

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City, Metro Manila

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. 2266



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Introduced by REP. KAKA BAG-AO

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#### EXPLANATORY NOTE

In 1973, then President Marcos issued Presidential Decree 276, imposing a levy of P15 per 100 kilograms of copra *resecada* or its equivalent in other coconut products on every first sale beginning August 20, 1973. The tax was supposed to contribute towards the Coconut Consumers Stabilization Fund (CCSF) which was an intended subsidy for the domestic consumption of coconut-based commodities—ostensibly to cushion against an impending crisis brought about by exorbitant prices in the world market for fats and oils.

Over the succeeding decade since the levy's imposition, the charge was hiked to as much as P100 per 100 kilos of copra depending upon the prevailing export prices averaging around P60. This amount was shouldered by all the coconut farmers as their contributions, based on existing levy rates, by deducting from the price of their copra sales. Other presidential decrees soon followed amending PD 276, and eventually the primary purpose of the CCSF was transformed into a supposed "investment for coconut farmers" with the creation of the Coconut Industry Investment Fund. Thus began the long and harrowing odyssey of coconut farmers in attempting to reclaim the CIIF, now known as the Coco Levy Fund.

The Coco Levy has since been the subject of numerous court cases. A number of these court cases finally resulted into definitive conclusions by the Supreme Court and the Sandiganbayan, to wit:

The Supreme Court categorically stated in Presidential Commission on Good Government (PCGG) vs. Philippine Coconut Producers Federation, Inc. (COCOFED), G.R. Nos. 147062-64 December 14, 2001, pp.24-25, that:

*"To avoid misunderstanding and confusion, this Court will even be more categorical and positive than its earlier pronouncements: the coconut levy funds are not only affected with public interest; they are in fact, prima facie public funds."*

The Supreme Court further stated in the above quoted decision that:

**6. Laws Governing Coconut Levies Recognize Their Public Nature.**

*Finally and tellingly, the very laws governing the coconut levies recognize their public character. Thus, the third Whereas clause of PD No. 276 treats them as special funds for a specific public purpose. Furthermore, PD No. 711 transferred to the general funds of the State all existing special and fiduciary funds including the CCSF. On the other hand, PD No. 1234 specifically declared the CCSF as a special fund for a special purpose, which should be treated as a special account in the National Treasury.*

On December 28, 2004, the Sandiganbayan passed a resolution denying the motion for reconsideration filed by Eduardo M. Cojuangco, Jr., et al last May 25, 2004 and the motion for reconsideration filed by COCOFED, et al. and Ballares et al. last May 26, 2004 on the graft court's decision last May 7, 2004 on the SMC shares of stock, further stating that;

*"It is high time that the real beneficiaries of the coconut levy funds, the coconut farmers who contributed to it, and the entire coconut industry be given a chance to reap the benefits that are due them."*

The Sandiganbayan previously decided on May 7, 2004 that:

*"The CIIF Companies namely: Southern Luzon Coconut Oil Mills (SOLCOM); Cagayan de Oro Oil Co., Inc. (CAGOIL); Iligan Coconut Industries, Inc. (ILICOCO); San Pablo Manufacturing Corp. (SPMC); Granex Manufacturing Corp. (GRANEX); and Legaspi Oil Co., Inc. (LEGOIL), as well as the 14 Holding Companies, namely: Soriano Shares, Inc.; ASC Investors, Inc.; Roxas Shares, Inc.; Arc Investors, Inc.; Toda Holding, Inc.; AP Holdings, Inc.; Fernandez Holdings, Inc.; SMC Officers Corps, Inc.; Te Deum Resources, Inc.; Anglo Ventures, Inc.; Randy Allied Ventures, Inc.; Rock Steel Resources, Inc.; Valhalla Properties Ltd., Inc.; and 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. (Republic of the Philippines vs. Cojuangco et al, Civil Case No. 0033-F, May 7, 2004)*

The Sandiganbayan further clarified in the same ruling that:

*"The UCPB shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr. which form part of the 72.7% shares of the FUB/UCPB paid for by the PCA with public funds later charged to the coconut levy funds, particularly the CCSF, belong to the plaintiff Republic of the Philippines as their true and beneficial owner."*

The Sandiganbayan ruling on Civil Case No. 0033-A (Republic of the Philippines vs. Eduardo M. Cojuangco, Jr., et al.) dated July 11, 2003 stated that:

*"The so-called "Farmers' UCPB shares" covered by 64.98% of the UCPB shares of stock, which formed part of the 72.2% of the shares of stock of the former FUB and now of the UCPB, the entire consideration of which was charged by PCA to the CCSF, are hereby declared conclusively owned by the Plaintiff Republic of the Philippines."*

Partial Summary Judgments in Civil Case Nos. 33-A, 33-B, and 33-F (27% CIIF-SMC shares) had found finality in the Sandiganbayan in 2007.

On 24 January 2012, the Supreme Court finally decided on the public ownership of the coconut levy funds by declaring that the coconut levy funds are in the nature of taxes and can only be used for a public purpose<sup>1</sup>, the dispositive portion in part reads:

**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 Plaintiff is hereby **GRANTED. ACCORDINGLY, THE CIIF COMPANIES, NAMELY:**

1. Southern Luzon 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 TO BE USED ONLY FOR THE BENEFIT OF ALL COCONUT FARMERS AND FOR THE DEVELOPMENT OF THE COCONUT INDUSTRY, AND ORDERED RECONVEYED TO THE GOVERNMENT.**

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<sup>1</sup> COCOFED vs. Republic, G.R. Nos. 177857-58, 24 January 2013

**THE COURT AFFIRMS THE RESOLUTIONS ISSUED BY THE SANDIGANBAYAN ON JUNE 5, 2007 IN CIVIL CASE NO. 0033-A AND ON MAY 11, 2007 IN CIVIL CASE NO. 0033-F, THAT THERE IS NO MORE NECESSITY OF FURTHER TRIAL WITH RESPECT TO THE ISSUE OF OWNERSHIP OF (1) THE SEQUESTERED UCPB SHARES, (2) THE CIIF BLOCK OF SMC SHARES, AND (3) THE CIIF COMPANIES. AS THEY HAVE FINALLY BEEN ADJUDICATED IN THE AFOREMENTIONED PARTIAL SUMMARY JUDGMENTS DATED JULY 11, 2003 AND MAY 7, 2004.**

Then on 27 November 2013, the Supreme Court further declared that UCPB shares in the name of Eduardo Cojuangco, Jr. are owned by the Republic of the Philippines and are ordered reconveyed, the dispositive portion in part reads:

**WHEREFORE**, Part C of the appealed Partial Summary Judgment in Sandiganbayan Civil Case No. 0033-A is **AFFIRMED** with modification. As **MODIFIED**, the dispositive portion in Part C of the Sandiganbayan's Partial Summary Judgment in Civil Case No. 0033-A, shall read as follows:

C. Re: MOTION FOR PARTIAL SUMMARY JUDGMENT (RE: EDUARDO M. COJUANGCO, JR.) dated September 18, 2002 filed by Plaintiff.

3. The transfer by PCA to defendant Eduardo M. Cojuangco, Jr. of 14,400 shares of stock of FUB (later UCPB) from the "Option Shares" and the additional FUB shares subscribed and paid by PCA, consisting of

- a. Fifteen Thousand Eight Hundred Eighty-Four (15,884) shares out of the authorized but unissued shares of the bank, subscribed and paid by PCA;
- b. Sixty Four Thousand Nine Hundred Eighty (64,980) shares of the increased capital stock subscribed and paid by PCA; and
- c. Stock dividends declared pursuant to paragraph 5 and paragraph 11 (iv)(d) of the PCA-Cojuangco Agreement dated May 25, 1975 or the so-called "Cojuangco-UCPB shares"

is declared unconstitutional, hence null and void.

4. The above-mentioned shares of stock of the FUB/UCPB transferred to defendant Cojuangco are hereby declared conclusively owned by the Republic of the Philippines to be used only for the benefit of all coconut farmers and for the development of the coconut industry, and ordered reconveyed to the Government.

5. The UCPB shares of stock of the alleged fronts, nominees and dummies of defendant Eduardo M. Cojuangco, Jr. which form part of the 72.2% shares of the FUB/UCPB paid for by the PCA with public funds later charged to the coconut levy funds, particularly the CCSF, belong to the plaintiff Republic of the Philippines as their true and beneficial owners.

In January 2012, the Supreme Court ruled in favor of the government that a good portion of San Miguel Corporation shares was bought using the coconut levy funds which constitute public

money with a caveat that the money should be used solely for the benefit of the farmers and the coconut industry. The ruling became final on September 4, 2012.

The Office of the Solicitor General then filed a motion for partial entry of judgment on October 14, 2014. It likewise filed a manifestation and supplemental motion for partial entry of judgment on October 20, 2014. Both motions addressed the court's September 4, 2012 resolution which affirmed the earlier ruling dated Jan. 24, 2012 which awarded the shares to the government.

It took the KILUS Magniniyog to march from Davao City to Malacanang, Congress and the Supreme Court in November 2014 to highlight the issue once more and bring the coconut farmers' pleas to the attention of the government. In response, the Supreme Court sitting *En Banc* voted unanimously on December 2014 granting the request of the Office of the Solicitor General to issue an entry of judgment of the abovementioned resolution. The decision stamped a final seal on the ruling that the shares bought using the coconut levy funds and registered in the names of the Coconut Industry Investment Fund (CIIF), dubbed "CIIF block" of SMC shares, are owned by the government and to be used exclusively for the benefit of the coconut farmers and the development of the coconut industry. The decision on the CIIF block of San Miguel Corporation shares, its subsequent conversion to preferred shares, and the redemption by SMC had placed over 71 billion pesos in the hands of government since October 2012.

Notwithstanding the Entry of Judgment issued by the High Court there has been no significant and actual gain by the coconut farmers and farm workers or the industry up to this day. The real benefit of the coconut farmers and the industry merely gets entangled in political debates instead of its long-overdue delivery to millions of impoverished coconut farmers.

The intendment of this bill may be summed up as follows: first, to enact a positive law for the disposition and management starting with the CIIF block of shares in San Miguel Corporation; and second, by taking concrete steps towards the attainment of the original purpose of the fund which was to provide the coconut farmers with much-needed assistance and strengthen the coconut industry against the vagaries of the export markets.

This legislative measure aims to promote the development of the coconut industry through direct benefits of the marginalized coconut farmers and farm workers via the creation of the Coconut Farmers Trust Fund. The bill likewise provides better policy alternatives to resolve the continuing hardships experienced by the farmers. The mechanism for the judicious management, use, and disposition of the coconut levy funds including the UCPB shares and CIIF SMC shares as outlined in this bill serves to address with urgency the problems besetting the coconut industry, spur rural development, and alleviate the socio-economic well-being of the millions of impoverished coconut farmers.

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

  
**REP. KAKA BAG-AO**  
Lone District, Dinagat Islands

**Republic of the Philippines**  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

**SEVENTEENTH CONGRESS**  
First Regular Session

**House Bill No. 2266**

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**Introduced by REP. KAKA BAG-AO**

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

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

**SECTION 1. *Short Title.*** – This Act shall be known as the "*Coconut Farmers 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.

**CHAPTER 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:
    - (a) tills the land (owner-cultivator), or
    - (b) 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:
    - (a) leaseholder or tenant who tills or supervises the cultivation of the farm; or
    - (b) 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 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.

## **CHAPTER 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 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.

### **CHAPTER III**

#### **Coconut Farmers Trust Fund**

**SEC. 6. The Coconut Farmers Trust Fund.** – There is hereby created a trust fund to be known as the Coconut Farmers 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: *Provided*, that an aggregate amount not exceeding ten percent (10%) of the initial Trust Principal may be used during the first two years following the effectivity of this Act.
- 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 to pay for the salary of PMO personnel.

All releases from the Trust Fund approved by the Committee shall be released directly to the implementing agencies. For the avoidance of doubt, regular programs by the Philippine Coconut Authority, research and development, market promotion, farm-to-market roads, and direct lending, shall be funded through regular appropriations.

**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.

#### **CHAPTER IV**

##### **Coconut Farmers Trust Fund Committee**

**SEC. 11. *Creation of the Coconut Farmers Trust Fund Committee.*** – The Coconut Farmers 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 as prepared pursuant to Section 20 hereof.;
- 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; *Provided* that said assets may no

- longer be useful to the coconut farmers and their needs to develop their coco enterprise;
- 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. Six (6) representatives from the government who shall be serving in *ex-officio* capacity:
  - 1. Office of the President as Chair;
  - 2. Secretary of the Department of Agriculture (DA) as Vice-Chair;
  - 3. Secretary of the Department of Finance (DOF);
  - 4. Secretary of the National Anti-Poverty Commission (NAPC);
  - 5. Director-General of the National Economic Development Authority (NEDA); and
  - 6. 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.
- c. One (1) representative from a civil society organization with considerable experience and reputable track record.

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 and one (1) representative from the civil society 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. Execute, administer and implement the plans and 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.

## **CHAPTER 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 Department of Agriculture (DA), the Department of Agrarian Reform (DAR), the Department of Trade and

Industry (DTI), the Department of Science and Technology (DOST), the Department of Energy (DOE), the Department of Public Works and Highways (DPWH), the Department of Interior and Local Government (DILG), the National Anti-Poverty Commission (NAPC), the National Economic Development Authority (NEDA), and at least three (3) representatives from the farmers' groups, one each from Luzon, Visayas and Mindanao, and one civil society organization working with expertise on the industry. 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. The coconut industry strategy map shall be made basis of a five (5) year plan of programs, activities and projects for direct benefits of coconut farmers 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:

- a. The increase in the income of coconut farmers and increase coconut productivity including intercropping and livestock-raising;
- b. The promotion of coconut-based enterprises including integrated processing of coconut products and downstream products;
- c. The provision of timely and critical support to coconut farmers organization and development; and
- d. 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 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.

## **CHAPTER 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.

## **CHAPTER 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.

**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,*