

Republic of the Philippines
House of Representatives
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **2391**



Introduced by: **HON. GWENDOLYN F. GARCIA**

EXPLANATORY NOTE

R.A No. 9520, or the Philippine Cooperative Code of 2008 is a landmark piece of legislation and constitutes a monumental triumph of the cooperative movement in the country. This is because: first, it is the enabling legal embodiment of a constitutionally declared state policy on cooperatives, and second, it is the clear recognition and adherence by our country to the time-honored and universally accepted principles on cooperatives. These principles are now part of the law of the land. More particularly, these are:

1. Government assistance 'to bring about a strong cooperative movement that is *free from any conditions that might infringe upon the autonomy or organizational integrity of cooperatives.*
2. State recognition of the principle of subsidiarity under which the cooperative sector *will initiate and regulate within its own ranks*, the promotion and organization, training and research audit and support services relative to cooperatives with government where necessary.
3. *Democratic and member control* in setting their policies and in making decisions.
4. *Autonomy and independence from outside interference* in the conduct and management of its internal affairs.

So vital or even so crucial are the above core policy and principles, so that now the following act is already considered a CRIME under Art. 140 (Penal Provision) of the Cooperative Code:

(4) *Direct or indirect interference or intervention by any public official or employee into the internal affairs of a cooperative of which he is not a member, such as requiring prior clearance for any policy or decision with in the cooperatives or any other acts inimical or adverse to the autonomy and independence of cooperative (Sec.4,Art.140)*

The provisions of the present Charter of the Cooperative Development Authority or CDA or R.A No. 9369 are already in consonance with the above core policy and principles of the Cooperative Code.

Thus, under Sec. 1 of R.A. No. 6939, Declaration of Policy – it is provided among others that:

"Toward this end, the Government and all its branches, subdivisions, instrumentalities and agencies shall ensure the provision of technical guidance, financial assistance and other services to enable said cooperatives to develop into viable and responsive economic enterprises and thereby *bring about a strong cooperative movement that is free from any conditions that might infringe upon the autonomy or organizational integrity of cooperatives.*

Further, *the State recognizes the principle of subsidiarity under which the cooperative sector will initiate and regulate within its own ranks the promotion and organization, training and research, audit and support services relating to cooperatives with government assistance where necessary.*"

However, while in the main, the present Charter of CDA is good enough to insure the effective implementation of the provisions of the Cooperative Code of 2008 (this Code was crafted and later adopted taking into consideration the present charter of CDA or R.A No. 9369), it will be convenient and desirable that some provisions of R.A No. 9369, be updated and amended to conform with the new provisions of R.A.No. 9520, that were not found in the old Cooperative Code or R.A. No 9368.

But in making the amendments, it must always be remembered that under the Cooperative Code of 2008, the CDA is mandated to implement its provisions and not to circumvent or even destroy them. The CDA exists to give force and effect to the provisions of the Cooperative Code 2008 and not the other way around.

This point has to be emphasized and underscored because past experience has shown that the CDA had incessantly and tirelessly tried to usurp and exercise powers beyond what are authorized under its Charter or R.A. No. 6969 and in clear violation of the old Cooperative Code or R.A. No. 9368. In one bold, rash and reckless gamble in 2007, the CDA, without any legal authority whatsoever, issued 'the so-called Manual of Rules and Regulations for Cooperatives with Saving or Credit services or the MORR. The CDA issued MORR knowing fully well that it was in blatant and ruthless disregard of Sec.123 of R.A No. 9368 or the Cooperative Code of 1990 and, therefore, ILLEGAL, NULL and VOID from the beginning.

This MORR would have surreptitiously overhauled and emasculated the provisions of the Cooperative Code because, with respect to cooperatives with savings and credit services, the CDA would have arrogated unto itself ultra vires powers similar to if not greater than that of the powers of the BSP (Bangko Sentral ng Pilipinas) over banks. And what is worst is that CDA had inveigled the Secretary of Finance and even President GMA into signing this patently illegal, NULL and VOID document. Fortunately, CDA apparently realizing its horrendous blunder, voluntarily and unceremoniously withdrew this document from circulation, and, in effect, "killed" it.

However, even with the self-inflicted and unlamented "death" of the MORR and in spite of the passage of the Cooperative Code of 2008, there are "signs" that CDA is still hungering and lobbying for more powers than what are granted by the Coop Code of 2008 and by its present charter (R.A. No. 9369), in the guise of proposing the enactment of a new Charter for the CDA. In this way, CDA can, in effect, amend the Coop Code of 2008 not frontally but surreptitiously through the backdoor Very clever but very foul.

Be that as it may, there is a constant and never-ending need for those who profess to be true Coop leaders of the country or for those who claim to represent the great and noble cause of cooperatives, to be always watchful and vigilant in preserving and protecting the rights and privileges of cooperatives, as enshrined and held sacrosanct in the Cooperative Code of 2008 which according to some Coop leaders can justly be called as the Philippine Bible of Cooperatives.

The amendments to the Charter of CDA or R.A. No. 9369 proposed in this Bill are clearly in consonance with the provisions of the Cooperative Code of 2008 and are intended to enable the CDA to implement said provisions in an orderly and efficient manner. More importantly, these amendments are intended ***to promote, preserve and protect the autonomy and independence of cooperatives from outside interference in the conduct and management of their internal affairs.***

Hence, early passage of the Bill is earnestly requested.



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Introduced by: **HON. GWENDOLYN F. GARCIA**

**AN ACT TO AMEND R.A. NO. 9369, OTHERWISE KNOWN AS THE CHARTER OF
THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA) FOR THE ORDERLY
AND EFFICIENT IMPLEMENTATION OF THE COOPERATIVE CODE OF 2008 AND
FOR OTHER PURPOSES.**

The provisions of R.A. No. 9369 are hereby amended as follows:

SEC. 1. Section 3 is hereby amended to read as follows.

SEC. 3. Powers, Functions and Responsibilities. The Authority shall have the following powers functions and responsibilities:

- (a) Formulate, adopt and implement integrated and comprehensive plans and programs on cooperative development consistent with the national policy on cooperatives and the overall socioeconomic development plans of the Government;
- (b) Develop and conduct management and training programs upon request of cooperatives that will provide members of cooperatives with the entrepreneurial capabilities, managerial expertise, and technical skills required for the efficient operation of their cooperatives and inculcate in them the true spirit of cooperativism and provide, when necessary, technical and professional assistance to ensure the viability and growth of cooperatives with special concern for agrarian reform, fishery and economically depressed sectors;
- (c) Support the voluntary organization and consensual development of activities that promote cooperative movement and provide assistance towards upgrading managerial and technical expertise upon request of the cooperatives concerned;
- (d) Coordinate the efforts of the local government units and the private sector in promotion, organization, and development of cooperatives;
- (e) Register all cooperatives and their federations and unions, including their division, merger, consolidation, dissolution or liquidation. It shall also register the transfer of all or substantially all of their assets and liabilities and such other matters as may be required by the Authority;
- (f) Require all cooperatives, their federations and unions to submit their annual financial statements, duly audited by certified public accountants, and general information sheets;

- (g) Order of cancellation after due notice and hearing of the cooperative's certificate of registration PURSUANT TO THE PROVISIONS OF ARTICLES 64, 65, 66, 67 AND 68 OF THE COOPERATIVE CODE OF 2008.
- (h) Assist cooperatives in arranging for financial and other forms of assistance under such terms and conditions as are calculated to strengthen their viability and autonomy;
- (i) Establish extension offices as may be necessary and financially viable to implement this Act. Initially, there shall be extension offices in the Cities of Dagupan, Manila, Naga, Iloilo, Cebu, Cagayan de Oro and Davao;
- (j) Impose and collect reasonable fees and charges in connection with the registration of cooperatives;
- (k) Administer all grants and donations coursed through the Government for cooperative development, without prejudice to the right of cooperatives to directly receive and administer such grants and donations upon agreement with the grantors and donors thereof;
- (l) Formulate and adopt continuing policy initiatives consultation with the cooperative sector through public hearing;
- (m) Adopt rules and regulations for the conduct of its internal operations;
- (n) Submit annual report to the President and Congress on the state of the cooperative movement; and
- (o) Exercise such other functions as may be necessary to implement the provisions of THE COOPERATIVE CODE OF 2008 and in the performance thereof the Authority may summarily punish for direct contempt any person guilty of misconduct in the presence of the Authority which seriously interrupts any hearing or inquiry with a fine of not more than five hundred pesos (P500.00) or imprisonment for not more than ten (10) days or both.

Acts constituting indirect contempt as defined under Rule 71 of the Rules of Court shall be punished in accordance with said Rule.

SEC. 2. SEC. 8 is hereby amended to read as follows:

Sec. 8. Mediation Conciliation AND SETTLEMENT OF DISPUTES. Disputes within cooperatives or between cooperatives, or DISPUTES WITHIN OR BETWEEN FEDERATIONS OR UNIONS SHALL BE MEDIATED, CONCILIATED OR SETTLED IN ACCORDANCE WITH ART. 137 OF THE COOPERATIVE CODE OF 2008.

SEC. 3. Sec. 9 is hereby amended to read as follows:

"SEC. 9. Power to Register Cooperatives shall be vested solely on the Authority PURSUANT TO THE PROVISIONS OF THE COOPERATIVE CODE OF 2008."

ANY PROVISION OF LAW, EXECUTIVE ORDER, RULE OR REGULATION TO THE CONTRARY NOTWITHSTANDING, THE

CERTIFICATE OF REGISTRATION ISSUED BY THE AUTHORITY TO A DULY REGISTERED COOPERATIVE SHALL IPSO FACTO CONSTITUTE AS THE SOLE LEGAL BASIS OR REQUIREMENT FOR THE FULL ENJOYMENT OF THE TAX EXEMPTION GRANTED UNDER ARTICLES 60 AND 61 OF REPUBLIC ACT NO. 9520. ANY PUBLIC OFFICIAL OR EMPLOYEE WHO VIOLATES OR IN ANY MANNER CIRCUMVENTS THIS PROVISION SHALL BE DEALT WITH UNDER ARTICLE 140 (PENAL PROVISION) OF R.A. NO. 9520.

THE AUTHORITY SHALL CITE THIS PROVISION IN THE CERTIFICATE OF REGISTRATION. THE AUTHORITY SHALL FURNISH THE REGIONAL OFFICES OF THE BIR WITH THE LIST OF DULY REGISTERED COOPERATIVES IN THE REGION.

SEC. 4. Section 12 is hereby amended to read as follows:

SEC. 12. Cooperatives in the Banking System. The promotion and development of cooperative banks as part of the banking system AND OF FINANCIAL SERVICE COOPERATIVES AS DEFINED IN THE COOPERATIVE CODE OF 2008 shall be a major concern of the Authority which shall undertake the necessary program towards this end in collaboration with the BANGKO SENTRAL NG PILIPINAS (BSP) and the cooperative sector concerned.

SEC.5. REPEALING CLAUSE. THE SECOND PARAGRAPH OF ART. 144 OF R.A. NO. 9520, AND ALL LAWS, DECREES, EXECUTIVE ORDERS, RULES AND REGULATIONS OR PARTS THEREOF INCONSISTENT WITH THE PROVISIONS OF THIS ACT ARE HEREBY REPEALED, AMENDED OR MODIFIED ACCORDINGLY.

SEC. 6. Effectivity. This act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general publication.