



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS

Second Regular Session

House Bill No. **8044**

Introduced by
Philreca Party-List Representative Presley C. De Jesus,
APEC Party-List Representative Sergio C. Dagooc,
Ako Padayon Pilipino Party-List Representative Adriano A. Ebcas,
RECOBODA Party-List Representative Godofredo N. Guya

EXPLANATORY NOTE

In the case of *Philippine Rural Electric Cooperatives Association, Inc. (PHILRECA) v. Secretary of the Department of Interior and Local Government (DILG)*, the Supreme Court ruled against the petitioner's tax exemption claim pursuant to Presidential Decree No. 269. In its decision, the Court focused on the distinctions between electric cooperatives and cooperatives which fall under R.A. 6938. The main points made by the Court are:

1. The amount of contribution made per capital required;
2. Government supervision over electric cooperatives; and
3. Withdrawal of tax exemption for cooperatives not registered under R.A. 6938.

However, electric cooperatives registered under R.A. 6938 are still afforded tax exemption despite the divergence in the above-mentioned factors. There is undoubtedly minimal to no actual variance between the two cooperatives, aside from the fact of its registration under R.A. 6938. It is noteworthy to mention that electric cooperatives are naturally and inherently non-stock, non-profit entities, whose main purpose is to provide electricity to its members. There is clearly no reasonable distinction between cooperatives registered under the R.A. 6938 and electric cooperatives, hence violative of Sec. 1, Article III of the 1987 Constitution¹.

¹ Sec. 1, Art.III, 1987 Constitution. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

Sec. 13 of R.A. 10531 recognizes the right of electric cooperatives to preferential rights granted under R.A. 7160, otherwise known as the Local Government Code (LGC). This specifically pertains to Sec. 193², the provision that provides for the withdrawal of tax exemption on all entities except cooperatives registered under the Cooperative Development Authority. R.A. 10531 was enacted in 2012, whereas the R.A. 7160 was enacted in 1991. The provision has clearly repealed the withdrawal of tax exemption under the LGC and is reinforced by Section 18 of R.A. 10531, which states, *to wit*:

1 SEC. 18. Repealing Clause. – Article 132(3) of Republic Act No. 9520 and Section 30 of
2 Republic Act No. 9136 (EPIRA) on NEA's authorized capital stock are hereby repealed.
3 **Any other provision of law, presidential decree, executive order, or rules and**
4 **regulations inconsistent with the provisions of this Act or with the rules and**
5 **regulations issued pursuant thereto are hereby repealed or modified**
6 **accordingly.**
7

Despite the enactment of R.A. No 10531 and the corresponding grant of aforementioned preferential rights, disputes still arise with regard to the interpretation of the amended Section 32-A (c) of P.D. 269. We have also established that there is fundamentally no distinction between electric cooperatives and any other form of cooperative aside from its registration under R.A. 6938. There is a need to clear up the misinterpretation of the said provision to save our electric consumers from shouldering unnecessary real property taxes in their electricity bills. There is a need to pass this House Bill.

Real Property Tax (“RPT”) imposes a financial burden to electric consumer as part of the electric bill’s passed on charges. The business of an electric cooperative is imbued with public interest which gives life to national economic activity and promotes modernization and technological advancement in rural areas. Hence, if the assets used by the electric cooperatives are burdened with these RPTs, the end result would be an increase in electricity bills paid by the electric end-users.

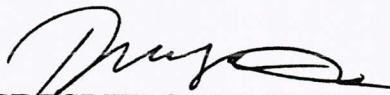
Electric Cooperatives mostly serve residential end-users. The consequence of serving residential consumers as opposed to commercial consumers is that there is a need for longer distribution lines and more distribution poles in the former as opposed to commercial areas which cater to a limited area with higher electricity sales due to higher consumption. Hence, the cost of constructing distribution facilities in residential areas require more capital while barely increasing its electricity sales. Both the cost of construction and real property taxes form part of the electricity bill of our fellow Filipinos, eventually resulting to a higher charge rate per kilowatt hour.

This House Bill aims to protect the interests of *member consumer owners* (MCOs) and all electric consumers. This bill will also clarify the issue on tax exemption granted to the electric cooperatives under prevailing laws. With the current COVID-19 pandemic, there has been an increase in unemployment and cessation of business operations throughout the country. This fact has proven to be a burden to pay for utility costs and basic sustenance. The least we could do is to relieve our *kababayans* from further

² SECTION 193. Withdrawal of Tax Exemption Privileges. – Unless otherwise provided in this Code, tax exemptions or incentives granted to, or presently enjoyed by all persons, whether natural or juridical, including government-owned or -controlled corporations, except local water districts, cooperatives duly registered under R.A. No. 6938, non-stock and non-profit hospitals and educational institutions, are hereby withdrawn upon the effectivity of this Code.

financial distress. The Filipino people deserve better; they deserve affordable electricity.

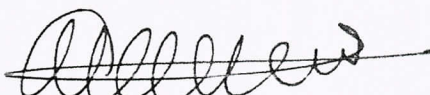
In view of the foregoing, the approval of this bill is earnestly sought.



PRESLEY C. DE JESUS
PHILRECA Party-List Representative



SERGIO C. DAGOOC
APEC Party-List Representative



ADRIANO A. EBCAS
Ako Padayon Pilipino Party-List Representative



GODOFREDO N. GUYA
RECOBODA Party-List Representative



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**“AN ACT
PROVIDING FOR THE GRANT OF TAX EXEMPTION ON REAL
PROPERTY TAXES IMPOSED ON MACHINERIES OWNED OR
CONTROLLED BY NON-STOCK NON-PROFIT DISTRIBUTION
UTILITIES”**

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

1 **SECTION 1. Short Title.** – This Act shall be known as the “Non-Stock Non-
2 Profit Distribution Utility Real Property Tax Exemption Act”.

3 **SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State
4 to:

- 5 (a) ensure the quality, reliability, security and affordability of the supply of electric
6 power to achieve the lowest cost for end users of electricity;
7 (b) to provide the general public reasonable prices for use of electricity;
8 (c) to ensure the continuity of rural electrification program and
9 (d) to promote the total electrification of the country and providing access to
10 electricity for all Filipinos.

11
12 **SECTION 3. Scope.** – This Act shall apply to all non-stock non-profit electric
13 cooperatives organized and registered under Presidential Decree No. 269, as
14 amended.

1 **SECTION 4. *Real Property Tax Exemption of Machineries attached to the***
2 ***soil.*** – All machineries attached to the soil and owned or controlled by electric
3 cooperatives which are used for the distribution of electricity and its operations shall
4 be exempt from real property taxes: *Provided*, that machineries under this Act pertain
5 to those defined in Section 199(o) of RA No. 7160, otherwise known as the Local
6 Government Code of 1991: *Provided further*, that such machineries are not
7 encumbered by any lien or mortgage agreement: *Provided finally*, that the electric
8 cooperative claiming real property tax exemption shall be organized and registered
9 under the National Electrification Administration (NEA).

10 **SECTION 5. *Role of the National Electrification Administration.*** – The
11 NEA shall require all duly registered non-stock non-profit electric cooperatives to
12 submit proof of ownership or control over the machineries referred to in the preceding
13 provision. After the compliance of the electric cooperative, the NEA shall
14 communicate with the corresponding local government unit the eligibility of the
15 electric cooperative for the tax exemption.

16 **SECTION 6. *Repealing Clause.*** - All laws, decrees, orders, rules and regulations,
17 or parts thereof, inconsistent with the provisions of this Act are hereby amended or
18 repealed accordingly.

19 **SECTION 7. *Separability Clause.*** - The provisions of this Act are hereby declared
20 separable. In the event that any provision hereof is rendered unconstitutional, those
21 that are not affected shall remain valid and effective.

22 **SECTION 8. *Effectivity.*** - This Act shall take effect fifteen (15) days following its
23 publication in the Official Gazette or a newspaper of general circulation

24 **Approved.**