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SENATE

Senate Bill No. 135

RECEIVED BY: *Ji*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The spirit of cooperativism runs contrary to any prolonged and extended discord within its ranks. As such, an efficient mechanism for settling disputes within and between cooperatives is necessary. The Philippine Cooperative Code of 2008 institutes arbitration at the level of the Cooperative Development Authority (CDA) as a dispute resolution mechanism thereby ensuring a quick process and a final and binding award.

The method of arbitration implemented under the Cooperative Code is in accordance with the Alternative Dispute Resolution Act of 2004. However, unlike the ADR Act where arbitral awards are final, executory, and non-appealable, there is an express provision in the Cooperative Code allowing the appeal of an arbitral award before the Office of the President. This provision prolongs the process of resolution and, as such, runs contrary to both the spirit of cooperativism and the goals of arbitration as a method of dispute resolution.

The measure proposes the deletion of the appeal process to the Office of the President. This amendment will not in any way prejudice the rights of the disputants because under the ADR Act there is a provision as to the method and grounds for how an arbitral award may be vacated. It should also be noted that the arbitral award at the CDA level shall be given great weight considering that the voluntary arbiters are not only the persons familiar with the dispute but they are also the experts in the field of cooperatives. It is these experts who are equipped to resolve disputes in a manner that will safeguard both the cooperatives' present concern and their long-term interests.

Finally, the proposed amendment is not contrary to the Chief Executive's power of supervision and control over the CDA. Arbitration and the supervision of voluntary arbiters at the CDA level is not one of the main powers, functions, and responsibilities of the CDA under its Charter. This function is only upon request of affected cooperatives and provided under the Cooperative Code - not under the CDA Charter. Thus the Office of the President's power of supervision and control over the CDA's main duties, as defined under its Charter, is not diminished by this proposed measure.

Accordingly, passage of this measure is urgently sought.


JINGGOY EJERCITO ESTRADA
Senator



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AN ACT
AMENDING ARTICLE 137 OF REPUBLIC ACT NO. 9520 OTHERWISE KNOWN AS
"AN ACT AMENDING THE COOPERATIVE CODE OF THE PHILIPPINES TO BE
KNOWN AS THE 'PHILIPPINE COOPERATIVE CODE OF 2008'"

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

SECTION 1. Article 137 of Republic Act No. 9520 otherwise known as " An Act Amending the Cooperative Code of the Philippines to be known as the Philippine Cooperative Code of 2008" is hereby amended to read as follows:

"ART. 137. Settlement of Disputes, Conciliation, and Mediation Proceedings. —

X x x

"The jurisdiction of the voluntary arbitrators shall be exclusive and original and their decisions [shall be appealable to the Office of the President.] **SHALL BE IMMEDIATELY FINAL AND EXECUTORY.** The Authority shall issue and adopt the proper rules of procedure governing arbitration as the primary and exclusive mode for dispute resolution in accordance with the Alternative Dispute Resolution Act of 2004.

"For this purpose, the Authority shall constitute a list of qualified voluntary arbitrators."

SEC. 2. The Cooperative Development Authority shall formulate the necessary, rules and regulations for the effective implementation of this Act.

SEC. 3. If any provision or part of this Act shall be declared invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

SEC. 4. All laws, decrees, executive orders, issuances, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 5. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,