

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1327



**INTRODUCED BY ANAKPAWIS PARTY-LIST REPRESENTATIVE
FERNANDO L. HICAP**

EXPLANATORY NOTE

In 1971, the Marcos regime started collecting a levy on small coconut farmers. On the strength of Republic Act 6260, it imposed a levy on the production of copra. This was followed by Presidential Decree 276 which levied on the sale of copra. Both of these levies, extracted from the sweat of small coconut farmers, were justified as revenue-raising measures for the development of the local coconut industry.

What happened to the more than P 9.625 billion coco levy funds collected from small coconut farmers in more than a decade by the Marcos regime is now a matter of history, presenting a veritable case wherein remedial legislation of the first instance is called for to protect the interests of the real owners of the fund - the small coconut farmers.

First, the funds were used by Marcos cronies to capture vital sectors of the coconut industry and to expand to other interests, such as the acquisition of the United Coconut Planters Bank, the putting up of several coconut oil mills, and the purchase of controlling interests in San Miguel Corporation. Oblivious of the public character of the coco levy funds, Marcos' cronies made these industries into their private domain of economic monopoly, with nary a share of the returns for the small coconut farmers. It is estimated that such funds and their increments have now reached some P 200 billion.

Second, in the aftermath of the fall of the Marcos regime, the funds became the subject of multiple drawn-out recovery suits initiated by the government against Marcos cronies, foremost among them being Mr. Eduardo Cojuangco, Jr. In the course of the recovery suits, the government entered into a series of "compromise agreements" with the Cojuangco camp which enabled the government to control about 27 per cent of SMC shares sourced from the coco levy funds. But in all these "compromise agreements", the small coconut farmers were left out on the sides. As the government had acquired interests to the funds which are separate from the interests of small coconut farmers, the interests of the latter remain hanging in a precarious balance.

Meanwhile, the local coconut industry lies in a state of deterioration, a testimony of how the professed intent of the levy was bungled by the

government and by Marcos cronies who anointed themselves as the “leaders of the industry. Production and the prices of copra are dismally low if not volatile. The potential of the coconut sector for growth and development has been wasted by the government’s neglect, pursuance of agriculture liberalization and promotion of land use conversion. Cutting coconut trees is rampant. Given the state of coconut industry, the small coconut farmers are wallowing in poverty. Denied of their due as owners of the funds, they continue to be victims of exactions such as *resicada* and other semi-feudal exploitation.

The Supreme Court had adjudged the coco levy funds as being “imbued with public character”, affirming what coconut farmers had been saying all along. Notwithstanding this decision, the coco levy funds remain in limbo. In the backdrop of a local coconut industry lying on its death bed, the funds are still under the effective control of Mr. Eduardo Cojuangco, Jr. and his cohorts, with the government showing to have its own distinct interest in the funds, relegating to the background the rights and interests of small coconut farmers to the funds. The funds remain out of reach of small coconut farmers which constitute a grievous denial of their rights and interests to those funds.

On January 24, 2012, the Supreme Court ruled that the 24 percent Coconut Industry Investment Fund (CIIF) block of SMC shares as having been purchased with the coconut levy funds which were in turn declared to be public.

On October 5, 2012, the Presidential Commission on Good Government remitted P56,538,623,400.00 to the National Treasury after the redemption of the 753,848,312 SMC Series 1 Preferred Shares. Along with the escrowed dividend payments and accrued interest which total an additional P13,700,669,652.86, these monies are to be used “only for the benefit of all coconut farmers and for the development of the coconut industry.”

This bill seeks to address this concern of small coconut farmers. It is meant to effect the return of the control of the coco levy funds to their rightful owners, the millions of small coconut farmers; providing therefor a mechanism so that their rights and interest to those funds shall be protected; and so they may exercise their ownership rights over the funds and may dispose these as they see fit in line with the development of the local coconut industry.

The passage of this bill is earnestly sought.


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**AN ACT
CREATING THE GENUINE SMALL COCONUT FARMERS' FUND
AND FOR OTHER PURPOSES**

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

**TITLE I
PRELIMINARY TITLE**

SECTION 1. Title. - This Act shall be known as the "***Genuine Small Coconut Farmers' Fund Act of 2013***".

SECTION 2. Declaration of Policies. - It is the policy of the State to promote the welfare of coconut farmers especially the genuine small coconut farmers. The State shall give highest consideration to the promotion of social justice among coconut farmers in accordance with sound rural development and industrialization.

The State shall adopt necessary measures to immediately address the serious problems besetting the coconut industry and protect the socio-economic well-being of coconut farmers especially the genuine small coconut farmers.

To this end, the State shall recognize the right of coconut farmers especially the genuine small coconut farmers as defined in this Act, to participate in the planning, organization, administration and management for the integrated development of the coconut industry, and shall provide support in whatever form.

SECTION 3. Definitions. - For the purpose of this Act, unless the context indicates otherwise:

(a) **Asset** refers to all properties, real or personal, acquired in whatever form from the coconut levy funds by natural or juridical person.

[b] **Coconut Farm** includes individually-owned coconut farms or coconut farms wholly or partially owned, controlled or operated by corporations, partnerships or joint ventures.

(c) **Coconut Levy Funds** refer to all collected and unrecovered funds including all income, interests, proceeds or profits derived therefrom created by legislations for the support and development of the coconut industry and for the benefit of the coconut farmers.

[e] **Cultivation** in coconut lands pertains to the clearing of the landholding, the gathering of coconuts, their piling, husking and handling as well as the processing thereof into copra, although at times with the aid of hired laborers. It likewise includes the periodic cleaning of the coconut plantation to improve its production.

(f) **Farmworker** is a natural person who renders services for value as an employee or laborer in a coconut farm regardless of whether his/her compensation is paid on a daily, weekly, monthly, or "pakyaw" basis. The term includes an individual whose work has ceased as a consequence of, or in connection with, a pending agrarian dispute and who has not obtained a substantially equivalent and similar farm employment. A farmworker is either regular or seasonal farmworker.

(f.1) **Regular Farmworker** is a natural person who is employed on a permanent basis in a coconut farm.

(f.2) **Seasonal Farmworker** is a natural person who is employed in a coconut farm on quota or piece-rate basis or is employed on a recurrent, periodic or intermittent basis in a coconut farm, such as "dumaan", "sacada", and the like.

(g) **Genuine Small Coconut Farmer** refers to a natural person who actually cultivates or perform such labor as necessary in the production of coconuts in a given farm or agricultural land. A coconut farmer may be any of the following: 1) owner-cultivator; 2) leasehold or sharecropping tenant; 3) farmworker, regular or seasonal, on a coconut farm of any size.

(h) **Landowner** refers to a natural or juridical person who owns the coconut land but does not participate in the actual farm work or labor involved in the production of coconuts.

(i) **Leasehold or Sharecropping Tenant** refers to a natural person who, by himself/herself and/or with the aid available from his/her immediate farm household, cultivates the land belonging to, or possessed by, another with the latter's consent for purpose of production, for a price certain in money or in produce or both.

(j) **Owner-Cultivator** refers to natural person who owns the farm or agricultural land and who also does actual farm work thereon.

(k) **Unrecovered levies** refer to such amounts that that have already been paid by or withheld from coconut farmers at the time of the sale of copra or other coconut products at the farmgate, used by to capture vital sectors of the coconut industry and to expand to other interests and still subject to recovery suits.

TITLE II

CREATING THE GENUINE SMALL COCONUT FARMERS' FUND

SECTION 4. Coconut Levies and Assets are Public Funds. - All coconut levies and assets acquired or established therefrom are hereby declared as public funds in the nature of a genuine small coconut farmers' fund. Any future similar exaction imposed on genuine small coconut farmers shall be public funds of the same nature as understood in this Act.

SECTION 5. Genuine Small Coconut Farmers' Fund (GSCFF). - All the funds established from the proceeds of the levies, including but not limited to the Coconut Investment Fund (CIF), the Coconut Consumers Stabilization Fund (CCSF), the Coconut Industry Development Fund (CIDF), the Coconut Development Fund (CDF), the Coconut Industry Stabilization Fund (CISF), the Coconut Reserve Fund (CRF) as well as all the assets acquired or established therefrom - such as but not limited to the United Coconut Planters Bank (UCPB) established and/or acquired under Presidential Decree 755, the Coconut Industry Investment Fund Companies (CIIFC), and all other assets acquired, established or set up using the coconut levy collections shall form part of a single fund which is hereby created to be known as the Genuine Small Coconut Farmers' Fund (hereafter to be referred to as GSCFF).

SECTION 6. Nature and Primary Purpose of GSCFF. - The Genuine Small Coconut Farmers' Fund shall not be a part of the general funds of the national government and shall be used exclusively for the benefit of genuine small coconut farmers.

The GSCFF shall be apportioned to all coconut farmers without discrimination/prejudice in the form of cash and other social benefits including but not limited to:

- a. Pension benefits;
- b. Medical and hospitalization benefits;
- c. Maternity benefits; and
- d. Educational assistance including scholarships.

The GSCFF shall be used to finance socio-economic projects initiated by small coconut farmers and their organizations and/or cooperatives. The socio-economic projects referred to in this Act shall primarily focus on:

- a. Livelihood programs and projects meant to provide additional incomes to small coconut farmers;

- b. Small and medium-scale coconut enterprises, marketing and trading mechanisms, inventions and innovations of machineries and equipment for the development of high-quality coconut and improvement of local coconut production; and
- c. Programs that would provide loan facilities for small coconut farmers.

SECTION 7. *Administration and Management of the GSCFF.* - The GSCFF shall be held, administered, managed, utilized, and/or disposed under the provisions of Section 25 of this Act.

SECTION 8. *Inventory of Coconut Levy-Funded Assets.* - The Council created pursuant to Section 11 hereof, and the Commission on Audit shall immediately conduct a thorough audit and inventory of all assets acquired, established and/or funded by the coconut levy collections within six (6) months after the effectivity of this Act. The audit and inventory shall include earnings, profits, and all other increments from investments and purchase of stocks by any person or entity using coconut levy funds. The Council and the Commission on Audit shall make public disclosure of their findings through publication in at least two (2) newspapers of general circulation.

SECTION 9. *Audit of expenditure made out of the Coconut Levy Collections.* - The Commission on Audit shall conduct an audit of all the disbursements or expenditures made out of the levy collections with the objective of determining whether those expenditures are in accordance with the purposes for which the levies were collected and the rules and regulations concerning disbursement of public funds. The audit report shall be published in at least two (2) newspapers of general circulation.

SECTION 10. *Recovery of Improperly or Illegally Used Levy Collections.* - Upon the findings and recommendations of the inventory and audit provided in Secs. 8 and 9, improperly or illegally used levy collections shall be recovered with the immediate institution of necessary actions within six (6) months after the inventory and audit. The actions to recover may be instituted singly, jointly or collectively, by the Presidential Commission on Good Government, the Commission on Audit, the Philippine Coconut Authority, the Office of the Solicitor General, and other concerned government agencies.

TITLE III

CREATING THE SMALL COCONUT FARMERS' COUNCIL

SECTION 11. *The Small Coconut Farmers' Council; Creation; Funding; Primary Functions.* - There is hereby created a Small Coconut Farmers' Council, hereinafter referred to as the Council, which shall be charged with the primary functions of administration and management of the Genuine Small Coconut Farmers' Fund (GSCFF).

SECTION 12. Composition of the Council. - The Council shall be composed of eleven (11) members to be selected as follows:

[a] The Council shall have nine (9) regular members composed of seven (7) representatives from the genuine small coconut farmers sector and at least two (2) of which shall come from the coconut women-farmers sector, and two (2) representatives from non-government organizations (NGO) involved in rural development advocacy and in legal assistance service to coconut farmers;

[b] The Council shall have two (2) ex-officio members as follows:

b.1 the Administrator of the Philippine Coconut Authority as ex-officio member; and

b.2 the Chairperson of the Presidential Commission on Good Government or of whatever agency eventually takes over its mandate and functions.

b.3 the two ex-officio members do not have voting rights in the Council.

SECTION 13. Selection of Representatives. - The seven (7) and two (2) women representatives from the genuine small coconut farmers and two (2) from the non-government organizations, respectively, shall be selected from among the nominees to be drafted by genuine small coconut farmers' organizations in a general assembly. For this purpose, the Philippine Coconut Authority shall facilitate the holding of a general assembly of small coconut farmers' organizations within three (3) months after the effectivity of this Act. The small coconut farmers' organization shall nominate their respective delegates to the general assembly.

The expenses of the general assembly shall be defrayed by the Philippine Coconut Authority from its current and available savings.

SECTION 14. Selection of the Chairperson. - The Chairperson of the Council shall be selected by the nine (9) genuine small coconut farmer representatives from among themselves. The Philippine Coconut Authority shall facilitate the calling of a meeting for this purpose.

SECTION 15. Term of Office. - The regular members of the Council shall hold office at the pleasure of the farmers' organization which drafted them. Their recall and replacement shall be determined by the guidelines to be approved in the general assembly. The term of office of the Philippine Coconut Authority Administrator and Presidential Commission on Good Government Chairman as ex-officio members of the Council shall be co-terminus with their incumbency.

SECTION 16. Funding. - The operations of the Council shall be funded by recovered coconut levies and assets and by such other funds as the Council may generate in the future.

SECTION 17. Meeting and Decision. – The Council shall meet once in three (3) months and as often as the exigencies of service may demand. The presence of at least six (6) members shall constitute a quorum, and the majority vote of members present shall be necessary for the adoption of any policy, rule, resolution, or decision, or any other act of the Council.

SECTION 18. Performance of Function and Duty. - The Council shall perform the powers and functions set forth in Section 19 hereof, with the skill, care, prudence and diligence in the interest of small coconut farmers.

SECTION 19. Personnel. - The Council is authorized to hire administrative, technical and/or support personnel as may be required to enable it to effectively perform its functions, duties, and responsibilities.

SECTION 20. Powers and Functions of the Council. - The Council shall have the following powers and functions:

- (a) formulate, implement and set policies with regard to the administration and management of the coconut levy funds and assets heretofore acquired, recovered and/or pooled into the Genuine Small Coconut Farmers' Fund (GSCFF);
- (b) formulate the rules and regulations governing the allocation, utilization and disbursement of the GSCFF;
- (c) establish priorities for assistance giving preference to genuine small coconut farmers to be reviewed periodically and revised as necessary in accordance with changing conditions;
- (d) receive, process and approve project proposals for financing by the GSCFF;
- (e) decide on the use of the GSCFF income or net earnings including final action on applications for assistance, grants and/or loans;
- (f) inform and make coconut farmers more aware of their situation and problems, as a whole, as well as of the opportunities and prospects thereof;
- (g) the Council shall encourage and assist the formation and/or strengthening of coconut farmers' voluntary and independent organizations, eliminating thereof the obstacles to the exercise of said farmers' right to self-organization;
- (h) cooperate with the coconut farmers, either individually or organizationally, in the monitoring of cutting of coconut trees, land use conversions of coconut lands to other agricultural or non-agricultural purposes, and cases of ejectment or exploitation of genuine small coconut farmers, and assist them in the filing and

prosecution of appropriate administrative and judicial cases to help protect their rights;

- (i) extend all possible assistance to genuine small coconut farmers in pressing for the immediate and thorough implementation of genuine agrarian reform in all coconut lands;
- (j) facilitate consultations with the genuine small coconut farmers especially on matters related to policies and decision-making in the coconut industry;
- (k) review, and, if necessary, redefine or redirect the policies of the corporations, institutions, establishments, or any other entity acquired or established through the proceeds of the coconut levies imposed by various decrees, orders and other issuance, in order that the purpose/s for which the same were set up may be effectively pursued and/or achieved;
- (l) conduct liaison and coordinating activities between various government agencies, including local government units as regards, programs, projects, and activities that would involve the genuine small coconut farmers and the coconut industry; and
- (m) perform such other acts as may be necessary, proper or conducive to attain the purposes of this Act.

SECTION 21. Guidelines for Council Decisions. - In arriving at decisions on concrete project applications or for financial assistance, grants, loans, or other forms of financing from the GSCFF, the Council shall be guided by the following considerations:

- (a) the project's relations and impact on the development of genuine small coconut farmers and the coconut industry, in general;
- (b) the amount of funds requested for the project as consistent with the fund assistance to as many institutions and/or associations as possible; and
- (c) an assessment of the organization-applicant's past and current efforts to improve the quality of life of the genuine small coconut farmers and the rehabilitation and development of the coconut industry and agriculture in the Philippines.

SECTION 22. Take-over of Coconut Levy-Funded Assets. - The Council shall take-over the funds referred to in Section 5 of this Act. The Council shall direct any department, bureau, office, agency or instrumentality of the Government of the Republic of the Philippines, including government-owned or controlled corporations, for such assistance as it may desire and need in drawing up plans of action for the immediate transfer of the coconut levy-funded assets to the Council as administrator and manager of the GSCFF.

SECTION 23. *Safeguarding and Utilization of Levy-Funded Assets.* -

The Council shall, in coordination with and with the consent of, the genuine small coconut farmers and their organizations, study and implement in the best manner by which each of these coconut levy-funded assets can be safeguarded and eventually utilized for the programs to be implemented that put priority on the upliftment of the lives of the genuine small coconut farmers.

SECTION 24. *Recovered Levies.* - The Council shall make a public disclosure of the coconut levies that have not yet been recovered. Whatever coconut levies recovered and/or proceeds thereof shall be added to the GSCFF.

SECTION 25. *Administration and Disposition of All Funds and Assets.* - All funds and assets held or to be held by the Council in trust for, and for the benefit of, the genuine small coconut farmers shall be administered, managed, utilized and/or disposed of, wholly or partially, under the following guidelines:

- (a) In general, the coconut levy funds and assets constituted as the GSCFF shall be retained by the Council;
- (b) The UCPB's continued operation shall be steered by overriding concern of providing effective and sustainable solution to the genuine small coconut farmers' credit problems, for which purpose, the bank shall retain such portions of the GSCFF, or profits therefrom, to be made available under a credit facility or scheme for the benefit of genuine small coconut farmers, as herein defined;
- (c) Portions of the profits derived by UCPB and CIIF-acquired companies not needed for operation, authorized financial commitments, or their credit facility/scheme for genuine small coconut farmers shall be transferred to the Council for inclusion to the GSCFF;
- (d) The Council, as mandated in this Act, shall allocate funds necessary for the attainment of Section 6 of this Act; and
- (e) The Council shall promulgate the rules and regulations for the enforcement of the guidelines under this Section and shall publish the same in at least two (2) national newspapers of general circulation.

SECTION 26. *Genuine Small Coconut Farmer Representation in the Respective Boards of the UCPB and CIIF-Acquired Companies, etc.* - Upon the findings of the audit and inventory mentioned in Sec. 8 regarding investments and/or acquisitions of corporations or shares of stocks by any person or entity using coco levy funds, the Council shall nominate such number of representatives of genuine small coconut farmers to the Board of such corporations in accordance with their entitlements as determined by the audit and inventory. Such representatives shall sit in the Board of such corporations at the pleasure of the Council.

SECTION 27. *Criminal Liability.* - Any person who is criminally liable for acts inconsistent with the proper disposition of coco levy funds or in violation of any law, decree, executive order, rules and regulations implementing the coco levy that may have been repealed by this Act, shall remain criminally liable and nothing herein shall extinguish such criminal liability.

SECTION 28. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations, issuances or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 29. *Separability Clause.* - If, for any reason, any section or provision of this Act is declared null and void, no other section or provision, or part thereof shall be affected and the same shall remain in full force and effect.

SECTION 30. *Effectivity Clause.* - This Act shall take effect immediately after publication in at least two (2) national newspapers of general circulation.

Approved.