

Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

House Bill Number **3054**



Introduced by Representative EDGARDO 'ERM' RAMA MASONGSONG

EXPLANATORY NOTE

In December 2012, the Philippines was struck by one of the most devastating typhoons, the super typhoon "PABLO", internationally known as 'BOPHA'. It was the strongest tropical cyclone that ever hit the southern part of the country and considered to be the deadliest catastrophe in 2012. It cost the lives of 1,067 people, 834 were reported missing and left thousands of families homeless. Houses and government infrastructures such as bridges and roads were destroyed. Basic services, i.e. communications, water and electricity, were also interrupted. The cost of damages to infrastructure, agriculture, and private properties caused by this single typhoon was estimated at Php36,949,230,987.07.ⁱ With the extreme havoc wrought by 'Pablo', the President declared the State of National Calamity on December 7, 2012 in several provinces, municipalities and cities heavily affected by the said typhoon.

In every disaster, the task to assist for the relief of victims and survivors has become challenging and daunting, especially for government agencies tasked to implement relief services with their bureaucratic procedures. Government response to disasters is always plagued with delay, inefficiency and at times with corruption. The survivors of typhoon Pablo, for instance, had to storm the DSWD regional office in Davao to denounce the agency's failure to distribute 10,000 sacks of rice among the victims, and for alleged corrupt practices in managing relief funds.ⁱⁱ It was an unfortunate incident that manifests one of the ill effects of disasters and calamities, as well as the ineptness of government response to disasters.

Being one of the most disaster-prone countries in the world and giving emphasis to the increased vulnerability of the population due to poverty and the changing weather patterns and climate change, the need to explore all efforts possible to mitigate the ill-effects/consequences of disasters that may pose to the safety of people and security of properties is imperative. The Philippine government has taken great strides in recent years in improving its disaster preparedness management capacity. We also bear witness to the growing participation of various non-government institutions in providing relief operations in times of calamities and disasters. These are some of the developments in risk reduction and management that must be a source of Filipino pride.

However, with disaster risk expected to increase, enormous challenges in responding to emergency situations remain. Despite stronger commitments from the government and emerging participation of the private sector, there remain gaps that need to be filled to fully provide support to vulnerable groups during and after calamities. Hence, this legislative proposal is crafted in line with the government's thrust to promote shared responsibilities and collaborative practices among the various sectors of society. This is an attempt to bridge the remaining gaps in disaster management by building the capabilities of our citizenry, in particular the electric power consumers, in times of crisis. Instead of being just recipients of assistance from the government agencies and private sectors, there would be a working machinery from the victims themselves, making sense of social mobilization and faster recovery.

This bill proposes a mandatory contribution of **one peso** (P1.00) per month for each electric consumer served by distribution utilities, which shall be called the "Electric Consumers' Emergency Fund" or ECEF. The creation of the fund is an appropriate vehicle to offset or mitigate the loss and damages experienced by the marginalized communities particularly the electric consumers and assist distribution utilities for the restoration of services. The assistance will be in a form relief operations or loan in times of calamities, such as floods, tornadoes, earthquakes, typhoons, and other natural disasters. To ensure the legitimate use of the funds, a transparent mechanism shall be established and institutionalized where information and services are accessible to the electric consumers who are the sole owner of the Fund.

This bill is also intended to shield the electric consumers from more charges that will be imposed by distribution facilities in recovering expenses incurred in restoring power in disaster areas. The ERC allows ECs to impose additional charges to electric consumers as payment for post, power lines and transformers destroyed by calamities. Thus, in every disaster, electric consumers, victims or not, are charged with the expenses incurred in restoring power in the affected areas.

In view of the foregoing reasons, I urge our colleagues for the expeditious approval of this measure.



EDGARDO 'ERM' RAMA MASONGSONG

ⁱ National Disaster Risk reduction and Management Council (NDRRMC), NDRRMC Update, SitRep No. 38 re Effects of Typhoon "PABLO" (Bopha), 25 December 2012, 6:00 AM.

ⁱⁱ <http://www.sunstar.com.ph/davao/local-news/2013/02/26/typhoon-survivors-ransack-dswd-office-davao-270152>. Accessed on 30th August 2013.

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AN ACT
CREATING AN ELECTRIC CONSUMERS' EMERGENCY FUND (ECEF) FOR
DISASTER RELIEF AND SOCIAL AMELIORATION, 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 "Electric Consumers' Emergency Fund (ECEF) of 2013",

SEC. 2. **Declaration of Policy.** - It is the policy of the State to promote shared responsibilities and collaborative practices of the Filipino people in times of disasters, calamities, and natural hazards.

SEC. 3. **Statement of Objectives.** - Towards this end, the State shall develop initiatives to effectively achieve the following objectives:

- (a) To establish, develop and foster community-based engagement or promote active participation of the communities in disaster risk reduction and management,
- (b) To mobilize all available resources for the mitigation of damages in disaster and calamity stricken areas,
- (c) To provide for an integrated nationwide provident savings system as an enabling tool for participatory governance; and
- (d) To provide immediate relief and social amelioration to victims of disasters, calamities, and other natural hazards.

SEC. 4. **Definition of Terms.** - The following terms shall mean:

(a) "AMRECO" refers to the Association of Mindanao Rural Electric Cooperatives.

(b) "AVEC" refers to the Association of Visayas Electric Cooperatives.

(c) "Board" refers to the duly constituted Board of Trustees of the Electric Consumers' Emergency Fund.

(d) "Calamity" refers to an event causing great and often sudden damage or distress such as typhoons, earthquakes, tornadoes, floods, among others.

(e) "Capacity" refers to a combination of all strengths and resources available within a community, society or organization that can reduce the level of risk, or effects of a disaster. Capacity may include infrastructure and physical means, institutions, societal coping abilities, as well as human knowledge, skills and collective attributes such as social relationships, leadership and management. Capacity may also be described as capability.

(f) "Civil Society Organizations" Or "CSOs" refers to stakeholders outside government bureaucracy whose aims are neither to generate profits nor to seek governing power. CSOs unite people to advance shared goals and interests. They have a presence in public life, expressing the interests and values of their members or others, and are based on ethical, cultural, scientific, religious or philanthropic considerations. CSOs include nongovernment organizations (NGOs), professional associations, foundations, independent research institutes, community-based organizations (CBOs), faith-based organizations, people's organizations, social movements, and labor unions.

(g) "Consumer" or "End-User" refers to any person or entity who is the registered customer of the electric utility being supplied with electricity by any distribution utility.

(h) "Department of Social Welfare and Development" or "DSWD" refers to the government institution responsible for the protection of social welfare rights and promotion of social development.

(i) "Disaster Risk" refers to the potential disaster losses in lives, health status, livelihood, assets and services, which could occur to a particular community or a society over some specified future time period.

(j) "Distribution Utility" refers to any electric cooperative, private corporation, government-owned utility or existing local government unit which has an exclusive franchise to operate a distribution system in accordance to Republic Act No. 9136, otherwise known as the Electric Power Industry Reform Act of 2001.

(k) "Electric Cooperative" refers to a distribution utility organized pursuant to Presidential Decree No. 269, as amended, or as provided in Republic Act No. 9136.

(l) "Emergency" refers to unforeseen or sudden occurrence, especially danger, demanding immediate action.

(m) "Fund" refers to the Electric Consumers' Emergency Fund (ECEP) created under this Act, an independent regulatory body owned by the electric consumers, which is involved in mobilizing provident funds primarily to serve as an emergency fund in times of calamities and disasters in the country.

(n) "Grant" refers to cash assistance conferred to the electric consumers or members and distribution utilities to immediately address basic human needs and mitigate the damages of properties in times of natural disasters and calamities.

(o) "Hazard" refers to a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood and services, social and economic disruption, or environmental damage.

(p) "Member" or "Contributor" refers to the registered electric consumer who pays the mandatory monthly contribution of one peso per month.

(q) "Month" refers to the elapsed time between two succeeding meter readings, at least twenty-eight (28) days apart but not to exceed thirty-one (31) days.

(r) "Multi-Sectoral Electrification Advisory Council" or "MSEAC" refers to the organization of ten (10) sectoral representatives, as mandated by the National Electrification Administration, for every district/municipality to serve as effective complements in the institutional strengthening of the Electric Cooperatives (ECs). The MSEAC is composed of representatives from the following sectors: agro-fishery, barangay council, business, civic, education, local government, media, religious, youth, and women. In this Act, it may include the sectors of farmers/peasants, indigenous people, urban poor, workers, and women.

(s) "National Electrification Administration" or "NEA" refers to the government agency created under Presidential Decree No. 269, as amended by Republic Act No. 9136 and Republic Act No. 10531.

(t) "National Disaster Risk Reduction and Management Council" or "NDRRMC" refers to the government agency under the Department of National Defense which is responsible for ensuring the protection and welfare of the people during disasters and emergencies.

(u) "Natural Disasters" refers to major adverse effects resulting from natural processes of the Earth that are beyond the acts of human beings such as typhoons, earthquakes, volcanic eruptions and their resultant effects like flood, flash floods, landslides and tsunamis brought about by the geographical location and physical environment of the Philippines. Disaster impacts may include loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with damage to property, destruction of assets, loss of services, social and economic disruption and environmental degradation.

(v) "Social amelioration" refers the act of relieving the victims of calamities and disasters.

SEC. 5. **Fund System.** - To carry out the purposes of this Act, there is hereby created the Electric Consumers' Emergency Fund (ECEEF), herein to be referred to as the Fund, a mutual savings system for electric consumers.

To ensure full protection of stakeholders, the Fund shall be an impartial and independent regulatory body, with principal office to be set up in Metro Manila and satellite offices in Mindanao and the Visayas.

SEC. 6. **Fund Coverage.** - Coverage in the Fund shall be mandatory upon all registered consumers of any electric distribution utility, regardless of sector (residential, commercial or industrial).

SEC. 7. **Fund Generation and Contributions.** - All registered electric consumers or end-users shall contribute **One peso** (P1.00) every month to generate the provident savings of the Fund. The one peso contribution will be reflected at the monthly billing statements for electricity and shall form part of the total bill of every registered customer or end-user.

SEC. 8. **Membership Term.** - Membership in the Fund shall be dependent to the registration with a distribution utility. Any member whose registration is revoked based on the criteria set by the distribution utility shall also be considered a non-member.

SEC. 9. **Provident Character.** - The Fund shall be private in character, non-profit, owned wholly by the members, administered in trust and applied exclusively for the benefit of the electric consumers or end-users.

SEC. 10. **Uses of the Fund.** - On the existence of a natural disaster or declaration of a state calamity in a certain municipality/city, province, or region, the Fund shall mobilize its team and conduct ocular visits at the affected areas. The Fund may also coordinate with the relevant government agencies to avoid duplication of assistance and to effectively assess the form of assistance to be accorded to member households, distribution utilities, and other entities defined in this Act. The uses of the Fund are herein as follows:

(a) **Relief Operations** - The Fund may organize relief operations to the victims of natural disasters, calamities and other hazards through the electric consumers' organizations, and may closely coordinate with the National Disaster Risk Reduction and Management Council (NDRRC), Department of Social Welfare and Development (DSWD), and other relevant government agencies for the increased capacity and mitigate disaster risks of the victims. With the assurance of speedy delivery of relief services, a portion or percentage of the Fund shall be allocated to provide immediate food, water, clothing, medicine, among others to victims of disaster. The organizational structure of the Multi-Sectoral Electrification Advisory Council (MSEACs) and regional association of electric cooperatives shall be tapped in the relief services.

(b) **Rehabilitation Projects** - In supplement to government programs and projects, the Fund may provide a grant to the members for the repair

and rehabilitation of severely damaged distribution facilities of electric cooperatives, housing, including electrical and water connections.

Provided, That the beneficiary member has not availed of this grant for the same year.

Provided, Further, That the allocation for the rehabilitation projects as specified in this Act shall not exceed twenty percent (20%) of the total collection of the Fund in the previous year.

(c) **Loan Facility** – The loan facility in this Act must not be construed by the Fund as a money-making venture and, therefore, only minimal interests shall be considered for the interest of the electric consumers. Any of the following is eligible to apply for a loan immediately after natural disasters, calamities, and other forms of hazards:

- i. Registered customer or end-user of any distribution utility in calamity or disaster stricken areas,
- ii. Electric Cooperatives and other distribution utilities. Provided, That the loan is intended for the repair and restoration of distribution lines and facilities damaged by a calamity or disaster.
- iii. Civil society organizations (CSOs) whose members are likewise electric consumers.

SEC. 11. **Implementing Body.** – The Electric Consumers' Emergency Fund created under this Act, shall implement the provisions hereof.

SEC. 12. **Powers and Functions of the Fund.** – The Fund shall have the powers and functions specified in this Act and the usual corporate powers:

- (a) To maintain a provident fund, which shall consist of contributions made by the electric consumers;
- (b) To formulate, adopt, amend and/or repeal rules and regulations necessary to carry out the provisions and purposes of this Act, as well as the effective exercise of the powers and functions, and the discharge of duties and responsibilities of the Fund, its officers and employees;
- (c) To adopt or approve the annual and supplemental budget of receipts and expenditures including salaries and allowances of the Fund personnel, to authorize operating expenditures and disbursements of the Fund as may be necessary and proper for the effective management and operation of the Fund;
- (d) To set up its own accounting and computer systems; to conduct continuing actuarial and statistical studies and valuations to determine the financial feasibility of the Fund and its project; to require reports, compilations and

analysis of statistical and economic data, as well as make such other studies and surveys as may be needed for the proper administration and development of the Fund;

- (e) To approve appointments in the Fund except appointments to positions which are policy determining, primarily confidential or highly technical in nature according to the civil service rules and regulations: *Provided*, That all positions in the Fund shall be governed by a compensation and position classification system and qualification standards approved by the Fund's Board of Trustees based on a comprehensive job analysis, wage compensation study and audit of actual duties and responsibilities: *Provided, further*, That the compensation plan shall be comparable with prevailing compensation plans in the private sector and shall be subject to the periodic review of the Board no more than once every four (4) years without prejudice to yearly merit reviews or increases based on viability. The Fund shall, therefore, be exempt from any laws, rules and regulations on salaries and compensations;
- (f) To design and adopt an early retirement incentive plan for its own personnel;
- (g) To establish field offices and to conduct its business and exercise its powers in these places;
- (h) To design processes that shall serve the best interests of the electric consumers within a reasonable timeframe;
- (i) To determine, fix and impose minimal interest and penalties due from the borrowers of the Fund;
- (j) To create a mechanism of disseminating information to the electric consumers and ensure transparent use of the funds;
- (k) To exercise such powers and perform such acts as may be necessary, useful, incidental or auxiliary to carry out the provisions of this Act.

SEC. 13. **Board of Trustees.** – The corporate powers and functions of the Fund shall be vested in and exercised by the Board of Trustees which shall be composed of the following:

- (a) One (1) representative each from the Regional Association of Electric Cooperatives representing Mindanao, Visayas and Luzon (i.e. AMRECO, AVEC and Luzon Association) ;

- (b) Two (2) representatives each from Luzon, Visayas and Mindanao chapters of electric consumers' organizations, specifically the regional Multi-Sectoral Electrification Advisory Council (MSEAC);

The representatives herein specified shall be elected by the MSEAC officers starting from the municipal/district to provincial and regional levels.

- (c) The representative from a non-stock, non-profit and service-oriented institution which implements socio-economic development programs and projects;
- (d) The President/Chief Executive Officer (CEO) of the Fund, as a member;
- (e) The Chairperson of the National Disaster Risk Reduction and Management Council (NDRRMC), as *advisory* member;
- (f) The Secretary of the Department of Social Welfare and Development (DSWD), as *advisory* member.

Upon approval of this Act, the Board of Trustees shall convene and elect from the MSEAC representatives the following positions: Chairman, Vice Chairman, Secretary, Treasurer and any other position the Board of Trustees deemed necessary.

SEC. 14. Powers of the Board. – The Board shall have the following powers:

- (a) To formulate policies, rules and regulations to carry out effectively the functions of the Fund under this Act;
- (b) To promulgate such rules and regulations as may be necessary or proper for the effective exercise of the powers and functions, as well as the discharge of the duties and responsibilities of the Fund, its officers and employees;
- (c) To authorize expenditures of the Fund in the interest of effective administration and operations; to adopt from time to time the budgets for said purposes;
- (d) To approve the annual and supplemental budget of receipts and expenditures and disbursements as may be necessary and proper for the effective management and operation of the Fund;
- (e) To condone, in whole or in part, penalties imposed on loans of members/borrowers who, for justifiable reasons prescribed by the Board, failed to pay on time any obligation due to the Fund;
- (f) To approve the Fund's organizational and administrative structures and staffing pattern, and to establish, fix, review, revise and adjust the

appropriate compensation package for the officers and employees of the Fund;

- (g) To exercise such powers deemed necessary to carry out the powers and accomplish the purposes for which the Fund is established.

SEC. 15. Rule-Making Power. –The Board of Trustees is hereby authorized to make and change relevant rules and regulations, which shall be published in accordance with law or at least once in a newspaper of general circulation in the Philippines, to provide for, but not limited to, the following matters:

- (a) The effective administration, custody, development, utilization and disposition of the Fund;
- (b) Fund earnings and their distribution;
- (c) Disaster or emergency relief operations;
- (d) Loan assistance programs to the electric consumers;
- (e) Other matters that, by express or implied provisions of this Act, shall require implementation by appropriate policies, rules and regulations.

SEC. 16. Powers and Duties of the President/Chief Executive Officer. – The President/Chief Executive Officer (CEO) shall be elected by the Board of Trustees and has a fixed term of office of five (5) years.

The President/CEO shall execute and administer the policies and resolutions approved by the Board of Trustees, prepare its agenda and direct and supervise the operations and management of the Fund. The President/CEO, subject to the approval of the Board in case of approval of managerial positions and above, and the confirmation of the Board in below that of manager level, shall appoint the personnel of the Fund, remove, suspend or otherwise discipline them for cause and prescribe their duties and qualifications, in accordance with existing civil service laws, rules and regulations, to the end that only competent personnel may be employed.

SEC. 17. Financial Assistance and Donations. – The Fund may accept donations of any form from individuals and organizations to be used for the sole purpose of providing relief operations to disaster or calamity stricken areas: Provided that, such donations and financial assistance are accounted for and distributed in a transparent manner.

SEC. 18. Exemption from Tax, Legal Process and Lien. – All laws to the contrary notwithstanding, the Fund and all its assets and properties, all contributions collected, as well as all supplies, equipment, papers or documents shall be exempt from any tax, assessment, fee, charge, or customs or import duty; and all benefit payments made by Fund shall likewise be exempt from all kinds of taxes, fees or charges, and shall not be liable to attachments, garnishments, levy or seizure by or under any legal or

equitable process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the member to the Fund. No tax measure of whatever nature enacted shall apply to the Fund, unless it expressly revokes the declared policy of the State in Section 2 hereof granting tax exemption to the Fund. Any tax assessment against the Fund shall be null and void.

SEC. 19. **Administration Costs.** – The Fund shall bear the costs of its administration and development, in such amounts and for limits as the Board of Trustees may deem appropriate, but not exceeding two percent (2%) of the Net Fund Assets of the previous year, excluding operating cost directly relating to the lending operations of the Fund.

SEC. 20. **Audit.** – The Board of Trustees shall designate services of external (independent) qualified accountants to conduct periodic external audit of the Fund and all its transactions.

SEC. 21. **Remittance of Contributions.** – (a) All electric cooperatives and other distribution utilities shall act as the collecting agents of the **one peso** (P1.00) collection from all connections, regardless of sector.

(b) As collecting agents, electric cooperatives and distribution utilities shall remit the collections to the Fund immediately five (5) working days after collection of each billing cycle. Penal sanctions shall be imposed to the collecting agents who fail to remit the collections in two (2) successive months.

SEC. 22. **Right to Information and Transparency of the Fund.** – In order to ensure transparency of the Fund, the central office and all satellite offices must provide a bulletin board where major announcements and documents issued in relation to the utilization of the funds shall be posted.

The Fund shall ensure that information and data are provided in easily understandable forms and media and freely available and directly accessible to the electric consumers.

SEC. 23. **Implementing Rules and Regulations.** – The implementing rules and regulations to effectively carry out the provisions of this Act shall be adopted and promulgated by the Board of Trustees of the Electric Consumers' Emergency Fund not later than ninety (90) days after the approval of this Act, in consultation with electric consumers as members. The IRR to be adopted shall be published in at least one (1) national newspaper of general circulation.

SEC. 24. **Interpretation and Construction.** – Any doubt in the meaning of any provisions of this Act or in the implementing rules and regulations promulgated pursuant to this Act shall be resolved in favor of the electric consumers.

SEC. 25. **Separability Clause.** - If, for any reason, any provision of this Act, or the application thereof to any person or circumstances, is held invalid or unconstitutional, the remaining provisions not affected thereby shall continue to be in force and effect.

SEC. 25. **Repealing Clause.** – Other laws, decrees, executive orders, or rules and regulations, or parts thereof inconsistent with or contrary to the provisions of this Act or its purposes are hereby amended or modified accordingly.

SEC. 26. **Effectivity.** - *This* Act shall take effect fifteen (15) days after the completion of its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,