

FOURTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

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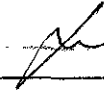
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SENATE

S. B. No. 2916

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INTRODUCED BY THE HONORABLE MAR ROXAS

EXPLANATORY NOTE

Agricultural credit has an important role in the development of agriculture sector. Through credit, economic agents in the agricultural sector who suffer from a cash-flow problem and a liquidity constraint may produce sub-optimal inputs use and, therefore, output. However, the volume of institutional credit to the agriculture sector is considered inadequate and the sector has received a much smaller share of formal credit than the non-agricultural sector.

The full realization of the Comprehensive Agrarian Reform Program's vision has been stymied by inadequate investments in the agrarian reform sector, particularly the dearth credit facilities available to agrarian reform beneficiaries (ARBs). Aside from the limited public resources to extend credit to ARBs, the hesitation of private lending institutions to provide credit windows to ARBs has exacerbated the drought in investments in the sector.

Economic analysts suggest that one of the factors that limits the availability and access to credit of ARBs is the eroded collateral value of agricultural, and more so, agrarian lands. Researches postulate that improving the plight of peasants and the opening of avenues for credit inflow will require a positive environment for land markets.

This bill therefore seeks to address the credit needs of peasants while at the same time provides security from risks for formal lending institutions. It intends to increase credit opportunities and investments in the rural agricultural sector by enhancing the value of farmlands as credit instruments in the financial market.

Further, this measure seeks to provide the much needed policy environment that would facilitate the increase in the flow of capital inputs to the agricultural sector, which in turn, are expected to improve rural productivity and income.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



MAR ROXAS
Senator

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AN ACT
PROVIDING FARMERS BROADER ACCESS TO AGRICULTURAL CREDIT
AND INSTITUTING MECHANISMS THEREFOR, AND FOR OTHER
PURPOSES

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

1 SECTION 1. *Title.* - This Act shall be known as the "*Agricultural Credit Act of 2008.*"

2 SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to
3 promote accelerated growth with equity and modernization of the agricultural sector to
4 increase productivity and income by enhancing access and efficient use of agricultural credit
5 by the agrarian sector and providing better environment for bank and non-bank financial
6 institutions to extend agricultural credit to the said sector. Towards this end, the
7 government shall ensure that the agrarian reform beneficiaries (ARBs) and other members of
8 the agricultural sector shall be given optimum opportunity to develop in order to raise
9 productivity, promote efficiency and equity, and increase income pursuant to the
10 fundamental policy of the State to promote social justice and sustainable development.
11 Henceforth, Certificates of Land Ownership Award (CLOAs) and Emancipation Patents
12 (EPs), being indefeasible titles registered under the Torrens System, shall be made
13 instruments for securing credit for farmers and direct investments to the agricultural sector.

14 SEC. 3. *Indefeasibility of EP/CLOA Titles.* - Emancipation Patents (EPs) and
15 Certificates of Land Ownership Award (CLOAs), being titles brought under the operation of

the Torrens System, shall enjoy the same indefeasibility and security afforded to all titles under the said Torrens System as provided under Presidential Decree (P.D.) No. 1529. For this purpose, farmer beneficiaries who receive EPs or CLOAs pursuant to the Comprehensive Agrarian Reform Program are hereby deemed innocent purchaser for value and are entitled to the rights and protection as such persons under existing laws. Failure of any person with interests in such land, to file any action or petition to assail the coverage of such land within the period prescribed under Section 16 of R.A. No. 6657 and existing issuances shall be deemed to be a waiver to assert any and all rights that may prevent such lands from being the subject of coverage; *Provided*, That in no case shall any petition for cancellation of registered CLOAs and EPs be entertained if the same is filed later than one (1) year after the date of registration.

The land ownership rights of farmer beneficiaries and the protection of their rights shall commence on the date of registration of the EP or the CLOA.

SEC. 4. Coverage. - This Act shall apply to the following categories of agricultural lands devoted to agricultural activity, taking into account the pertinent provisions of agrarian reform laws and other related laws particularly the prohibitions on sale, transfer, or conveyance of agricultural lands:

4.1 Lands with agricultural lessees, whether or not it has been the subject of the landowner's prior exercise of retention rights granted by law, without prejudice to the rights of the agricultural lessee;

4.2 Lands covered and fully paid under the Comprehensive Agrarian Reform Program (CARP) and past the 10-year prohibition period;

4.3 Lands covered by homestead grants and free-patents;

4.4 Lands covered by the CARP but not yet fully paid and are either within or past the 10-year prohibition period;

1 4.5 Lands covered and fully paid under the CARP but still within the 10-year
2 prohibition period.

3 **SEC. 5. *Acceptability of Loan Collateral and Guarantee.*** - All agricultural lands
4 enumerated under Section 4 of this Act shall be accepted as collateral by any formal lending
5 institution, whether bank or non-bank financial institution, to secure loans of the registered
6 owners as appearing in the Certificate of Land Ownership Award, Emancipation Patent,
7 Homestead Patent, Free Patent, Original Certificate of Title or Transfer Certificate of Title.
8 Likewise, expected harvests of farmer-lessees as appearing in the registered agricultural
9 leasehold contract shall be accepted as collateral by formal financial institutions to secure
10 loans of the same. Farmer-beneficiaries who own agricultural lands under Sections 4.4-4.5
11 may avail of production loans using the guarantee scheme provided for under this Act.

12 **SEC. 6. *Use of Loan Proceeds.*** - The proceeds of loans that may be granted under this
13 Act shall be used solely to finance any agricultural activities such as production, processing,
14 storage and post-harvest facilities, shallow tube well and pump irrigation, distribution and
15 marketing of agricultural products, and other related agricultural activities on the land
16 being used as collateral, or in the case of farmer-lessees, on the land subject of the leasehold
17 contract. Lands enumerated under 4.4 and 4.5, cannot be used as security or collateral for
18 any obligation except the obligation to pay for the land acquisition cost of the government
19 or any other amount that may be owed to the government resulting from the availment of
20 production loans.

21 **SEC. 7. *Land Bank Authorization of the Loan and Additional Requirements.*** - For
22 partially paid and unpaid lands used as collateral under this Act, all loans that are to be
23 granted by lending institutions are deemed to be with authorization and consent of the
24 Land Bank of the Philippines (LBP) and the Department of Agrarian Reform (DAR)
25 subordinated to any or all prior encumbrance existing in favor of the LBP.

1 The consent of the co-owners, in the case of co-owned lands, and the ratification of
2 the majority of the members, in the case of cooperative-owned lands, shall likewise be
3 obtained without prejudice to the submission of standard documentary requirements of
4 banks and other formal lending institutions for the processing of loans as provided by
5 pertinent banking laws, rules and regulations.

6 **SEC. 8. *Valuation.*** - In order to assist bank and non-bank financial institutions to be
7 fully aware of the land valuation formula under the agrarian reform program, the DAR and
8 LBP shall undertake measures to disseminate the said valuation formula and provide
9 technical assistance to bank and non-bank financial institutions such that they may be able
10 to evaluate the value of lands under Section 4 offered as security by borrowers.

11 **SEC. 9. *Access to Guarantee.*** - Farmer-beneficiaries who are owners of encumbered or
12 non-transferable lands classified under Sub-Sections 4.4 and 4.5 and farmer-lessees shall be
13 provided a credit guarantee by the Development Bank of the Philippines (DBP): *Provided,*
14 That the guarantee cover shall not exceed eighty percent (80%) of the principal amount of
15 the loan: *Provided, further,* That the principal amount of the loan shall not exceed the
16 amount determined by DBP and the Department of Agriculture (DA) based on the
17 agricultural activity and locality in which such is proposed: *Provided, furthermore,* That
18 credit guarantees shall be subject to prior approval by DBP: *Provided, finally,* That for all
19 loans guaranteed by DBP pursuant to this Act, the principle of excussion under Article 2058
20 and pertinent provisions of the New Civil Code shall not apply.

21 **SEC. 10. *Event of Default and Foreclosure of Mortgage.*** - In the event of default of
22 the borrower under this Act, the bank and non-bank financial institutions may proceed
23 against the security of the loan in accordance with existing laws and subject to the provisions
24 of this Act: *Provided,* That in the case of encumbered and non-transferable lands classified
25 under Sub-Sections 4.4 and 4.5, the bank and non-bank financial institutions shall be paid

1 the guarantee only after assigning the loan receivables to the DBP after which the DBP shall
2 assign the loan receivables to the LBP: *Provided, further,* That DBP shall be paid the amount
3 of the claim paid to the banks upon redemption: *Provided, furthermore,* That if the farmer-
4 beneficiary has not yet fully paid the amortization of the land awarded to him under the
5 CARP, the agricultural productivity loan shall be added to the total loans owed by the
6 beneficiary to the government: *Provided, finally,* That in case the farmer-beneficiary,
7 availing of the loan with guarantee owns land classified under Sec. 4.4, the agricultural
8 productivity loan and the guarantee thereon shall be granted on the basis of pertinent
9 eligibility criteria but not including the use of the awarded land as security or collateral
10 thereto

11 Creditors of farmer-lessees shall be paid by the guarantee provided by the DBP. For
12 this purpose, farmer-lessees shall execute a waiver on their claim on the expected harvests
13 from the land they till in favor of DBP: *Provided,* That such waiver shall not include more
14 than seventy-five per centum (75%) of the expected harvests from the land subject of the
15 leasehold contract.

16 The LBP and the DAR shall provide for an appropriate mechanism to ensure that loan
17 due the government are paid taking into account the objectives of making all agricultural
18 lands productive.

19 Foreclosure of mortgages constituted over unencumbered and transferable lands
20 categorized under Sub-Sections 4.1, 4.2, and 4.3 shall be governed by existing laws subject to
21 Section 71, 72(b) and 73-A of the Comprehensive Agrarian Reform Law: *Provided,* That
22 private lenders may not bid in the auction nor acquire title to the agricultural land unless
23 they have complied with Section 11 of this Act.

24 LBP foreclosure of mortgages constituted over encumbered and non-transferable
25 lands categorized under Sub-Sections 4.4 and 45 shall be in accordance with Section 26,

paragraph two (2) and Section 37, paragraph four (4) of Republic Act (R.A.) No. 6657.
Provided, That foreclosure of lands categorized under Sub-Section 4.5 shall be in accordance with the terms and conditions to be determined by the LBP and the DAR.

For mortgages of expected harvests of farmer-lessees, the DBP shall impose the waiver executed by him/her under this Act and claim all or a portion of the actual harvests until such time that the outstanding debt of the farmer-lessee shall have been paid.

SEC. 11. *Bidders in Auctions of Agricultural Land.* - In all cases of foreclosure of mortgages constituted over lands described in Section 4 and Sub-sections 4.1, 4.2, and 4.3, of this Act, whether by the LBP or any other bank and non-bank financial institutions, no bidder in the auction shall be allowed to bid nor shall the agricultural land be sold to any person not qualified to own agricultural land as determined by the DAR in accordance with Sections 6 and 70 of R.A. No. 6657.

SEC. 12. *Exercise of Redemption Right.* - In case the landholding is sold to a third person through public auction for failure of the borrower to pay the loan, the owner or agrarian reform beneficiary shall have the right to redeem the same at a reasonable price and consideration including interest thereon: *Provided*, That the entire landholding must be redeemed: *Provided, further*, That if there are more than one redemptionist owner or agrarian reform beneficiary, each shall be entitled to the said right of redemption only to the extent of the area actually cultivated by him or can afford to pay but not exceeding the three (3) hectares award limit. The right of redemption under this section may be exercised within one (1) year from the date of registration of the sale, and shall have priority over any other right of legal redemption.

SEC. 13. *Monitoring of Loan Proceeds.* - The DAR and the DA shall be primarily responsible for the monitoring of the utilization of loan proceeds of borrowers under this Act: *Provided*, That bank and non-bank financial institutions shall provide semi-annual

1 reports to the Bangko Sentral ng Pilipinas (BSP), furnishing copies to DAR, DA-Agricultural
2 Credit Policy Council (ACPC) and DBP on the status of the loans as well as issues affecting
3 the implementation of the project for the latter to submit policy corrective actions and/or
4 recommendations: *Provided, further,* That DBP shall likewise provide quarterly reports to
5 the BSP, DAR and DA on the status of the implementation of the guarantee coverage under
6 this Act.

7 **SEC. 14. *Guarantee Fund.*** - There is hereby created a Guarantee Fund for
8 agricultural and agrarian borrowers with an amount of at least Five Billion Pesos
9 (₱5,000,000,000.00) which shall be managed and administered by DBP. An initial amount of
10 one billion pesos (₱ 1,000,000,000.00) shall be sourced from fifty percent (50%) of the total
11 funding allocation of the Comprehensive Agrarian Reform Program-Credit Guarantee Fund
12 for Agricultural Landowners (CARP-CGFAL), proceeds of the sales of the Assets
13 Privatization Trust (APT), receipts from assets recovered by the Presidential Commission on
14 Good Government (PCGG), and a portion of the twenty-five percent (25%) allocation for
15 support services under Sec. 36 of R.A. No. 6657. Of the total guarantee fund, One Billion Five
16 Hundred Pesos (P1,500,000,000) shall be sourced and included in the Annual General
17 Appropriations Act. Other sources of funding or appropriations shall include the following:

- 18 1. Proceeds of the Agri-Agra Reform Bonds to be issued by the Department of
19 Finance (DOF) and guaranteed by the Republic of the Philippines: *Provided,* That
20 the DOF, in coordination with the DAR, may increase or decrease the amount of
21 Guarantee Fund in accordance with the total level of utility and demand for
22 credit: *Provided, further,* That one percent (1%) of the total loanable funds of all
23 public and private banking institutions under the ten percent (10%) agrarian
24 reform credit in Section 3 of Presidential Decree (P.D.) No. 717 (Agri-Agra Law)
25 shall be invested exclusively, without any alternative mode of compliance, for the

1 purchase of the Agri-Agra Reform Bonds: *Provided, furthermore*, That the DOF
2 shall determine and fix the features of the Agri-Agra Reform Bonds competitive
3 with existing bonds and securities in domestic market circulation: *Provided*,
4 *finally*, That the BSP shall draft the incentive program to encourage all public and
5 private banking institutions to purchase such bonds; and

6 2. Other government funds not otherwise appropriated.

7 All funds appropriated to implement the provisions of this Act shall be considered
8 continuing appropriations during the period of its implementation.

9 Farmer-beneficiaries who desire to mortgage their lands through their cooperatives or
10 associations shall set-up a buffer fund solely intended to guarantee the loans secured by the
11 farmer-beneficiary. The cooperative or association shall set aside an amount equivalent to at
12 least five percent (5%) of the loaned amount and retain an amount equivalent to at least ten
13 percent (10%) of the annual net earnings of the farmer-beneficiaries from his land in
14 subsequent harvests until such time that the loan is fully paid, as build-up capital of the
15 buffer fund.

16 To further strengthen recovery of loans, non-cooperative farmer-borrowers living in
17 the same locality, will be encouraged to form or join a small group of farmer-borrowers and
18 guarantee each other following the successful credit models and the micro-finance scheme.

19 **SEC. 15. *Capacity Building and Feasibility Studies Fund.*** - The DAR, the DA and the
20 LBP shall provide technical assistance in capacity building and the preparation of feasibility
21 studies or investment studies as may be required by the concerned banking or lending
22 institution. For this purpose, there is hereby created a capacity building and feasibility
23 studies fund to support the training preparation of feasibility studies and related capacity
24 building activities of agricultural borrowers. The Presidential Agrarian Reform Council
25 (PARC) is hereby directed to set aside Three Hundred Million Pesos (P300,000,000.00) from

1 the Agrarian Reform Fund (ARF) in the initial year of implementation of the law.
2 Succeeding fund requirements shall be included in the annual General Appropriations Act.
3 The DAR and the LBP are hereby directed to implement measures to generate additional
4 funds for this purpose. The DAR shall draft the rules and regulations of the utilization of the
5 Fund.

6 **SEC. 16. *Compliance with the Agri-Agra Law (P.D. No. 717) and Other Incentives.*** –

7 The purchase of DBP Agri-Agra Reform Bonds and loans granted under this Act shall form
8 part of compliance with the Agri-Agra Law (P.D. No. 717) by the lending institution.

9 Any transaction of sale, transfer or conveyance of lands under this Act shall be
10 exempt from the payment of capital gains tax, registration fees, and all other taxes and fees
11 for the conveyance or transfer as provided for under Sections 66 and 67 of R.A. No. 6657.

12 **SEC. 17. *Simplification of Loan Procedures.*** – In order to expedite and help facilitate
13 timely access of farmers, agrarian reform beneficiaries and their cooperatives to formal
14 credit, the DAR, LBP, DA and DBP, in consultation with concerned government agencies,
15 farmers, cooperatives and the banking sectors, shall formulate, within ninety (90) days after
16 the approval of this Act, a simplified, efficient and practicable mechanics for processing and
17 approving loan applications which would demand only the necessary and most indispensable
18 requirements from the loan applicant.

19 **SEC. 18. *Penalties.*** - For lands already covered under R.A. No. 6657, P.D. No. 27 or
20 related agrarian reform laws, violations and other prohibited acts contrary to the exclusivity
21 of loan purpose as defined under Section 6 hereof, such as misuse or diversion of financial
22 and support services extended to agrarian reform beneficiaries or a deviation by the borrower
23 in the use of loan proceeds, shall result in the cancellation of EPs/CLOAs or perpetual
24 disqualification to be agrarian reform beneficiaries, or both.

1 The DAR shall be responsible for monitoring compliance of the provisions under
2 Sections 6 and 13 of this Act, and shall initiate the necessary action against those who violate
3 the provisions thereof: *Provided*, That if the offender is a public official or employee found to
4 be in collusion to defraud the farmer, bank and other financial institution, or the
5 government, the penalty shall be imprisonment of *prision mayor* with absolute
6 disqualification as accessory penalty and a fine of not more than double the amount of fraud
7 but not less than One Hundred Thousand Pesos (P100,000.00): *Provided, further*, That if the
8 offender is a juridical person the penalty shall be imposed on the responsible officers thereof.

9 **SEC. 19. *Implementing Rules and Regulations (IRR)*.** - The DAR, DA, DOF and LBP,
10 in consultation with concerned government agencies, farmers, cooperatives and the banking
11 sectors, shall formulate the implementing rules and regulations of this Act within ninety (90)
12 days after its approval. Such rules and regulations shall take effect fifteen (15) days after the
13 publication in a newspaper of general circulation in the Philippines.

14 **SEC. 20. *Repealing Clause*.** - All existing laws, Executive Orders, issuances, rules and
15 regulations, or part thereof inconsistent with the provisions of this Act are hereby repealed
16 or modified accordingly. Nothing in this Act shall be construed to amend existing policies,
17 rules and regulations on collateral-free loans or loans using social collateral to small farmers
18 and other marginalized sectors by government financial institutions and other institutions
19 engaged in micro-finance activities.

20 **SEC. 21. *Separability Clause*.** - In the event any of the provision of this Act is declared
21 unconstitutional, the validity of the other provisions shall not be affected by said declaration.

22 **SEC. 22. *Effectivity Clause*.** - This Act shall take effect immediately after publication
23 in the Official Gazette or in at least two (2) national newspaper of general circulation.

Approved,