

SENATE

'16 AUG -1 A11:36

S. B. No. 934

INTRODUCED BY SENATOR ANA THERESIA "RISA" HONTIVEROS BARAQUEL

AN ACT
ESTABLISHING THE COCONUT FARMERS TRUST FUND AND PROVIDING FOR ITS
MANAGEMENT AND UTILIZATION

70% of poor Filipinos are located in the rural countryside. Among the rural poor, 60% reside in coconut-producing areas that receive the least government assistance, compared to other agricultural crop sectors. Of the country's 3.5 million coconut farmers, 1.9 million are farm workers, subsisting on roughly PhP41.00 per day. The overall objective is to uplift the quality of life of coconut farmers on a sustainable basis based on the following key indicators: (1) increased incomes, (2) good health, and (3) well-trained and capacitated coconut farmers, and economies of scale.

In January of 2012, the Supreme Court rendered a ruling on Civil Case No. 003? (designated G.R. No. 177857/177858 and G.R. No. 178193) holding that "the Coconut Industry Investment Fund (CIIF) Block of San Miguel Corporation (SMC) shares of stock totaling 33,133,266 shares as of 1983 together with all dividends declared, paid and issued thereon as well as any increments thereto arising from, but not limited to, exercise of pre-emptive rights are declared owned by the government to be used only for the benefit of all coconut farmers and for the development of the coconut industry, and ordered reconveyed to the government".

This decision is an important step in the government's pursuit of social justice and the rectification of historical inequities through the return of the coconut levy funds to the rightful owners, the small coconut farmers, from whom these levies had been exacted during the administration of Former President Ferdinand Marcos. However, absent legislation creating a vehicle for the judicious utilization of the funds, the funds remain in a vacuum - a valuable resource remaining untapped and out of reach of the millions of coconut farmers who need it.

Among the key features of this bill are:

- 1) It initially allots 10% of the Trust Principal to jump-start projects and programs most needed to provide social protection for coconut farmers and provide support in terms of capital and equipment for the establishment of coco hubs in coconut producing municipalities.
- 2) Subsequent annual releases will just be from the interest earnings of the fund
- 3) A trust fund committee which shall manage the fund and establish policies on its utilization, guided by a Coco Roadmap crafted by the inter-agency efforts with the strong participation of coconut farmers shall be set up. The strong presence of coconut farmers in this committee is also put in place.
- 4) Coco levy assets shall only be privatized should there be no use for them for the coconut farmers in building their coco enterprises.

It is time to correct the historical injustices against our coconut farmers.

Early passage of this bill is therefore earnestly requested.

Ana Theresa "Risa" Hontiveros Baraquel
SEN. ANA THERESIA "RISA" HONTIVEROS BARAQUEL

1 Resources, Incorporated; Toda Holdings, Incorporated; and Valhalla Properties
2 Limited, Incorporated, created by the CIIF Oil Mills Group to acquire, hold and
3 manage the shares of stocks of San Miguel Corporation (SMC);

4 (c) **CIIF - Oil Mills Group** refers to the six (6) CIIF companies, namely,
5 Southern Luzon Coconut Oil Mills; Cagayan de Oro Oil Company, Incorporated;
6 Iligan Coconut Industries, Incorporated; San Pablo Manufacturing Corporation;
7 Granexport Manufacturing Corporation; and Legaspi Oil Company, Incorporated,
8 acquired by the UCPB using the CIIF;

9 (d) **CIIF SMC Block Shares** refer to the 33,133,266 shares of stock in SMC,
10 sequestered by the PCGG in April 1986 representing 31% of the total outstanding
11 capital stock of SMC;

12 (e) **Converted SMC Series 1 Preferred Shares** refer to that portion of the
13 CIIF SMC Block Shares covering 753,848,312 preferred shares of stock in SMC
14 representing 24% of the outstanding capital stock of SMC;

15 (f) **Coconut farmer** refers to:

16 (1) Farmer-owner of a coconut farm, which is not more than five (5)
17 hectares, who:

18 (i) tills the land (owner-cultivator), or

19 (ii) does not till the land, but has control and supervision over the
20 cultivation of a farm which is not more than five (5) hectares;
21 and

22 (2) A non-owner of the coconut farm who is either a:

23 (i) leaseholder or tenant who tills or supervises the cultivation of
24 the farm; or

25 (ii) farm worker or laborer, whether seasonal or itinerant, engaged
26 in the harvesting of the nuts and processing of copra as major
27 means of livelihood.

28 (g) **Coconut Levy Assets** refer to any and all kinds of property, whether real
29 or personal, tangible or intangible, wherever situated, which have been acquired
30 through or otherwise funded by the Coconut Levy Funds, including those assets
31 that may be recovered in favor of the government, as well as the fruits or income
32 derived therefrom, including those acquired in exchange or substitution thereof,
33 including the following:

34 (1) the shares of stock in UCPB determined to be owned by the Government;

35 (2) the CIIF Oil Mills Group;

36 (3) the CIIF Holding Companies; and

37 (4) the Converted SMC Series 1 Preferred Shares.

38 (h) **Coconut Levy Funds** refer to various funds generated from levies, taxes,
39 charges, and other fees exacted or imposed pursuant to or in connection with the
40 sale of *copra resecada* or its equivalent in other coconut products, and collected
41 for the most part from coconut farmers, planters, millers, refiners, processors,
42 exporters, desiccators and other end-users of *copra resecada* or its equivalent in
43 other coconut products. These shall refer to any and all of the following:

44
45 (1) the Coconut Investment Fund created under Republic Act No. 6260;

46 (2) the Coconut Consumers Stabilization Fund, later renamed as the Coconut
47 Industry Stabilization Fund, created under Presidential Decree No. 276;

48 (3) the Coconut Industry Development Fund created under Presidential
49 Decree No. 582;

1 (4) the Coconut Industry Investment Fund created pursuant to Presidential
2 Decree No. 1468; and

3 (5) the Coconut Reserve Fund under Presidential Decree No. 1468 and
4 Presidential Decree No. 1842.

5
6 (i) **Investment Guidelines** refer to the investment management guidelines,
7 rules, procedures, and policies to be formulated by the Coconut Farmers Trust
8 Fund Committee created under Section 11 of this Act, and as may be amended
9 from time to time, which shall provide the parameters for investments of the
10 Trust Income or any portion thereof, and shall include, among others, asset
11 allocation, criteria for selection of fund managers, and required income from the
12 fund, and other investment management threshold requirements.

13 (j) **Trust Income** refers to the income, interest earnings, and other monetary
14 benefits, realized by and accruing to the Trust Fund or any portion thereof.

15 (k) **Trust Principal** refers to:

16 (1) the initial Trust Principal composed of dividends declared, paid, or
17 issued on the Converted SMC Series 1 Preferred Shares, the proceeds
18 from the redemption of the Converted SMC 1 Preferred Shares, and all
19 income or interest derived therefrom as of the effectivity of this Act
20 and any other cash Coconut Levy Asset deposited in the Bureau of the
21 Treasury (BTr) and the UCPB as administrator of the CIIF; any other
22 cash Coconut Levy Asset including amounts deposited in UCPB as
23 Administrator of the CIIF;

24 (2) any and all proceeds of privatization of the Coconut Levy Assets
25 remitted thereto by the Privatization and Management Office (PMO),
26 organized under Article III of Executive Order No. 323 (S.2001); and

27 (3) proceeds of privatization of any or all properties or assets conveyed by
28 any person, group or entity to the Committee, from time to time, as
29 provided in Section 8 hereof.

30 II

31 **Audit and Reconveyance of Coconut Levy Assets**

32
33
34 **SEC. 4. Audit and Inventory of Coconut Levy Assets.** Upon the effectivity of this
35 Act, the Presidential Commission on Good Government (PCGG), created under Executive
36 Order No. 1 (S.1986), shall conduct a complete accounting and inventory of the Coconut
37 Levy Assets as well as the investments, disbursements, and expenditures relating to the
38 coconut levy fund and submit a certified report to the BTr, the Commission on Audit
39 (COA) and the Office of the President (OP).

40 The COA shall audit the inventory of Coconut Levy Assets prepared and
41 submitted by the PCGG for the purpose of, among others, determining completeness of
42 the inventory, establishing the reasonableness of the asset valuation and tracing of the
43 flow of the coconut levy fund. The COA shall submit to the Coconut Farmers Trust Fund
44 Committee created under Section 11 hereof its initial audit report within one hundred
45 twenty (120) days upon completion of the audit. However, further audit may be
46 undertaken after the initial audit, as necessary.

47 The Committee shall, within fifteen (15) days from its receipt of the audit report,
48 publish the same in at least two (2) newspapers of national circulation.

49 Nothing herein shall be construed as preventing the PMO, created under Article

1 III of Executive Order No. 323 (S.2001), from procuring a third-party appraisal of any of
2 the Coconut Levy Assets prior to or in the course of preparing the privatization or
3 disposition plans for the said assets.

4
5 **SEC. 5. Reconveyance of Coconut Levy Assets.** Immediately upon the effectivity
6 of this Act, the PCGG, the government representatives to the boards of
7 sequestered/surrendered corporations, and any government agency or person in
8 possession, custody, control or administering any Coconut Levy Asset shall perform or
9 cause the performance of the following:

- 10 (a) reconveyance of the title of such asset to the Republic of the Philippines;
11 (b) delivery of all stock certificates and other evidence of ownership to the BTr for
12 safekeeping; and
13 (c) deposit all cash assets in the Trust Fund.

14 Any provision of law to the contrary notwithstanding, the BTr and the UCPB shall
15 directly remit the initial Trust Principal to the Trust Fund.

16 The COA shall conduct an audit to determine compliance with pertinent laws,
17 rules and regulations on reconveyance of the Coconut Levy Assets to the Republic of the
18 Philippines.

19 **III**
20 **Coconut Farmers Trust Fund**

21 **SEC. 6. The Coconut Farmers Trust Fund.** There is hereby created a trust fund to
22 be known as the Coconut Farmers Trust Fund, herein referred to as the "Trust Fund,"
23 which shall consist of the Trust Principal and the Trust Income. No portion of the Trust
24 Fund shall accrue to the general fund of the National Government. It shall be capitalized,
25 managed, utilized and accounted for in the manner provided in this Act. Nothing in this
26 Act shall be understood to prevent or prohibit any person, group or entity from
27 conveying to the Committee other properties and/or additional assets either for the use
28 of the coconut industry, or for purposes of privatization, in which case, the proceeds of
29 such privatization shall form part of the Trust Fund.

30
31 **SEC. 7. Purpose of the Trust Fund.** – The Trust Fund shall be used exclusively for
32 the ultimate benefit of coconut farmers and farm workers as embodied in the Coconut
33 Farmers and Industry Development Plan prepared pursuant to Section 20 hereof.

34
35 **SEC. 8. Capitalization of the Trust Fund.** All assets and/or properties derived
36 from all coco levy recovered assets; and all dividends, interest earnings and incomes
37 that are available upon the effectivity of this Act shall form part of the initial capital of
38 the Trust Fund. The Trust Fund shall thereafter be augmented with all proceeds of
39 privatization/disposition of the Coconut Levy Assets remitted directly thereto by the
40 PMO in accordance with this Act, including any and all forms of income, interests,
41 earnings, yields, or any monetary benefit derived therefrom prior to the
42 privatization/disposition of these Coconut Levy Assets.

43 In order to ensure the enduring character of the Trust Fund, the Principal thereof
44 shall be augmented by grants, donations and other lawful transfers by public or private
45 entities.

46
47 **SEC. 9. Management and Utilization of the Trust Fund and Trust Income.** The
48 Trust Fund shall be available and may be utilized only for the purpose for which it was

1 created and upon authorization of the Committee, subject to the following conditions:

- 2 (a) The Trust Principal shall be preserved and maintained at all times and only
3 the Trust Income may be used: *Provided*, that an aggregate amount not
4 exceeding ten percent (10%) of the initial Trust Principal may be used during
5 the first two years following the effectivity of this Act.
- 6 (b) The Trust Fund shall be disbursed only on the basis of the funding
7 requirement of the program, activity or project.
- 8 (c) The Trust Fund may also be disbursed to pay for the expenses of the
9 Committee for the administration, monitoring, evaluation, information
10 services, and other necessary activities for the effective performance of its
11 functions under this Act; and
- 12 (d) No part of the Trust Fund shall be utilized to pay for the salary of PMC
13 personnel.

14 All releases from the Trust Fund approved by the Committee shall be released
15 directly to the implementing agencies. For the avoidance of doubt, regular programs by
16 the Philippine Coconut Authority, research and development, market promotion, farm-
17 to-market roads, and direct lending, shall be funded through regular appropriations.

18
19 **SEC. 10. Designation of the Bureau of the Treasury as Depository of the Trust**
20 **Fund.** The Trust Fund shall be deposited in the Bureau of the Treasury (BTr). The BTr
21 shall account for the Trust Fund in the manner provided by the Committee and shall
22 perform such duties as may be determined by the Committee.

23 24 IV

25 Coconut Farmers Trust Fund Committee

26
27 **SEC. 11. Creation of the Coconut Farmers Trust Fund Committee.** The Coconut
28 Farmers Trust Fund Committee, hereinafter referred to as the Committee, is hereby
29 created under the Office of the President.

30 The Committee shall have the following powers and functions:

- 31 (a) coordinate and monitor the implementation of the Coconut Farmers and
32 Industry Development Plan as prepared pursuant to Section 20 hereof.;
- 33 (b) approve any allowable disbursement out of the Trust Fund;
- 34 (c) formulate the Investment Guidelines including the Prohibited Investments;
- 35 (d) appoint a fund manager, if necessary, to handle the investment of the Trust
36 Principal;
- 37 (e) identify the Coconut Levy Assets that will be privatized, retained, or
38 abolished and submit its recommendation to the President; *Provided* that
39 said assets may no longer be useful to the coconut farmers and their needs to
40 develop their coco enterprise;
- 41 (f) approve the marketing and disposition program for the Coconut Levy Assets
42 approved for privatization;
- 43 (g) authorize the sale and other mode of privatization of Coconut Levy Assets
44 approved for privatization;
- 45 (h) authorize the rehabilitation of Coconut Levy Assets approved for
46 privatization pending actual disposition;
- 47 (i) facilitate access by coconut farmers and their organizations from the most
48 poverty afflicted areas of the country to the services, programs and benefits
49 implemented pursuant to the Coconut Farmer and Industry Development

- 1 Plan. For purposes of this Act, those already accredited farmers
2 organizations need not go through another accreditation process;
- 3 (j) submit to the President reports and recommendations in connection with its
4 functions under this Act;
- 5 (k) appoint, transfer, suspend, or remove for cause, personnel of the Committee,
6 and fix their remuneration in accordance with the Salary Standardization
7 Law; and
- 8 (l) exercise such other incidental powers and functions as may be necessary to
9 attain the objectives of this Act.

10 (m)

11 **SEC. 12. Composition.** The Committee shall be composed of the following:

- 12 (a) Six (6) representatives from the government who shall be serving in *ex-officio*
13 capacity:
- 14 (1) Office of the President as Chair;
15 (2) Secretary of the Department of Agriculture (DA) as Vice-Chair;
16 (3) Secretary of the Department of Finance (DOF);
17 (4) Secretary of the National Anti-Poverty Commission (NAPC);
18 (5) Director-General of the National Economic Development Authority
19 (NEDA); and
20 (6) Administrator of the PCA.
- 21 (b) Six (6) representatives from the coconut farmers' organizations who have
22 considerable experience and reputable track records, allocated as follows:
- 23 (1) two (2) representatives from Luzon;
24 (2) two (2) representatives from Visayas; and
25 (3) two (2) representatives from Mindanao
- 26 (c) One (1) representative from a civil society organization with considerable
27 experience and reputable track record.

28 Within thirty (30) days following the effectivity of this Act, the PCA shall
29 promulgate a selection process of nominees as representatives of the coconut farmers'
30 organizations in the Committee. The nominees of the coconut farmers' organizations
31 shall be validated and shortlisted by the PCA, in consultation with the NAPC. The list of
32 nominees shall be submitted to the President not later than sixty (60) days from the
33 start of the selection process.

34 The government representatives in the Committee shall serve only during their
35 respective terms in office, while the six (6) representatives from coconut farmers
36 organization and one (1) representative from the civil society organization shall each
37 hold a term of one (1) year, unless sooner removed for cause. Any of the representatives
38 shall continue to hold office until the successor is appointed: *Provided*, That any
39 appointment to fill a vacancy in the Committee shall be only for the unexpired term.

40

41 **SEC. 13. Ex Officio Alternates.** The *ex officio* members of the Committee may
42 designate their respective alternates who shall be the officials next-in-rank to them and
43 their acts shall be considered the acts of their principals.

44

45 **SEC. 14. Meetings of the Committee.** The Committee shall meet at least once a
46 month, or as often as deemed necessary and expedient to discharge its responsibilities.
47 The presence of at least a majority of the members of the Committee shall constitute a
48 quorum, and the concurrence of a majority of the members present at a meeting at
49 which a quorum exists shall be adequate for any decision by the Committee: *Provided*,

1 That, the approval of at least a majority of the members of the Committee shall be
2 required on matters involving the following:

3 (a) any disbursement of funds involving more than Fifty million pesos
4 (PhP50,000,000.00);

5 (b) any proposed investment involving more than One hundred million pesos
6 (PhP100,000,000.00); and

7 (c) any disposition or privatization proposal involving more than Five hundred
8 million pesos (PhP500,000,000.00).

9 The Chairperson, if unavailable, may designate the Chairperson to convene the
10 Committee and preside over the Committee's meeting on behalf of the Chairperson.

11
12 **SEC. 15. *Obligations of the Members of the Committee.*** The members of the
13 Committee shall act with due care, diligence, skill, and good faith in all its dealings with
14 the Trust Fund and the Coconut Levy Assets. They shall avoid conflicts of interest and
15 declare before the Committee any interest they may have in any particular matter.

16 Where a member of the Committee receives any profit or benefit by virtue of the
17 office, including acquiring shares in corporations that form part of the Coconut Levy
18 Assets, using the Coconut Levy Assets for one's benefit, receiving commission on
19 contracts from the Coconut Levy Assets, or taking advantage of corporate opportunities
20 involving the Coconut Levy Assets, all such profits or benefits shall be returned to the
21 Trust Fund, without prejudice to any administrative, civil or criminal action against such
22 member. This provision shall be applicable notwithstanding the fact that such member
23 of the Committee used one's own funds in the venture.

24
25 **SEC. 16. *Executive Director of the Committee.*** The President, upon
26 recommendation of the Committee, shall appoint an Executive Director who shall
27 exercise the following powers and functions:

28 (a) execute, administer and implement the plans and programs approved or
29 promulgated by the Committee;

30 (b) direct and supervise officials, employees, representatives and agents for
31 the Committee;

32 (c) prepare an annual report on the activities of the Committee at the close of
33 each fiscal year and to submit a copy thereof to the President and Congress;

34 (d) keep and maintain official records and reports of the proceedings of the
35 Committee;

36 (e) administer oaths in all matters falling within the jurisdiction of the
37 Committee; and

38 (f) exercise such other duties as may be vested by the Committee that are
39 consistent with the provisions of this Act.

40 The PCA shall provide Secretariat support to the Committee.

41
42 **SEC. 17. *Cooperation with the Committee.*** The Committee may also call upon
43 any department, bureau, office, agency, and instrumentality of the government,
44 including government-owned and controlled corporations for any assistance it may
45 need in the discharge of its functions and responsibilities.

46
47 **SEC. 18. *Accounting and Auditing.*** The Committee shall maintain records and
48 accounts of all investments, income, receipts, disbursements and other transactions
49 relating to the management, administration and disposition of the Trust Fund. These

1 records and accounts shall be maintained in accordance with existing accounting and
2 auditing laws, rules and regulations. The Trust Fund shall be audited by the COA.

3
4 **SEC. 19. Legal Counsel.** The Secretary of Justice shall be the *ex-officio* counsel to
5 the Committee on legal matters.

6 V

7 **Coconut Farmers and Industry Development Plan**

8
9 **SEC. 20. Preparation of the Coconut Farmers and Industry Development Plan.**

10 An *Ad Hoc* Committee is hereby created to be composed of the Secretaries of the
11 Department of Agriculture (DA), the Department of Agrarian Reform (DAR), the
12 Department of Trade and Industry (DTI), the Department of Science and Technology
13 (DOST), the Department of Energy (DOE), the Department of Public Works and
14 Highways (DPWH), the Department of Interior and Local Government (DILG), the
15 National Anti-Poverty Commission (NAPC), the National Economic Development
16 Authority (NEDA), and at least three (3) representatives from the farmers' groups, one
17 each from Luzon, Visayas and Mindanao, and one civil society organization working with
18 expertise on the industry. The Administrator of the PCA shall act as the *Ad Hoc*
19 *Committee's* Chairperson.

20 The *Ad-Hoc* Committee, in consultation with the coconut farmers and
21 representatives of the coconut industry, shall indicate in an integrated coconut industry
22 strategy map the policies for the development and rehabilitation of the coconut industry.
23 The coconut industry strategy map shall be made basis of a five (5) year plan of
24 programs, activities and projects for direct benefits of coconut farmers which shall be
25 funded out of the Trust Fund and which shall be known as the Coconut Farmers and
26 Industry Development Plan.

27 In the formulation of the Plan, the *Ad Hoc* Committee shall be guided by the
28 following objectives:

- 29 1) the increase in the income of coconut farmers and increase coconut
30 productivity including intercropping and livestock-raising;
31 2) the promotion of coconut-based enterprises including integrated processing
32 of coconut products and downstream products;
33 3) the provision of timely and critical support to coconut farmers organization
34 and development; and
35 4) the establishment of social protection programs that directly benefit coconut
36 farmers and farm workers, in case these social protection programs are not
37 funded by an appropriations law or any other special law, or where funding is
38 insufficient.

39 The Plan shall provide an indicative funding requirement or allocation for the
40 implementation of any and all of the programs and projects to be funded by the Trust
41 Income, which funding or allocation shall be itemized or broken down on a project-to-
42 project basis: *Provided*, That, (a) for projects which are recurring, or to be implemented
43 on a regular basis, the allocation shall indicate the annual fund that may be required to
44 implement the project; and (b) for projects that are to be implemented or concluded
45 within a period of time, the allocation shall indicate the total fund that may be required
46 for the implementation of the whole project, itemized according to the phases or stages
47 of the project.

1 Within sixty (60) days from the effectivity of this Act, the Plan shall be submitted
2 by the Ad Hoc Committee to the Coconut Farmers Trust Fund Committee who shall, in
3 turn, submit the Plan to the President for approval. Immediately upon its approval, the
4 Plan shall be returned to the Committee for the disbursement of funds in accordance
5 with the provisions of this Act. Any amendment to the Plan shall require the approval of
6 the President.

7 If the President has any objection or any amendment thereto, the President shall
8 notify the Committee within thirty (30) days from receipt thereof; otherwise the Plan
9 shall be deemed approved.

10 VI

11 Privatization of the Coconut Levy Assets

12
13 **SEC. 21. Privatization of the Coconut Levy Assets.** The Committee shall
14 determine the Coconut Levy Assets that shall be privatized. For this purpose, the
15 Committee shall be guided by the following factors:

- 16 (a) the functions or purposes for which the entity was created are no longer relevant
17 to the State or no longer consistent with the national development policy of the
18 State;
- 19 (b) the functions or purposes of the entity duplicate or unnecessarily overlap with
20 functions, programs, activities or projects already provided by another agency;
- 21 (c) the entity is not producing the desired outcomes, or is no longer achieving the
22 objectives for which it was originally designed and implemented;
- 23 (d) the entity is dormant or non-operational;
- 24 (e) the entity is involved in an activity which is best carried out by the private sector;
25 and
- 26 (f) the function, purpose, or nature of operations of any group of entities requires
27 consolidation under a holding company.

28 The Committee shall submit its recommendation to the President for approval.
29 The Committee shall also arrange for the transfer of the Coconut Levy Assets approved
30 for privatization to the PMO, unless the President, upon the recommendation of the
31 Committee, designates another agency to preserve such Coconut Levy Assets pending
32 privatization.

33
34 **SEC. 22. Additional Mandate of the Privatization and Management Office**
35 **(PMO).** In addition to its powers and functions under Executive Order No. 323 dated
36 December 6, 2000, the PMO is authorized to dispose the Cocq Levy Assets that have been
37 approved for privatization.

38 In the discharge of its mandate, the PMO shall:

- 39 (a) formulate and implement the marketing and disposition program after securing
40 prior approval of the Committee;
- 41 (b) take possession of and preserve such assets on behalf of the National
42 Government;
- 43 (c) execute and deliver, on behalf of the National Government, deeds of sale,
44 contracts, trust instruments, and other legally operative documents as may be
45 necessary or appropriate to convey title to, take possession of, and conserve
46 such assets;

1 (d) engage external expertise as may be necessary in the fulfillment of its tasks
2 under this Act; and

3 (e) adopt internal rules and regulations.

4 Any and all sales and other modes of privatization or disposition shall not be
5 considered final unless and until approved by the Committee.

6
7 **SEC. 23. Powers of the Privatization and Management Office.** The PMO is also
8 empowered to enter into sales through public bidding, negotiated sale, lease, or any
9 form of divestment or transmission of rights over the Coconut Levy Assets, *Provided*;
10 That no Coconut Levy Asset shall revert to the previous owners or their nominees or be
11 sold to individuals who, as determined by final judgment of a court of law, have
12 mismanaged or diverted such assets.

13 Prior to the implementation of any privatization plan, the PMO shall exercise the
14 following powers:

15 (a) require anyone or the subject corporations to adopt and implement cost-
16 reduction measures to enhance the viability, and therefore the disposability of
17 the corporations to potential buyers, including measures requiring personnel
18 retrenchment plans or other forms of corporate downsizing;

19 (b) direct anyone or all of the subject corporations to submit to the PMO, within fixed
20 time-tables, such reports and information as the PMO may require in the exercise
21 of its functions under this Act; and

22 (c) cause the subject corporations to undergo merger, consolidation, spin-off, or
23 other corporate acts of reformatory nature as it may deem necessary or desirable
24 to expedite the disposition and privatization under this Act.

25 In all such cases, no corporate measure shall be implemented without the
26 approval of the Committee.

27 Nothing herein shall be construed as authorizing the Committee or the PMO to
28 rehabilitate or allow investments of any and all Coconut Levy Assets transferred to the
29 National Government.

30
31 **SEC. 24. Committee to Determine Transfer Value.** The Committee is hereby
32 vested with full and complete powers and prerogatives to determine transfer values and
33 related valuations at which the Coconut Levy Assets shall be transferred and conveyed
34 to the PMO pursuant to the mandate of this Act and upon reasonable consultation with a
35 third-party appraiser; *Provided*, That any valuation approved by the Committee for
36 purposes of the transfer to the PMO shall not be deemed a condonation, waiver, or
37 extinguishment of any obligation by any party whose vested rights may be impaired by
38 such transfer.

39
40 **SEC. 25. Remittance of Proceeds of Privatization.** All proceeds or receipts from
41 the sale of Coconut Levy Assets shall be remitted to the Trust Fund.

42
43 **SEC. 26. Reporting Requirements.** The Committee shall, on a semi-annual basis,
44 submit to the President and to Congress a report on the status of disposition of the
45 Coconut Levy Assets, which shall include, among others, a description of the individual
46 assets disposed of, the purchasers thereof, the consideration received therefor, and the
47 agreed terms of payment.

48 The PMO shall, within three (3) months following the closure of books at the end
49 of each fiscal year, submit a comprehensive annual report duly approved or endorsed by

1 the Committee, to the President and Congress on the status of its privatization efforts
2 and its disposition program for the Coconut Levy Assets, which shall include the items
3 described in the immediately preceding paragraph.

4
5 **SEC. 27. Retention and Dissolution of Coconut Levy Assets.** The Committee shall
6 identify the Coconut Levy Assets that should be retained by the National Government or
7 reorganized or abolished, guided by the same standards mentioned in Section 21 of this
8 Act. The Committee shall submit its recommendation to the President for approval.

9 Coconut Levy Assets that have been approved for retention shall be transferred
10 to such agency as may be designated by the President.

11 The Governance Commission on Government Owned or Controlled Corporations
12 (GCG), created under Republic Act No. 10149, shall implement the dissolution of those
13 Coconut Levy Assets that have been approved for abolition.

14
15 **SEC. 28. Allowable Investments.** The Committee shall manage the Trust
16 Principal with the skill, care, prudence, and diligence necessary under the circumstances
17 that a prudent person acting in like capacity and familiar with such matters would
18 exercise in the conduct of an enterprise of a like character and with similar aims.
19 Pursuant thereto, and in line with the basic principles of safety, growth, and liquidity,
20 the Trust Principal shall only be invested in any or all of the following:

- 21 (a) Bonds, securities, promissory notes or other evidence of indebtedness of the
22 Government of the Philippines, or in bonds, securities, promissory notes and
23 other evidence of indebtedness to which full faith, credit and unconditional
24 guarantee of the Republic of the Philippines is pledged;
- 25 (b) Bonds, securities, promissory notes or other evidence of indebtedness of
26 government financial institutions or government corporations with acceptable
27 credit or guarantee: *Provided*, That such investments shall be subject to a ceiling
28 to be fixed by the Committee in the implementing rules and regulations; and
- 29 (c) Deposits and loans and/or investments in any domestic bank doing business in
30 the Philippines and in good standing with the Bangko Sentral ng Pilipinas:
31 *Provided*, That in case of such deposits, these shall not exceed at any time the
32 unimpaired capital and surplus or total private deposits of the depository bank,
33 whichever is smaller; *Provided*, further, That the bank shall first have been
34 designated as a depository for this purpose by the Monetary Board of the Bangko
35 Sentral ng Pilipinas; *Provided*, finally, That such investments shall be subject to a
36 ceiling to be fixed by the Committee in the implementing rules and regulations.

37 VII

38 Final Provisions

39 **SEC. 29. Suppletory on Applicability of Republic Act No. 10149 and Executive**
40 **Order 323.** In the interpretation of the provisions of this Act, the provisions of Republic
41 Act No. 10149, otherwise known as the "GOCC Governance Act of 2011," and Executive
42 Order 323, entitled "Constituting an Inter-Agency Privatization Council (PC) and
43 Creating A Privatization and Management Office (PMO) Under The Department of
44 Finance For The Continuing Privatization of Government Assets and Corporations,"
45 except for Sections 2 and 3 of Article IV of E. O. 323, shall apply suppletorily.
46

1 **SEC. 30. *Implementing Rules and Regulations.*** Within thirty (30) days from the
2 date of the effectivity of this Act, the Committee, in consultation with the PMO, shall
3 formulate and promulgate the rules and regulations for the proper implementation of
4 this Act.

5
6 **SEC. 31. *Congressional Oversight.*** The Congressional Oversight Committee on
7 Agricultural and Fisheries Modernization (COCAFAM) shall exercise oversight functions
8 over the implementation of this Act.

9
10 **SEC. 32. *Separability Clause.*** If any provision of this Act is declared invalid or
11 unconstitutional, the other provisions not affected by such declaration shall remain in
12 full force and effect.

13 **SEC. 33. *Repealing Clause.*** All laws, executive and administrative orders, rules
14 and regulations inconsistent with this Act are hereby repealed or amended accordingly.

15
16 **SEC. 34. *Effectivity Clause.*** This Act shall take effect fifteen (15) days after its
17 publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,