

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Sixteenth Congress
First Regular Session

HOUSE BILL NUMBER 461



Introduced by: Honorable Agapito H. Guanlao

EXPLANATORY NOTE

Tasked with the mandate to stabilize the supply and price of rice, the National Food Authority (NFA) buys palay more than its farmgate price and sell them at lower than the market price. This resulted from great losses that translates into more burdens of subsidy for the government. In 2009, NFA obligations reached about P146.87 billion composed of long and short term debts and losses.

In view of these, the government in the last five years has been contemplating on streamlining or privatizing certain operations of the NFA which are subject of many legislative measures from the House of Representatives, but none were enacted into law.

This measure aims to strengthen and continue the operations of the NFA through the following measures:

1. Provide a clean bill of health through mechanisms that transfers liabilities to a Board of Liquidators created which shall handle the deposition and liquidation of its assets;
2. The provision of initial capitalization which shall be provided by law (GAA);
3. The government through the Department of Budget and Management shall include in the President's Budget Proposal funds to be utilized for personal services, interests and other maintenance and operating expenses to maintain its function at ensuring its buffer stock of rice.
4. Provide for necessary structural changes as a result of delimiting its functions to the maintenance of the country's buffer stock of rice.

In view of the foregoing, the enactment of this piece of legislation is earnestly sought for.


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AN ACT
STRENGTHENING THE NATIONAL FOOD AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

- Section 1. Title – This Act shall be known as the National Food Authority Act of 2013.
- Section 2. Declaration of Policy – it shall be the policy of the State to ensure food security for all Filipinos, adequate supply of foodgrains at all times and in all places, and reasonable levels of prices of foodgrains, and to carry out regulatory and developmental functions to support farmers and grains businessmen so as to increase their productivity and profitability.
- Section 3. Definition of Terms – As used in this Act, the following terms shall mean:
- a. Calamities - refers to the fortuitous events which include acts of God such as but not limited to, typhoons, floods, droughts, earthquakes, volcanic eruptions, lahar flows, and acts of men such as political/or civil disturbances, and widespread civil unrest.
 - b. Business Capitalization – refers to resources invsted in the different lines of activities by the food grains businessmen. For purposes of this Act, capitalization includes the cost of stocks whether on consignment or bought on cash, cost of facilities and equipment, loans used in the business and amount of working capital.
 - c. Cartel – refers to any combination of an agreement between two or more persons engaged in production, manufacturing, maketing, transport, sale or distribution of any prime commodity to artificially and unreasonably increase or manipulate its price. There shall be prima facie evidence of engaging in a cartel whenever two or more persons competing for the same market and dealing with the same commodity perform uniform or complementary acts among themselves which tend to bring out artificial and unreasonable increase in prices of any basic commodity or when they simultaneously and unreasonably increase their prices in their competing products thereby lessening competition among themselves.
 - d. Cuntumacy – refers to a person's willful refusal to comply with summons of a court or one's resistance to authority.

- e. Cornering – refers to restricting the flow/delivery of goods intended for distribution in other areas with the interest of accumulating goods thus depriving intended areas the use thereof.
- f. Farmgate price – refers to prevailing price of a certain commodity at the farm level in a certain locality at a given specific time.
- g. Foodgrains – refers to palay, rice, corn and corngrits
- h. Food security – refers to the availability of food staples at all times.
- i. Illegal acts of price manipulation – refers to acts of hoarding, profiteering, cartelizing, importation, storage, transport, distribution, sale or other methods of disposition of foodgrains.
- j. Minimum Access Volume – refers to the volume of a specific agricultural product that is allowed to be imported with a lower tariff as commitment of the Philippines to the WTO.

Section 4. The National Food Authority – Pursuant to the original mandate of Presidential Decree 4, as amended, hereinafter referred to as the Authority, shall be the body tasked to maintain an adequate and continuous supply at reasonable prices, staple food grains in the country. The Authority shall be attached to the Department of Agriculture and cannot be abolished without approval of Congress.

Section 5. Powers and Functions of the NFA – The Autho shall have the following purposes and functions:

- a. Maintain and manage throughout the year a Strategic Rice Reserve equivalent to at least 15 days national rice consumption or as may be determined by the Department of Agriculture, for food security purposes.
- b. Stabilize supply and price of foodgrains primarily through local procurement when commissioned by the Department of Agriculture and to be paid for such services.
- c. Provide rice and other basic commodities for pro-poor programs of the Department of Social Welfare and Services and to be paid for such services.
- d. Maintain and mange post harvest facilities,
- e. Undertake importation or rice and corn when authorized by the President in order to maintain the appropriate volume of Strategic Rice Reserve and be entitled to tax expenditure subsidy;
- f. Establish rules and regulations governing the allocation of tariff import quotas for rice with MAV among private sector, entities and farmer cooperatives, and impose fees and charges for said transactions when necessary;
- g. Monitor supply and demand indicators of foodhrains including the imports and exports of the private sector in coordination with concerned agencies;

- h. Sue and be sued;
- i. Avail of foreign grants and development aid to support its developmental goals and to ensure that technologies and expertise are updated;
- j. Create and establish a Provident Fund which shall consist of contributions made by both the Authority and its officers and employees to a common fund for the payment of retirement and other benefits to such officers and members or their heirs under such terms and conditions as the Board may prescribe;
- k. Establish or restructure internal organization and to fix the remuneration, emoluments, allowances and other fringe benefits of the officers and employees as the Board may deem fit;
- l. Establish rules and regulations regarding the importation of rice, and to license, impose, prescribe penalties and fines for non-compliance with established rules and procedures and collect fees and charges for said importations for the purpose of equalizing the selling price of such imported rice with normal prevailing domestic prices;
- m. Establish rules and regulations governing export of rice, and/or its substitutes and its by-products and to collect fees and charges for such exportation at rates to be determined by the Board;
- n. Register, license and supervise persons, natural or juridical, who shall engage in the business of providing goods and services in support of the different activities involved in the production, processing, transporting, warehousing (whether bonded or not bonded), marketing and trading of foodgrains and/or their substitutes and/or their by-products/end products and to prescribe, impose and collect fees, charges and/or surcharges in licensing and regulating the operations of such persons;
- o. Register, license and supervise mills, warehouses, whether bonded or not bonded; and to prescribe, impose and collect fees, charges, and/or surcharges in licensing and regulating warehouses and mills;
- p. Formulate and implement regulations governing the foodgrains warehouse receipt;
- q. Establish and enforce standards in storage, milling, distribution, shipping, drying, handling, hauling, grading, sampling and inspection, test and analysis, specification, nomenclature, units of measurement, code of practice and packaging, conservation and transport for food items.
- r. Introduce more efficient post harvest systems and technologies, and to coordinate with research and development entities in foodgrains processing and marketing;
- s. Promote interrelationships among foodgrains industry stakeholders;
- t. Establish networks with national and international institutions for the development of food grains industry;

- u. Coordinate with other government agencies engaged in the study, research and promotion of measures desired to enhance the integrated growth and development of foodgrains industry;
- v. Inspect foodgrains stored in private warehouses for the purpose of taking inventory and monitoring commercial stock, prices and stocks movement;
- w. Order of seizure whenever, there is cornering, hoarding or improper acquisition of stocks as may be defined by the Authority of rice and/or corn and/or other food grains and substitutes and/or their by-products/end-products thereof, including facilities and equipment used in said activities, or whenever there is scarcity of supply of such commodity in the consumer market and/or an unwarranted increase in the price thereof, of the hoarded commodity and its public sale in such quantity as may be needed to stabilize prices to normal levels;
- x. Provide for the enforcement of the provisions of this Act or any Regulations issued or which may hereafter be issued pursuant thereto, the implementation and enforcement of which is vested with the Authority, and for actually committing violation thereto, shall prescribe and impose administrative fines and penalties, to conduct investigations and to require by subpoena and/or subpoena "duces tecum" the attendance and testimony of witnesses, the production of books, papers, documents, exhibits, record, evidence; to administer oath by himself or his duly authorized representative, and to make arrests. Any case of contumacy shall be dealt with in accordance with the procedure prescribed in the provisions of Section Five Hundred Eighty (580) of the Revised Administrative Code. Any fine imposed and collected under this paragraph shall form part of the Authority's funds; and
- y. Make arrest of persons for violation of acts prohibited enumerated under this Act and other pertinent rules and regulations, circulars, orders and directives which may be promulgated hereafter by the Authority under the following circumstances:
 1. when the person to be arrested had committed or is actually committing an offense in the presence of the Administrator or his authorized representative;
 2. when an offense has in fact been committed and
 3. has reasonable ground to believe that the person to be arrested has committed it.

Sec. 6. Board of Directors- The corporate powers and functions of the Authority shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of the Secretary of the Department of Agriculture (DA) as Chairman, the Administrator of the National Food Authority as Vice Chairman, and the Governor of the Bangko Sentral ng Pilipinas (BSP), the President of the Land Bank of the Philippines (LBP), the President of the Development Bank of the Philippines (DBP), the Secretary of the Department of Finance (DOF), the Secretary of the Department of Trade and Industry (DTI), and a representative each from the grains business sector and the farmers sector, respectively, as members. The President shall appoint the representatives of the farmer sector and the grains business sector from among the nominees of duly-accredited farmers and grains business sector organizations, respectively.

The term of the appointive members shall be three (3) years: *Provided*, That the terms of the first two appointive members shall be one (1) and two (2) years for the first appointive member and second appointive member, respectively: *Provided, further*, That they shall continue to hold office until their successors shall have been appointed and duly qualified. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only.

In the absence of the Chairman, the Vice Chairman shall act as the Chairman. In the absence of both Chairman and Vice Chairman, the Board shall elect a temporary presiding officer.

The Board shall meet regularly at least once a month and as frequently as necessary to discharge its duties and responsibilities properly. The Board shall be convened by the Chairman or upon the written request of a majority of its members. Except when otherwise provided for in this Act, the vote of a majority of the members constituting a quorum shall be the sufficient for the adoption of any rule, resolution, decision or any act of the Board.

Each member of the Board members shall be entitled to a per diem of at least Two Thousand Five Hundred Pesos (P2,500) for each meeting actually attended by them, but not to exceed Ten Thousand Pesos (P10,000) a month. Members of the Board shall be reimbursed by the Authority for actual expenses (including travelling and subsistence expenses) incurred by them in the performance of their duties for the Authority as may be specifically authorized by the Board.

Section 7. Powers and Functions of the Board- The Board shall have the following powers and functions:

- a. Formulate policies, guidelines and programs to effectively implement and carry out the purposes, objectives and powers of the Authority;
- b. Promulgate such rules and regulations as may be necessary and proper for the effective exercise of the powers and functions, as well as the discharge of the duties and responsibilities and responsibilities of the Authority, its officers and employees;
- c. Adopt by-laws consistent with existing laws and amend, repeal or alter such by-laws;
- d. Pass upon and approve the appointment of the principal officers of the Authority as nominated by the Administrator and by the majority vote of all members of the Board, suspend, remove or otherwise discipline for just cause such officers;
- e. Determine and approve the organizational structure of the Authority, create such positions as may be necessary for the economical, effective and efficient discharge of its functions and responsibilities, and pay scales of the Authority, its officers and employees subject to existing rules and regulations;
- f. Approve the annual and supplemental budgets, including corporate plans and annual and medium-term investments, submitted to it by the Administrator;
- g. Pass upon and approve all borrowings of the Authority;
- h. Render annual reports, and such special reports, as may be requested by the President of the Philippines and both Houses of Congress; and
- i. Exercise such other powers and perform such other functions as may be necessary to carry out provisions of this Act.

Section 8. Administrator- The Authority shall have an Administrator to be appointed by the President of the Philippines who shall be the Chief Executive Officer of the Authority and ex-officio Vice Chairman of the Board. The Administrator shall hold office for a term of three (3) years, except when earlier removed for a cause. In case of resignation, retirement, separation, transfer, re-assignment, removal and other cause of cessation from office, replacement shall serve only for the unexpired portion of the term.

The Administrator shall be assisted by two (2) Deputy Administrators, appointed by the Administrator with the confirmation of the Board, in the performance of his functions. Either one of the Deputy Administrators, upon designation of the Administrator, shall perform the duties and exercise the powers and functions of the Administrator in the absence of the latter. The Deputy Administrators shall be Career Executive Officers.

There shall also be Assistant Administrators who shall be Career Executive Service eligibles, as the Administrator may deem necessary to assist him in the performance of his functions to supervise and cover functional areas of the Administrator may determine with the confirmation of the Board.

The Administrator and the Deputy Administrators shall not be less than thirty-five (35) years of age, while the Assistant Administrators shall not be less than 30 years of age, all of whom should be natural-born citizens of the Philippines, of proven honesty and integrity, and of recognized managerial competence.

Section 9. Powers and Functions of the Administrator- The management of the day-to-day operations of the Authority shall be vested in the Administrator, who shall have the following powers and duties:

- a. Direct and supervise the management, operation and administration of the Authority, and for this purpose, may delegate any or some operational and administrative responsibilities and duties to the other officers of the Authority;
- b. Enter into and execute, on behalf of the Authority, all contracts and agreements which the Authority may enter into, and to sign, accomplish, and deliver any and all documents relative to such contracts and agreements, subject to the approval by the Board;
- c. Submit to the Board, an annual budget and such supplemental budgets as may be necessary for its consideration and approval;
- d. Represent the Authority in all dealings with other offices, agencies, persons or entities, domestic or foreign, government or private;
- e. Appoint, with the approval of the Board, and discipline for cause in accordance with civil service laws, rules and regulations, the subordinate officers and personnel of the Authority;
- f. Transfer officers and personnel as the exigencies of the service may require without need of prior approval by the Board and in accordance with existing rules and regulations; and
- g. Exercise such other powers and perform such other duties as may be assigned by the Board.

Section 10. Departments- There shall be created the following departments within the Authority: the Administrative, Legal, Operations, Financial and Management, Auditing, Planning and Programming, and such other department as may be necessary to effectively carry out the functions o

the Authority. The head of each Department shall be appointed by the Board upon recommendation of the Administrator.

Section 11. Merit System- All officials and employees of the Authority shall be selected and appointed on the bases of merit and fitness in accordance with civil service law, rules and regulations. The recruitment, transfer, promotion, and dismissal of all its personnel including the temporary workers shall be governed by a merit system that will be established by the Authority in compliance with existing laws, rules and regulations.

Section 12. Exemptions- The Authority is hereby exempted:

- a. From the provisions of R.A. 9184 and its IRR, insofar as procurement of rice and corn, including services for trucking, handling, stevedoring, arrastre and warehousing.
- b. From payment of all taxes, duties, fees, imposts, charges, costs and restrictions to the Republic of the Philippines, provinces, cities, municipalities and other agencies and instrumentalities, including the taxes, duties, fees, imposts and other charges provided for under the Tariff and Customs Code of the Philippines, R.A. No. 1937, as amended by Presidential Decree No. 34, dated October 27, 1972, and Presidential Decree No. 69, dated November 24, 1972, and all filing, docket, and service fees, bonds and other charges or costs in any court or administrative proceedings in which the Authority may be a party.
- c. From all income taxes, franchise taxes and realty taxes to be paid to the National Government, its provinces, cities, municipalities and other government agencies and instrumentalities; and
- d. From all duties, arrastre fees in so far as the government's share is concerned, including all charges and fees imposed under Presidential Decree No. 857, compensating taxes and advance sales taxes, wharfage taxes and tonnage dues on import and export of goods required for its operations and projects.
- e. All documents or contracts executed by or in favor of the Authority shall also be exempt from the payment of documentary and stamp taxes and registration fees: Provided, however, that this exemption shall not apply to taxes and assessments payable by persons and entities transacting business with the Authority.
- f. From coverage of Presidential Decree No. 711 (Abolishing All Existing and Transferring to the General Fund the Operations and Funding of all Special and Fiduciary Funds).
- g. From compulsorily procuring from the Government Service Insurance System for its insurance coverage for its rice and corn importation.

Section 13. Assets and Liabilities- The National Food Authority shall start on clean slate basis and shall transfer all its loans and its noncore program assets to an NFA Board of Liquidators (NFA-BOL) which shall handle the disposition and liquidation of the transferred assets and liabilities. It shall be deemed abolished upon full disposition of assets and liquidation of all liabilities but not later than ten (10) years. The Personnel Services (PS) and Maintenance and Other Operating Expenses (MOOE) of the NFA-BOL shall be provided for the National Government.

Section 14. Capitalization- The National Food Authority shall have a total authorized capitalization initially in the form of existing assets amounting to Twenty Billion Pesos (P20,000,000,000.00). The balance shall be provided in the form of equity contribution thru the General Appropriations Act.

The National Government shall make additional equity investment into the Authority out of funds appropriated in the General Appropriations Act.

Section 15. Appropriation- The Government through DBM shall include in the annual President's budget proposal, funds to be utilized for personal services, interests and other maintenance and operating expenses to maintain its food security buffer stock. In the event that the Authority is commissioned to implement programs for price and supply stabilization and poverty alleviation, the Department of Agriculture will provide NFA the funds difference between the prevailing farmgate price and the desired price to influence the market, while the Department of Social Welfare and Development will provide NFA the price difference between the prevailing commercial market price and DSWD's desired price for pro-poor programs. Funds for the programs shall likewise be included by DBM for DA and DSWD in the President's budget.

Section 16. Separation Incentive Package- The Authority shall provide for a continuing separation package for its officers and employees who choose to leave or retire for the government service subject to council approval and shall be given a separation incentive package equivalent to the following scale:

1-20 years	1.5 x gross monthly pay x yr. of service for the first 20 years
21-30 years	2.0 x gross monthly pay x yr. of service for the 1st 20 years
more than 30 years	2.5 x gross monthly pay x yr. of service in excess of 1st 30 years

In addition to other retirement benefits to which they are entitled to under existing laws and regulations. Employees who opt to retire under RA 1616 shall receive only 1.5 gross monthly pay for every year of service under SIP.

Section 17. Offenses and Penalties- Notwithstanding the provisions of any laws or regulations to the contrary, and for the purpose of carrying out the provisions of this Act, the following acts or omissions are hereby considered as serious, less serious and light offenses and corresponding penalties therefore are herein prescribed:

a. Serious offenses- Any of the following acts or omissions shall constitute a serious offense:

1. Hoarding of foodgrains as defined in this Act;
2. Any act of diversion as defined in this Act;
3. The act of manipulating the prices of foodgrains as defined in this Act;
4. Printing, issuing, or knowingly using, possessing or negotiating a canceled, unauthorized, illegal, counterfeit or falsified warehouse receipt;
5. Failure or refusal of foodgrains bonded warehouseman, without any lawful excuse, to deliver foodgrains deposited with him: Provided, however, that the warehouseman shall be entitled to the allowance authorized for depreciation of the foodgrains deposited.

The offender shall, upon conviction, be punished by imprisonment of not less than four (4) years and one (1) day nor more than six (6) years, or a fine not less than Fifty Thousand Pesos (P50,000.00) nor more than one hundred twenty thousand pesos (P120,000.00) or both fine and imprisonment at the discretion of the court.

b. Less Serious Offenses- Any of the following acts or omissions shall constitute a less serious offense:

1. Connivance the concealment of a stock shortage in a foodgrains warehouse;
2. Knowingly submitting any report to the Authority containing false information of data;
3. Misrepresentation in connection with any application for license to engage in foodgrains business;
4. Failure or refusal of a warehouseman to allow the Authority or his duly authorized representative to inspect or examine their foodgrain stocks to conceal shortage or to misrepresent the quantity or quality of his foodgrain stocks, including the impeding of such inspection and examination by abandonment, absence or otherwise; and
5. Engaging in the business of foodgrains retailing, wholesaling, threshing, shelling, warehousing, milling, exporting, importing, trading, growing and selling of certified seed, manufacturing or processing without a valid license.

The offender shall, upon conviction, be punished by imprisonment of not less than six (6) months and one (1) day nor more than four (4) years, or by fine of not less than Thirty Thousand Pesos (P30,000.00) nor more than Fifty Thousand Pesos (P50,000.00) or both fine and imprisonment at the discretion of the court.

c. Light Offenses- Any of the following acts or omissions shall constitute a light offense:

1. Non-compliance with the rules, regulations, decisions, orders, circulars or directives lawfully issued by the Council, provided non-compliance does not constitute a higher offense as herein above provided;
2. Selling or offering to sell to the Authority by any person of palay or corn or other foodgrains other than that directly produced by him as farmers or shared by him as tenant or landlord, knowingly buying such foodgrains by any authorized personnel for the Authority, connivance by any person in the selling or buying of such foodgrains.

The offender shall, upon conviction, be punished by imprisonment of not less than one month and one day nor more than six (6) months, or a fine of not less than Five Thousand Pesos (5,000.00) not more than Thirty Thousand Pesos (P30,000.00) or both such fine and imprisonment.

Section 18. Repealing Clause – Provisions of Presidential Decree No. 4 as amended and all other laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified.

Section 19 Separability Clause – The provisions of this Act are hereby declared to be separable, and in the event one or more such provisions are held unconstitutional, the validity of the other provisions shall not be affected.

Section 20 Effectivity Clause – The Act shall take effect fifteen days afetr its publication in at least two newspapers of national circulation.

Approved: .