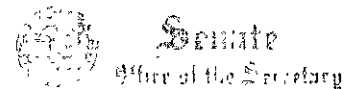


**FIFTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Second Regular Session )**



11 OCT -3 P2:17

**SENATE**

**S. B. NO. 2978**

RECEIVED

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**Introduced by Senator Juan Ponce Enrile**

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**Explanatory Note**

The Philippines used to be one of the largest producers of coconut products. Land devoted to cultivation of coconuts increased in the 70s and 80s as a response to the increasing world demand. About 25 percent of cultivated land was planted to coconut trees, and it is estimated that between 25 percent and 33 percent of the population was at least partly dependent on coconuts for their livelihood. However, for the same period coconut oil prices in the world market also increased dramatically prompting the government to collect a levy from coconut farmers to stabilize the retail prices of coconut-based consumer products at that time.

In 1973 coconut-related government operations were merged within a single agency, the Philippine Coconut Authority (PCA). The PCA was authorized to collect and manage the coco levy collection which was placed into a fund popularly known now as the coco levy funds. These funds fall into four (4) general classes which were created by a series of presidential decrees and issuances namely, (a) the Coconut Investment Fund created under R.A. 6260 (effective June 19, 1971); (b) the Coconut Consumers Stabilization Fund created under PD 276 (effective August 20, 1973); (c) the Coconut Industry Development Fund created under PD 582 (effective November 14, 1974); and (d) the Coconut Industry Stabilization Fund created under P.D. 1841 (effective October 2, 1981).

The coco levy funds were intended to subsidize the sale of coconut-based products and to finance various coconut planting and replanting programs, coconut research, extension and credit services programs, establishment of model plantations including the propagation of hybrids, and acquisition of coconut related industries and the operations of such industries, all for the benefit of the coconut industry in general and coconut farmers in the country in particular.

However, these reforms were never completely implemented and the benefits were not fully enjoyed by the coconut farmers. The coco levy funds were even invested supposedly on behalf of coconut farmers but were allegedly redirected to investments that effectuated their misuse. The most controversial investment of the coco levy is the acquisition of the 33.133 Million common shares in San Miguel Corporation (SMC), representing 27 percent share. For decades,

coconut farmers have been beleaguered with reclaiming the coco levy funds, which have now been a subject of numerous and harrowing court cases.

On May 7, 2004, the Sandiganbayan (First Division) in Civil Case No. 0033-F, had already rendered a Partial Summary Judgment declaring the SMC Shares, the Coconut Industry Investment Fund (CIIF) Oil Mills Group (CIIF), and the 14 CIIF Holding companies as **owned by the government "in trust for all the coconut farmers"**, thus ordering their reconveyance to the government. However, this judgment has not been implemented pending final determination of the case involving said assets. Until the final resolution of the case, farmers will be continually denied of the money and the benefits that would have rightfully belonged to them.

To ultimately put the issue to rest, this bill seeks to declare the CIIF OMG block of shares in SMC as well as all other properties and/or assets intended and conveyed or transferred to emanating from all coco levy recovered assets as public funds and placing them in a Coconut Farmers Trust Fund for the financing of programs for the benefit of the coconut farmers, for increased productivity of the coconut industry, and for the development of coconut-based enterprises. It is imperative that government undertake the necessary steps to prevent the dissipation and assure the preservation and conservation of these funds for the benefit of the coconut farmers of the country.

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

  
JUAN PONCE ENRILE  
Senator

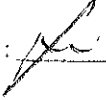
FIFTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
*Second Regular Session* )

 Senate  
Office of the Secretary

'11 OCT -3 P2:17

SENATE

S. B. NO. 2978

RECORDED BY: 

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Introduced by Senator Juan Ponce Enrile

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AN ACT  
ESTABLISHING THE COCONUT FARMERS' TRUST FUND  
TO PROVIDE ADEQUATE FINANCIAL PROTECTION  
TO THE COCONUT INDUSTRY AND ITS WORKERS,  
PROVIDING FOR THE MANAGEMENT THEREOF,  
AND FOR OTHER PURPOSES

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

**Section 1. *Short Title.*** This act shall be known as the "Coconut Farmers' Trust Fund Act of 2011".

**Section 2. *Declaration of Policy.*** It is hereby declared the policy of the State to consolidate the benefits due to coconut farmers, especially the poor and marginalized, under various statutes and to expedite the delivery thereof in order to attain a balanced, equitable, integrated and sustainable growth and development of the coconut industry.

**Section 3. *Constitution of the Coconut Farmers Trust Fund.*** Pursuant to the provisions of the Presidential Decrees and other issuances creating the coconut levy trust fund and in line with the decisions of the courts affirming the trust character of the fund, there is hereby constituted an irrevocable trust fund, to be known as the Coconut Farmers Trust Fund (hereinafter referred to as the "Trust Fund"), which shall be capitalized, managed, utilized and accounted for in the manner hereinafter provided.

**Section 4. *Purpose of the Trust Fund.*** The Fund shall be established for the development of the coconut industry for the ultimate benefit of the small coconut farmers and farm workers. Its purpose shall include the financing of programs or assistance for the benefit of the coconut farmers, for increased productivity of the coconut industry, and for development of coconut-based enterprises and promotion of anti-poverty programs.

**Section 5. Capitalization of the Trust Fund.** The 27 percent CIIF SMC Shares and all other available funds shall form the initial capital of the Trust Fund. For this purpose, the CIIF shall convey the aforesaid CIIF SMC Shares to the Trust Fund Committee as provided in Section 6 hereof, under such terms and conditions not inconsistent with this Act. The CIIF shall assign, execute and deliver such documents, deed or contract not inconsistent with this Act, as may be necessary or desirable to implement the provisions of this Act.

Nothing in this Act shall be understood to prevent or prohibit any person, group or entity from conveying to the Committee other properties and/or additional assets which shall form part of the Trust Fund.

In order to insure the enduring character of the Fund, the principal thereof shall be augmented from time to time by grants, donations and other lawful transfers by public or private entities, the disposition of the income from which shall be governed by the terms and conditions hereinafter specified, as well as the rules and regulations promulgated by the Committee pursuant to Section 7 hereof:

- (a) The Trust Fund shall be perpetually maintained and preserved to ensure the full implementation and realization of the objectives identified and sought to be attained under this;
- (b) In the event any property or asset of the Trust Fund (or any portion hereof, as the case may be) is subsequently sold, alienated or disposed of, the proceeds and revenues arising out of and realized from such sale, alienation or dispositions, shall form part of the Trust Fund;
- (c) Only the income, interest, earnings and monetary benefit realized by and accruing on the Trust Fund shall be used and disposed of by the Committee for such purposes and endeavors specific under the provision of this Act.

*Provided, however,* that any obligation of the capital forming part of the Trust Fund shall be limited exclusively to the obligation arising from the 27 percent CIIF-SMC Shares declared by final adjudication and judgment of the Supreme Court; *Provided, further,* that any payment of such obligation shall, at the option of the Trust Fund Committee, be satisfied, *first*, through the conveyance or reconveyance of the CIIF SMC Shares, and *second*, from the proceeds and revenues of the Trust Fund after the Trust Fund Committee shall have determined and allocated in accordance with the provisions of the Act, sufficient fund balance necessary to implement and realize the purpose and utilization of the Trust Fund.

The Trust Fund shall be managed and administered so as to maximize its earnings in a prudent manner consistent with its character as a perpetual fund.

**Section 6. Extent of the Trust Fund.** The Trust Fund shall be composed of the following:

- (a) The CIIF SMC Shares consisting of approximately 27% of the outstanding capital stock of SMC, including all accrued cash and stock dividends; and
- (b) All properties and/or assets intended and conveyed or transferred to the Committee emanating from all coco levy recovered assets.
- (c) Such other funds, properties and/or assets lawfully conveyed or transferred to the committee for the purposes herein stated.

**Section 7. Designation of Trustee Bank/s.** The Committee shall designate reputable depository bank/s of the Trust Fund, which shall:

- (a) Manage, disburse and account for the Trust Fund or a portion thereof in the manner hereinafter provided by the Committee, and
- (b) Exercise the tasks, functions and duties determined and established by the Committee created under the provisions of this Act, to the extent allowed under applicable laws.

**Section 8. The Coconut Farmers Trust Fund Committee.** A Coconut Farmers Trust Fund Committee is hereby created for the administration of the trust fund and the disposition and the utilization of the earnings and incomes thereof in accordance with the existing statute creating the coconut levies for the rehabilitation and development of the coconut industry and for the ultimate benefit of the small coconut farmers and farm workers.

The Coconut Farmers Trust Fund Committee (herein referred to as the "Committee") shall be composed of the President of the Philippines sitting as its chairperson, and twelve (12) other members, as follows:

- (a) Three (3) representatives from the government, who shall be the Secretary of Agriculture and the Secretary of Finance and the Administrator of the Philippine Coconut Authority;
- (b) Three (3) representatives from the finance and banking sector, who must have extensive experience and proven expertise in finance, banking and trust management;
- (c) Three (3) representatives from coconut farmers' organizations; and
- (d) Two (2) representatives from the CIIF group;
- (e) One (1) representative from Civil Society Organization.

The members of the Committee shall be appointed by the President and shall serve for a term of three (3) years.

All trustees, with the exception of the Chairperson, shall serve for maximum of two consecutive terms of office.

**Section 9. *Functions and responsibilities of the Committee.*** To ensure that the benefits and gains arising out of the Trust Fund directly redound to, and are received by, the small coconut farmers and farm workers, the Committee shall:

- (a) decide on the disposition, utilization and allocation of the said funds and assets for the foregoing special purpose taking into consideration and priority of the funding requirements to implement the coconut productivity, research and extension program of the Philippine Coconut Authority;
- (b) set the investment policy of the Trust Fund in consideration of all existing coconut industry development studies and plans; provided that this will not be inconsistent with the following objectives:
  - i. poverty alleviation and social equity;
  - ii. increase in the productivity of small coconut farmers through sustainable means;
  - iii. full scale rehabilitation of the coconut industry and promotion of coconut-based farm systems;
  - iv. modernization of the coconut industry towards global competitiveness;
  - v. protection of small coconut farmers and farm workers from unfair competition; and
  - vi. medical and/or health and life insurance services for small coconut farmers and farm workers; and
- (c) establish priorities for the referential assistance to small coconut farmers and farm workers, which shall be reviewed periodically and revised as necessary in accordance with changing conditions;
- (d) formulate the rules and regulations governing the allocation, utilization and disbursements of the Fund;
- (e) formulate the Implementing Rules and Guidelines of this Act; and,
- (f) perform such other acts and things as may be necessary, proper or conducive to attain the purposes of the Fund.

**Section 10. *Use and Disposition of the Trust Income.*** The Committee, on an annual basis, shall determine and establish an amount comprising the Trust Income, which determination shall be audited by the Commission on Audit. After such determination, the Committee shall determine the utilization of the Trust Income.

**Section 11. *Cooperation with the Committee.*** The Committee may call upon any department, bureau, office, agency and instrumentality of the government of the Republic of the Philippines, including government-owned and controlled corporations, for such assistance as it may desire and need, in pursuit of the purpose and objectives of the Trust Fund, and in the discharge of its functions and responsibilities.

**Section 12. *Meetings of the Committee.*** The Committee shall meet at least once a month, or as often as deemed necessary by the Chairperson.

**Section 13. *Accounting and Auditing.*** The Committee shall maintain appropriate records and accounts of all investments, income, receipts, disbursements and other transactions relating to the management, administration and disposition of the Trust Fund and Trust Income.

The Trust Fund shall be audited annually by the Commission on Audit.

**Section 14. *Implementation.*** The Presidential Commission on Good Government, the Office of the Solicitor General and other appropriate government instrumentalities are hereby directed to take all the necessary steps to implement the purpose and objectives of this Act.

**Section 15. *Repealing Clause.*** This Act repeals Executive Order Number 312 dated 3 November 2000, and Executive order Number 313 dated 8 November 2000 respectively. All laws, presidential decrees, ordinances, rules and regulations, or any provisions thereof, inconsistent with the provisions of this Act are hereby revoked, amended, revised and superseded accordingly.

**Section 16. *Separability Clause.*** The provisions of this Act are hereby declared to be separable and in the event one or more of such provisions are held unconstitutional, the validity of the other provisions shall not be affected thereby.

**Section 17. *Effectivity.*** This Act shall take effect after fifteen (15) days following its complete publication in at least two (2) national newspapers of general circulation.

Approved,