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HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
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HOUSE BILL NO. 102

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Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

**AN ACT ESTABLISHING THE COCONUT FARMERS AND INDUSTRY TRUST
FUND AND PROVIDING FOR ITS MANAGEMENT AND UTILIZATION**

EXPLANATORY NOTE

In 1971, Republic Act No. 6260 imposed the first levy on coconut farmers. The levies collected from the coconut farmers, for which they were issued receipts to be converted into shares of stock, were primarily used to establish the Coconut Investment Fund (CIF). The CIF sought to provide adequate medium and capital investment in the coconut industry. Presidential Decree No. 232 created the Philippine Coconut Authority (PCA), which took over the collection of the coco levy.

By 1973, abnormal global market fluctuations for fats and oils prompted the issuance of Presidential Decree No. 276, which established a Coconut Consumers Stabilization Fund (CCSF). The CCSF which was funded by imposing an initial levy of P15.00 per 100 kilos of copra resicada or its equivalent on every first sale, shall be utilized to subsidize the sale of coconut-based products.

By April 1974, Presidential Decree No. 414 granted the PCA additional powers such as the authority to adjust the levy imposed. It also expanded the use of the CCSF for investment, research and development, and extension of services to the coconut industry.

A few months after the issuance of PD 414, Presidential Decree No. 582 created the Coconut Industry Development Fund (CIDF). The CIDF, unlike the CCSF, is a permanent fund, thereby making the collection of the coco levy permanent as well. The CIDF shall serve to finance the establishment, operation and maintenance of a hybrid coconut seed nut farm.

By July 1975, Presidential Decree No. 755 empowered PCA to acquire the United Coconut Planters Bank (UCPB) as a permanent solution to the perennial credit problems of the coconut industry. The said issuance also mandated that all CCSF collections to the UCPB shall be made interest free.

Presidential Decree No. 961, which codified all laws pertaining to the coconut industry; provided a number of amendments to prior laws and issuances. The CCSF levy, for instance, was passed on to the end users (Le. copra exporters and oil millers) from the coconut farmers. The Presidential Decree also declared that both CCSF and CIDF shall be owned by coconut farmers in their own private capacities. By virtue of the said legislation, UCPB was granted full authority to make investments using the CIDF and CCSF surplus. Presidential Decree No. 1468 also gave UCPB the sole right to administer the Coco Levy Funds. Such mandate led to the creation of the Coconut Industry Investment Fund (CIIF).

The levy, primarily intended to insulate the local coconut industry and its consumers from global market fluctuations for fats and oils, further expanded over time by virtue of succeeding presidential decrees to provide funding for a comprehensive development program to enable the industry to compete in the international market. Such funds were then transferred to the Coconut Industry Development Fund (CIDF) and the Coconut Industry Investment Fund (CIIF). The CIIF, for instance, was used to acquire the oil mills which now comprise the CIIF - Oil Mills Group (CIIF-OMG). The CCSF, along with the CIDF and the CIIF, constitute what is now known as the Coco Levy Funds.

Substantial collections have been accumulated from the imposition of the coco levy. By 1986, the Coco Levy Funds have amounted to as much as 9.7 Billion Pesos.

Almost forty years since its establishment, the Coco Levy Funds is now estimated to be worth One Hundred Billion Pesos (Php100,000,000,000.00) in aggregate market value, comprising various assets and entities such as the CIIF-OMG, including its 14 holding companies, as well as the UCPB, United Coconut Chemicals (Cocochem), United Coconut Planters International (UCPB), United Coconut Planters Assurance Corporation (Cocolife), and the shares of stocks in San Miguel Corporation (SMC) that are owned by the CIIF-OMG Companies.

Most, if not all, of the objectives for the creation of these funds have yet to be realized. Under sequestration by the Presidential Commission on Good Government (PCGG), the ownership of the assets acquired through the use of Coco Levy Funds remains in question. As a result, neither the coconut industry nor the public benefited from the Coco Levy Funds.

With regard to the ownership issue of the Coco Levy Funds, a partial summary judgment of the Sandiganbayan on the Republic v. COCOFED, et. al. (Civil Case No. 0033-F) dated May 7, 2004, stated that:

"WHEREFORE, in view of the foregoing, we hold that:

"The Motion for Partial Summary Judgment (Re: Defendants CIIF Companies, 14 Holding Companies and Cocofed, et al.) filed by Plaintiffs hereby GRANTED. ACCORDINGLY, THE CIIF, NAMELY:

1. Southern Coconut Oil Mills (SOLCOM);
2. Cagayan de Oro Oil Co., Inc. (CAGOIL);
3. Iligan Coconut Industries, Inc. (ILICOCO);
4. San Pablo Manufacturing Corp. (SPMC);
5. Granexport Manufacturing Corp. (GRANEX); and
6. Legaspi Oil Co., Inc. (LEGOIL)

"AS WELL AS THE 14 HOLDING COMPANIES, NAMELY:

1. Soriano Shares, Inc.;
2. ACS Investors, Inc.;
3. Roxas Shares, Inc.;
4. Arc Investors, Inc.;
5. Toda Holdings, Inc.;
6. AP Holdings, Inc.;
7. Fernandez Holdings, Inc.;
8. SMC Officers Corps, Inc.;
9. Te Deum Resources, Inc.;
10. Anglo Ventures, Inc.;
11. Randy Allied Ventures, Inc.;
12. Rock Steel Resources, Inc.;
13. Valhalla Properties Ltd., Inc.; and
14. First Meridian Development, Inc.

"AND THE CIIF BLOCK OF SAN MIGUEL CORPORATION (SMC) SHARES OF STOCK TOTALING 33,133,266 SHARES AS OF 1983 TOGETHER WITH ALL DIVIDENDS DECLARED, PAID AND ISSUED THEREON AS WELL AS ANY INCREMENTS THERETO ARISING FROM, BUT NOT LIMITED TO, EXERCISE OF PRE-EMPTIVE RIGHTS ARE DECLARED OWNED BY THE GOVERNMENT IN TRUST FOR ALL THE COCONUT FARMERS AND ORDERED RECONVEYED TO THE GOVERNMENT.

"The aforementioned Partial Summary Judgment is now deemed a separate appealable judgment which finally disposes of the ownership of the CIIF Block of SMC Shares, without prejudice to the continuation of proceedings with respect to the remaining claims particularly those pertaining to the Cojuangco, et al. block of SMC shares."

Furthermore, a Supreme Court decision on Republic v. COCOFED-et. al. provides that:

xxx

The Supreme Court, in its decision dated January 24, 2012, upheld the aforementioned partial summary judgment of the Sandiganbayan, declaring that the six (6) CIIF~OMG companies, their 14 holding firms, and the CIIF~OMG block of SMC shares as "owned by the Government to be used only for the benefit of all coconut farmers and for the development of the coconut industry". Hence, putting finality on the legal battles as to the ownership and nature of the Coco Levy Funds.

By December 2014, the Supreme Court has directed that an entry of judgment be made on the case involving the 24-percent block of sequestered shares in San Miguel Corporation acquired using coco levy funds during the martial law years, thus, stamping the final seal on the ruling that the shares, bought using coconut levy funds and registered in the names of the Coconut Industry Investment Fund, dubbed "CIIF block" of SMC shares, are owned by government and to be used exclusively for the benefit of coconut farmers and the development of the local coconut industry.

By March 2015, President Benigno S. Aquino III issued Executive Orders 179 and 180 on the privatization and reconveyance of the coco levy funds that the Court had recently declared to be public funds. EO 179 particularly requires the inventory, privatization and reconveyance in favor of the government of all coconut levy assets, including but not limited to the shares of stock in the United Coconut Planters Bank (UCPB), Coconut Industry Investment Fund (CIIF) Companies and CIIF Holding Companies, as well as the 5,500,000 San Miguel Corporation shares registered in the name of the Presidential Commission on Good Government. EO 180, on the other hand, ordered the immediate transfer and reconveyance of the coconut levy assets to the government and use them for the Integrated Coconut Industry Roadmap and the Roadmap for Coco Levy.

The Supreme Court, however, temporarily stopped the implementation of these orders based on the petition filed by the Confederation of Coconut Farmers Organizations of the Philippines, which argued that the disposition of the coco levy funds cannot be made without prior legislative imprimatur and that they cannot be hastily and prematurely 'implemented' by the President through mere EOs. The petitioners also contend that the executive orders were "rushed" and would expose the fund to plunder.

To date, the disposition of coco levy funds remains unsettled. Therefore, a legislative action on the disposition of the Coco Levy Funds is warranted.

This measure, which was approved on Third Reading by the House of Representatives on October 9, 2015, comes at a critical time of the Philippine coconut industry. It is a product of lengthy and careful deliberations with various stakeholders, more importantly, the coconut farmers.

This is urgent because our coconut farmers have long been clamoring to see the purpose by which the coconut levy was created, that is, to benefit the coconut farmers and the industry as a whole. This has been long over due. It is important because a law that will govern the utilization of the coconut levy fund is primordial in ensuring that the fund would only be utilized for the benefit of the coconut farmers.

The Technical Working Group of the Committee on Agriculture and Food, which was headed by this representation as its Chairperson, throughout the various deliberations that produced this important piece of legislation is keenly aware of the letter and spirit which was clearly enunciated in the January 24, 2012 decision of the Supreme Court. That is, "the coconut levy funds are public funds" and that "coconut levies are treated as special funds by the very laws which created them." Accordingly, "These shares shall belong to the Government, which shall be used only for the benefit of the coconut farmers and for the development of the coconut industry."

Among the important features of the bill are the following:

First, it consolidates all the coconut levy assets into a trust fund called the Coconut Farmers and Industry Trust Fund.

Second, it delineates the Trust Fund from the General Fund, hence, preventing the marriage of the two.

Third, it creates the Coconut Farmers and Industry Trust Fund Committee under the Office of the President and to be chaired by the Secretary of Agriculture. It shall be tasked to monitor the implementation of the Fund and the Coconut Industry Development Plan, which shall be used as a guide in the utilization of the trust income.

Fourth, it empowers the Privatization and Management Office as the sole entity to dispose of the coconut levy assets that have been approved for privatization.

Finally, it mandates the Presidential Commission on Good Government to conduct a complete accounting and inventory of all coconut levy assets and for the Commission on Audit to audit the inventory of coconut levy assets prepared by the PCGG.

It is unfortunate that most of the coconut farmers during the time the levies were exacted are already approaching their twilight years. Hence, the urgent need for government to fulfill its promise that they be the ultimate beneficiaries of such funds.

In view of the foregoing, the passage of this bill is earnestly sought.


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HOUSE BILL NO. 102

Introduced by: Hon. Angelina "Helen" D.L. Tan, M.D.

AN ACT ESTABLISHING THE COCONUT FARMERS AND INDUSTRY TRUST FUND AND PROVIDING FOR ITS MANAGEMENT AND UTILIZATION

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

SECTION 1. Short Title. This Act shall be known as the "Coconut Farmers and Industry Development Act."

SEC. 2. Declaration of Policy. It is hereby declared the policy of the State to attain the balanced, equitable, integrated and sustainable growth and development of the coconut industry. Towards this end, the benefits due to coconut farmers, especially the poor and marginalized, under various statutes shall be consolidated and their delivery expedited.

I
Definition of Terms

SEC. 3. *Definition of Terms.* - As used in this Act:

(a) Coconut Industry Investment Fund (CIIF), refers to the Fund created pursuant to Presidential Decree No. 1468, which authorized the United Coconut Planters Bank (UCPB) to utilize the surplus funds from the Coconut Consumers Stabilization Fund (CCSF) and the Coconut Industry Development Fund (CIDF) for investments in the form of shares of stock in corporations organized for the purpose of engaging in the establishment and operation of industries, commercial activities and other allied business undertakings relating to the coconut and other palm oils industry in all its aspects and the establishment of a research into the commercial and industrial uses of coconut and other palm oil industry;

(b) CIIF Holding Companies refer to the fourteen (14) holding companies, namely: Anglo Ventures Corporation; ACS Investors, Incorporated; Arc Investors, Incorporated; AP Holdings, Incorporated; Fernandez Holdings, Incorporated; First Meridian Development, Incorporated; Randy Allied Ventures, Incorporated; Rock Steel Resources, Incorporated; Roxas Shares, Incorporated; San Miguel Officers Corporation, Incorporated; Soriano Shares, Incorporated; Te Deum Resources, Incorporated; Toda Holdings, Incorporated; and Valhalla Properties Limited, Incorporated, created by the CIIF Oil Mills Group to acquire, hold and manage the shares of stocks of San Miguel Corporation (SMC);

(c) CIIF - Oil Mills Group refers to the six (6) CIIF companies, namely, Southern Luzon Coconut Oil Mills; Cagayan de Oro Oil Company, Incorporated; Iligan Coconut Industries, Incorporated; San Pablo Manufacturing Corporation; Granexport Manufacturing Corporation; and Legaspi Oil Company, Incorporated, acquired by the UCPB using the CIIF;

(d) CIIF SMC Block Shares refer to the 33,133,266 shares of stock in SMC, sequestered by the PCGG in April 1986 representing 31% of the total outstanding capital stock of SMC;

(e) Converted SMC Series 1 Preferred Shares refer to that portion of the CIIF SMC Block Shares covering 753,848,312 preferred shares of stock in SMC representing 24% of the outstanding capital stock of SMC;

(f) Coconut farmer refers to:

(1) Farmer-owner of a coconut farm, which is not more than five (5) hectares, who:

(i) tills the land (owner-cultivator), or
(ii) does not till the land, but has control and supervision over the cultivation of a farm which is not more than five (5) hectares; and

(2) A non-owner of the coconut farm who is either a:

(i) leaseholder or tenant who tills or supervises the cultivation of the farm; or
(ii) farm worker or laborer, whether seasonal or itinerant, engaged in the harvesting of the nuts and processing of copra as major means of livelihood.

(g) Coconut Levy Assets refer to any and all kinds of property, whether real or personal, tangible or intangible, wherever situated, which have been acquired through or otherwise funded by the Coconut Levy Funds, including those assets that may be recovered in favor of the government, as well as the fruits or income derived therefrom, including those acquired in exchange or substitution thereof, including the following:

- (1) the shares of stock in UCPB determined to be owned by the Government;
- (2) the CIIF Oil Mills Group;
- (3) the CIIF Holding Companies; and
- (4) the Converted SMC Series 1 Preferred Shares.

(h) Coconut Levy Funds refer to various funds generated from levies, taxes, charges, and other fees exacted or imposed pursuant to or in connection with the sale of copra rececada or its equivalent in other coconut products, and collected for the most part from coconut farmers, planters, millers, refiners, processors, exporters, desiccators and other end-users of copra rececada or its equivalent in other coconut products. These shall refer to any and all of the following:

- (1) the Coconut Investment Fund created under Republic Act No. 6260;
- (2) the Coconut Consumers Stabilization Fund, later renamed as the Coconut Industry Stabilization Fund, created under Presidential Decree No. 276;
- (3) the Coconut Industry Development Fund created under Presidential Decree No. 582;
- (4) the Coconut Industry Investment Fund created pursuant to Presidential Decree No. 1468; and
- (5) the Coconut Reserve Fund under Presidential Decree No. 1468 and Presidential Decree No. 1842.

(i) Investment Guidelines refer to the investment management guidelines, rules, procedures, and policies to be formulated by the Coconut Farmers and Trust Fund Committee created under Section 11 of this Act, and as may be amended from time to time, which shall provide the parameters for investments of the Trust Income or any portion thereof, and shall include, among others, asset allocation, criteria for selection of fund managers, and required income from the fund, and other investment management threshold requirements.

(j) Trust Income refers to the income, interest earnings, and other monetary benefits, realized by and accruing to the Trust Fund or any portion thereof.

(k) Trust Principal refers to:

(1) the initial Trust Principal composed of dividends declared, paid, or issued on the Converted SMC Series 1 Preferred Shares, the proceeds from the redemption of the Converted SMC 1 Preferred Shares, and all income or interest derived therefrom as of the effectivity of this Act and any other cash Coconut Levy Asset deposited in the Bureau of the Treasury (BTr) and the UCPB as administrator of the CIIF; any other cash Coconut Levy Asset including amounts deposited in UCPB as Administrator of the CIIF;

(2) any and all proceeds of privatization of the Coconut Levy Assets remitted thereto by the Privatization and Management Office (PMO), organized under Article III of Executive Order No. 323 (S.2001); and

(3) proceeds of privatization of any or all properties or assets conveyed by any person, group or entity to the Committee, from time to time, as provided in Section 8 hereof.

II

Audit and Reconveyance of Coconut Levy Assets

SEC. 4. *Audit and Inventory of Coconut Levy Assets.* - Upon the effectivity of this Act, the Presidential Commission on Good Government (PCGG), created under Executive Order No. 1 (S.1986), shall conduct a complete accounting and inventory of the Coconut Levy Assets as well as the investments, disbursements, and expenditures relating to the coconut levy fund and submit a certified report to the BTr, the Commission on Audit (COA) and the Office of the President (OP).

The COA shall audit the inventory of Coconut Levy Assets prepared and submitted by the PCGG for the purpose of, among others, determining completeness of the inventory, establishing the reasonableness of the asset valuation and tracing of the flow of the coconut levy fund. The COA shall submit to the Coconut Farmers and Trust Fund Committee created under Section 11 hereof its initial audit report within one hundred twenty (120) days upon completion of the audit. However, further audit may be undertaken after the initial audit, as necessary. The Committee shall, within fifteen (15) days from its receipt of the audit report, publish the same in at least two (2) newspapers of national circulation.

Nothing herein shall be construed as preventing the PMO, created under Article III of Executive Order No. 323 (S.2001), from procuring a third-party appraisal of any of the Coconut Levy Assets prior to or in the course of preparing the privatization or disposition plans for the said assets.

SEC. 5. *Reconveyance of Coconut Levy Assets.* - Immediately upon the effectivity of this Act, the PCGG, the government representatives to the boards of sequestered/surrendered corporations, and any government agency or person in possession, custody, control or administering any Coconut Levy Asset shall perform or cause the performance of the following:

- (a) reconveyance of the title of such asset to the Republic of the Philippines;
- (b) delivery of all stock certificates and other evidence of ownership to the BTr for safekeeping; and
- (c) deposit all cash assets in the Trust Fund.

Any provision of law to the contrary notwithstanding, the BTr and the UCPB shall directly remit the initial Trust Principal to the Trust Fund.

The COA shall conduct an audit to determine compliance with pertinent laws, rules and regulations on reconveyance of the Coconut Levy Assets to the Republic of the Philippines.

III Coconut Farmers and Industry Trust Fund

SEC. 6. *The Coconut Farmers and Industry Trust Fund.* - There is hereby created a trust fund to be known as the Coconut Farmers and Industry Trust Fund, herein referred to as the "Trust Fund," which shall consist of the Trust Principal and the Trust Income. No portion of the Trust Fund shall accrue to the general fund of the National Government. It shall be capitalized, managed, utilized and accounted for in the manner provided in this Act. Nothing in this Act shall be understood to prevent or prohibit any person, group or entity from conveying to the Committee other properties and/or additional assets either for the use of the coconut industry, or for purposes of privatization, in which case, the proceeds of such privatization shall form part of the Trust Fund.

SEC. 7. *Purpose of the Trust Fund.* - The Trust Fund shall be used exclusively for the ultimate benefit of coconut farmers and farm workers as embodied in the Coconut Farmers and Industry Development Plan prepared pursuant to Section 20 hereof.

SEC. 8. *Capitalization of the Trust Fund.* - All assets and/or properties derived from all coco levy recovered assets; and all dividends, interest earnings and incomes that are available upon the effectivity of this Act shall form part of the initial capital of the Trust Fund. The Trust Fund shall thereafter be augmented with all proceeds of privatization/disposition of the Coconut Levy Assets remitted directly thereto by the PMO in accordance with this Act, including any and all forms of income, interests, earnings, yields, or any monetary benefit derived therefrom prior to the privatization/disposition of these Coconut Levy Assets.

In order to ensure the enduring character of the Trust Fund, the Principal thereof shall be augmented by grants, donations and other lawful transfers by public or private entities.

SEC. 9. *Management and Utilization of the Trust Fund and Trust Income.* - The Trust Fund shall be available and may be utilized only for the purpose for which it was created and upon authorization of the Committee, subject to the following conditions:

(a) The Trust Principal shall be preserved and maintained at all times and only the Trust Income may be used.

(b) The Trust Fund shall be disbursed only on the basis of the funding requirement of the program, activity or project.

(c) The Trust Fund may also be disbursed to pay for the expenses of the Committee for the administration, monitoring, evaluation, information services, and other necessary activities for the effective performance of its functions under this Act; and

(d) No part of the Trust Fund shall be utilized for the payment of salaries and other personnel benefits.

All releases from the Trust Fund approved by the Committee shall be released directly to the implementing agencies: Provided, That coconut productivity and developmental programs and projects shall be implemented by the Philippine Coconut Authority (PCA), created under Presidential Decree 232 (S.1973), as amended by Presidential Decree No. 1468 (S.1978).

SEC. 10. *Designation of the Bureau of the Treasury as Depository of the Trust Fund.* - The Trust Fund shall be deposited in the Bureau of the Treasury (BTr). The BTr shall account for the Trust Fund in the manner provided by the Committee and shall perform such duties as may be determined by the Committee.

IV

Coconut Farmers and Industry Trust Fund Committee

SEC. 11. *Creation of the Coconut Farmers and Industry Trust Fund Committee.* - The Coconut Farmers and Industry Trust Fund Committee, hereinafter referred to as the Committee, is hereby created under the Office of the President.

The Committee shall have the following powers and functions:

(a) coordinate and monitor the implementation of the Coconut Farmers and Industry Development Plan;

(b) approve any allowable disbursement out of the Trust Fund;

(c) formulate the Investment Guidelines including the Prohibited Investments;

(d) appoint a fund manager, if necessary, to handle the investment of the Trust Principal;

(e) identify the Coconut Levy Assets that will be privatized, retained, or abolished and submit its recommendation to the President;

(f) approve the marketing and disposition program for the Coconut Levy Assets approved for privatization;

(g) authorize the sale and other mode of privatization of Coconut Levy Assets approved for privatization;

(h) authorize the rehabilitation of Coconut Levy Assets approved for privatization pending actual disposition;

(i) facilitate access by coconut farmers and their organizations from the most poverty afflicted areas of the country to the services, programs and benefits implemented pursuant to the Coconut Farmer and industry Development Plan. For purposes of this Act, those already accredited farmers organizations need not go through another accreditation process;

(j) submit to the President reports and recommendations in connection with its functions under this Act;

(k) appoint, transfer, suspend, or remove for cause, personnel of the Committee, and fix their remuneration in accordance with the Salary Standardization Law; and

(l) exercise such other incidental powers and functions as may be necessary to attain the objectives of this Act.

SEC. 12. *Composition.* - The Committee shall be composed of the following:

(a) Seven (7) representatives from the government who shall be serving in ex-officio capacity:

(1) Secretary of the Department of Agriculture (DA) as Chairperson;

- (2) Secretary of the Department of Finance (DOF) as Vice-Chairperson;
- (3) Secretary of the Department of Interior and Local Government (DILG);
- (4) Secretary of the Department of Trade and Industry (DTI);
- (5) Secretary of the National Anti-Poverty Commission (NAPC);
- (6) Director-General of the National Economic Development Authority (NEDA); and
- (7) Administrator of the PCA.

(b) Six (6) representatives from the coconut farmers' organizations who have considerable experience and reputable track records, allocated as follows:

- (1) two (2) representatives from Luzon;
- (2) two (2) representatives from Visayas; and
- (3) two (2) representatives from Mindanao

Within thirty (30) days following the effectivity of this Act, the PCA shall promulgate a selection process of nominees as representatives of the coconut farmers' organizations in the Committee. The nominees of the coconut farmers' organizations shall be validated and shortlisted by the PCA, in consultation with the NAPC. The list of nominees shall be submitted to the President not later than sixty (60) days from the start of the selection process.

The government representatives in the Committee shall serve only during their respective terms in office, while the six (6) representatives from coconut farmers organization shall each hold a term of one (1) year, unless sooner removed for cause. Any of the representatives shall continue to hold office until the successor is appointed: Provided, That any appointment to fill a vacancy in the Committee shall be only for the unexpired term.

SEC. 13. *Ex Officio Alternates.* - The ex officio members of the Committee may designate their respective alternates who shall be the officials next-in-rank to them and their acts shall be considered the acts of their principals.

SEC. 14. *Meetings of the Committee.* - The Committee shall meet at least once a month, or as often as deemed necessary and expedient to discharge its responsibilities. The presence of at least a majority of the members of the Committee shall constitute a quorum, and the concurrence of a majority of the members present at a meeting at which a quorum exists shall be adequate for any decision by the Committee: Provided, That, the approval of at least a majority of the members of the Committee shall be required on matters involving the following:

- (a) any disbursement of funds involving more than Fifty million pesos (PhP50,000,000.00);
- (b) any proposed investment involving more than One hundred million pesos (PhP100,000,000.00); and
- (c) any disposition or privatization proposal involving more than Five hundred million pesos (PhP500,000,000.00).

The Chairperson, if unavailable, may designate the Chairperson to convene the Committee and preside over the Committee's meeting on behalf of the Chairperson.

SEC. 15. *Obligations of the Members of the Committee.* - The members of the Committee shall act with due care, diligence, skill, and good faith in all its dealings with the Trust Fund and the Coconut Levy Assets. They shall avoid conflicts of interest and declare before the Committee any interest they may have in any particular matter.

Where a member of the Committee receives any profit or benefit by virtue of the office, including acquiring shares in corporations that form part of the Coconut Levy Assets, using the Coconut Levy Assets for one's benefit, receiving commission on contracts from the Coconut Levy Assets, or taking advantage of corporate opportunities involving the Coconut Levy Assets, all such profits or benefits shall be returned to the Trust Fund, without prejudice to any administrative, civil or criminal action against such member. This provision shall be applicable notwithstanding the fact that such member of the Committee used one's own funds in the venture.

SEC. 16. *Executive Director of the Committee.* - The President, upon recommendation of the Committee, shall appoint an Executive Director who shall exercise the following powers and functions:

- (a) administer the programs approved or promulgated by the Committee;

- (b) direct and supervise officials, employees, representatives and agents for the Committee;
- (c) prepare an annual report on the activities of the Committee at the close of each fiscal year and to submit a copy thereof to the President and Congress;
- (d) keep and maintain official records and reports of the proceedings of the Committee;
- (e) administer oaths in all matters falling within the jurisdiction of the Committee; and
- (f) exercise such other duties as may be vested by the Committee that are consistent with the provisions of this Act.

The PCA shall provide Secretariat support to the Committee.

SEC. 17. *Cooperation with the Committee.* - The Committee may also call upon any department, bureau, office, agency, and instrumentality of the government, including government-owned and controlled corporations for any assistance it may need in the discharge of its functions and responsibilities.

SEC. 18. *Accounting and Auditing.* - The Committee shall maintain records and accounts of all investments, income, receipts, disbursements and other transactions relating to the management, administration and disposition of the Trust Fund. These records and accounts shall be maintained in accordance with existing accounting and auditing laws, rules and regulations. The Trust Fund shall be audited by the COA.

SEC. 19. *Legal Counsel.* - The Secretary of Justice shall be the ex-officio counsel to the Committee on legal matters.

V

Coconut Farmers and Industry Development Plan

SEC. 20. *Preparation of the Coconut Farmers and Industry Development Plan.* - An Ad Hoc Committee is hereby created to be composed of the Secretaries of the DA, the Department of Agrarian Reform (DAR), the DTI, the Department of Science and Technology (DOST), the Department of Energy (DOE), the Department of Public Works and Highways (DPWH), the DILG, the NAPC, the National Economic Development Authority (NEDA), a representative from the farmers' groups. The Administrator of the PCA shall act as the Ad Hoc Committee's Chairperson.

The Ad-Hoc Committee, in consultation with the coconut farmers and representatives of the coconut industry, shall indicate in an integrated coconut industry strategy map the policies for the development and rehabilitation of the coconut industry and shall prepare a five (5) year plan of programs, activities and projects which shall be funded out of the Trust Fund and which shall be known as the Coconut Farmers and Industry Development Plan.

In the formulation of the Plan, the Ad Hoc Committee shall be guided by the following objectives:

- 1) the increase in the income of coconut farmers and increase coconut productivity including intercropping and livestock-raising;
- 2) the promotion of coconut-based enterprises including integrated processing of coconut products and downstream products;
- 3) the provision of timely and critical support to coconut farmers organization and development; and
- 4) the establishment of social protection programs that directly benefit coconut farmers and farm workers, in case these social protection programs are not funded by an appropriations law or any other special law, or where funding is insufficient.

The Plan shall provide an indicative funding requirement or allocation for the implementation of any and all of the programs and projects to be funded by the Trust Income, which funding or allocation shall be itemized or broken down on a project-to-project basis:

Provided, That, (a) for projects which are recurring, or to be implemented on a regular basis, the allocation shall indicate the annual fund that may be required to implement the project; and (b) for projects that are to be implemented or concluded within a period of time, the allocation shall indicate the total fund that may be required for the implementation of the whole project, itemized according to the phases or stages of the project.

Within sixty (60) days from the effectivity of this Act, the Plan shall be submitted by the Ad Hoc Committee to the Coconut Farmers and Industry Trust Fund Committee who shall, in turn, submit the Plan to the President for approval. Immediately upon its approval, the Plan shall be returned to the Committee for the disbursement of funds in accordance with the provisions of this Act. Any amendment to the Plan shall require the approval of the President.

If the President has any objection or any amendment thereto, the President shall notify the Committee within thirty (30) days from receipt thereof; otherwise the Plan shall be deemed approved.

VI Privatization of the Coconut Levy Assets

SEC. 21. *Privatization of the Coconut Levy Assets.* - The Committee shall determine the Coconut Levy Assets that shall be privatized. For this purpose, the Committee shall be guided by the following factors:

- (a) the functions or purposes for which the entity was created are no longer relevant to the State or no longer consistent with the national development policy of the State;
 - (b) the functions or purposes of the entity duplicate or unnecessarily overlap with functions, programs, activities or projects already provided by another agency;
 - (c) the entity is not producing the desired outcomes, or is no longer achieving the objectives for which it was originally designed and implemented;
 - (d) the entity is dormant or non-operational;
 - (e) the entity is involved in an activity which is best carried out by the private sector;
- and
- (f) the function, purpose, or nature of operations of any group of entities requires consolidation under a holding company.

The Committee shall submit its recommendation to the President for approval. The Committee shall also arrange for the transfer of the Coconut Levy Assets approved for privatization to the PMO, unless the President, upon the recommendation of the Committee, designates another agency to preserve such Coconut Levy Assets pending privatization.

SEC. 22. *Additional Mandate of the Privatization and Management Office (PMO).* - In addition to its powers and functions under Executive Order No. 323 dated December 6, 2000, the PMO is authorized to dispose the Coco Levy Assets that have been approved for privatization.

In the discharge of its mandate, the PMO shall:

- (a) formulate and implement the marketing and disposition program after securing prior approval of the Committee;
- (b) take possession of and preserve such assets on behalf of the National Government;
- (c) execute and deliver, on behalf of the National Government, deeds of sale, contracts, trust instruments, and other legally operative documents as may be necessary or appropriate to convey title to, take possession of, and conserve such assets;
- (d) engage external expertise as may be necessary in the fulfillment of its tasks under this Act; and
- (e) adopt internal rules and regulations.

Any and all sales and other modes of privatization or disposition shall not be considered final unless and until approved by the Committee.

SEC. 23. *Powers of the Privatization and Management Office.* - The PMO is also empowered to enter into sales through public bidding, negotiated sale, lease, or any form of divestment or transmission of rights over the Coconut Levy Assets, Provided; That no Coconut Levy Asset shall revert to the previous owners or their nominees or be sold to individuals who, as determined by final judgment of a court of law, have mismanaged or diverted such assets.

Prior to the implementation of any privatization plan, the PMO shall exercise the following powers:

(a) require anyone or the subject corporations to adopt and implement cost-reduction measures to enhance the viability, and therefore the disposability of the corporations to potential buyers, including measures requiring personnel retrenchment plans or other forms of corporate downsizing;

(b) direct anyone or all of the subject corporations to submit to the PMO, within fixed time-tables, such reports and information as the PMO may require in the exercise of its functions under this Act; and

(c) cause the subject corporations to undergo merger, consolidation, spin-off, or other corporate acts of reformatory nature as it may deem necessary or desirable to expedite the disposition and privatization under this Act.

In all such cases, no corporate measure shall be implemented without the approval of the Committee.

Nothing herein shall be construed as authorizing the Committee or the PMO to rehabilitate or allow investments of any and all Coconut Levy Assets transferred to the National Government.

SEC. 24. Committee to Determine Transfer Value. - The Committee is hereby vested with full and complete powers and prerogatives to determine transfer values and related valuations at which the Coconut Levy Assets shall be transferred and conveyed to the PMO pursuant to the mandate of this Act and upon reasonable consultation with a third-party appraiser: Provided, That any valuation approved by the Committee for purposes of the transfer to the PMO shall not be deemed a condonation, waiver, or extinguishment of any obligation by any party whose vested rights may be impaired by such transfer.

SEC. 25. Remittance of Proceeds of Privatization. - All proceeds or receipts from the sale of Coconut Levy Assets shall be remitted to the Trust Fund.

SEC. 26. Reporting Requirements. - The Committee shall, on a semi-annual basis, submit to the President and to Congress a report on the status of disposition of the Coconut Levy Assets, which shall include, among others, a description of the individual assets disposed of, the purchasers thereof, the consideration received therefor, and the agreed terms of payment.

The PMO shall, within three (3) months following the closure of books at the end of each fiscal year, submit a comprehensive annual report duly approved or endorsed by the Committee, to the President and Congress on the status of its privatization efforts and its disposition program for the Coconut Levy Assets, which shall include the items described in the immediately preceding paragraph.

SEC. 27. Retention and Dissolution of Coconut Levy Assets. - The Committee shall identify the Coconut Levy Assets that should be retained by the National Government or reorganized or abolished, guided by the same standards mentioned in Section 21 of this Act. The Committee shall submit its recommendation to the President for approval.

Coconut Levy Assets that have been approved for retention shall be transferred to such agency as may be designated by the President.

The Governance Commission on Government Owned or Controlled Corporations (GCG), created under Republic Act No. 10149, shall implement the dissolution of those Coconut Levy Assets that have been approved for abolition.

SEC. 28. Allowable Investments. - The Committee shall manage the Trust Principal with the skill, care, prudence, and diligence necessary under the circumstances that a prudent person acting in like capacity and familiar with such matters would exercise in the conduct of an enterprise of a like character and with similar aims. Pursuant thereto, and in line with the basic principles of safety, growth, and liquidity, the Trust Principal shall only be invested in any or all of the following:

(a) Bonds, securities, promissory notes or other evidence of indebtedness of the Government of the Philippines, or in bonds, securities, promissory notes and other evidence of indebtedness to which full faith, credit and unconditional guarantee of the Republic of the Philippines is pledged;

(b) Bonds, securities, promissory notes or other evidence of indebtedness of government

financial institutions or government corporations with acceptable credit or guarantee: Provided, That such investments shall be subject to a ceiling to be fixed by the Committee in the implementing rules and regulations; and

(c) Deposits and loans and/or investments in any domestic bank doing business in the Philippines and in good standing with the Bangko Sentral ng Pilipinas: Provided, That in case of such deposits, these shall not exceed at any time the unimpaired capital and surplus or total private deposits of the depository bank, whichever is smaller; Provided, further, That the bank shall first have been designated as a depository for this purpose by the Monetary Board of the Bangko Sentral ng Pilipinas; Provided, finally, That such investments shall be subject to a ceiling to be fixed by the Committee in the implementing rules and regulations.

VII Final Provisions

SEC. 29. *Suppletory on Applicability of Republic Act No. 10149 and Executive Order 323.* - In the interpretation of the provisions of this Act, the provisions of Republic Act No. 10149, otherwise known as the "GOCC Governance Act of 2011," and Executive Order 323, entitled "Constituting an Inter-Agency Privatization Council (PC) and Creating A Privatization and Management Office (PMO) Under The Department of Finance For The Continuing Privatization of Government Assets and Corporations," except for Sections 2 and 3 of Article IV of E. O. 323, shall apply suppletorily.

SEC. 30. *Implementing Rules and Regulations.* - Within thirty (30) days from the date of the effectivity of this Act, the Committee, in consultation with the PMO, shall formulate and promulgate the rules and regulations for the proper implementation of this Act.

SEC. 31. *Congressional Oversight.* - The Congressional Oversight Committee on Agricultural and Fisheries Modernization (COCAFAM) shall exercise oversight functions over the implementation of this Act. The financial review of the program in relation to its performance indicators shall be subject to oversight functions of the Joint Oversight Committee on Public Expenditures.

SEC. 32. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SEC. 33. *Repealing Clause.* - All laws, executive and administrative orders, rules and regulations inconsistent with this Act are hereby repealed or amended accordingly.

SEC. 34. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,