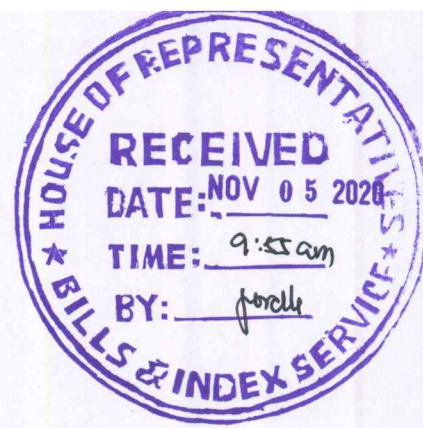


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. 7959



Introduced by REP. JOEY SARTE SALCEDA

AN ACT
GRANTING A CHARTER TO THE PHILIPPINE COMMODITY CREDIT
CORPORATION, SETTING UP MECHANISMS FOR THE MANAGEMENT
OF FARM SURPLUS, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The certainty and stability of income flows is critical in making the agriculture sector a thriving driver of economic growth. Some 22.5% of the country's labor force are employed in the sector, according to recent estimates by the International Labor Organization¹ (ILO), making this sector critical in addressing issues of wage security, income inequality, and rural poverty.

One of the key deficiencies of the Philippine agriculture system is the lack of a mechanism for managing sudden fluctuations in commodity prices and farm income. Just last year, the country experienced a dramatic surplus of 2 million kilograms of mangoes, a commodity that can be easily preserved, processed, and packaged for export². Earlier this year, Luzon also faced surpluses of pork³ and vegetables⁴.

In a country where 64.1% of total Filipino households are food insecure⁵, and where, due to the COVID-19 pandemic, an estimated 5.2 million Filipino families experienced involuntary hunger – hunger due to lack of food to eat – at least once in the past three months⁶, farm surpluses are clearly not so much a problem of lack of demand, as they are a lack of coordination and allocation.

Farm surpluses also impact farmer income negatively. They also disincentivize farmers from producing adequate food to meet the country's nutritional needs.

¹ Modeled estimates from the World Bank collection of development indicators

² <https://www.bbc.com/news/world-asia-48581857>

³ <http://www.pcaf.da.gov.ph/index.php/2020/04/29/da-to-help-transport-surplus-pork-in-mindanao-to-luzon-visayas-repost/>

⁴ <https://news.abs-cbn.com/news/03/28/20/da-to-help-farmers-sell-surplus-crops-amid-luzon-lockdown>

⁵

http://enutrition.fnri.dost.gov.ph/site/preview.php?xx=%20uploads/2019%20ENNS%20Results%20Dissemination_Household%20Food%20Security%20%20Status.pdf

⁶ SWS July 3-6, 2020 National Mobile Phone Survey – Report No. 5

Thus far, the interventions of the Department of Agriculture, while laudable, have been sporadic and centered on marketing and transportation assistance. Without an institutionalized system for buying up farm surplus, preserving them for future use or as “commodity credits,” these scattered efforts will continue to have limited reach, and can only be undertaken as far as the limited field operations capacity of the Department will allow.

This bill aims to address the lack of a systematic manner of addressing farm surplus by chartering the Philippine Commodity Credit Corporation, a government-owned and -controlled corporation which shall be under the Department of Agriculture.

The Corporation shall have the following main functions:

- (a) Income Support and Disaster Assistance – Income support and disaster assistance programs of the Corporation shall provide financial assistance to protect farmers from fluctuations in market conditions and unexpected natural or man-made disasters;
- (b) Conservation –The Corporation shall offer a variety of financial and economic incentives to conserve natural resources on the nation’s privately owned agricultural lands. These programs shall focus on reducing erosion, protecting streams and rivers, restoring and establishing fish and wildlife habitats, and improving air quality through several conservation incentive payments, technical assistance, and cost-share programs;
- (c) Commodity Operations and Food Aid – The Corporation shall undertake programs to help achieve domestic farm program price support objectives, establish a system of accepting surplus produce and processing and preserving them as “commodity credit” for farmers and for food aid programs; produce a uniform regulatory system for storing agricultural products, and ensure the timely provision of food products for domestic food assistance programs as may be determined by the Secretary in coordination with relevant agencies such as the Department of Social Welfare and Development (DSWD), and market development programs; and
- (d) Foreign Market Development –The Corporation shall undertake programs to open new markets and facilitate global competitiveness of the Philippine agriculture sector. Such programs shall include support for economic development and trade capacity building of the domestic agriculture sector.

How will the farm surplus management system work?

Although this charter grants the Corporation a broad range of powers, its principal purpose shall be to establish a surplus management system. The Corporation shall establish operations to accept surplus produce to support farm price. The Corporation may issue “commodity receipts” in exchange for the surplus. The Corporation may either sell the surplus in other markets, or process and preserve them for future use, or for food aid operations of other government agencies.

These “commodity receipts” can be redeemed either in kind – in the form of processed, warehoused, or preserved commodities currently held by the Corporation – or in other forms of equivalent and fair payment that the Corporation may deem proper. The Corporation may set the guidelines necessary to make this process efficient and cost-effective.

The system will not only help manage farm prices; it will also ensure that no farm surplus is wasted, and that food produced in the country by its farmers eventually helps address the country’s nutritional needs.

The Corporation's store of surplus food will also be critical during calamities, where food relief is needed.

In view of the benefits of establishing this system to the growth and stability of the country's agricultural sector and given its role in addressing the country's nutritional demands, the approval of this bill is urgently sought.



JOEY SARTE SALCEDA

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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 “Commodity Credit System Act”

SEC. 2. *Creation and Purposes.* – For the purpose of stabilizing, supporting, and protecting farm income and prices, of assisting in the maintenance of balanced and adequate supplies of agricultural commodities, products thereof, foods, feeds, and fibers (hereinafter collectively referred to as “agricultural commodities”), and of facilitating the orderly distribution of agricultural commodities, there is hereby created a body corporate to be known as Philippine Commodity Credit Corporation (hereinafter referred to as the “Corporation”), which shall be an agency and instrumentality of the Philippine Government, within the Department of Agriculture, subject to the general supervision and direction of the Secretary of Agriculture (hereinafter referred to as the “Secretary”).

The objectives of this Act are as follows:

- (a) **Income Support and Disaster Assistance** – Income support and disaster assistance programs of the Corporation shall provide financial assistance to protect farmers from fluctuations in market conditions and unexpected natural or man-made disasters;
- (b) **Conservation** – The Corporation shall offer a variety of financial and economic incentives to conserve natural resources on the nation’s privately owned agricultural lands. These programs shall focus on reducing erosion, protecting streams and rivers, restoring and establishing fish and wildlife habitats, and improving air quality through several conservation incentive payments, technical assistance, and cost-share programs;
- (c) **Commodity Operations and Food Aid** – The Corporation shall undertake programs to help achieve domestic farm program price support objectives, establish a system of accepting surplus produce and processing and preserving them as “commodity credit” for farmers and for food aid programs; produce a uniform regulatory system for its operations to store agricultural products, and ensure the timely provision of food products for domestic food assistance programs as may be determined by the

- Secretary in coordination with relevant agencies such as the Department of Social Welfare and Development (DSWD), and market development programs; and
- (d) Foreign Market Development – The Corporation shall undertake programs to open new markets and facilitate global competitiveness of the Philippine agriculture sector. Such programs shall include support for economic development and trade capacity building of the domestic agriculture sector.

SEC. 3 *Office.* – The Corporation may establish offices in such place or places as it may deem necessary or desirable in the conduct of its business.

SEC. 4. *General powers.* – The Corporation

- (a) Shall have succession in its corporate name.
- (b) May adopt, alter, and use a corporate seal, which shall be judicially noticed.
- (c) May sue and be sued, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property.
- (d) May adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted, and the powers vested in it may be exercised.
- (e) Shall have all the rights, privileges, and immunities of the Philippine Government with respect to the right to priority of payment with respect to debts due from insolvent, deceased, or bankrupt debtors. The Corporation may assert such rights, privileges, and immunities in any suit, action, or proceeding.
- (f) Shall be entitled to the use of the Philippine Government mailing privileges in the same manner and upon the same conditions as the executive departments of the national government.
- (g) May enter into and carry out such contracts or agreements as are necessary in the conduct of its business
- (h) May contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control. The Corporation shall not have power to acquire real property or any interest therein except that it may (a) rent or lease office space necessary for the conduct of its business and (b) acquire real property or any interest therein for the purpose of providing storage adequate to carry out effectively and efficiently any of the Corporation's programs, or of securing or discharging obligations owing to the Corporation, or of otherwise protecting the financial interests of the Corporation: Provided, That the authority contained in this subsection (h) shall not be utilized by the Corporation for the purpose of acquiring real property, or any interest therein, in order to provide storage facilities for any commodity unless the Corporation determines that existing privately owned storage facilities for such commodity in the area concerned are not adequate: Provided further, That no refrigerated cold storage facilities shall be constructed or purchased except with funds specially provided by Congress for that purpose: And provided further, That any contract entered into by the Corporation for the use of a storage facility shall provide at least that (1) the rental rate charged for an extended term in excess of one year shall be at an annual rate less than that which is charged for a one-year contract, (2) any obligation of the Corporation to pay for the use of any space in a facility shall be relieved to the extent that the Corporation does not use the space and payment is made by another person for the use of such space, and (3) if the Corporation determines that it no longer needs the space reserved in the facility, the Corporation

may be relieved for the remaining term of the contract, of its obligations to an extent and in a manner that will provide significant savings to the Corporation while permitting the owner of the facility reasonable time to lease such space to another person: And provided further, That nothing contained in this subsection (h) shall limit the duty of the Corporation, to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, to utilize the usual and customary channels, facilities, and arrangements of trade and commerce in the warehousing of commodities: And provided further, That to encourage the storage of grain on farms, where it can be stored at the lowest cost, the Corporation may make loans to grain growers needing storage facilities when such growers shall apply to the Corporation for financing the construction or purchase of suitable storage, and these loans shall be deducted from the proceeds of price support loans or purchase agreements made between the Corporation and the growers, except that the Secretary shall make such loans in areas in which the Secretary determines that there is a deficiency of such storage.

- (i) May borrow money subject to any provision of law applicable to the Corporation: Provided, That the total of all money borrowed by the Corporation, other than trust deposits and advances received on sales, shall not at any time exceed in the aggregate a cap annually set the Secretary of Finance. The Corporation shall at all times reserve a sufficient amount of its authorized borrowing power which, together with other funds available to the Corporation, will enable it to purchase, in accordance with its contracts with lending agencies, notes, or other obligations evidencing loans made by such agencies under the Corporation's programs.
- (j) Shall determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid.
- (k) Shall have authority to make final and conclusive settlement and adjustment of any claims by or against the Corporation or the accounts of its fiscal officers.
- (l) May make such loans and advances of its funds as are necessary in the conduct of its business.
- (m) Shall have such powers as may be necessary or appropriate for the exercise of the powers specifically vested in the Corporation, and all such incidental powers as are customary in corporations generally; but any research financed by the Corporation shall relate to the conservation or disposal of commodities owned or controlled by the Corporation and shall be conducted in collaboration with research agencies of the Department of Agriculture.

Notwithstanding any other provision of this Act, the Corporation may, in the exercise of its power to remove and dispose of surplus agricultural commodities, export, or cause to be exported, not to exceed such amounts of commodities owned by the Corporation as will enable the Corporation to finance research and development of external combustion engines using fuel other than that derived from petroleum and petroleum products.

SEC. 5. *Specific powers.* – In the fulfillment of its purposes and in carrying out its annual budget programs submitted to and approved by the Congress, the Corporation is authorized to use its general powers only to –

- (a) Support the prices of agricultural commodities (other than tobacco) through loans, purchases, the issuance of commodity receipts, payments, and other operations.
- (b) Make available materials and facilities required in connection with the production and marketing of agricultural commodities (other than tobacco).

- (c) Procure agricultural commodities (other than tobacco) for sale to other Government agencies, foreign governments, and domestic, foreign, or international relief or rehabilitation agencies, and to meet domestic requirements.
- (d) Remove and dispose of or aid in the removal or disposition of surplus agricultural commodities (other than tobacco).
- (e) Increase the domestic consumption of agricultural commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities.
- (f) Export or cause to be exported, or aid in the development of foreign markets for, agricultural commodities (other than tobacco) (including fish and fish products, without regard to whether such fish are harvested in aquacultural operations).
- (g) Carry out conservation or environmental programs authorized by law.
- (h) Carry out such other operations as the Congress may specifically authorize or provide for.

In the Corporation's purchasing and selling operations with respect to agricultural commodities (other than tobacco) (except sales to other Government agencies), and in the warehousing, transporting, processing, or handling of agricultural commodities (other than tobacco), the Corporation shall, to the maximum extent practicable consistent with the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, utilize the usual and customary channels, facilities, and arrangements of trade and commerce (including, at the option of the Corporation, the use of private sector entities).

SEC. 6. *Existing statutes applicable to the corporation.* – The national statutes applicable to duly-registered government corporations shall be applicable to the Corporation.

SEC. 7. *Capital stock.* – The Corporation shall have a capital stock to be set by the Secretary of Finance in the Implementing Rules and Regulations of this Act, and which shall be subscribed in the manner set by the same. Such subscription shall be deemed to be fully paid by the transfer of assets to the Corporation. The Corporation shall pay interest to the National Treasury on the amount of its capital stock, and on the amount of the obligations of the Corporation purchased by the Treasury, at such rates as may be determined by the Secretary of the Finance to be appropriate in view of the terms for which such amounts are made available to the Corporation.

SEC. 8. *Funds.* – The Corporation is authorized to use in the conduct of its business all its funds and other assets, including capital and net earnings therefrom, and all funds and other assets, which have been or may hereafter be transferred or allocated to, borrowed by, or otherwise acquired by it.

SEC. 9. *Board of Directors and Advisory Board.* –

- (a) The management of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board"), subject to the general supervision and direction of the Secretary. The Secretary shall be an ex officio director and shall serve as Chairman of the Board. The Board shall consist of seven members (in addition to the Secretary), who shall be appointed by the President. In addition to their duties as members of the Board, such appointed members shall perform such other duties as may be prescribed by the Secretary.

Each appointed member of the Board shall receive compensation at such rate not in excess of the maximum then payable under existing law, as may be fixed by the Secretary, except that any such member who holds another office or position under the Government the compensation for which exceeds such rate may elect to receive compensation at the rate provided for such other office or position in lieu of the compensation provided by this section.

A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority vote of those present.

- (b) In addition to the Board of Directors there shall be an advisory board reflecting broad agricultural and business experience in its membership and consisting of five members who shall be appointed by the President, and who shall serve at the pleasure of the President. Not more than three of such members shall belong to the same political party.

The advisory board shall meet at the call of the Secretary, who shall require it to meet not less often than once each ninety days; shall survey the general policies of the Corporation, including its policies in connection with the purchase, storage, and sale of commodities, and the operation of lending and price-support programs; and shall advise the Secretary with respect thereto.

Members of the advisory board shall receive for their services as members compensation of not to exceed per diems set by the Board when actually engaged in the performance of their duties as such, together with their necessary traveling expenses while going to and coming from meetings.

Sec. 10. *Personnel of Corporation.* – The Secretary shall appoint such officers and employees as may be necessary for the conduct of business of the Corporation, define their authority and duties, delegate to them such of the powers vested in the Corporation as he may determine. With the exception of experts, appointments shall be made pursuant to the civil service laws.

SEC. 11. *Cooperation with other government agencies.* – The Corporation may, with the consent of the agency concerned, accept, and utilize, on a compensated or uncompensated basis, the officers, employees, services, facilities, and information of any agency of the Government. The Corporation may allot to any bureau, office, administration, or other agency of the Department of Agriculture or transfer to such other agencies as it may request to assist it in the conduct of its business any of the funds available to it for administrative expenses.

SEC. 12. *Utilization of farmers associations and trade facilities.* – The Corporation may, in the conduct of its business, utilize on a contract or fee basis, committees or associations of producers, producer-owned and producer-controlled cooperative associations, and trade facilities.

SEC. 13. *Records and annual report.* – The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation, a copy of which shall be forwarded by the Secretary of Agriculture to the President for transmission to the Congress. In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over Ten Million Pesos (P10,000,000.00) made under

section 5 or 11 during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Government.

SEC. 14. *Management of conflicts of interest.* – Laws, rules, and regulations on conflicts of interest of government officials shall apply to all contracts or agreements of the Corporation, except contracts or agreements of a kind which the Corporation may enter into with farmers participating in a program of the Corporation.

SEC. 15. *Penal provisions.* –

- (a) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining for himself or another, money, property, or anything of value, under this Act, or under any other Act applicable to the Corporation, shall, upon conviction thereof, be punished by a fine of not more than one million pesos (P1,000,000) or by imprisonment for not more than five years, or both.
- (b) Whoever, being connected in any capacity with the Corporation or any of its programs –
 - i. embezzles, abstracts, purloins, or willfully misapplies any money, funds, securities, or other things of value, whether belonging to the Corporation or pledged, or otherwise entrusted to it; or
 - ii. with intent to defraud the Corporation or any other body, politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of, or to, the Corporation, or draws any order, or issues, puts forth or assigns any note or other obligation or draft, mortgage, judgment, or decree thereof; or
 - iii. with intent to defraud the Corporation, participates or shares in, or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of the Corporation, shall, upon conviction thereof, be punished by a fine of not more than one million pesos (P1,000,000) or by imprisonment for not more than five years, or both.
- (c) Whoever shall willfully steal, conceal, remove, dispose of, or convert to his own use or to that of another any property owned or held by, or mortgaged or pledged to, the Corporation, or any property mortgaged or pledged as security for any promissory note, or other evidence of indebtedness, which the Corporation has guaranteed or is obligated to purchase upon tender, shall, upon conviction thereof, if such property be of any amount or value in excess of ten thousand pesos (P10,000), be punished by a fine of not more than one million pesos (P1,000,000) or by imprisonment for not more than five years, or both, and, if such property be of an amount or value of ten thousand pesos (P10,000) or less, be punished by a fine of not more than one hundred thousand pesos (P100,000) or by imprisonment for not more than one year, or both.
- (d) Whoever conspires with another to accomplish any of the acts made unlawful by the preceding provisions of this section shall, upon conviction thereof, be subject to the same fine or imprisonment, or both, as is applicable in the case of conviction for doing such unlawful acts.
- (e) All the general penal statutes relating to crimes and offenses against the Republic of the Philippines shall apply with respect to the Corporation, its property, money, contracts and agreements, employees, and operations.

- (f) No individual, association, partnership, or corporation shall use the words “Philippine Commodity Credit Corporation” or any combination of the same, as the name or a part thereof under which he or it shall do or purport to do business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred thousand pesos (P100,000) or by imprisonment for not more than one year, or both.

SEC. 16. *Release of innocent purchasers of converted goods.* – A buyer in the ordinary course of business of fungible goods heretofore or hereafter sold and physically delivered by a warehouseman or other dealer who was regularly engaged in the business of buying and selling such goods shall take or be deemed to have taken such goods free of any claim, existing or hereafter arising, by Commodity Credit Corporation, based on the want of authority in the seller to sell such goods, provided the buyer purchased such goods for value in good faith and did not know or have reason to know of any defect in the seller’s authority to sell such goods. To be entitled to relief under this section a buyer must assert as an affirmative defense and establish by a preponderance of the evidence the facts necessary to entitle him to such relief.

SEC. 17. *Corporate Governance.* – The corporate governance and disclosure provisions of Republic Act No. 10149 or the “GOCC Governance Act of 2011” shall apply to the Corporation.

SEC. 18. *Implementing Rules and Regulations.* – Within ninety (90) days after the effectivity of this Act, the Secretary of Agriculture and the Secretary of Finance shall jointly promulgate the rules and regulations necessary for its implementation. Supplementary rules and regulations, as are authorized by this Act, may be issued by either or both Secretaries as may be appropriate and necessary.

SEC. 19 *Separability Clause.* – If any part or provision of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 20. *Repealing Clause.* – All laws, decrees, orders, rules, and regulations inconsistent with the provisions of this Decree are hereby repealed or modified accordingly.

SEC. 21. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any newspaper of general circulation.

Approved,