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SENATE

S. No. 1352

RECEIVED BY: 

Introduced by Senator Manuel "Lito" M. Lapid

**AN ACT MANDATING BANKING INSTITUTIONS
TO STRENGTHEN THE FINANCING SYSTEM
FOR AGRICULTURAL, FISHERIES AND RURAL DEVELOPMENT
IN THE PHILIPPINES**

EXPLANATORY NOTE

Article II Section 21 of the 1987 Constitution states that the State shall promote comprehensive rural development and agrarian reform.

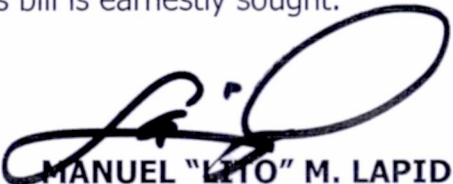
Republic Act No. 10000 or the Agri-Agra Reform Credit Act of 2009 was enacted to promote rural development by enhancing access of the rural agricultural sector to financial services and programs that increase market efficiency and promote modernization in the rural agricultural sector.

The Philippine Statistics Authority reported that the agriculture sector has remained one with the highest poverty incidence in the country. This could be attributed to the fact that the banks are not well-incentivized to invest in this sector due to the various risks the same is exposed to. In fact, banks opted to pay the mandated penalties rather than lend it to the farmers and agrarian reform beneficiaries. This results to underemployment of resources which could have been utilized by the farming communities to promote and enhance agricultural productivity.

Thus, this bill seeks to amend the Agri-Agra Reform Credit Act of 2009 by providing a holistic approach that addresses the root causes of the challenges faced by the agricultural and fisheries sector and takes into account the broader agricultural

financing ecosystem and rural community development requirements by (1) enabling access by rural communities to private sector financing; (2) creating a special Agribusiness Management Capacity and Institution-Building Fund for purposes of financing agricultural-related activities as well as capacity and institution-building programs of rural cooperatives and other duly-registered organizations of rural and agricultural households to improve their viability and productivity; and (3) establishing the Agricultural and Fisheries Finance and Capacity-Building Council (AFFCC) which shall be responsible for the management of the special fund as well as the identification of eligible activities and programs to be financed by the said fund.

In view of the foregoing early passage of this bill is earnestly sought.



MANUEL "LITO" M. LAPID
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*Be it enacted by the Senate and the House of Representatives of the Philippines
in Congress assembled:*

ARTICLE I
GENERAL PROVISIONS

1 SECTION 1. *Short Title.* – This Act shall be known as "*The Rural Agricultural*
2 *and Fisheries Financing Enhancement System Act*".

3 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 promote inclusive and broad-based economic growth by ensuring equal access to
5 opportunities under an environment of sustained growth and expanding productivity
6 as the key to raising the quality of life for all. Towards this end, the State shall promote
7 rural development by enhancing access of rural communities and agricultural and
8 fisheries households to financial services and programs that increase productivity,
9 enhance market efficiency, promote modernization and improve the welfare and
10 economic prospects of beneficiaries in rural communities through active participation
11 of banking institutions.

12 SEC. 3. *Definition of Terms.* – As used in this Act, the following terms shall
13 mean:

14 (A) Agrarian Reform Beneficiary (ARB) refers to a farmer who was granted land
15 under Presidential Decree No. 27, the Comprehensive Agrarian Reform Law and
16 Republic Act No. 9700 or the "Comprehensive Agrarian Reform Extension with
17 Reforms" and a regular farm worker who is landless, irrespective of tenurial
18 arrangement, who benefited from the redistribution of land, regardless of crops or
19 fruits produced, to include the totality of factors and support services designed to lift
20 the economic status of the beneficiary and all other alternative arrangements to the
21 physical distribution of lands, such as production or profit sharing, labor
22 administration, and the distribution of shares of stock which will allow the beneficiary
23 to receive a just share of the fruits of the lands one works. The term shall also
24 include registered agrarian reform beneficiaries' cooperatives/associations/other farm

groups, respectively endorsed as comprising of agrarian reform beneficiaries by the nearest office of the DAR, as well as ARB households.

(B) Agrarian Reform Community (ARC) refers to a barangay or a cluster of barangays primarily composed and managed by agrarian reform beneficiaries who shall be willing to be organized and undertake the integrated development of an area and/or their organizations/cooperatives.

(C) Agri-Business refers to agriculture and fishery-related activities that put farmers, fisherfolk processors, distributors, and consumers within a system that produces, processes, transports, markets, and distributes agricultural and fishery products. It encompasses input production, farm and fishery operations and management, equipment and supplies manufacturing, food/non-food processing, trading, and retailing.

(D) Agri-Tourism, also referred to as "Farm Tourism" under Republic Act No. 10816, refers to the practice of attracting visitors and tourists to farm areas for production, educational and recreational purposes. It involves any agricultural- or fishery-based operation or activity that brings to a duly-accredited farm tourism camp, visitors, tourists, farmers and fisherfolk who want to be educated and trained on farming and its related activities.

(E) Agricultural Lessee refers to any person who, with or without help from his/her immediate farm household, cultivates the land owned by another for a certain price in money, in produce, or in both.

(F) Agricultural or Fisheries Household - a household is considered to be an agricultural or fisheries household when at least one member of the household is a farmer, a fisherman, an agrarian reform beneficiary, a settler, an agricultural lessee, an amortizing owner, a farmworker, a fishworker, an owner-cultivator, a compact farmer, or a tenant farmer.

(G) Agricultural Value Chain (AVC) refers to a set of actors/players, such as producers (*farmers, fisherfolks*), traders, suppliers, processors, aggregators, who conduct linked sequence of value-adding activities involved in converting an agricultural product from its raw material to final form and bringing it to consumers.

Agricultural Value Chain Financing (AVCF) refers to financing to an AVC following the identification and analysis of AVC and the design of appropriate financial products and services for actors/ players that form part of the AVC.

(H) Agro-Industry Modernization Credit and Financing Program (AMCFP) refers to the umbrella credit/financing program of the government for the agriculture and fisheries sector created under Republic Act No. 8435.

(I) Amortizing Owners refer to landowners who amortize payment for the land to a private individual or to the State.

1 (J) Compact Farmers refer to those farmers with adjoining farms operating as
2 a single unit under one management, farm plan and budget.

3 (K) Farmer refers to a natural person whose primary livelihood is cultivation of
4 land or the production of agricultural crops, agroforest products, or livestock, either
5 by oneself, or primarily with the assistance of their immediate farm household,
6 whether the land is owned by them or by another person under a leasehold or share
7 tenancy agreement or arrangement with the owner thereof.

8 (L) Farmworker refers to a natural person who renders service for value as an
9 employee or laborer in an agricultural enterprise or farm regardless of whether their
10 compensation is paid on a daily, weekly, monthly or "pakyaw" basis. The term includes
11 an individual whose work has ceased as a consequence of, or in connection with, a
12 pending agrarian dispute who has not obtained a substantially equivalent and regular
13 farm employment.

14 (M) Farmers' Cooperatives refer to organizations composed primarily of small
15 agricultural producers, farmers, farmworkers, or other agrarian reform beneficiaries
16 who voluntarily organize themselves for the purpose of pooling land, manpower,
17 technological, financial or other economic resources, and operate on the principle of
18 one member, one vote. A juridical person may be a member of a cooperative, with
19 the same rights and duties as a natural person.

20 (N) Farmer's and Fisherfolk's Organizations or Associations refer to farmer's
21 and fisherfolk's cooperatives, associations or corporations duly registered with
22 appropriate government agencies and which are composed primarily of small
23 agricultural producers, farmers, farmworkers, agrarian reform beneficiaries, fisherfolk
24 who voluntarily join together to form business enterprises or non-business
25 organizations which they themselves own, control and patronize.

26 (O) Farm-To-Market Road refers to a road linking the agriculture and fisheries
27 production sites, coastal landing point and post-harvest facility to the market and
28 arterial road and highway.

29 (P) Financial Services refer to services extended by banks/financial institutions
30 such as, but not limited to, credit/lending, deposits, rediscounting, and insurance.

31 (Q) Fisherfolk refers to people directly or personally and physically engaged in
32 catching and/or culturing and processing fishery and/or aquatic resources.

33 (R) Fishworker refers to a person whether or not regularly employed in
34 commercial fishing and related industries, whose income is either from wages, profit
35 sharing or stratified sharing basis, including those working in fishpens, fish
36 corral/traps, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or
37 trawlers, or fish processing and/or packing plants, but excluding administrators,
38 security guards and overseers.

39 (S) Green Finance refers to financial services and products designed to promote
40 the flow of finance towards green economic activities and projects. Aside from
41 financing to promote climate change adaptation and mitigation, green finance also

covers environmental improvement and efficiency improvement in natural capital preservation and resource mobilization.

(T) Micro, Small And Medium Enterprise (MSME) refers to any business activity or enterprise defined as such under existing laws.

(U) Newly-Established Bank refers to a domestic or foreign bank without banking presence in the Philippines prior to the issuance of its certificate of authority to operate. It shall not include banks that have been formed through the acquisition, purchase of ownership of the voting stock of an existing domestic bank or the merger or consolidation of banks.

(V) Owner-Cultivators refer to natural persons who own lands by purchase, inheritance, or land distribution by the State. Owner-Cultivators can operate the farm themselves, supervise wage labor or delegate operations to farmers.

(W) Philippine Crop Insurance Corporation (PCIC) refers to a government-owned and -controlled corporation which provides insurance protection to the country's agricultural producers, particularly the subsistence farmers against crop losses arising from natural calamities such as typhoons, rising sea levels, floods, drought, earthquakes, volcanic eruptions, plant diseases and pest infestation, and non-crop agricultural asset losses due to perils for which the asset has been insured against.

(X) Post-Harvest Activities refer to threshing, drying, milling, grading, storing, and handling of produce and such other activities of a similar nature such as stripping, winnowing, chipping and washing.

(Y) Post-Harvest Facilities refer to threshers, moisture meters, dryers, weighing scales, milling equipment, fish ports, fish landings, ice plants and cold storage facilities, processing plants, warehouses, buying stations, market infrastructure and transportation facilities, and such other facilities, supporting post-harvest activities.

(Z) Public Rural Infrastructure refers to infrastructure in rural communities such as highways, streets, bridges, tunnels, railways, railroad, transport systems, ports, airports, hydropower projects, canals, dams, irrigation, government buildings and housing projects, public schools, public hospitals, public health centers, public markets, slaughterhouses, warehouses, solid waste management, sewerage, flood control, drainage, dredging and other similar infrastructure projects.

(AA) Rural Community refers to areas that are defined as such by the Philippine Statistics Authority (PSA).

(AB) Rural Financial Institution (RFI) refers to any financial institution established and is operating in a rural community.

(AC) Settlers refer to persons who range from the forest-clearing pioneers, including indigenous people, with a subsistence economy to the better equipped and more experienced farmers.

1 (AD) Tenant Farmer refers to one who cultivates another's land under a sharing
2 or leasehold agreement.

3 ARTICLE II
4 AGRICULTURAL FISHERIES AND RURAL FINANCING SYSTEM

5 SEC. 4. *Agriculture, Fisheries and Rural Financing System.* – There shall be an
6 agricultural, fisheries and rural financing system to improve the welfare,
7 competitiveness, income and productivity of the rural community beneficiaries,
8 particularly the farmers, fisherfolk, agrarian reform beneficiaries, agrarian reform
9 communities, settlers, agricultural lessees, amortizing owners, farmworkers,
10 fishworkers, owner-cultivators, compact farmers, tenant farmers, and members of
11 their households and their MSMEs, as well as farmers' and fisherfolk's cooperatives,
12 organizations and associations, through government and private banking institutions.

13 Agricultural, fisheries and rural financing, as used herein, shall consist of loans,
14 investments and grants to finance activities that shall enhance productivity and
15 increase income of an agricultural and fisheries household, thereby promoting
16 agricultural sector productivity and competitiveness, as well as sustainable
17 development of rural communities. These shall include, but not be limited to, activities
18 identified under the AMCFP as enumerated under Chapter 3 Section 23 of Republic
19 Act No. 8435, off-farm/fishery activities, agricultural mechanization/ modernization,
20 agri-tourism, green finance projects, acquisition of lands authorized under the
21 Agrarian Reform Code of the Philippines and its amendments, efficient and effective
22 marketing, processing, distribution and storage of agricultural and fishery
23 commodities, public rural infrastructure, as well as programs that shall address the
24 developmental needs of rural communities, such as, but not limited to, projects that
25 promote the livelihood, skills enhancement, and other capacity-building activities of
26 the rural community beneficiaries and all other activities consistent or analogous to
27 the foregoing, as may be determined by the Agricultural and Fisheries Finance and
28 Capacity-Building Council (AFFCC).

29 SEC. 5. *Rural Community Beneficiaries.* – The financing mentioned in the
30 preceding section shall be extended to the rural community beneficiaries named
31 therein or to cooperatives, associations, MSMEs or organizations in good standing of
32 such beneficiaries, regardless of capitalization based on the feasibility of the project
33 and their paying capacity, their estimated production, and/or securities they can
34 provide as well as such assets as may be acquired by them from the proceeds of the
35 loan, investments and grants.

36 SEC. 6. *Credit Quota.* – All banking institutions, whether government or private,
37 except newly-established banks for a period of five (5) years from date of
38 commencement of the banks' operations, shall set aside a credit quota, or a minimum
39 mandatory agricultural and fisheries financing requirement of at least twenty-five
40 percent (25%) of their total loanable funds.

41 The total loanable funds generated by a banking institution shall be defined by
42 the BSP. During the first year of effectivity of this Act, the total loanable funds
43 generated shall be computed starting from 20 April 2010, the effectivity of Republic

1 Act No. 10000, after which the bank's total loanable funds shall be determined based
2 on funds generated starting from the second year of effectivity of this Act.

3 SEC. 7. *Modes of Compliance.* Banks may comply with the mandatory credit
4 requirement by lending to rural community beneficiaries, to finance agricultural and
5 fishery-related activities identified under the AMCFP as enumerated under Chapter 3
6 Section 23 of Republic Act No. 8435, off-farm/fishery activities, agricultural
7 mechanization/modernization, agri-tourism, green finance projects, marketing,
8 processing, distribution and storage of agricultural and fishery commodities, livelihood
9 projects, skills enhancement or capacity-building programs.

10 Banks may also comply with the mandatory financing requirement through
11 other means as follows:

12 (a) Invest in debt securities, including those issued by the Development Bank
13 of the Philippines (DBP) and the Land Bank of the Philippines (LBP):
14 Provided, That the proceeds from said debt securities shall be used to
15 finance activities under Section 4 hereof: Provided, further, That the
16 proceeds from debt securities issued by the DBP and the LBP shall be
17 separately accounted for and shall not be considered for purposes of
18 computing the loanable funds under Section 6 hereof of the said banks;

19
20 (b) Open deposit accounts with rural financial institutions: *Provided*, That the
21 deposit accounts shall be separately accounted for by the depository bank
22 and shall not be considered for purposes of computing the loanable funds
23 under Section 6 hereof of the said banks;

24 (c) Rediscount with banks eligible paper covering agriculture, fisheries and
25 agrarian reform credits: Provided, That rediscounted paper shall no longer
26 be eligible as compliance on the part of the originating bank;

27 (d) Invest directly in shares of stock of rural financial institutions, subject to
28 prevailing laws, rules or regulations or lend wholesale to rural financial
29 institutions: Provided, That the wholesale loans shall be credited as
30 compliance of the bank acting as wholesale lender alone;

31 (e) Lend for the construction and upgrading of infrastructure, including but not
32 limited to, farm-to-market roads, as well as the provision of post-harvest
33 facilities and other public RURAL infrastructure that will benefit the
34 agriculture, fisheries and agrarian reform sector;

35 (f) Lend to agri-business enterprises that maintain agricultural commodity
36 supply-chain arrangements directly with rural community beneficiaries;

37 (g) Undertake agricultural value chain financing to actors/ players in the AVC
38 that benefits rural communities; and

39 (h) Invest in shares of stock of the PCIC or in companies that primarily
40 engage in activities under Section 4 hereof that benefit rural community
41 beneficiaries:

Provided That, the loans and investments that are counted as compliance are not funded by proceeds from the issuance of debt securities, and/or lending of other banks that have been counted as compliance with the mandatory credit: *Provided Further*, that loans to finance activities that shall generally benefit agrarian reform beneficiaries, agrarian reform communities, or other priority sectors, as may be determined by the AFFCC, shall be counted at not more than ten times (10X) their outstanding amount, or as otherwise prescribed by the BSP, for purposes of determining compliance with the mandatory agricultural and fisheries financing requirement.

SEC. 8. The modes of compliance enumerated in the preceding section shall be subject to review by the AFFCC after implementation to determine whether these are adequate to support the financing requirements of rural communities and recommend to Congress for appropriate action.

SEC. 9. *Annual Reports.* – The BSP shall furnish reports on the compliance with the mandatory agricultural and fisheries financing requirement to the Congress on a yearly basis. The BSP shall, as part of its regulatory functions, monitor the compliance by the banks with the requirements of this Act.

SEC. 10. *Penalty Clause.* – The BSP shall impose administrative sanctions and other penalties on the lending institutions for violation of any of the provisions of this Act. Penalties on non-compliance or under-compliance with the mandatory agricultural and fisheries financing requirement shall be computed at one-half of one percent (0.5%) of non-compliance or under-compliance, or at rates prescribed by the BSP Monetary Board. Upon collection of the penalties, the BSP shall remit the same to the AFFCC for deposit to the special fund created under Article III of this Act. Ten percent (10%) of the penalties collected shall be retained by the BSP to cover administrative expenses.

ARTICLE III

AGRIBUSINESS MANAGEMENT CAPACITY AND INSTITUTION-BUILDING FUND AND PROGRAM

SEC. 11. There shall be created an Agribusiness Management Capacity And Institution-Building Fund (Special Fund) to finance agricultural- and fishery-related activities as well as organizational-, capacity- and institution-building programs of cooperatives and other duly-registered organizations of rural agricultural and fisheries households. The Special Fund shall be sufficient to ensure effective implementation of the aforementioned activities and programs. For this purpose, banks may comply with the mandatory credit requirement by providing contributions to the Special Fund.

SEC. 12. The initial amount of the Special Fund shall at least be P10 billion and shall include penalties due from banks on their non-compliance or under-compliance with the mandatory Agri-Agra credit requirement under Republic Act No. 10000, collected after the effectivity of this Act, net of the ten (10) percent amount to be retained by the BSP. In case of a shortfall, the banks shall advance a maximum

1 amount of P2 billion, which shall be chargeable against future penalties under this Act,
2 and shall not be considered as a mode of compliance under Section 11 hereof.

3 SEC. 13. The AFFCC shall enter into an agreement with the banking industry
4 on the management of the Special Fund as well as the implementation of the activities
5 and programs of the Special Fund, in accordance with the approval of and guidelines
6 prescribed by the AFFCC. The agreement shall also require the banking industry to
7 monitor and evaluate the activities financed by the Special Fund, and report its findings
8 to the AFFCC.

9 SEC 14. Banks, duly-registered training and capacity-building organizations,
10 cooperatives and other duly-registered organizations of, or that support rural
11 agricultural and fisheries households may apply with the AFFCC for funding for their
12 capacity and institution-building programs and activities.

13 ARTICLE IV
14 AGRICULTURAL AND FISHERIES
15 FINANCE AND CAPACITY-BUILDING COUNCIL (AFFCC)

16 SEC. 15. *Agricultural And Fisheries Finance and Capacity-Building Council*
17 (AFFCC). — There shall be created an Agricultural and Fisheries Finance and Capacity-
18 Building Council (AFFCC) which shall be composed of the Heads, or their designated
19 representatives, of the following agencies: the Department of representatives, of: the
20 Bankers Association of the Philippines (BAP), as Vice Chair; the Agriculture (DA), as
21 Chair; the Bangko Sentral ng Pilipinas (BSP); the Department of Agrarian Reform
22 (DAR); the Department of Trade and Industry (DTI); the Cooperative Development
23 Authority (CDA); the Land Bank of the Philippines (LBP); the Development Bank of the
24 Philippines (DBP); and nine (9) representatives from the private sector as members,
25 one of whom shall be appointed as Vice-Chair. The private sector representatives
26 shall include the heads, or their designated Rural Bankers Association of the Philippines
27 (RBAP); the Chamber of Thrift Banks (CTB); the Cooperative Banks Federation of the
28 Philippines (BANGKOOP); the Microfinance Council of the Philippines, Inc. (MCPI); the
29 Philippine Chamber of Commerce and Industry (PCCI); and a representative each from
30 the cooperative sector, the farmers, and the fisherfolk sector.

31 SEC. 16. *Powers, Duties and Functions of the AFFCC.* — The AFFCC shall have
32 the following powers, duties, and functions:

- 33 a) to set the target amount for the Special Fund to meet the organizational-
34 and capacity-building requirements of cooperatives and other duly-
35 registered organizations of rural agricultural and fisheries households over
36 a period of ten (10) years;
37 b) to determine the annual requirement of the Special Fund;
38 c) to identify eligible recipients of the Special Fund;
39 d) to identify eligible agricultural- and fishery-related activities and capacity
40 building programs that may be financed by the Special Fund;
41 e) to ensure the effective implementation and programs financed by the
42 Special Fund;

- 1 f) to periodically assess the adequacy of the fund capital in financing the
2 capacity-building requirements of rural cooperatives and other duly-
3 registered organizations of rural agricultural and fisheries households; and
4 g) to ensure compliance with the reporting, monitoring, evaluation and audit
5 requirements of the Special Fund and activities financed.

6 ARTICLE V
7 MISCELLANEOUS PROVISIONS

8 SEC. 17. *Audit.* – The Special Fund shall be audited by the Commission on Audit
9 (COA) in accordance with existing auditing laws, rules and regulations.

10 SEC. 18. *Oversight Committee.* – There shall be an oversight committee
11 composed of the following: the Chairperson of the Committee on Banks and Financial
12 Intermediaries of the House of Representatives, Chairperson of the Committee on
13 Banks, Financial Institutions and Currencies of the Senate, a representative from the
14 Office of the President and a representative from the Commission on Audit (COA); to
15 oversee the implementation of the provisions of this Act.

16 SEC. 19. *Sunset Provisions.* The provisions related to the mandatory credit
17 quota under Article II as well as the management and administration of the special
18 fund under Article III shall cease to have effect, ten (10) years from approval of this
19 Act.

20 SEC. 20. *Repealing Clause.* –The provisions of Republic Act No. 10000,
21 Executive Order No. 113 and any other laws, presidential decrees, executive orders,
22 rules and regulations, or parts thereof inconsistent with the provisions of this Act are
23 hereby repealed or modified accordingly.

24 SEC. 21. *Separability Clause.* – If any part, section or provision of this Act is
25 held invalid or unconstitutional, other provisions not affected thereby shall remain in
26 force and effect.

27 SEC. 22. *Transitory Provision.* – The BSP shall promulgate such rules and
28 regulations as may be necessary to implement Articles I and II of this Act within ninety
29 (90) days after effectivity of this Act. Prior to the effectivity of the implementing rules
30 and regulations of Articles I and II of this Act, the provisions of Republic Act No. 10000
31 shall remain in force.

32 The BSP shall organize a Task Force which shall promulgate such rules and
33 regulations as may be necessary to implement Articles III and IV of this Act within
34 ninety (90) days after effectivity of this Act.

35 SEC. 23. *Effectivity.* – This Act shall take effect fifteen (15) days after its
36 publication in the Official Gazette or in a newspaper of general circulation.

37 *Approved,*