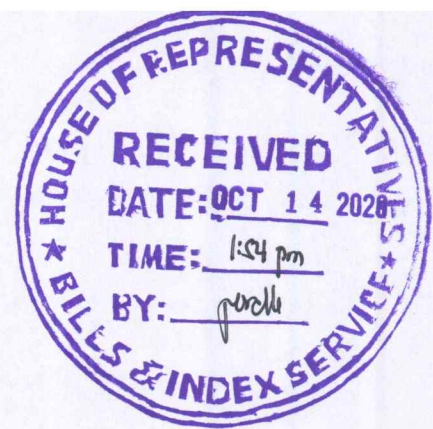


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7878



Introduced by Representative PABLO JOHN F. GARCIA

EXPLANATORY NOTE

The importance of cooperative banks in furnishing capital, credit, and other financial services to our grassroots sectors cannot be overstated. They have been instrumental in the upliftment of the quality of Filipino life and are primary allies in the fight against impoverishment. Cooperativism empowers and emboldens – a nation cannot call itself strong if the humble among its people remain feeble.

The Cooperative Development Authority (CDA) reports that as of 31 December 2018, the Philippines had 18,065 operating cooperatives.¹ As of 2019, twenty-five (25) cooperative banks are operating in the Philippines – four (4) operating nationally, eleven (11) regionally, and ten (10) provincially. Based on the records of the *Banko Sentral ng Pilipinas*, the total assets of cooperative banks amounted to PhP 21,134,817,720.00 while their total capital account stood at PhP 4,545,113,030.00 as of September 2019. Of the twenty (25) cooperative banks, all but five (5) are categorized as “large” by asset size.

This bill aims to create a more robust legal regime specifically for cooperative banks. It aims to expand on the membership, powers, management, functions, and governance of such institutions. It likewise contains provisions concerning board membership, quorum requirements, the setting of meetings, and director conduct to hold those in positions of responsibility true to their fiduciary capacity.

The bill seeks to address various issues by setting the compensation of Board Members; limiting lending authority depending on the cooperative bank’s net worth; making the control structure of such banks more flexible; providing for escheat proceedings for Samahang Nayon- and Municipal Katipunan ng mga Samahang

¹ <https://www.cda.gov.ph/resources/updates/statistics/1205-statistics-as-of-december-31-2018> (last accessed 10 February 2020).

Nayon-derived accounts; and providing tax privileges to cooperative banks as a general rule, among others.

The measure opens cooperative banks to more allied undertakings and enriches the Philippine financial system by placing them under the joint regulation of the *Banko Sentral ng Pilipinas* and the Cooperative Development Agency.

Republic Act No. 9520, which amended the Cooperative Code of the Philippines, was passed more than a decade ago. The changing economy and times compel us to strengthen cooperative banks – institutions no doubt depended on by millions of Filipinos.

The urgent passage of this bill is earnestly sought.

A stylized, handwritten signature in black ink, appearing to read 'P. Garcia'.

Rep. PABLO JOHN F. GARCIA
3rd District, Province of Cebu

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7878

Introduced by Representative PABLO JOHN F. GARCIA

**AN ACT PROVIDING FOR THE REGISTRATION, REGULATION AND
OPERATION OF COOPERATIVE BANKS AND OTHER PURPOSES**

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

CHAPTER I
DECLARATION OF POLICY AND DEFINITIONS

Section 1. *Title.* - This Act shall be known as the “**Cooperative Banking Act of 2020**”.

Section 2. *Declaration of Policy.* - It is the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance, communal unity and harnessing people power towards the attainment of economic development and social justice. The State shall encourage the private sector to undertake the actual formation and organization of cooperatives and shall create an atmosphere that is conducive to the growth and development of these cooperatives.

Further, it is hereby declared the policy of the State to:

- a. Recognize Cooperative Banks (CBs) as practical vehicles for the promotion of self-reliance and harnessing of people power towards the attainment of economic development and social justice;
- b. Encourage thrift and savings mobilization for the achievement of sustainable economic development primarily among cooperatives and their members; and
- c. Regulate and supervise the activities of CBs in order to achieve sound, stable, sustainable, and efficient operations for the protection of the public interest.

Towards these ends, the Government shall encourage and assist in the establishment of CBs in order to make credit facilities available and readily accessible on reasonable terms. The Bangko Sentral ng Pilipinas (BSP), in consultation with the Cooperative Development Authority (CDA), shall be primarily responsible for the formulation of the Implementing Rules and Regulations of this Act.

SECTION 3. *Definition of Terms.* - The following definitions shall apply within this Act:

- a. **Bangko Sentral ng Pilipinas (BSP)** – refers to the central monetary authority of the Philippines created and existing under the authority of Republic Act (R.A.) No. 7653, as amended, otherwise known as the New Central Bank Act, which provides policy directions in the areas of money, banking and credit, and exercises supervision over the operations of banks, and other financial institutions which fall under its jurisdiction.
- b. **Cooperative Bank** – refers to a bank organized under this Act and under the provisions of R.A. No. 9520, otherwise known as Philippine Cooperative Code of 2008, and prior laws, the majority shares of which are owned and controlled by the cooperative organizations, for the primary purpose of providing a wide range of financial services to cooperatives and their members and the public.
- c. **Cooperative Code** – refers to the Philippine Cooperative Code of 2008, or also known as R.A. No. 9520.
- d. **Cooperative Development Authority** – refers to the agency of the Government created under R.A. No. 6939, as amended by R.A. No. 11364, which is mandated to register, develop, regulate and supervise cooperatives.
- e. **Cooperative Organization** – refers to any cooperative whether primary, secondary or tertiary, or special types of cooperatives registered under the provisions of the R.A. No. 9520 and R.A. No. 10744, otherwise known as Credit Surety Fund Cooperative Act of 2015.
- f. **Monetary Board** – refers to the Monetary Board of the BSP.
- g. **Samahang Nasyon and Municipal Katipunan ng mga Samahang Nasyon** – refers to pre-cooperative organizations established under Presidential Decree No. 175.

CHAPTER II ORGANIZATION

SECTION 4. *Organization and Membership.* - The organization and membership of a CB shall be governed by the following provisions of this Act:

- a. **Organization** – At least five (5) cooperative organizations duly established and registered under the Cooperative Code may register a CB with the CDA, upon compliance with the requirements of and required authorization from the BSP.
- b. **Membership** – Membership in a CB shall be open to: (a) cooperatives of all types and categories; (b) individuals who are members of a member-primary cooperative, and (c) associations and organizations. Membership is either regular or associate. Regular membership shall be limited to cooperative organizations which are holders of common shares and/or preferred shares. Associate members shall be individuals or associations or organizations which are subscribing and holding preferred shares only.

Section 5. *Establishment of Cooperative Banks.* - The articles of cooperation and by-laws of a CB, or any amendment thereto, shall be registered with the CDA only when accompanied by a certificate of authority issued by the Monetary Board.

Section 6. *Establishment of Branches and Other Offices.* - The establishment of branches/branch-lite units/other banking offices by CBs shall be governed by the rules and regulations of the BSP.

CHAPTER III MANAGEMENT AND GOVERNANCE OF COOPERATIVE BANKS

SECTION 7. *Management of Cooperative Banks.* - The management of the CBs shall be governed by the rules and regulations to be promulgated by the BSP, in consultation with the CDA. To maintain the quality of bank management and accord appropriate protection to depositors and the public in general, the BSP shall prescribe the fit and proper qualifications of bank directors and officers for the purposes of this Section, giving due recognition to the unique nature and character of CBs.

The number, composition, and term of the board of directors shall be defined in the articles of cooperation and by-laws of the CB.

- a. ***Board and Committees.*** - The CB shall constitute, at a minimum, the Board of Directors, Election Committee, and Audit Committee.

The Board of Directors shall be composed of at least five (5) but not more than fifteen (15) members, at least one (1) of whom is an independent director. It refers to the body entrusted with the management of the affairs of the CB. It shall be responsible for the strategic planning, direction-setting and policy formulation activities of the CB.

The Election Committee shall refer to the committee which shall be responsible in the formulation and implementation of election rules and guidelines. It shall supervise the conduct of election, election-related activities, canvass and certify the results of the election, and decide cases relative to such election, except those involving the committee itself or its members. The members of the election committee shall be elected by the general assembly/representative assembly.

The Audit Committee shall be responsible for the oversight of financial reporting framework, internal control system, selection/appointment of an independent auditor and perform such other functions as may be required by the by-laws and existing regulations of the BSP. It shall assist the board of directors in fulfilling its overseeing responsibilities in relation to the adequacy and effectiveness of the internal audit function, implementation of corrective actions, investigation of issues/concerns within the committee's terms of reference, and establishment of a whistleblowing mechanism.

Other committees may be created by the board of directors with powers, functions, and responsibilities which shall be defined in the by-laws.

- b. ***Key Management Officers.*** - The key management officers shall be appointed by the Board and shall include but is not limited to the President,

Treasurer, Internal Auditor, or their equivalent ranks. The BSP shall prescribe the qualifications and disqualifications of the key management officers.

Section 8. Vacancy in the Board and Committees. - Any vacancy in the board of directors, other than by removal or by expiration of term, may be filled by the vote of at least a majority of the remaining directors, if still constituting a quorum; otherwise, said vacancy must be filled by the general assembly in a regular or special meeting called for that purpose. A director so elected to fill a vacancy shall serve only the unexpired term of his predecessor in office.

In case of vacancy in the committees, the board, unless otherwise provided in the by-laws, will appoint a person to fill the same, subject to the provision that the person appointed shall serve only for the unexpired portion of the vacated term.

Section 9. Compensation. - In the absence of any provisions in the by-laws fixing their compensation, the directors shall not receive any compensation except for reasonable per diems: *Provided*, however, That the directors and officers shall not be entitled to any per diem when, in the preceding calendar year, the CB reported a net loss or had a dividend rate less than the official inflation rate for the same year. Any compensation other than per diems may be granted to directors by a majority vote of the members with voting rights at a regular or special general assembly meeting specifically called for the purpose: *Provided*, That no additional compensation other than per diems shall be paid during the first year of existence of the CB.

In no case shall the total yearly compensation of directors exceed ten percent (10%) of the net income of the CB during the preceding year.

Section 10. Liability of Directors, Officers and Committee Members. - Directors, officers, and committee members, who willfully and knowingly vote for or assent to patently unlawful acts or who are guilty of gross negligence or bad faith in directing the affairs of the CB or acquire any personal or pecuniary interest in conflict with their duties as such directors, officers or committee members shall be liable jointly and severally to the CB for the full amount of damages or personal gain resulting therefrom.

Section 11. Disloyalty of Directors and Officers. - A director or officer who, by virtue of his office, acquires for himself an opportunity which should belong to the CB shall be liable for damages and must account for double the profits that otherwise would have accrued to the CB by refunding the same, unless his act has been ratified by a two-thirds (2/3) vote of all the members with voting rights. This provision shall be applicable notwithstanding the fact that the director or officer used his own funds for the venture.

Section 12. Dealings of Directors and Officers. - Dealings with directors and officers of the CB shall comply with the provisions of Section 36 of R.A. No. 8791, otherwise known as General Banking Law of 2000.

Section 13. Illegal Use of Confidential Information. - A director or officer, or an associate of a director or officer, who, for his benefit or advantage or that of an associate, makes use of confidential information that, if generally known, might

reasonably be expected to adversely affect the operations and viability of the CB, shall be held:

- a. Liable to compensate the CB for the direct losses suffered by the CB as a result of the illegal use of information; and
- b. Accountable to the CB for any direct benefit or advantage received or yet to be received by him or his associate, as a result of the transaction.

Section 14. *Bond for Faithful Performance of Duties and Obligations.* - Every officer or employee handling funds, securities, or property on behalf of a CB shall, before performing such duties, execute and deliver adequate and appropriate bond for the faithful performance of his/her duties and obligations.

Section 15. *Quorum and Voting Rights.* - In meetings of the board of directors, whether special or regular, the quorum requirements shall be one-half plus one of all the members of the board of directors. Each director shall only have one vote.

CHAPTER IV GENERAL ASSEMBLY

Section 16. *Composition of the General Assembly.* - The general assembly shall be composed of regular members who are entitled to vote under the articles of cooperation and by-laws of the CB.

Section 17. *Powers of the General Assembly.* - The general assembly shall be the highest policy-making body of the CB and shall exercise such powers as are stated in the Cooperative Code, in the articles of cooperation, and in the by-laws of the CB. The general assembly shall have the following exclusive powers which cannot be delegated:

- a. To determine and approve amendments to the articles of cooperation and by-laws;
- b. To elect or appoint the members of the board of directors, and to remove them for cause; and
- c. To approve developmental plans of the CB.

Subject to such other provisions of the Cooperative Code and only for purposes of prompt and intelligent decision-making, the general assembly may, by a three-fourths (3/4) vote of all its members with voting rights, present and constituting a quorum, delegate some of its powers to a smaller body of the CB. These powers shall be enumerated under the by-laws of the CB.

Section 18. *Meetings.* -

- a. A regular meeting shall be held annually by the general assembly on a date fixed in the by-laws, or if not so fixed, on any date within one hundred twenty (120) days after the close of each fiscal year: *Provided*, That notice of regular meetings shall be in writing which shall be sent through personal delivery,

- registered mail or other electronic means to all members of record, and posted in conspicuous places within the CB premises;
- b. Whenever necessary, a special meeting of the general assembly may be called at any time by a majority vote of the board of directors or as provided for in the by-laws: *Provided*, That a notice in writing shall be sent one (1) week prior to the meeting to all members who are entitled to vote. However, a special meeting shall be called by the board of directors after compliance with the required notice or by at least ten *per centum* (10%) of the total members who are entitled to vote to transact specific business covered by the call.
 - c. If the board fails to call a regular or a special meeting within the given period, the CDA, upon petition of ten *per centum* (10%) of all the members of the CB who are entitled to vote, and for good cause shown, shall issue an order to the petitioners directing them to call a meeting of the general assembly by giving proper notice as required in the Cooperative Code or in the by-laws;
 - d. In the case of a newly approved CB, a special general assembly shall be called, as far as practicable, within ninety (90) days from such approval;
 - e. The CDA may call a special meeting of the CB for the purpose of reporting to the members the result of any examination or other investigation of the CB affairs; and
 - f. Notice of any meeting may be waived, expressly or impliedly, by any member.

Section 19. Quorum and Voting System. - The quorum requirement for general assembly meetings, whether special or regular, shall be one-half plus one of the number of voting shares of all the members in good standing. In the meetings of the board of directors, whether special or regular, the quorum requirement shall one-half plus one of all the members of the board of directors. Each director shall only have one vote.

To amend its articles of cooperation and by-laws, at least three-fourths (3/4) vote of all the members with voting rights, present and constituting a quorum shall be required. All other voting requirements shall be prescribed by the BSP.

The voting rights of the members shall be proportionate to the number of their paid-up shares.

CHAPTER V POWERS, FUNCTIONS, AND ALLIED UNDERTAKINGS

Section 20. Powers and Functions of Cooperative Banks. - CBs shall primarily provide a wide range of financial services to cooperative organizations, their members, and to the public. A CB may perform any or all of the following banking services:

- a. Extend loans and advances primarily for the purpose of meeting the normal credit needs of farmers, fishermen, or farm families as well as cooperatives, merchants, and private and public employees;
- b. Accept savings and time deposits;
- c. Act as correspondent of other financial institutions;
- d. Discount and Rediscount paper with the Land Bank of the Philippines, Development Bank of the Philippines or any other bank, including its branches

and agencies. Said banks shall specify the nature of paper deemed acceptable for rediscounting, as well as the rediscount rate to be charged by any of these banks;

- e. Act as collection agent;
- f. Acquire readily marketable bonds and other debt securities;
- g. Buy and sell foreign exchange; and
- h. Offer other banking services as provided in Section 53 of R.A. No. 8791.

In addition to the powers granted to CBs by this Act and other existing laws, any CB may perform any or all of the banking services offered by other types of banks subject to the prior approval of the BSP.

Section 21. *Investment in Allied Undertakings.* - Subject to the requirements and restrictions as may be imposed by the Monetary Board under its existing rules and regulations, CBs may invest in equities of allied undertakings which may include, but are not limited to the following:

- a. Banks, financial institutions and non-bank financial intermediaries;
- b. Warehousing and other post-harvest facilities;
- c. Fertilizer and agricultural chemical and pesticides distribution;
- d. Farm equipment distribution;
- e. Trucking and transportation of agricultural products;
- f. Marketing of agricultural products;
- g. Leasing;
- h. Automated teller machine (ATM) networks;
- i. Public transportation;
- j. Financial technology; and
- k. Other undertakings as may be determined by the Monetary Board.

Section 22. *Limitations on Lending Authority.* - Except as the Monetary Board may otherwise prescribe, the direct indebtedness to CBs of any person, company, corporation, or firm, including the indebtedness of members of a partnership and association, for money borrowed, excluding: loans secured by obligations of the BSP; loans fully guaranteed by the Government as to the payment of principal and interest; loans to the extent covered by the hold-out on, or assignment of, deposits maintained in the lending CB and held in the Philippines; and other loans or credits as the Monetary Board may, from time to time, specify non-risk assets, shall in no time exceed twenty five percent (25%) of unimpaired capital and surplus of the CB.

CHAPTER VI CAPITALIZATION AND CAPITAL STRUCTURE

Section 23. *Capital Requirement for Cooperative Banks.* - A CB shall have a minimum paid-up capital in such amount as may be required by the BSP. The BSP may prescribe rules and regulations on the types of shares a CB may issue, including the terms thereof and rights appurtenant thereto to determine compliance with laws and regulations governing capital and equity structure of banks. *Provided, That* CBs shall issue par value shares only.

No cooperative member shall own or control more than forty percent (40%) of the total capital contributions of a CB. This limitation shall also apply to cooperatives purchasing government-held preferred shares of CBs which are converted into common shares.

The maximum allocation of preferred share shall not be more than forty percent (40%) of the total capitalization.

Section 24. Barrio Savings Fund (BSF), Barrio Guarantee Fund (BGF), Cooperative Development Loan Fund (CDLF), Cooperative Marketing Program (CMP), and other funds administered by CDA. - In order to augment the capitalization of CBs, the aforementioned funds collected/deducted by various CBs throughout the country from the loan proceeds of farmer borrowers in compliance with P.D. 175, which are still floating and outstanding either as active or dormant accounts in the books of those banks, shall be converted as capital of the CB located in the province where the depository banks of the BSF and BGF are located. The BSP, in coordination with the CDA, shall come up with the implementing guidelines on how to credit the owners of those. Those whose owners could not be located or identified shall be subject to escheat.

Section 25. Samahang Nayon and Municipal Katipunan ng mga Samahang Nayon. - Samahang Nayon (SN) and Municipal Katipunan ng mga Samahang Nayon (MKN) which held common shares of CBs prior to the effectivity of R.A. No. 9520 shall apply for conversion to cooperatives in order to maintain their status as regular members of CBs: *Provided*, That the CBs shall exert efforts to inform and assist the SN and MKN to convert within a period of five (5) years from the effectivity of this Act. Upon failure of the SN and MKN to finally convert to a cooperative within said period, the funds held in the name of such SN and MKN shall be subject to escheat.

Section 26. Funds held in the name of cooperatives whose certificates of registration have already been cancelled. - The funds or common shares in CBs held in the name of cooperatives whose certificates of registration have already been cancelled by the CDA and which failed to liquidate such funds or shares during its liquidation shall remain in said CBs. In case of dissolution and liquidation of the CBs, such funds or shares shall be subject to escheat.

CHAPTER VII SUPERVISION

Section 27. Supervision of Cooperative Banks. - All CBs shall be under the supervision of the BSP; *Provided*, however, that the CDA shall monitor the CBs' compliance with cooperative laws, rules, and regulations. With respect to the provisions and governance of the CBs, the provisions of the banking laws, rules, and regulations shall prevail, notwithstanding Section 71 of R.A. No. 8791.

CHAPTER VIII PRIVILEGES AND INCENTIVES

Section 28. Privileges of Cooperative Banks. - CBs registered under this Act and under the Cooperative Code shall be given the same privileges and incentives granted

to rural banks, thrift banks, commercial banks, and all other banks to rediscount notes with the BSP, the Land Bank of the Philippines and other government banks without affecting in any way the provisions of this Act.

The same privileges and incentives generally granted to cooperatives under the Cooperative Code and other prior laws including exemption from all national, city, provincial, municipal or barangay taxes, fees and charges of whatever nature and description shall be granted to CBs organized under this Act.. *Provided*, however, that when a CB has reached an undivided net savings of more than ONE HUNDRED MILLION PESOS (P100,000,000.00), transactions to non-member will become taxable.

Section 29. *Separability Clause.* - If any provision or section of this Act or the application thereof to any person or circumstance is held invalid, the other provisions or sections of this Act shall remain valid, and the application of such remaining provisions or sections to the other persons or circumstances shall not be affected thereby.

Section 30. *Repealing Clause.* - All laws, issuances, rules, and regulations inconsistent with this Act are hereby repealed accordingly.

Section 31. *Effectivity.* - This Act shall take effect fifteen (15) days from the date of its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,