

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15th Congress
Second Regular Session

House Bill No. **4910**

Introduced by HON. AGAPITO H. GUANLAO

EXPLANATORY NOTE

Cooperatives have been hailed as a modern means of empowering the population through collective action at the grassroots level. Cooperativism involves the combined energies and efforts of individuals, united by a common goal and purpose, and banding together to assist each other for mutual upliftment, support and benefit.

The next logical step for cooperatives especially in these trying times is to expand their reach to be of concrete assistance to people mostly in the countryside. It is in these places where the bulk of our farmers, fisherfolk and members of other marginalized sector reside and operate. Sadly, it is also in these areas where access to much-needed capital and infrastructure assistance is very much wanting.

The bill seeks to transform cooperatives into entities which are more useful and relevant. By facilitating the establishment and creation of cooperative banks, the best qualities of both cooperatives and banks would be harnessed and utilized into a single legal entity.

Depending in their size, whether they are national in scope or local in character, and depending likewise on their location, cooperative banks are intended to be a cornerstone of rural progress and development. Their creation is strongly dictated by the need to support small-scale and medium-scale entrepreneurs in the countryside.

Cooperative banks, being intended primary to foster the entrepreneurial spirit and to be a cornerstone in rural progress, enjoy strong privileges and benefits under the law, and these legal privileges are intended to further strengthen both the cooperative spirit and the banking activities in their intended locations.

Approval of this bill is therefore sought.


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AN ACT
PROVIDING FOR THE CREATION, ORGANIZATION AND OPERATION
OF COOPERATIVE BANKS AND FOR OTHER PURPOSES

Be it 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 "*Cooperative Banking Act of 2011*"

Section 2. DECLARATION OF POLICY - It is a declared policy of the state to promote comprehensive cooperative development in order to attain a more equitable distribution of wealth, create opportunities for development and job generation, secure a sustained increase in the amount of goods and services for the benefit of the people; and expand productivity at all level as a key to raising the quality of life for all, especially the small farmers, fisherfolk and members of other marginalized sectors.

Further, it is hereby declared the policy of the state to:

1. Recognize cooperative banks as practical vehicles for the promotion of self-reliance and the harnessing of people power towards the attainment of economic development and social justice;
2. Encourage thrift and savings mobilization for the achievement of sustainable economic development primarily among cooperatives and their members;
and
3. Regulate and supervise the activities of cooperative banks in order to achieve sound, stable and efficient operations for the protection of the public interest.

Towards these ends, the Government shall encourage and assist in the establishment of cooperative banks in order to make credit facilities available and readily accessible on reasonable terms. The Monetary Board of the Bangko Sentral ng Pilipinas shall

formulate the necessary rules and regulations governing the establishment, operation and supervision of cooperative banks.

SECTION 3. DEFINITION OF TERMS

The following definition shall apply within this Act.

1. Cooperative Bank - A bank organized under this act and under this provisions of the Cooperative Code, the majority shares of which are owned and controlled by cooperative organizations, for the primary purpose of providing financial and credit services to cooperatives and their members. It shall include cooperative rural banks.
2. Samahang Nayon - Pre-cooperatives organizations established under PD.175.
3. Monetary Board shall mean the Monetary Board of the Bangko Sentral ng Pilipinas.
4. Cooperative organization shall refer to any cooperative whether primary, secondary or tertiary registered under the provisions of the cooperative code, and registered with the cooperative development authority.
5. Cooperative Code - A law created by Republic Act No.6938, otherwise known as the Cooperative Code of the Philippines and any amendments thereto and further amended by RA 9520.
6. Cooperative Development Authority (CDA) - the agency of the government created under R.A.No.6939, mandated to register, regulate and supervise cooperatives.
7. Bankoop - refers to the Cooperative Banks Federation of the Philippines.

SECTION 4. ORGANIZATION, MEMBERSHIP AND ESTABLISHMENT OF COOPERATIVE BANK.

- (A) ORGANIZATION - At least fifteen (15) cooperative organizations duly established and registered under the Cooperative Code may organize and operate a cooperative bank, which shall likewise be considered a cooperative registerable under the provisions of this Act, subject to the requirements and requisite authorization from the Bangko Sentral ng Pilipinas.
- (B) MEMBERSHIP - Membership in a cooperative bank shall be open to cooperative organizations as well as, but not limited to the following:
1. Individual members of the bank's primary cooperatives; and
 2. Samahang Nayons and Municipal Katipunan ng mga Samahang Nayons (MKSNS) which held common shares of cooperative banks prior to the effectivity of this Act shall apply for conversion to full-fledged cooperatives in order to maintain their status as regular members of the cooperative banks: Provided, that they shall notify the cooperative banks concerned of their intention to convert within a period of one (1) year from the effectivity of this Act to complete conversion to cooperatives. Cooperative banks shall exert reasonable efforts to inform their member Samahang Nayons and

MKSNS to finally convert or to give the notice of conversion within the prescribed period.

3. Establishment of cooperative banks - The articles of cooperation and by-laws of any cooperative bank, or any amendments thereto, shall be registered only accompanied by a certificate of authority issued by the Monetary Board, under its official seal.

SECTION 5. ADMINISTRATION OF COOPERATIVES BANKS -

- (A) BOARD OF DIRECTORS - the cooperative bank shall be governed by a board of directors, the member which shall is no case be less than five (5) nor more than fifteen (15), composition, terms and voting rights of the shareholders shall be defined in the articles of cooperation and by-laws of the cooperative bank, notwithstanding the provisions of any existing laws to the contrary.
- (B) All members of the Board of Directors of the cooperative banks shall process all the qualifications and none of the disqualifications as required by any existing laws and by the Bangko Sentral. All such members shall be of legal age and citizens of the Philippines, In case there are appointive government officials sittings in the Board, said appointive officials may serve as director provided that their position in the government will not be in conflict with their functions as member of the board.
- (C) No director or officer of any cooperative bank shall, either directly or indirectly, for himself or as the representative or agent of another, borrow any of the deposits or funds of such banks, nor shall be become a guarantor, endorser, or surety for loans from such bank to others, or in any manner be an obligor for money borrowed from the bank or loaned by it except with the written approval of the majority of the directors of the bank, excluding the director concerned.
- (D) Any such approval shall be entered upon the records of the cooperative and a copy of such entry shall be transmitted forthwith to the appropriate supervising department of the Bangko Sentral ng Pilipinas. The director/officer of the bank who violates the provisions of this section shall be immediately dismissed from his office and the penalties provided in Section 9 of this Act shall be made applicable to such officer.

SECTION 6. POWERS, FUNCTIONS AND ALLIED UNDERTAKING OF COOPERATIVE BANKS - COOPERATIVE BANKS SHALL PRIMARILY PROVIDE FINANCIAL, BANKING AND CREDIT SERVICES TO COOPERATIVE ORGANIZATIONS AND THEIR MEMBERS, AND LIKEWISE TO THE AGRICULTURAL, AND OTHER SECTORS THAT MAY BE CONSIDERED MARGINALIZED.

- (A) Subject to such guidelines, rules and regulations as may be established and promulgated by the Monetary Board, a cooperative bank may:
1. Accept savings and time deposits
 2. Mobilize savings for the benefit of the cooperative movement;
 3. Receive financial and/or loans from any institution and the Bangko Sentral for and in behalf primarily of the cooperative banks and cooperative organizations engaged in business and supervise the lending and collection of loans;
 4. Act as a balancing medium for the surplus funds of cooperative organizations;
 5. Issue negotiable instruments to facilitate the activities of cooperative organizations;
 6. Issue debentures subject to the approval of and under conditions and guarantees to be prescribed by the government;
 7. Open letters of credit and bank drafts;
 8. Borrow money from banks and other financial institutions within the limit to be prescribed by the Bangko Sentral;
 9. Discount and rediscount paper with private and government financial institutions;
 10. Issue mortgage and chattel mortgage certificates, buy and sell them for its own account or for the account of others, or accept or receive them in payment for amortization of its loan;
 11. Purchase, hold and convey real estate under the same conditions as those governing commercial banks as specified under Section 51 and 52 of Republic Act No. 8791 otherwise known as the General Banking Law of 2000;
 12. Engage in quasi-banking and money market operations;
 13. Extend credit against the security of jewelry, precious stones and articles of similar nature, subject to such rules and regulations as the monetary board may prescribe.

In addition to the powers granted by this Act and other existing laws, any cooperative bank may perform any or all of the services offered by other types of banks upon prior approval of the Monetary Board, including the following:

1. Offer current or checking accounts subject to such guidelines as may be established by the Philippine Clearing House Corporation,
2. Act as correspondent bank for other financial institutions, local or foreign,
3. Act as collection and/or withholding agent for government entities including but not limited to the bureau of internal revenue, the social security systems, and the bureau of customs,
4. Act as official depository of national government agencies, municipality or provincial government units in the municipality, city or province where the cooperative bank is located, subject to such guidelines as may be established by the monetary board and the department of finance,

5. Extend credit facilities to private and government employees, provided, that in the case of a borrower who is a permanent employee or wage earner, the treasurer, cashier or paymaster of the office employing him is authorized, notwithstanding the provisions of any existing law, rules or regulations to the contrary, to make deductions from his salary, wage or income pursuant to the terms of his loans, to remit deductions to the cooperative bank concerned and collect such reasonable fees for his services.

Nothing in this act shall be construed as precluding a cooperative bank from performing, with prior approval by the Monetary Board, commercial banking services or from operating under an expanded banking authority, or from exercising, whenever applicable and not inconsistent with the provisions of this act and Bangko Sentral regulations, such other powers incident to a cooperative.

- (B) Investments in allied undertakings - subject to such guidelines as maybe established by the Monetary Board, cooperative banks may invest in equities of allied undertakings as hereinafter enumerated; provided that:
1. The total investment in equities shall not exceed twenty-five percent (25%) of the net worth of the cooperative bank;
 2. The equity investment in any single enterprise shall be limited to fifteen percent (15%) of the net worth of the cooperative bank; and
 3. The equity investment in other banks shall be subject to the same provision governing similar investments of commercial banks and shall be deducted from the investing bank's net worth for the purpose of computing the prescribed ratio as provided in Section 7, hereof: provided further, the equity investments shall not be permitted in non-related activities. Where the allied activity is a wholly or majority-owned subsidiary of the cooperative bank, the Bangko Sentral may subject such subsidiary to examination.

Investments in allied undertaking shall mean investing in institutions engaged in the following activities:

1. Banking and financing,
2. Warehousing and other post-harvest activities,
3. Fertilizer and agricultural chemical and pesticide distribution,
4. Farm equipment distribution,
5. Trucking and transportation of agricultural products,
6. Marketing of agricultural products,
7. Leasing,
8. Insurance, and
9. Other undertaking as may be determined by the Monetary Board.

- (C) Lending activities and limitation on lending authority - cooperative organizations, their members, and the bank's depositors may obtain loans

from a cooperative bank, subject to such limitations as may be provided for by the Monetary Board.

Except as the Monetary Board may prescribe, the direct indebtedness to cooperative bank(s) of any single or association for money borrowed, excluding:

1. Loans secured by obligations of the Bangko Sentral,
2. Loans fully guaranteed by the government as to the payment of principal and interest,
3. Loans to the extent covered by the hold-out, or assignment of deposits maintained in the Philippines,
4. Loans to cooperative organizations or their members from funds passed through the cooperative bank as a conduit in any private or government lending program, and
5. Other loans or credits as the Monetary Board may, from time to time specify non-risk assets; shall at no time exceed twenty percent (20%) of the unimpaired capital and surplus of the cooperative bank.

SECTION 7. CAPITALIZATION AND CAPITAL STRUCTURE

- (A) A NATIONAL cooperative bank shall have a minimum AUTHORIZED SHARE CAPITAL OF TWO BILLION (P2,000,000,000.00) PESOS, divided into such number of common and preferred shares as may be stated in its articles of cooperation. Provided, that the common shares shall be at least 50% of the total paid-up capital; and Provided, further, that each share of stock shall have a par value of not less than ONE THOUSAND (1,000.00) PESOS.
- (B) A LOCAL cooperative bank shall have a minimum authorized share capital of Twenty Million (P20,000,000.00) pesos, divided into such member of common and preferred shares as may be stated in its articles of incorporation. Provided that the common shares shall be at least 50% of the total paid-up capital; provided further, that each share of stock shall have a par value of not less than One Thousand (1,000.00) pesos.
- (C) To promote positive maintenance of regulatory capital, Cooperative Banks may accept capital equity from foreign individuals, banks and/or financial institutions to increase its capital requirements. Provided, That the capital or equity infusion from foreign sources shall not exceed 40% of the total bank capital equity.
- (D) Cooperative banks may offer its preferred shares to individual shareholders. Provided, That individual shareholding shall not exceed 20% of the total preferred shares. Provided further, That total individual ownership of preferred shares shall not exceed 50% of the total shareholding.

SECTION 8. BARRIO SAVINGS FUND (BSF) AND BARRIO GUARANTEE FUND (BGF) - In order to augment the capitalization of cooperative banks, the BSF and BGF collected/deducted by various banks throughout the country from the loan proceeds of farmer borrowers in compliance to PD 175, which are still floating and outstanding either as active or dormant accounts in the books of those banks shall be remitted to the cooperative bank located in the province where the depository banks of the BSF and BGF are located. The Bangko Sentral in coordination with the Cooperative Banks Federation of the Philippines (BANGKOOOP) shall come up with the implementing guidelines on how to credit the owners of those. Those whose owners could not be located or identified shall be entrusted to Bangkoop in order to finance the cooperative banks strengthening program of the federation.

SECTION 9. PROHIBITED ACTS - Any bank not organized and registered under this act, and any person, association, or corporation doing the business of banking, not authorized under this act or existing laws which use the words 'cooperative bank' as part of its name or title, such bank or such person, association or corporation, shall be penalized by a fine of not less than One Hundred (P100.00) pesos, but in no case to exceed Thirty Thousand (30,000.00) pesos for each day during which the said words are used.

SECTION 10. SUPERVISION - The cooperative banks registered under this act and under the Cooperative Code shall be under the supervision of the Bangko Sentral ng Pilipinas, In order to facilitate the supervision and implementation of standards in financial discipline, considering the unique cooperative nature and character of cooperative banks, said banks are hereinafter required to be a members of the BANGKOOOP, and additionally required to maintain membership in good standing.

SECTION 11. PRIVILEGES AND INCENTIVES OF COOPERATIVE BANKS -

- (A) Cooperative banks registered under this act and under the Cooperative Code shall be given the same privileges and incentives granted to rural banks, private development banks, commercial banks, and all other banks to rediscount notes with the Bangko Sentral, the Land Bank of the Philippines and other government banks without affecting in any way the provisions of this act.
- (B) Subject to the approval of the monetary board, a cooperative bank may publish its statement of condition in a newspaper of general circulation, or a local newspaper covering its area of operations or post it in a conspicuous place area of its premises, the municipal building, the municipal public market, if there be any, where the cooperative bank is located.
- (C) In cases of foreclosure of mortgages covering loans granted by a cooperative bank and executions of judgments thereon involving real properties and levied upon by a sheriff shall be exempt from publication requirement where

the total amount of the loan, excluding the interest due and unpaid does not exceed Five Hundred Thousand Pesos (500,000.00) or such amount as the monetary board may prescribe, as may be warranted by the prevailing economic conditions and by the nature and character of cooperative banks. It shall be sufficient publication in such cases if the notice of foreclosure and execution of judgment are posted in conspicuous areas of the cooperative bank's premises, the municipal hall, the municipal public market, if there are any, where the land mortgaged is situated, within a period of sixty (60) days immediately preceding the public auction or the execution of judgment. Proof of publication as required herein shall be accomplished by an affidavit of the sheriff or officer conducting the foreclosure sale or execution of judgment and shall be attached to the record of the case.

A cooperative bank shall be allowed to foreclose land mortgaged to it subject to the provisions of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, and as amended by Republic Act No. 9700.

- (D) Any judge in his capacity as notary public, ex-officio, shall render service, free of charge, to any person or group of persons requiring either the administration of oath or the acknowledgment of any instrument of loan from cooperative bank not exceeding One Hundred Thousand (P100,000.00) Pesos.
- (E) Any register of deeds shall accept for registration, free of charge, any instrument relative to loan with cooperative bank which does not exceed One Hundred Thousand (100,000.00) pesos or deeds of title or any property acquired by the cooperative bank or any paper or document drawn in connection with any action brought by the cooperative bank or with any court judgment rendered in its favor or any instrument relative to a bond of any accountable officer of a cooperative bank for the faithful performance of its duties and obligations.
- (F) Cooperative banks shall be exempt from the payment of all court and sheriff fees payable to the Philippine Government for and in connection with all actions brought incident to its operation or where such action is brought by the cooperative development authority before the court to enforce the payment of obligations contracted in favor of the cooperative banks.
- (G) Cooperative banks shall be exempt from putting up a bond for bringing an appeal against the decision of an inferior court or for seeking to set aside any third party claim: Provided, that a certification of the Cooperative Development Authority showing that the net assets of the cooperative bank are in excess of the amount of the bond required by the court in similar cases shall be accepted by the court as sufficient bond.

- (H) Any security issued by the cooperative bank shall be exempt from the securities act provided such security is non-speculative.
- (I) The Philippine Deposit Insurance Corporation (PDIC), Land Bank of the Philippines and other government agencies, government-owned and controlled corporations and government financial institutions shall provide assistance, whether technical, financial or otherwise to cooperative banks directly or through its federation, Bangkoop, to permit them to grow, develop and perform their role in countryside development and towards a sustainable national economic development; and provide technical and financial assistance to Bangkoop in order for this federation to be capable of strengthening and stabilizing the operation of its member cooperative banks. Whenever a cooperative bank is distressed or may need assistance in the rehabilitation of its financial condition or to avoid bankruptcy, the monetary board of the Bangko Sentral ng Pilipinas shall designate an official of the Bangko Sentral or a person of a recognized competence, preferably with experience in cooperative banking and finance, to take over the management of such bank until a new board of directors and officers are elected and qualified, in consultation with Bangkoop and the cooperative development authority.
- (J) Cooperative banks shall enjoy the privilege of being represented by the provincial or city fiscal or the office of the solicitor general, free of charge, except when the adverse party is the Republic of the Philippines.

In addition to the privileges generally granted to cooperatives under the Cooperative Code, cooperative bank organized under this act shall also be exempted from the payment of taxes, fees and charges of whatever nature and description, as follows:

- (A) Cooperative Bank with accumulated reserves and undivided net savings of NOT more than TWENTY MILLION PESOS (20,000,000.00) shall be entitled to exemptions from all kinds of national internal revenue and local taxes, including but not limited to:
1. Income tax - arising from income and gains realized from banking services: provided, however that the following shall be subject to final tax pursuant to the provisions of title ii of the national internal revenue code:
 - 1.1 Interest income derived from any currency bank deposits, yield from deposit substitutes, trust funds, foreign currency deposit units (FCDUs) and similar arrangements:
 - 1.2 Royalties;
 - 1.3 Prizes and other winnings, and
 - 1.4 Capital gains realized from sale, barter or exchange of shares of stocks and real properties.
 2. Gross receipt tax imposed on lending activities pursuant to the provisions of Title V of the National Internal Revenue Code;

3. Custom duties on importation of equipment and machineries, spare parts and raw materials which are actually, directly and exclusively used in the cooperative activities, provided that said importation shall need the prior approval of the Department of Finance. In case that the subject imported goods are subsequently sold, transferred or exchanged to non-exempt persons or entities, the purchaser or recipients shall be considered importers thereof, and shall be liable to the duty and internal revenue tax due on such importation;
4. All forms of local and real property taxes and exemptions from fees, charges, imposts, special levies and special assessments as may be granted by the local government unit pursuant to the provisions of Republic Act No. 7160, otherwise known as the Local Government Code of 1991;
5. Value added tax on the sale or importation by cooperatives shall be in accordance with the provisions of Title IV of the National Internal Revenue Code;
6. Cash dividends shall be subject to 10% final withholding tax;
7. The CDA, upon its approval of the registration of a cooperative bank, shall issue a certificate of compliance to the cooperative bank based on the provisions of this act. This certification shall be the primary basis of the BIR in determining the nature and extent of exemption status of the cooperative bank. In order to determine any change in the tax exemption status of the cooperative bank, the certification shall be renewed on an annual basis upon the approval and issuance by the CDA of the cooperative certificate of compliance. The CDA and the Department of Finance shall issue the corresponding rules and regulations to implement this section.
8. All Cooperative Banks, regardless of the amount of accumulated reserves and undivided net savings shall be exempt from payment of local taxes and taxes on transactions with MEMBERS: Provided, That all services rendered for non-members shall be subject to the applicable percentage taxes.

SECTION 12. REPORT ON PROMULGATED REGULATIONS – The Monetary Board of the Bangko Sentral ng Pilipinas shall submit a report to the Congress of the Philippines at the end of each calendar year of all the rules and regulations promulgated by it in accordance with the provisions of this Act, as well as its other resolutions and actions in connection with the operation of cooperative banks, together with explanations of its reasons thereof.

SECTION 13. AMENDMENTS – Any amendments to the articles of cooperation and by-laws of the cooperative bank shall be proposed by the Board of Directors and ratified by 2/3 votes of the SUBSCRIBED capital stock of the bank entitled to vote; and the same shall take effect upon approval by the Monetary Board of the Bangko Sentral ng Pilipinas and by the Cooperative Development Authority.

SECTION 14. SEPARABILITY CLAUSE - If any provision or section of this Act or the application thereof to any person or circumstances is held invalid, the other provisions or sections of this Act shall remain valid, and the application of such remaining provisions or sections to the other persons or circumstances, shall not be affected thereby.

SECTION 15. All provisions of Republic Act No.6938, Republic Act No. 7653 and any provisions inconsistent with the provision of this Act are hereby amended accordingly.

SECTION 16. EFFECTIVITY - This Act shall take effect fifteen (15) days from the date of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved.