

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4346



Introduced by **HON. JOY MYRA S. TAMBUNTING**

EXPLANATORY NOTE

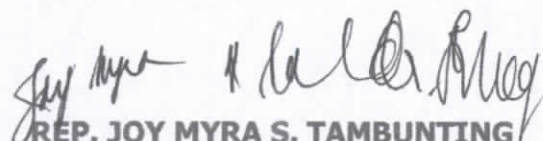
Coconut, is considered to be one of the most important crops in the Philippines. Known to be the tree of life, coconut is cultivated for its wide array of utilities—from its nutritional value to its medicinal and industrial uses.

Presently, Philippines remain to be the one of the largest producers and exporter of coconut products worldwide; even with the decline in yield since 2010, which is caused by insect infestation and occurrence of major typhoons. This vulnerability to typhoons and insect infestation, which destroys a huge number of coconut trees yearly, can be rooted from the inadequate support the coconut farmers and the industry have been receiving from the government. Moreover, millions of coconut farmers remain to be among the nation's poorest despite the significant contribution of the industry in our economy.

In *COCOFED, et.al. v Republic of the Philippines*, Supreme Court ruled that coco levy funds and assets are owned by the government in trust for the coconut farmers; and these are to be used exclusively for the benefit of all coconut farmers and the development of the coconut industry. It is therefore clear that there is dual ownership here: by government insofar as a levy is a tax and must result in funds that are public in character and by the farmers for whose benefit and from whom government levied the tax in the first place.

It is in this light that we seek to consolidate all assets and benefits emanating from the coconut levy, establish a Trust Fund therefrom, and ensure that the said fund shall be utilized for the development of the coconut industry and the benefit of the coconut farmers.

On behalf of the people of Parañaque City's Second District, and for the common good of the Filipino people, the approval of the said measure is earnestly sought.


REP. JOY MYRA S. TAMBUNTING
2nd District, Parañaque City

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HOUSE BILL NO. 4346

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**AN ACT DECLARING THE COCONUT LEVY ASSETS AS A TRUST FUND,
PROVIDING FOR ITS MANAGEMENT AND UTILIZATION, AUTHORIZING THE
PRIVATIZATION AND MANAGEMENT OFFICE TO DISPOSE THE COCONUT LEVY
ASSETS, AND FOR OTHER PURPOSES**

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

SECTION 1. Short Title. -This Act shall be known as the "Coconut Farmers and Industry Trust Fund Act."

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 to attain increased incomes for coconut farmers, alleviate poverty, and achieve social equality.

**CHAPTER I
DEFINITION OF TERMS**

SECTION 3. Definition of Terms. - As used in this Act:

(a) Coconut Farmer shall refer to:

- 1) An owner of a coconut farm, who:
 - i. Tills the land (owner-cultivator), or
 - ii. Does not till the land, but has control and supervision over the cultivation of the coconut farm;
- 2) A leaseholder or tenant who tills or supervises the cultivation of the coconut farm; or
- 3) A farm worker or laborer, whether seasonal or itinerant, engaged in the harvesting of the nuts and processing of copra as a major means of livelihood.

(b) Coconut Levy Assets shall refer to any and all kinds of property, whether real or personal, tangible or intangible, wherever situated, which have been acquired through the Coconut Levy Funds as defined in this Section, including those assets that may be recovered in favor of the Government, as well as the fruits or income therefrom, including those acquired in exchange or substitution thereof. These shall include, among others, the following:

- i. The shares of stock in United Coconut Planters Bank (UCPB) that were determined to be owned by the Government;
 - ii. The CIIF-Oil Mills Group, which refers to the CIIF companies, namely: Southern Luzon Coconut Oil Mills; Cagayan de Oro Oil Co. Inc.; Iligan Coconut Industries, Inc.; San Pablo Manufacturing Corp.; Granexport Manufacturing Corp.; and Legaspi Oil Co, Inc.;
 - iii. The CIIF Holding Companies, which refers to the fourteen (14) holding companies, namely: Anglo Ventures Corporation; ASC Investors, Inc.; Arc Investors, Inc.; AP Holdings, Inc.; Fernandez Holdings, Inc.; First Meridian Development, Inc.; Randy Allied Ventures, Inc.; Rock Steel Resources, Inc.; Roxas Shares, Inc.; San Miguel Officers Corps., Inc.; Soriano Shares, Inc.; Te Deum Resources, Inc.; Toda Holdings, Inc.; and Valhalla Properties Limited, Inc.;
 - iv. The Converted San Miguel Corporation (SMC) Series 1 Preferred Shares, which refers to the 753,848,312 preferred shares of stock in SMC declared owned by the Government, together with all the dividends declared, paid, or issued thereon, as well as any increments thereto arising from, but not limited to, the exercise of pre-emptive rights;
- (c) Coconut Levy Funds shall refer to various funds generated from levies, taxes, charges, and other fees exacted or imposed pursuant to or in connection with the sale of copra *rececada* or its equivalent in other coconut products, and collected for the most part from coconut farmers, planters, millers, refiners, processors, exporters, desiccators, and other end-users of copra *rececada* or its equivalent in other coconut products. Specifically, the term shall refer to any or all of the following:
- i. The Coconut Investment Fund created under Republic Act No. 6260;
 - ii. The Coconut Consumers Stabilization Fund, later renamed as the Coconut Industry Stabilization Fund, created under Presidential Decree No. 276;
 - iii. The Coconut Industry Development Fund created under Presidential Decree No. 582;
 - iv. The Coconut Industry Investment Fund created under Presidential Decree No. 1468;

Any person having any Coconut Levy Asset and/or Fund in its administration, authority, custody, or control which have been finally declared by the Supreme Court as belonging to the Government, shall perform or cause the performance of the following:

- 1) Reconvey title to the Republic of the Philippines;
- 2) Deliver all stock certificates and other evidence of ownership to the Bureau of the Treasury (BTr) for safekeeping; and
- 3) Transfer all cash Coconut Levy Assets to the Trust Fund;

Provided, that no temporary restraining order (TRO) or any injunction order can be issued except by the Supreme Court.

The Commission on Audit, in coordination with the Presidential Commission on Good Government, shall conduct an inventory and audit to determine compliance with pertinent laws, rules and regulations on the reconveyance of the Coconut Levy Assets and/or Fund to the Republic.

- (d) Designated Disposition Entity refers to Government Financial Institutions (GFIs) which, at the time of enactment of this Act, are one hundred percent (100%) owned by the Government, or National Government Agencies (NGAs), which are approved by the Trust Fund Management Committee, upon recommendation of the Trust Fund Manager, to perform similar functions as the BTr under Section 11 of this Act.

CHAPTER II

COCONUT FARMERS AND INDUSTRY DEVELOPMENT PLAN

SECTION 4. Preparation of the Coconut Farmers and Industry Development Plan.

- The utilization of the Trust Fund created under this Act, or any portion thereof, shall be in accordance with a Coconut Farmers and Industry Development Plan, which shall be prepared by the Philippine Coconut Authority (PCA) and approved by the President of the Philippines. In the performance of its functions, the PCA shall consult coconut farmers and their organizations, industry associations, civil society organizations, academe, government agencies concerned, and other stakeholders in the coconut industry. The Plan shall set the directions and policies for the development and rehabilitation of the coconut industry within ninety-nine (99) years.

In the formulation of the Plan, the PCA shall be guided by the following objectives:

- (a) Increased incomes of coconut farmers;
- (b) Poverty alleviation and social equity; and
- (c) Rehabilitation and modernization of the coconut industry towards farm productivity.

The Plan shall include a national program for:

- (a) community-based enterprises, including integrated processing of products and downstream products intended to increase incomes of coconut farmers;
- (b) social protection that directly benefit coconut farmers, farm workers, and their families, taking into consideration existing social protection programs of the government; and
- (c) Coconut farmers organization and development.

The Plan shall provide the criteria for targeting beneficiaries, the indicators in determining the attainment of the abovementioned objectives, and the mechanisms for monitoring and evaluating the impact of the different components of the program.

The Plan shall provide an indicative funding requirement or allocation for the implementation of any and all of the programs and projects to be funded by the initial Trust Fund Principal and the Trust Fund Income, which funding or allocation shall be itemized or broken down on a project-to-project basis, Provided, That:

- i. for projects which are recurring, or to be implemented on a regular basis, the allocation shall indicate the annual amount that may be required to implement said project;
- ii. for projects that are to be implemented or concluded within a period of time, the allocation shall indicate the total amount that may be required for the implementation of the whole project, itemized according to the phases or stages of said project; and
- iii. all projects shall be evaluated on the basis of financial returns and increased farmers income.

The Plan shall also include strategic and inclusive training programs dedicated for the coconut farmers based on a comprehensive review of existing training programs. Programs relating to planting, replanting, fertilization, research and development, market promotion, farm-to-market roads, and direct lending, shall be funded through regular appropriations.

The Plan shall take into account the utilization of the annual Trust Fund under the following allocations:

- (a) Shared facilities program, thirty percent (30%);
- (b) Farm improvement to encourage self-sufficiency, thirty percent (30%);
- (c) Empowerment of coconut farmer organization and their cooperatives, fifteen percent (15%);
- (d) Scholarship program, fifteen percent (15%); and
- (e) Health and medical program, ten percent (10%).

Within one hundred twenty (120) days from the effectivity of this Act, the Plan shall be submitted by the PCA to the President, for approval. The PCA shall, within ninety (90) days from the effectivity of this Act, complete the Coconut Farmers Registry.

Before the Plan is submitted to the President for approval, the Department of Budget and Management, Department of Finance, Department of Trade and Industry, and the National Economic and Development Authority shall provide their advisory opinions on the following matters:

- (a) Whether the Plan is supportive of and consistent with socio-economic development plans and oriented towards the achievement of explicit objectives and expected results, to ensure that the utilization of Coco Levy Fund is conducted effectively;
- (b) Whether the Plan manages Coco Levy Assets and Funds judiciously and in a manner supportive of development objectives;
- (c) Whether the Plan accelerates and sustains economic growth for the coconut industry;
- (d) Whether the Plan is programmed within the context of well-formulated and consistent long, medium, and short-term development plans and policies that will promote both the growth of the economy and the equitable distribution of the benefits of said growth to various members of society.

CHAPTER III **PHILIPPINE COCONUT AUTHORITY**

SECTION 5. The Philippine Coconut Authority (PCA). - The PCA, an independent public corporation created under Presidential Decree No. 1468, shall be reconstituted and strengthened to ensure the participation of coconut farmers in the crafting and implementation of the Coconut Farmers and Industry Development Plan. The composition of the PCA Board is hereby amended and the same shall now be composed of the following:

- (a) The Secretary of the Department of Agriculture (DA), as Chairperson;
- (b) The Secretary of the Department of Finance (DOF), as Vice Chairperson;
- (c) The Secretary of the Department of Budget and Management (DBM);
- (d) The Secretary of the Department of Science and Technology (DOST);
- (e) The Secretary of the Department of Trade and Industry (DTI);
- (f) The Administrator of the Authority; and
- (g) Three (3) members from the coconut farmers sector (one each from Luzon, Visayas, and Mindanao);

Provided, that the representatives from the coconut farmers sector shall be Filipino citizens, registered with the PCA's Coconut Farmers Registry, have considerable experience and reputable track record in promoting coconut farmers' interest and welfare, and nominated by coconut farmers organizations or cooperatives that are active for the past three (3) years in farmer organization and development or community enterprise development. They shall be appointed by the President of the Philippines from a list of four (4) nominees for each island grouping; Provided, further, That any appointment to fill a vacancy in the Board arising from the death, removal, retirement, or resignation of the appointive members of the Board shall only be for the unexpired term: Provided, finally, That the term of office of the appointive members of the Board shall be for one (1) year, unless sooner removed for cause.

The government representatives in the reconstituted PCA Board shall coordinate with the PCA in promulgating a nomination and screening process for the nominees of representatives of the coconut farmers in consultation with their respective organizations or associations.

CHAPTER IV COCONUT FARMERS AND INDUSTRY TRUST FUND

SECTION 6. The Coconut Farmers and Industry Trust Fund. - There is hereby created a Trust Fund to be known as the "Coconut Farmers and industry Trust Fund," referred to in this Act as the "Trust Fund," which shall be capitalized, managed, invested, utilized, and accounted for in the manner provided in this Act.

The Trust Fund shall be maintained in such manner for ninety-nine (99) years under the Coconut Farmers and Industry Development Plan to be formulated under Section 4 of this Act, and shall be used for the benefit of the coconut farmers and the development of the coconut industry.

SECTION 7. Nature and Capitalization of the Trust Fund. - The Coconut Farmers and Industry Trust Fund is separate and distinct from the regular funds appropriated to the PCA through the annual General Appropriations Act (GAA). As such, the PCA shall continue to pursue its mandate of implementing programs and projects from the regular GAA appropriations and from funds under the Trust Fund.

The proceeds from the redemption of the Converted SMC Series 1 Preferred Shares, dividends declared, paid, or issued on the Converted SMC Series 1 Preferred Shares, and all income or interest derived therefrom as of the effectivity of this Act, and any other cash Coconut Levy Asset, that are held by the BTr as a special account in the General Fund and as an escrow account, and cash held by UCPB as administrator of the CIIF, shall form part of the initial Trust Fund Principal of the Trust Fund.

For this purpose, any provision of law to the contrary notwithstanding, all government agencies holding Coco Levy Funds and/or Assets shall transfer any and all monies to the Trust Fund within a period not exceeding five (5) years from the effectivity of this Act. Immediately upon the enactment of this Act, the BTr shall transfer Five Billion Pesos (P 5, 000,000,000.00) to a separate Trust Fund Account.

The Trust Fund shall thereafter be augmented with all proceeds of privatization or disposition of the Coconut Levy Assets remitted directly thereto by the BTr, Privatization and Management Office (PMO), or other Designated Disposition Entities in accordance with this Act, including any and all forms of income, interests, earnings, yields, or any monetary benefit derived prior

to the privatization or disposition of any of the Coconut Levy Assets, and any and all forms of income, interests, earnings, yields, or any monetary benefit derived from retained Coconut Levy Assets.

SECTION 8. Utilization of the Trust Fund. - The utilization of the Trust Fund or any portion thereof shall be in accordance with the Coconut Farmers and Industry Development Plan as provided in Section 4 of this Act, Provided, That for purposes of the implementation of the Plan, for the execution of programs and projects identified in the Plan that are allowed to be funded out of the Trust Fund, pending the accrual or availability of the Trust Fund Income, and subject to annual Governmental audit, an initial allocation of Five Billion Pesos (PS,000,000,000.00) shall be available to the PCA, which shall include disbursements for the formulation of the Coconut Farmers and Industry Development Plan.

The PCA shall have the following powers and functions:

- (a) Approve disbursements from the Trust Fund including the funding for:
 - i. the formulation of the Coconut Farmers and Industry Development Plan; and
 - ii. the disbursements in accordance with the Coconut Farmers and Industry Development Plan.
- (b) Issue policies, rules and guidelines as may be necessary to implement the provisions of this Act.

SECTION 9. Creation of a Trust Fund Management Committee. - There is hereby created a Trust Fund Management Committee, which shall be comprised of authorized representatives of the Department of Finance (DOF), Department of Budget and Management (DBM), and Department of Justice (DOJ). The Trust Fund Management Committee shall be responsible for setting the Investment Strategy of the Trust Fund, which includes the following, among others:

- (a) Setting of investment priorities;
- (b) Setting of investment themes;
- (c) Evaluation of assets to determine portfolio size;
- (d) Setting of asset allocation;
- (e) Setting of policies with respect to particular asset types;
- (f) Guidelines for portfolio turnover;
- (g) Guidelines for Trust Fund Management Expenses;
- (h) Set the annual allocation of the Trust Fund available for disbursement to the PCA;
- (i) Approval of the financial requirements of Designated Disposition Entities in relation to its functions set forth under this Act, including its annual budget for operations, management, and privatization/disposition of Coconut Levy Assets and/or Funds transferred and entrusted in its care;
- (j) Designation of alternative Designated Disposition Entities as defined in Section 3 of this Act; and
- (k) Other guidelines as may be necessary to fulfill its mandate under this Act.

The BTr shall act as the Trust Fund Management Committee Secretariat and shall maintain records and accounts of all investments, receipts, disbursements, and other transactions relating to the management, administration, and utilization of the Trust Fund; Provided, That these records and accounts shall be maintained in accordance with existing accounting and auditing laws, rules and regulations, and shall be audited by the Commission on Audit (COA).

For the above purposes, an amount of one-half of one percent of the Trust Fund Principal shall be utilized as Trust Fund Management Expense, which shall be sourced from the Trust Fund. The Trust Fund Management Expense shall answer for all expenses directly incurred in the management of the Trust Fund, including but not limited to transaction fees, redemption fees, placement fees, investment fees, transaction costs, and other operating expenses.

SECTION 10. Designation of DOF as Trust Fund Manager. - The DOF is hereby designated as Manager of the Trust Fund. As Manager, it shall be responsible for implementing the Investment Strategy set by the Trust Fund Committee and managing the portfolio of the Trust Fund.

In the performance of its functions, the DOF shall have the following functions:

- (a) Monitor market and economic trends and track securities in order to make informed investment decisions;
- (b) Recommend its portfolio strategy to the Trust Fund Committee;
- (c) In managing the portfolio, track financial results of the companies in the portfolio and its various metrics, such as but not limited to, price-to-earnings ratios, inflation-adjusted return, sales, earnings, and dividends; and
- (d) Recommend to the Trust Fund Committee the designation of alternative Designated Disposition Entities defined in Section 3 of this Act; and
- (e) Perform other acts necessary to fulfill its mandate under this Act.

SECTION 11. Management and Custodianship of the Trust Fund. - Any law to the contrary notwithstanding, the BTr is hereby designated as the depository of the Trust Fund. As depository, the BTr shall have the following functions:

- (a) Hold, account, and collect on a timely basis all income and other payments with respect to securities and other assets to which the Trust Fund shall be entitled to in the manner set forth by the Department of Finance as Trust Fund Manager;
- (b) Release and deliver out securities and other assets of the Trusts Fund upon receipt of proper instructions from the Trust Fund Manager, specifying the securities or assets to be delivered out and the person or persons to whom the delivery is to be made;
- (c) Release funds directly for the implementation of projects as instructed by the PCA pursuant to the implementation of the Coconut Farmers and Industry Development Plan as approved by the President under Section 4 of this Act; and
- (d) Perform any act as may be directed by the Trust Fund Manager in accordance with the Investment Guidelines set forth by the Trust Fund Committee.

All cash Coconut Levy Assets shall be invested in Philippine government securities and other securities guaranteed by the National Government. On the other hand, the BTr may hold, manage and invest non-cash Coco Levy Assets, only upon approval of the DOF. Any income, earning or interest obtained from said investments shall be deposited to the Trust Fund Account.

The Trust Fund Management Committee may designate alternative Designated Disposition Entities as defined in Section 3 of this Act.

The Trust Fund Management Committee is hereby directed to draft the implementing rules and regulations in order to effectuate Sections 9 to 11 of this Act.

CHAPTER V

DISPOSITION OF NON-CASH COCONUT LEVY ASSETS

SECTION 12. Disposition of Non-Cash Coconut Levy Assets. - Pursuant to the mandate and the direction and policies set by relevant regulatory agencies, Coco Levy Assets defined in Section 3 hereof, which are assigned by the Trust Fund Management Committee to Designated Disposition Entities, shall be privatized or disposed subject to the regulatory approvals as required by law.

This Act shall in no case exempt Coco Levy Assets from the respective jurisdictions of the various applicable regulators, particularly the Governance Commission for Government-owned and - Controlled Corporations (GCG), the Bangko Sentral ng Pilipinas (BSP), the Philippine Deposit Insurance Corporation (PDIC), and the Insurance Commission (IC).

SECTION 13. Additional Mandate of Designated Disposition Entities. - In addition to its powers, duties and functions, Designated Disposition Entities as may be assigned by the Trust Fund Management Committee shall, for and in behalf of the National Government, take title to and possession of, conserve, provisionally manage, and dispose the Coconut Levy Assets which have been identified for privatization and disposition.

Subject to the approval of the Trust Fund Management Committee, the Designated Disposition Entities are hereby empowered to:

- i. Implement the marketing and disposition program of the Coconut Levy Assets and/or Funds;
- ii. Execute and deliver, on behalf of the National Government, deeds of sale, contracts, trust instruments, and other legally operative documents as may be necessary or appropriate to convey title to, take possession of, and conserve, such assets;
- iii. Engage external expertise as may be necessary in the fulfillment of its tasks under this Act; and
- iv. Adopt internal rules and regulations in relation to the marketing and disposition of the Coconut Levy Assets and/or Funds.

The Designated Disposition Entities shall prepare the disposition plans and policies of the Coconut Levy Assets transferred to it. They are empowered to enter into sales through public bidding, negotiated sale, lease, or any form of divestment or transmission of rights over the Coconut Levy Assets and/or Funds, including a partnership with the private sector in the management or operation of these Coconut Levy Assets and/or Funds prior to actual sale or disposition in accordance with the Investment Guidelines approved by the Trust Fund Management Committee.

Prior to the implementation of any disposition plan for corporations transferred to it, the Disposition Entities may recommend the following:

- i. Require any of the subject corporations to adopt and implement cost-reduction measures to enhance the viability, and therefore the disposability of such corporations, to potential buyers, including measures requiring personnel retrenchment plans or other forms of corporate downsizing;
- ii. Direct any of the subject corporations to submit to the Disposition Entity, within fixed time-tables, such reports and information as the Disposition Entity may

- require in the exercise of its ownership, administrative, and disposition over such corporations or their assets; and
- iii. Cause the subject corporations to undergo rehabilitation, merger, consolidation, spin-off, or other corporate acts of reformatory nature as it may deem necessary or desirable to expedite the disposition and privatization under this Act.

Any of the above-enumerated, as well as the final disposition of such assets, shall be subject to the approval of the Trust Fund Management Committee.

SECTION 14. Remittance of Proceeds of Privatization. - Any provision of law to the contrary notwithstanding, all proceeds or receipts from the sale of Coconut Levy Assets and/or Funds, except portions thereof for reimbursable custodianship and operational expenses, or such amount approved by the Trust Fund Management Committee to be retained by the Designated Disposition Entity, shall be remitted to the Trust Fund.

SECTION 15. Reporting Requirements. - The Trust Fund Management Committee shall, on a semi-annual basis, submit to the President a report on the status of disposition of the Coconut Levy Assets, which shall include, among others, a description of the individual assets disposed of, their purchasers, the consideration received, and the agreed terms of payment.

The Designated Disposition Entities shall, within three (3) months following the closure of books at the end of each fiscal year, submit a comprehensive annual report duly approved or endorsed by the PCA to the President on the status of its privatization efforts and its disposition program for the Coconut Levy Assets, which shall include the items described in the immediately preceding paragraph.

CHAPTER VI FINAL PROVISIONS

SECTION 16. Suppletory Application of Republic Act No. 10149. - The provisions of Republic Act No. 10149, otherwise known as the "GOCC Governance Act of 2011, insofar as they are not inconsistent with the provisions of this Act, shall apply suppletorily.

SECTION 17. Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected by such declaration shall remain in full force and effect.

SECTION 18. Repealing Clause. - All laws, executive orders, administrative orders, and rules and regulations inconsistent with this Act are hereby repealed or amended accordingly.

SECTION 19. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,