were incurred;
9. Expenses incurred in the development and operation of a forest plantation prior to the commercial harvest shall be regarded as ordinary and necessary expenses or as capital expenditure;
10. The Board of Investments (BOI) shall classify forest plantations and agro-forestry as pioneer and preferred areas of investment under its annual priority plan subject to the pertinent rules and regulations;

11. The plantation developer shall be given priority to access credit assistance being granted by Government-owned, -controlled and/or -supported financial institutions;
12. For tenured-developer, upon the premature termination of the agreement at no fault of the holder, all depreciable permanent and semi-permanent improvements such as roads, buildings, and nurseries including the planted and standing trees and other forest crops introduced and to be retained in the area shall be properly evaluated and the holder shall be entitled to a fair compensation thereof, the amount of which shall be mutually agreed upon by both the Department and the tenure-holder and in case of disagreement between them, by arbitration through a mutually acceptable and impartial third party adjudicator;

SECTION 20. Tax on Commercial Plantation Timber and Other Forest Products –

Section 129 of the Local Government Code (RA 7160, 1991) provides that “each local government unit shall exercise its power to create its own sources of revenue and levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy”. Many provinces have been imposing fees and charges on plantation timber under the guise of environmental fees and other kinds of fees. This practice negates the incentives provided to plantation developers where plantation logs are free from payment of forest charges, an incentive provided to investors. Because of this imposition by LGUs, many developers have switched from planting forest trees to agricultural crops.

To encourage investors in plantation development to continue to invest in the sector, LGUs are hereby banned from imposing fees and charges in whatever form or name on plantation logs and other planted forest products.

SECTION 21. Payment for Environmental Services (PES) – Forests provide environmental/ecological services in addition to the material benefits derived from them. Among the major services they provide are sustainable supply of water, absorption of carbon dioxide (one of the major green houses gases responsible for the rise in temperature of the earth) and the emission of oxygen into the atmosphere, and reduction of soil erosion. These benefits will drastically decline or even cease if the forests are not managed well. Such management incurs costs that equitably must come from the beneficiaries of the environmental services. For this purpose, and line with the collection of environmental fees by Maynilad and Manila Water, water districts outside of Metro Manila are mandated to collect reasonable environmental fees, if they are not yet collecting such fees. The fees shall likewise accrue to the Trust Fund for the implementation of the Program.

SECTION 22. Trust Fund – There shall be established a Trust Fund for the implementation of the national rehabilitation, restoration of natural forests and commercial plantation program. Fees and other collections from forest/forestry activities shall be deposited in the Trust Fund. The Trust Fund shall be opened in the Forestry Bank of the Philippines that will be established under this Act or in other government banks.

SECTION 23. Philippine Forest Plantations Insurance Corporation – There shall be established a Philippine Forest Plantations Insurance Corporation that will provide insurance protection to plantation developers and investors. The Corporation shall establish its rules and procedures on insuring forest plantations, including agro-forest plantations. The Corporation

shall be under the DENR for administrative and supervision purposes. The Corporation shall be appropriated P50 Billion pesos from the national treasury as start-up capital.

SECTION 24. Oversight Committee – There shall be established a joint Oversight Committee in Congress to monitor and assess the accomplishments and progress in the implementation of the Program. DENR shall provide yearly reports on the progress of the Program, or as often as the Oversight Committee requires.

SECTION 25. Implementing Rules and Regulations – The DENR in consultation with concerned agencies of government and the private sector shall formulate the implementing rules and regulations within 180 day after the approval of this Act.

SECTION 26. Separability clause – If any section or provision of this Act shall be declared invalid or unconstitutional, such shall not invalidate any other section or provision of this Act.

SECTION 27. Repealing Clause – All laws, decrees, executive orders, rules and regulations or parts thereof which are in conflict or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 28. Effectivity – This Act shall take effect thirty (30) days following its full publication in the Official Gazette or two (2) major daily newspaper of general circulation.

Approved