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SENATE

S.B. No **3431**

RECORDED

(In substitution of Senate Bill Nos. 75, 363, 791, 833 and 1828)

Prepared by the Committee on Agriculture and Food

**AN ACT
PROVIDING FOR AN AGRICULTURE AND AGRARIAN REFORM CREDIT AND
FINANCING SYSTEM THROUGH BANKING INSTITUTIONS**

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

**ARTICLE I
GENERAL PROVISIONS**

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SECTION 1. *Short Title.* This Act shall be known as the "Agri-Agra Reform Credit Act of 2009"

SECTION 2. *Declaration of Policy.* It is hereby declared the policy of the State to promote equal access to opportunities under an environment of sustained growth and expanding productivity as the key to raising the quality of life of all. Towards this end, the state shall promote rural development by enhancing access of the rural agricultural sector to financial services and programs that increase market efficiency and promote modernization in the rural agricultural sectors.

SECTION 3. *Definition of Terms.* As used in this act, the term

- a) *Accredited Rural Financial Institution* refers to any financial institution accredited by the Bangko Sentral ng Pilipinas (BSP) whose portfolios are substantially agri-agra related as defined by the implementing rules and regulations;
- b) *Agrarian Reform Beneficiary* refers to farmers who were granted lands under Presidential Decree No. 27 and Republic Act No. 9077 or the "Comprehensive Agrarian Reform Program Extension with Reforms" and regular farm workers who are landless, irrespective of tenurial arrangement who benefited from the redistribution of lands, regardless of

1 crops or fruits produced, to include the totality of factors and support
2 services designed to lift the economic status of the beneficiaries and all
3 other arrangements alternative to the physical distribution of lands, such
4 as production or profit sharing, labor administration and the distribution
5 of shares of stock which will allow beneficiaries to receive a just share of
6 the fruits of the lands they work;

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8 c) *Agricultural Guarantee Fund Pool (AGFP)* refers to the five percent (5%) of
9 the 2007 surplus of the government-owned and/or controlled
10 corporations and financial institutions including the Philippine Gaming
11 and Amusement Corporation (PAGCOR), Philippine Charity Sweepstakes
12 Office (PCSO), Social Security System (SSS), Government Service
13 Insurance System (GSIS), as mandated by Administrative Order 225-A
14 series of 2008, and the ninety percent (90%) of the penalties collected from
15 banking institutions for non-compliance and under-compliance as
16 provided under this Act;

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18 d) *Agricultural Lessee* refers to any person who, with or without help from his
19 immediate farm household, cultivates the land owned by another for a
20 certain price in money, in produce or in both;

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22 e) *Agro-industry Modernization Credit and Financing Program (AMCFP)* refers
23 to the umbrella credit/financing program of the government for the
24 agriculture and fisheries sector, created under RA 8435, otherwise known
25 as AFMA of 1997. By design, AMCFP funds are provided as loans to
26 government financial institutions (GFIs) called credit wholesalers, which
27 in turn relend them to qualified credit retailers that include rural banks,
28 thrift banks, cooperative banks, non-government organizations (NGOs),
29 National Food Authority (NFA) and other associations/people's
30 organizations engaged in lending to small farmers and fisherfolk;

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32 f) *Amortizing Owners* refer to land owners who still amortize payment for the
33 land to a private individual or to the State;

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35 g) *Compact Farmers* refer to those farmers with adjoining farms operating as a
36 single unit under one management, farm plan and budget;

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38 h) *Farmer* refers to a natural person whose primary livelihood is cultivation
39 of land or the production of agriculture crops either by himself, or
40 primarily with the assistance of his immediate farm household, whether
41 the land is owned by him, or by another person under a leasehold or share
42 tenancy agreement or arrangement with the owner thereof;

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- 1 i) *Farm worker* refers to a natural person who renders service for value as an
2 employee or laborer in an agricultural enterprise or farm regardless of
3 whether his compensation is paid on a daily, weekly, monthly or
4 "pakyaw" basis. The term includes an individual whose work has ceased
5 as a consequence of, or in connection with, a pending agrarian dispute
6 who has not obtained a substantially equivalent and regular farm
7 employment;
8
- 9 j) *Farmers' Cooperatives* refer to organizations composed primarily of small
10 agricultural producers, farmers, farm workers, or other agrarian reform
11 beneficiaries who voluntarily organize themselves for the purposed of
12 pooling land, manpower, technological, financial or other economic
13 resources, and operated on the principle of one member one vote. A
14 juridical person may be a member of a cooperative, with the same rights
15 and duties as a natural person;
16
- 17 k) *Farmers' and Fisherfolks' Organizations or Associations* refer to farmers' and
18 fisherfolks' cooperatives, associations or corporations duly registered with
19 appropriate government agencies and which are composed primarily of
20 small agricultural producers, farmers, farm workers, agrarian reform
21 beneficiaries, fisher folk who voluntarily join together to form business
22 enterprises or non-business organizations which they themselves own,
23 control and patronize;
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- 25 l) *Financial Services* refer to services extended by banks/financial institutions
26 such as, but not limited to credit/lending, deposits, rediscounting;
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- 28 m) *Fisherfolk* refers to people directly or personally and physically engaged in
29 taking and/or culturing and processing fishery and/or aquatic resources;
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- 31 n) *Fishworker* refers to a person whether or not regularly employed in
32 commercial fishing and related industries, whose income is either from
33 wages, profit sharing or stratified sharing basis, including those working
34 in fishpens, fish cages, fish corrals/traps, fishponds, prawn farms, sea
35 farms, salt beds, fish ports, fishing boat or trawlers, of fish processing
36 and/or packing plants, but excluding administrators, security guards and
37 overseers;
38
- 39 o) *Owner-cultivators* refer to natural persons who own lands either by
40 purchase, inheritance, or land distribution by the State. Owner-Cultivators
41 can operate the farm themselves, supervise wage labor or delegate
42 operations to tenant-farmers;
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- 1 p) *Philippine Crop Insurance Corporation* - a government owned and controlled
2 corporation created by virtue of Presidential Decree 1467 to provide
3 insurance protection to farmers against losses arising from natural
4 disasters as well as plant diseases and pest infestation, initially to palay
5 crops and later on to other crops (definition is based on PD 1467)
6
- 7 q) *Quedan and Rural Credit Guarantee Corporation* - a non-bank government
8 financing institution (GFI) under the policy supervision of the Department
9 of Agriculture created under Republic Act 7393 geared towards the
10 establishment of an effective credit delivery system and a guarantee
11 facility that would promote inventory financing of agri-aqua
12 commodities, production and post-harvest production facilities, farm and
13 fishery machineries and equipment, investment in production inputs and
14 labor, and the development of rural livelihood enterprise (Definition is
15 based on RA 7393- Quedancor charter and background)
16
- 17 r) *Settlers* refer to persons who range from forest-clearing pioneer (included
18 indigenous people) with a poor subsistence economy to the better
19 equipped and more experienced farmers and finally to agricultural
20 contractors whose aim is to open up larger agricultural areas with the help
21 of capital, machinery, and specialized types of farming;
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- 23 s) *Tenant Farmer* refers to one who cultivates another's land under a sharing
24 or leasehold agreement.
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26 **ARTICLE II**
27 **AGRICULTURAL CREDIT, INSURANCE AND FINANCING SYSTEM**
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29 **SECTION 4. *Agriculture, Fisheries and Agrarian Reform Credit, Insurance and***
30 ***Financing System.*** There shall be evolved an agriculture, fisheries and agrarian reform
31 credit, insurance and financing system to improve the productivity of the agriculture
32 and fisheries sectors, particularly the farmers, fisherfolk, and agrarian reform
33 beneficiaries, namely: settlers, agricultural lessees, amortizing owners, farmworkers,
34 fishworkers, owner-cultivators, compact farmers, farmers' and fisherfolks' cooperatives,
35 organizations and associations, through government and private banking institutions.
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37 Agriculture and agrarian reform credit, as used herein shall consist of loans to
38 finance activities and purposes including but not limited to agricultural production,
39 promotion of agribusiness and exports, acquisition of work animals, farm and fishery
40 equipment and machinery, seeds, fertilizers, poultry, livestock, feeds and other similar
41 items, acquisition of lands authorized under the Agrarian Reform Code of the
42 Philippines and its amendments; construction, acquisition and repair of facilities for
43 production, processing, storage and marketing and such other facilities in support of
44 Agriculture and fisheries; and efficient and effective merchandising of agricultural and
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1 fishery commodities stored and/or processed by the facilities aforecited in domestic
2 and foreign commerce.

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4 SECTION 5. *Agriculture and Agrarian Reform. Credit Beneficiaries.* The credit
5 mentioned in the preceding Section shall be extended to the beneficiaries named therein
6 or to cooperatives and associations of good standing of such beneficiaries regardless of
7 capitalization based on the feasibility of the project and their paying capacity, their
8 estimated production, and/or securities they can provide as well as such assets as may
9 be acquired by them from the proceeds of the loan.

10
11 SECTION 6. *Credit Quota.* All banking institutions, whether government or private,
12 shall set aside at least twenty five percent (25%) of their total loanable funds for
13 agriculture and fisheries credit in general, of which at least ten percent (10%) of the
14 loanable funds shall be made available for agrarian reform beneficiaries mentioned in
15 Section 4 hereof: *Provided, however,* that loanable funds as used in this Section shall refer
16 to funds generated from the date of effectivity of this Act.

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18 *Provided, further:* that the twenty-five percent (25%) credit quota is subject to a joint
19 review by the Department of Agriculture, Department of Agrarian Reform and the
20 Bangko Sentral ng Pilipinas after three (3) years of implementation to determine
21 whether the law has been effective in accomplishing its goals. The findings shall be
22 submitted to Congress.

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24 SECTION 7. *Modes of Compliance.* The Bangko Sentral ng Pilipinas, the Department of
25 the Agriculture, and the Department of Agrarian Reform in consultation with
26 concerned agencies and sectors shall promulgate such rules and regulations as may be
27 necessary to implement the provisions of this Act within ninety (90) days after the
28 approval of this Act. Such rules and regulations shall take effect fifteen (15) days after
29 their publication in a newspaper of general circulation in the Philippines. Subject to
30 such rules and regulations, banking institutions may be allowed to:

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32 a) Invest in bonds issued by the Development Bank of the Philippines (DBP)
33 and the Land Bank of the Philippines (LBP) and/or open special deposit
34 accounts (SDAs) with accredited rural financial institutions defined by the
35 implementing rules and regulations; *Provided,* that the proceeds from said
36 bonds and SDAs shall be used exclusively for on-lending to the agriculture
37 and agrarian reform sectors; *Provided further* that the proceeds from said
38 bonds and SDAs shall be separately accounted for by the DBP, LBP and the
39 Depository Thrift Banks, Cooperative banks and Rural banks and shall not be
40 considered for purposes of computing the loanable funds under Section 6
41 hereof of the said banks; *Provided further,* that loanable funds channeled as
42 compliance under this subsection shall not be counted as compliance under
43 Subsections B, C, D, and E even if said funds are later

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1 used by conduit banks in activities similar to those provided for in Subsection
2 B, C, D, and E;

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- 4 b) Rediscount with Universal Banks and Commercial Banks, including local
5 branches of foreign banks eligible paper covering agriculture, fisheries
6 and agrarian reform credits, including loans covered by guarantees of
7 Quedancor and the Philippine Crop Insurance System: *Provided that*, such
8 rediscounted paper shall no longer be eligible as compliance on the part of
9 the originating bank;
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- 11 c) Lend for the construction and upgrading of infrastructure including but not
12 limited to farm-to-market roads, as well as the provision of post harvest
13 facilities and other public infrastructure that will benefit the agriculture,
14 fisheries and agrarian reform sector;
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- 16 d) Lend wholesale to rural financial institutions accredited by the Bangko
17 Sentral ng Pilipinas: *Provided that*, the credit facility shall be exclusively used
18 for on-lending to the agriculture, fisheries and agrarian reform sector:
19 *Provided, further*, that the wholesale loans shall be credited as compliance of
20 the wholesale lender alone: *Provided that*, allowable alternative modes of
21 compliance should directly target the agriculture, fisheries and agrarian
22 reform sector;
- 23
- 24 e) Invest in shares of stock of Quedan and Rural Credit Guarantee Corporation
25 QuedanCor and the Philippine Crop Insurance Corporation.
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27 SECTION 8. The alternative compliance enumerated in the preceding Section shall also
28 be subject to a joint review by the Department of Agriculture, Department of Agrarian
29 Reform and the Bangko Sentral ng Pilipinas after three (3) years of implementation to
30 determine whether said modes of compliance directly target the agriculture, fisheries
31 and agrarian reform sector. The findings shall be submitted to Congress.
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33 ARTICLE III 34 MISCELLANEOUS PROVISIONS 35

36 SECTION 9. *Annual Reports*. The Bangko Sentral ng Pilipinas shall furnish reports on
37 the compliance with the mandatory credit allocation to the Department of Agriculture,
38 Department of Agrarian Reform and Congress on a yearly basis.
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40 SECTION 10. *Penalty Clause*. The Bangko Sentral ng Pilipinas shall impose
41 administrative sanctions and other penalties on the lending institutions for non-
42 compliance with the provisions of this Act.
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1 Penalties on noncompliance shall be computed at one percent of non-compliance and
2 under-compliance and shall be directed to the development of the agri-agra sector.
3 Ninety percent (90%) of the penalties collected shall go to be allocated between the
4 Agricultural Guarantee Funds Pool (AGFP) and the Philippine Crop Insurance
5 Corporation (PCIC) according to the demands of public interest and the needs of the
6 agri-agra sector as provided for in the implementing rules and regulation of this Act.
7 and tThe remaining ten percent (10%) shall be given to Bangko Sentral ng Pilipinas to
8 cover administrative expenses. Should the fund sourced from AO 225-A series of 2008
9 be depleted, the penalties collected under this Act shall continue to be used as
10 guarantee cover for loans to farmers under a common Rice Program
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12 SECTION 11. *Repealing Clause.* Presidential Decree 717, the second paragraph under
13 Section 8 of Republic Act No. 7900, otherwise known as the High Value Crops
14 Development Act of 1995, and Section 9 of Republic Act No. 7721, otherwise known as
15 Liberalizing the Entry and Scope of Operations of Foreign Banks in the Philippines, are
16 all hereby repealed. Other laws, presidential decrees, executive orders, rules and
17 regulations, or parts thereof inconsistent with the provisions of this act are repealed or
18 modified accordingly.
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20 SECTION 12. *Separability Clause.* If any part, section or provision of this act is held
21 invalid or unconstitutional other provisions not affected thereby shall remain in force
22 and effect.
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24 SECTION 13. *Transitory Provision.* Prior to the effectivity of the implementing Rules
25 and Regulations of this Act, the provisions of Presidential Decree Nol. 717 shall remain
26 in force.
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28 SECTION 14. *Effectivity.* This act shall take effect fifteen (15) days after publication in
29 the official gazette or in a newspaper of general circulation.
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31 Approved,
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