

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P3:03

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SENATE

S. No. 239

Introduced by Senator S. R. Osmeña III

EXPLANATORY NOTE

The establishment of the Comprehensive Agrarian Reform Program (CARP) under Proclamation No. 131, Executive Order No. 229, Republic Act No. 6657 and other related laws would not have been complete without the establishment of a system for administrative adjudication to settle controversies arising from the implementation of the laws.

Expectedly, a piece of social legislation which limits property rights and distributes land would generate numerous disputes. To address this concern, the Department of Agrarian Reform Adjudication Board (DARAB) was created under Executive Order No. 129-A dated July 26, 1987. This quasi-judicial body has primary jurisdiction of hearing and determining all agrarian disputes except those pertaining to the determination of just compensation and resolution of criminal offenses arising from the implementation of agrarian laws.

The DARAB affords the disadvantaged agrarian reform beneficiary an expeditious and inexpensive mode of resolving conflict. Its proceedings are summary in nature and non-adversarial in character.

The DARAB is under the Office of the Secretary of Agrarian Reform and is composed of seven (7) members. Four (4) of them are from the Department of Agrarian Reform (DAR) serving in an ex-officio capacity, namely: the Secretary as Chairman, the Assistant Secretary for Legal Affairs as Vice-Chairman, and the Undersecretaries for External Affairs and for Finance Management and Administration, respectively, as members. The rest are regular members, who are appointed by the President.

It has been observed that the top officials of DAR sitting as members of DARAB, decide on matters involving the performance of their duties done in a different capacity. The impartiality of DARAB has been questioned due to this arrangement.

In addition, the DARAB budget is incorporated in the budget of the Office of the DAR Secretary. Aside from being inadequate, its budget is subject to DAR's allocation as approved by Congress.

This bill seeks to remedy the situation by creating an independent body, to be known as the National Agrarian Reform Adjudication Commission (NARAC). It shall be composed of a Chairman and eleven (11) Commissioners, who are all appointed by the President upon recommendation of the DAR Secretary.

The NARAC shall have jurisdiction over all agrarian reform disputes. It sits en banc only for the purposes of promulgating rules of procedure and formulating policies. Its adjudicatory functions are exercised through four (4) divisions, which act independently of each other.

Each division has Provincial Agrarian Reform Adjudicators (PARADs), which have exclusive and original jurisdiction over all agrarian disputes. The decisions of the PARADs are appealable to NARAC and thereafter to the Supreme Court by a petition for certiorari, unlike those of the DARAB which are appealable to the Court of Appeals.

To ensure compliance with the reglementary period for deciding cases, the bill requires adjudicators to execute sworn statements, attesting compliance with such period before they can claim their salaries.

The main objective of this bill is to improve administrative adjudication to support the agrarian reform program of the government. In view of the foregoing, the approval of this bill is earnestly requested.


SERGIO OSMEÑA III
Senator

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S E N A T E

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AN ACT
CREATING THE NATIONAL AGRARIAN REFORM ADJUDICATION
COMMISSION, DEFINING ITS POWERS AND FUNCTIONS, AND
APPROPRIATING FUNDS THEREFOR

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

1 SECTION 1. The National Agrarian Reform Adjudication
2 **Commission: Creation, Composition and Jurisdiction.** -- There shall be
3 created a National Agrarian Reform Adjudication Commission, hereinafter known
4 as the Commission, to be composed of a chairman and eleven (11) members.
5 There shall be established a provincial office of the Commission in each province
6 of the country, to be headed by a Provincial Agrarian Reform Adjudicator
7 (PARAD). The Commission shall be attached to the Department of Agrarian
8 Reform (DAR) for program and policy coordination only.

9 The Commission may sit en banc or in four (4) divisions, each composed
10 of three (3) members.

11 The Commission shall sit en banc only for purposes of promulgating rules
12 and regulations governing the hearing and disposition of cases before any of its
13 divisions and the PARADs, and formulating policies affecting its administration
14 and operations.

1 The Commission shall exercise its adjudicatory and all other powers,
2 functions, and duties, through its divisions. The first and second divisions shall
3 handle cases coming from Luzon and the third and fourth divisions shall handle
4 cases from Visayas and Mindanao, respectively. The divisions shall have
5 exclusive appellate jurisdiction over cases decided by the PARAD within their
6 respective territorial jurisdiction.

7 The Chairman shall be the presiding Commissioner of the first division and
8 shall designate the presiding commissioners of the other divisions. In case of
9 effective absence or incapability of the Chairman, the Presiding Commissioner of
10 the second division shall be the acting chairman.

11 The Commission shall be vested with jurisdiction to determine and
12 adjudicate all agrarian reform disputes arising from or in connection with the
13 implementation of Republic Act No. 6657, otherwise known as the
14 Comprehensive Agrarian Reform Law of 1988, and other agrarian reform laws.

15 **SEC. 2. Powers of the Commission.** – The Commission shall have the
16 following powers and authority, to be exercised, in proper cases, by the members
17 of the Commission sitting en banc or through its divisions or the PARADs, as
18 herein provided:

19 1. To promulgate rules and regulations governing the hearing and
20 disposition of cases before it and the PARAD as well as those pertaining to its
21 functions and such rules and regulations necessary to carry out the purposes of
22 this Act;

23 2. To administer oaths, summon the parties to a controversy, issue
24 subpoenas requiring the attendance and testimony of witnesses of the production
25 of such books, papers, and other documents as may be material to a just
26 determination of the matter under investigation, and to testify in any investigation
27 or hearing conducted in pursuance of this Act;

28 3. To conduct investigation for the determination of a question, matter or
29 controversy within its jurisdiction, proceed to hear and determine the dispute

1 even in the absence of any party thereto who has been summoned or served
2 with notice to appear, conduct its proceedings, or any part thereof in public or in
3 private, adjourn its hearings to any time and place, refer technical matters to an
4 expert and to accept his report as evidence after hearing of the parties upon due
5 notice, direct parties to be joined or excluded from the proceedings, correct,
6 amend or waive any error, defect or irregularity, whether in substance or in form,
7 give all such directions as it may deem necessary or expedient in the
8 determination of the dispute before it, and dismiss any matter or refrain from
9 further hearing or from determining the dispute or part thereof, where it is trivial
10 or where further proceedings by the Commission are not necessary or desirable;

11 4. To hold any person in contempt directly or indirectly and impose
12 appropriate penalties therefore in accordance with law.

13 A person guilty of misbehaviour in the presence of or so near the
14 Chairman or any member of the Commission or any PARAD as to obstruct or
15 interrupt the proceedings before the same, including disrespect toward said
16 officials, offensive conduct toward others, or refusal to be sworn or to answer as
17 a witness or to describe to any affidavit or deposition when lawfully required to do
18 so, maybe summarily adjudged in direct contempt by said officials and punished
19 by a fine not exceeding Five thousand pesos (5,000.00) or imprisonment not
20 exceeding five (5) days, or both if it be before the Commission or a member
21 thereof, or by a fine not exceeding One thousand pesos (P1,000.00) or
22 imprisonment not exceeding one (1) day, or both if it before the PARAD.

23 The person adjudged in direct contempt by a PARAD may appeal to the
24 Commission and the execution of the judgement shall be suspended pending the
25 resolution of the appeal upon the filing by such person of a bond, on condition
26 that he will abide by and perform and perform the judgement of the Commission
27 should the appeal be decided against him. Judgement of the Commission on
28 direct contempt is immediately executory and unappealable. Indirect shall be

1 dealt with by the Commission or the PARAD in the manner prescribed under
2 Rule 71 of the Revised Rules of Court; and

3 5. To enjoin or restrain any actual or threatened commission of any or all
4 prohibited or unlawful acts or to require the performance of a *particular act in any*
5 *agrarian dispute which, if not restrained or performed forthwith, may cause grave*
6 *or irreparable damage to any party or render ineffectual any decision in favor of*
7 *such party: Provided, That no temporary or permanent injunction in any case*
8 *involving or growing out of an agrarian dispute as defined in this Act shall be*
9 *issued except after hearing the testimony of witnesses, with opportunity for*
10 *cross-examination, in support of the allegations of the complaint made under*
11 *oath, and testimony in opposition thereto, if offered, and only after a finding of*
12 *fact by the Commission, to the effect:*

13 (a) That prohibited or unlawful acts have been threatened and will be
14 committed and will be continued unless restrained: Provided that no injunction or
15 temporary restraining order shall be issued on account of any threat, prohibited
16 or unlawful act, except against the person, association or organization making
17 the threat or committing the prohibited or unlawful act or actually authorizing or
18 ratifying the same after actual knowledge thereof;

19 (b) That substantial and irreparable injury to complainant's property will
20 follow;

21 (c) That as to each item of relief to be granted, greater injury will be
22 inflicted upon the complainant by the denial of relief than upon the defendant by
23 the granting of relief;

24 (d) That complainant has no adequate remedy at law; and

25 (e) That public officers charged with duty to protect complainants property
26 are unable or unwilling to furnish adequate protection.

27 SEC. 3. ***Manner of Voting.*** – The concurrence of two (2) Commissioners
28 of a division shall be necessary for the pronouncement of a judgement or
29 resolution. Whenever the required membership in a division is not complete and

1 the concurrence of two (2) Commissioners to arrive at a judgement or resolution
2 cannot be obtained, the Chairman shall designate such number of additional
3 Commissioners from other divisions as may be necessary.

4 The conclusions of a division on any case submitted to it for decision shall
5 be reached in consultation before the case is assigned to a member for the
6 writing of the opinion. It shall be mandatory for the division to meet for purposes
7 of the consultation ordained herein. A certification to this effect signed by the
8 *Presiding Commission* of the division shall be issued and a copy thereof attached
9 to the record of the case and served upon the parties.

10 SEC. 4. **Headquarters.** – The Commission and its first and second
11 divisions shall have their offices in Metropolitan Manila, and the third and fourth
12 divisions, in the cities of Cebu and Cagayan de Oro, respectively.

13 The Chairman and other Commissioners shall be members of the
14 Philippine Bar and must have been engaged in the practice of law in the
15 Philippines for at least fifteen (15) years, with at least five (5) years if experience
16 or exposure in the field of agrarian relations or agrarian reform.

17 The PARADs shall likewise be members of the Philippine Bar and must
18 have been engaged in the practice of law in the Philippines for at least seven (7)
19 years with at least three (3) years experience or exposure in the field of agrarian
20 reform.

21 The Chairman, the Commissioners and the PARADs shall, before
22 assuming the duties and functions of their respective offices, each execute a
23 statement under oath that he, his spouse and children do not own any
24 agricultural land which have not been properly subjected to the provisions of
25 Republic Act No. 6657 and other agrarian reform laws.

26 The Chairman, the Commissioners and the PARADs shall hold office
27 during good behaviour until they reach the age of sixty-five (65) years, unless
28 sooner removed for cause as provided by law or become incapacitated to
29 discharge the duties of their office.

1 SEC. 5 . **Appointment, Qualifications; Oath and Term of Office-** The
2 Chairman and other Commissioners shall be appointed by the President upon
3 recommendation of the Secretary of the Agrarian Reform. The PARADs shall be
4 appointed by the Chairman subject to Civil Service laws, rules and regulations.

5 The Chairman and other Commissioners shall be members of the
6 Philippine Bar and must have been engaged in the practice of law in the
7 Philippines for at least fifteen (15) years with at least five (5) years of experience
8 or exposure in the field of agrarian relations or agrarian reform.

9 The PARADs shall like wise be member of the Philippine Bar and must
10 have been engaged in the practice of law in the Philippines for at least seven (7)
11 years with at least three (3) years experience or exposure in the field of agrarian
12 reform.

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14 assuming the duties and functions of their respective offices, each execute a
15 statement under oath than he, his spouse and children do not own any
16 agricultural land which have not been properly subjected to the provisions of
17 Republic Act No. 6657 and other agrarian reform laws.

18 The Chairman, the Commissioners and the PARADs shall hold office
19 during good behaviour until they reach the age of sixty-five (65) years, unless
20 sooner removed for cause as provided by law or become incapacitated to
21 discharge the duties of their office.

22 SEC. 6. **Structure and Staffing Pattern.** – The organizational framework
23 and staffing pattern of the Commission shall be prescribed and approved by the
24 Chairman and the Department of Budget and Management and the authorized
25 positions created herein shall be filled by regular appointment by the President or
26 the Chairman as the case may be: Provided, That in the filling of positions
27 created, the individuals should comply with the qualifications standards set by the
28 Civil Service Commission for the positions they shall be appointed to.

1 SEC. 7. ***Jurisdiction of the PARAD.*** – The PARAD shall have original
2 and exclusive jurisdiction to hear and decide, within thirty (30) calendar days
3 after the submission of the case by the parties for decision without extension,
4 even in the absence of stenographic notes, the following agrarian disputes:

5 a) The rights and obligations under agrarian reform laws of persons,
6 whether natural or juridical, engaged in the management, cultivation or use of all
7 agricultural lands covered under Republic Act No. 6657 and other agrarian
8 reform laws;

9 b) The fixing and collection of lease rentals, disturbance compensation,
10 amortization payments, and similar disputes concerning the functions of the Land
11 Bank of the Philippines (LDP) in the agrarian reform program;

12 c) Those involving the sale, lease, alienation, foreclosure, pre-emption or
13 redemption of agricultural lands covered under Republic Act No. 6657 and other
14 agrarian reform laws;

15 d) Petitions for determination of just compensation to be paid to
16 landowners for lands covered under Republic Act No. 6657 and agrarian reform
17 laws;

18 e) Those arising from or connected with membership or representation in
19 compact farms, farmers' cooperative and other registered farmer's associations
20 or organizations;

21 f) Those involving the issuance, correction and cancellation of certificates
22 of land ownership award and emancipation patents which are registered with the
23 Land Registration Authority; and

24 g) Such other agrarian cases or disputes arising from or connected with
25 implementation of Republic Act No. 6657 and other agrarian reform laws.

26 SEC. 8. ***Salaries, Benefits and Certification Requirements.***- The
27 salaries of the Chairman, the other members of the Commission and the
28 Provincial Agrarian Reform Adjudicators (PARADs), shall be subject to Revised

1 Compensation and Position Classification Systems and shall be comparable to
2 that being received by equivalent positions in the judiciary.

3 The Chairman, Commissioners and the PARADs shall, before receiving
4 their salaries, execute a statement under oath that they have complied with
5 reglamentary periods prescribed herein for the disposition of cases.

6 SEC. 9. ***Proceedings Before the Commission.*** – a) Notice and
7 Hearing; Retraining Order.- Hearings on petitions for the issuance of restraining
8 or injunctions shall be held after due and personal notice thereof has been
9 served, in such manner as the Commission shall direct, to all known persons
10 against whom relief is sought, and also to the chief executive and other public
11 officials of the province or city within which the unlawful acts have been
12 threatened or committed, charged with the duty to protect complainant's property:
13 Provided, however, That if the complainant shall also alleged that, unless a
14 temporary restraining order shall be issued without notice, a substantial and
15 irreparable injury to complainant's property will be unavoidable, such as
16 temporary restraining order may be issued upon testimony under oath, sufficient,
17 if sustained, to justify the Commission in issuing a temporary injunction upon
18 hearing after notice. The temporary restraining order shall be effective for no
19 longer than twenty (20) days and shall become void at the expiration of said
20 period. The Commission however, may extend the effectivity of the temporary
21 restraining for another twenty (20) days on substantial and reasonable grounds.
22 Unless otherwise ordered by the Commission in justifiable cases, no temporary
23 restraining order or temporary injunction shall be issued except on condition that
24 the complainant shall first file an undertaking with adequate security in an
25 amount to be fixed by the Commission sufficient to recompense those enjoined
26 for any loss, expense or damage caused by the improvident or erroneous
27 issuance of such order or injunction, including all reasonable costs together with
28 reasonable attorney's fee and expense of defense against the order or against

1 the granting of any injunctive relief sought in the same proceeding and
2 subsequently denied by the Commission.

3 The undertaking herein mentioned shall be understood to constitute an
4 agreement entered into by the complainant and the surety upon which an order
5 may be rendered in the same suit or proceeding against said complainant and
6 surety, upon a hearing to assess damages, of which hearing complainant and
7 surety shall have reasonable notice, the said complainant and surety submitting
8 themselves to the jurisdiction of the Commission for that purpose: Provided,
9 nothing herein contained shall deprive any party having a claim or cause of
10 action under or upon such undertaking from electing to pursue his ordinary
11 remedy by suit at law: Provided, further, That the reception of evidence for the
12 application of a writ of injunction may be delegated by the Commission to any
13 PARAD who shall conduct such hearings in such places as he may determine to
14 be accessible to the parties and their witnesses and who shall submit thereafter
15 his recommendation to the Commission.

16 b) Technical Rules; Not Binding- The Commission or the PARADs shall
17 not be bound by technical rules of procedure and evidence prevailing in the
18 regular courts but shall proceed to hear and decide all cases, disputes or
19 controversies in a most expeditious and objective manner, employing all
20 reasonable means to ascertain the facts of every case without regard to
21 technicalities of law or procedure. Toward this end, it shall adopt a uniform rules
22 of procedure to achieve a just, expeditious and inexpensive determination of
23 every action or proceeding before it and the PARADs.

24 In all proceedings before the PARAD, the use of the local language or
25 dialect shall be preferred, to enable the farmer-litigants and para-legals to
26 participate fully in such proceedings.

27 c) Appearance of Farmer Leaders and Para-legals- Responsible farmer
28 leaders and para-legals shall be allowed to represent themselves, their fellow
29 farmers, or their organizations, in any proceedings before the Commission or the

1 PARAD: Provided, however, That when there are two or more representatives for
2 any individual or group the representatives should choose only one among
3 themselves to represent such party or group before any proceedings.

4 SEC. 10. **Appeal.** – Decisions, awards, or orders of the PARADs are final
5 and executory unless appealed to the Commission by any or both parties within
6 fifteen (15) calendar days from receipt of such decisions, awards, or orders. Such
7 appeal may be entertained only on any of the following grounds:

8 1. If there is a prima facie evidence of abuse of discretion on the part of
9 the PARAD;

10 2. If the decision, order or award was secured through fraud or coercion,
11 including graft and corruption;

12 3. If made purely on questions of law; and

13 4. If serious errors on the findings of facts are raised which would cause
14 grave or irreparable damage or injury to the appellant.

15 In case of judgement involving a monetary award, an appeal by the
16 landowner may be perfected only upon the posting of a cash or surety bond
17 issued by a reputable bonding company duly accredited by the Commission in
18 the amount equivalent to the monetary award in the judgement appealed from.

19 In all cases, the appellant shall furnish a copy of memorandum of appeal
20 to the other party who shall file a comment not later than (10) calendar days
21 from receipt thereof.

22 The Commission shall decide all cases within Twenty (20) calendar days
23 from receipt of the comment of the appellee. The decision of the Commission
24 shall be final and executory after fifteen (15) calendar days from receipt thereof
25 by the parties. The losing party may be allowed one motion for reconsideration.

26 SEC. 11. **Execution of Decisions, Orders or Awards.** – The
27 Commission or any PARAD may, motu proprio or on motion of any interested
28 party, issue a writ of execution on a judgement within five (5) years from the date
29 it becomes final and executory, requiring a sheriff or a duly deputized officers to

1 execute and enforce final decision, orders or awards. Failure to comply with the
2 duty prescribed herein shall subject such responsible officer to appropriate
3 administrative sanctions.

4 The Chair of the Commission may designate special sheriffs and take any
5 measure under existing laws to ensure compliance with the decisions, orders or
6 awards of the Commission and PARADs, including the imposition of
7 administrative fines which shall not be less than Five hundred pesos (500.00) nor
8 more than Ten thousand pesos (P10,000.00).

9 SEC. 12. **Penalty for Frivolous Appeals.** – To discourage frivolous or
10 dilatory appeals from the decisions or order of the PARAD, the Commission may
11 impose reasonable penalties, including but limited to fines or censures upon
12 erring parties.

13 SEC. 13. **Certification of the Barangay Agrarian Reform Committee**
14 **(BARC).** – The PARAD shall not take cognizance of any agrarian dispute
15 unless a certification from the Barangay Agrarian Reform Committee (BARC) that
16 the dispute has been submitted to it for mediation and conciliation without any
17 success of settlement is presented: Provided, however, That if no certification is
18 issued by the BARC within thirty (30) days after a matter or issue is submitted to
19 it for mediation or conciliation, the case or dispute may be brought before the
20 PARAD.

21 SEC. 14. **Certiorari.** – Any decision, order, award or ruling of the
22 Commission on any Agrarian dispute or on any matter pertaining to the
23 application, implementation, enforcement, or interpretation of Republic Act No.
24 6657 and other pertinent laws on agrarian reform may be brought to the
25 Supreme Court on certiorari within fifteen (15) days from receipt of a copy
26 thereof.

27 Notwithstanding an appeal to the Supreme Court, the decision of the
28 Commission shall be immediately executory, except when the decision orders

1 the ejectment or non-reinstatement of a tenant, farmer or farm worker from the
2 land he has been cultivating.

3 The findings of fact of the Commissioner or the PARAB shall be final and
4 conclusive if based on substantial evidence.

5 SEC. 15. **No Restraining Order or Preliminary Injunction** – No court
6 of the Philippines shall have jurisdiction to issue any restraining order or writ of
7 preliminary injunction against the Commission or the PARAD or any of their duly
8 authorized or designated agencies in any case, dispute or controversy arising
9 from, necessary to or in connection with the application, implementation,
10 enforcement, or interpretation of Republic Act No. 6657 and other pertinent laws
11 on agrarian reform.

12 SEC. 16. **Referral of Harassment Cases.** – No court or tribunal shall
13 take cognizance of any ejectment case or other cases designed to harass or
14 remove a tenant from an agricultural land. If any such cases are filed, these
15 cases shall first be referred to the Commission or PARAD for adjudication of any
16 agrarian dispute between the parties. If the Commission or PARAD finds that the
17 case is a proper case for the court or tribunal to hear, he shall so certify and such
18 court or tribunal may assume jurisdiction over the case.

19 SEC. 17. **Transitory Provision.** – All case pending in court prior to the
20 effectivity of this Act, arising from or in connection with the implementation of
21 Republic Act No. 6657 and other agrarian reform laws, shall continue to be
22 heard, tried and decide into their finality.

23 All cases pending in the Agrarian Reform adjudication Board, which was
24 created under Section 13 of Executive Order No. 129-A, and all records,
25 equipment, facilities and other asset of said Board shall be transferred to the
26 Commission upon the effectivity of this Act.

27 All PARADs and affected support personnel of the Department of Agrarian
28 Reform Adjudication Board (DARAB) shall continue to hold office and discharge
29 their functions in a hold over capacity under the Commission pending

1 appointment or re-appointment to their respective positions or until their
2 successors shall have been appointed. Existing Regional Agrarian Reform
3 Adjudicator (RARAD) positions under the DARAB are deemed abolished and
4 their existing personnel shall also be appointed to any vacant position to which
5 they may qualify.

6 SEC. 18. **Appropriations.** – The amount necessary to carry out the
7 provision of this Act shall be included in the General Appropriations Act of the
8 year following its enactment into law and thereafter.

9 SEC. 19. **Repealing Clause**– All laws, decrees, executive orders,
10 proclamations, rules and regulations or parts thereof inconsistent with this Act
11 are hereby repealed, amended or modified accordingly.

12 SEC. 20. **Effectivity.** – This Act shall take effect fifteen (15) days
13 following its complete publication in two (2) national newspapers of general
14 circulation.

15 Approved,