



POSITION PAPER

OF COOPERATIVE DEVELOPMENT AUTHORITY (CDA) TO SENATE BILL NO. 2134, "AN ACT REORGANIZING THE COOPERATIVE DEVELOPMENT AUTHORITY, REPEALING FOR THE PURPOSE REPUBLIC ACT NO. 6939, CREATING THE COOPERATIVE DEVELOPMENT AUTHORITY."

OBSERVATION OF CDA ON S.B. NO. 2134

The CDA has the following observations on the S.B. NO. 2134 such as:

1. **The abolition of developmental functions of CDA.** In the current Charter of CDA, RA 6939, the developmental function is spelled out in the Powers, Function, and Responsibilities, to wit:
 - a) Formulate, adopt and implement integrated and comprehensive plans and programs on cooperative development consistent with the national policy on cooperatives and the over-all socio-economic development plans of the Government;
 - b) Develop and conduct management and training programs upon request of cooperatives with entrepreneurial capabilities, managerial expertise, and technical skills for the required operation of their cooperative and inculcate in them the true spirit of cooperativism and provide, when necessary, technical and professional assistance to ensure the viability and growth of cooperatives with special concern for agrarian reform, fishery and economically depressed sector;

- c) Support the voluntary organization and consensual development activities that promote cooperative movements and provide assistance towards upgrading managerial and technical expertise upon request of the cooperatives concerned;
- d) Coordinate the efforts of the local government units and private sector in the promotion, organization and development of cooperatives;
- e) Assist cooperatives in arranging for financial and other forms of assistance under such terms and conditions as are calculated to strengthen their viability and autonomy; and
- f) Administer all grants and donations coursed through the Government for cooperative development without prejudice to the right of cooperatives to directly receive and administer such grants and donations upon agreement with the grants and donors thereof.

The S.B. NO.2134 emphasizes the function of CDA to regulation of cooperatives, to wit:

- a) Exercise supervision and jurisdiction over all types and categories of cooperatives registered with the Authority;
- b) Register all types of cooperatives including amendments to its by-laws; division, merger, consolidation, dissolution and liquidation of cooperatives as well as the transfer of all or substantially all of their assets and liabilities;
- c) Order the suspension, cancellation or revocation of the Certificate of Registration after due notice and hearing pursuant to Articles 67 & 68 of the Philippine Cooperative Code of 2008 and by- laws of the cooperative;

- d) Formulate, adopt, and implement integrated plans and programs on cooperative development consistent with the national policy on cooperatives, and establish an integrated framework on cooperative development for all government agencies;
- e) Formulate, adopt and implement, in a manner consistent with Sec. 16 hereof, a standard of training for cooperative officers or members which shall focus on basic cooperative principles and values, business management and conflict management;
- f) Develop and formulate, in consultation with the cooperative sector, appropriate regulations, standards, rules, orders, guidelines and/or circulars to implement the Cooperative Code of 2008 to ensure the sound operation of cooperatives;
- g) Establish a consultative mechanism in order to provide the cooperative sector a system for maximum participation on matters of government plans, projects and policies related to cooperatives.

The cooperative sector shall undertake the organization/ streamlining or rationalization of an apex body, representing all types and categories of cooperatives under the Philippine Cooperative Code of 2008, which shall function as the overall consultative and coordinating body with the Authority.

The Authority, in consultation with the cooperative sector, shall promulgate the guidelines for the implementation of the consultative mechanism;

- h) Establish and maintain a continuing educational and capability-building program for the Authority;

- i) Require the submission of annual reports, audited financial statements, and such reports in compliance with the Philippine Cooperative Code of 2008, in such forms as may be prescribed by the Authority;
- j) Conduct regular inspection or examination of a cooperative in accordance with the rules and regulations promulgated by the Authority and, when deemed necessary, conduct a special inspection and investigation to protect the interest and welfare of the members of cooperatives. The Authority, however, may delegate this power to accredited federations and unions in accordance with the Philippine Cooperative Code of 2008 and the implementing rules and regulations issued for this purpose;
- k) Compel the cooperative to call a general assembly under the supervision of the Authority, subject to the criteria or condition/s to be defined in the implementing rules and regulations issued for this purpose.

In case a cooperative fails to call a general assembly, the Authority shall, on its own, call a general assembly meeting to address and settle issues. The Authority may enlist the aid and support of an/ or deputize any and all enforcement agencies of the government and federations and unions for the implementation of its orders;

- l) Impose sanctions for non-compliance with lawful orders, rules and regulations of the Authority, including the Articles of Cooperation and By-laws of the cooperative subject to conditions as defined in the implementing rules and regulations of this Act;
- m) Collect reasonable fees, fines or charges in the performance of its registration and regulatory functions;
- n) Establish offices in areas as may be determined by the Authority;

- o) Adopt and implement a dispute resolution mechanism that will settle conflicts between and among members, officers, and directors of cooperatives, and between and among cooperatives in accordance with Article 137 of Republic Act No. 9285, the Alternative Dispute Resolution Act of 2004;
- p) Implement and enforce its decision with the assistance of deputized law enforcement agencies or the local government unit concerned as may be necessary; and
- q) Exercise such other powers and functions as may be necessary to implement the provisions of the Philippine Cooperative Code of 2008.

- 2. **The inclusion of a provision on the delegation of CDA regulatory power to conduct regular inspection or examination of a cooperative to accredited federation and unions in accordance with Republic Act No. 9520 and its Implementing Rules and Regulations issued for this purpose.**
- 3. **The change of term of service of the members of the Board of Administrators (BOA), except the Chairman, from full-time to part-time basis.**
- 4. **The change of the Board of Administrators to Board of Directors.**
- 5. **The absence of provision on the increase of the budget and plantilla positions of CDA.**
- 6. **Limiting the standard training for cooperative officers and members to basic cooperative principles and values, business management and conflict management only.**

OPPOSITION OF CDA

The CDA opposes:

- a. **The abolition of developmental function is unconstitutional.** No less than Article XII Section 15 of the 1987 Constitution states that: *“Congress shall create an agency to promote the viability and growth of cooperatives as an instruments for social justice, equity and economic development.”* The development function is the main reason for the existence of CDA. The CDA is created as an Authority for the development of cooperatives.

Also, Republic Act 9520, the Philippine Cooperative Code of 2008, states that:

“It is the declared policy of the state to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice. The State shall encourage the private sector to undertake the actual formation and organization of cooperatives and shall create an atmosphere that is conducive to the growth of development of these cooperatives.

Toward this end, the Government and its branches, subdivisions, instrumentalities and agencies shall ensure the provision of technical guidance, financial assistance and other services to enable said cooperatives to develop into viable and responsive economic enterprises and thereby bring about a strong cooperative movement that is free from any conditions that might infringe upon the autonomy and integrity of cooperatives.”

On practical terms, 91% of cooperatives in the country are in the categories of micro (76%) and small (15%). As such, they have limited means and capacities to do business and compete in the open market.

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They are the groups of cooperatives which have difficulty complying with the reportorial and training requirements for cooperatives and officers of the cooperatives, respectively. They need help, technical, managerial and financial, to build up business and meet the needs of members. Abolishing the development functions of CDA means a denial of the cooperatives by the government the needed supports to make cooperatives truly as instruments of social justice, equity and economic development.

b. The delegation of the conduct of regular inspection and examination of cooperatives to federations and unions.

The exercise of regulatory function of the CDA over cooperative including federations and unions is a governmental function and as such an exclusive power of the CDA as mandated by law. It should not be delegated to entities such as cooperative federations and unions which are the subjects of its regular inspection and examination. Moreover, what has been delegated by law can no longer be further delegated under the well-known maxim "*delegata potestas non potest delegari*".

c. The change of term of office of the members of the Board of Administrators (BOA), except the Chairman, from full-time to part-time basis, on the following reasons:

1. Policy-making is a continuous process. It involves policy formulation, policy implementation, monitoring, and evaluation. The oversight function of the Board of Administrators is necessary to ensure that policies laid down by the BOA are carried out by the implementing units, correctly, effectively and efficiently, to achieve the goals and desired ends of the Agency.
2. Part-time Administrators cannot be made fully accountable to the outcome of the policies formulated and implemented, because they are not privy to the process and progress of policy implementation. In short, they are denied of the opportunity and responsibility to gather information and monitor progress of the

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policy implemented by the implementing units. Only full-time Administrators can be made fully accountable to the outcome of the policy decisions.

3. The concerns of CDA are broad. It includes banks, insurance, credit, electricity, water resource, transport, health and medical services, labour, agriculture and food, agrarian reform, marketing and trade, consumption economics, among others. It is logical and necessary to have BOA compose of experts from various areas of concerns of CDA in order to have sound policy making and development of cooperatives. The BOA members should be on full-time basis.

4. For about 24 years since the passage of RA No. 6939, the members of the Board of Administrators including the Chairman have been serving on full-time basis. Why make the Administrators part-time now that the roles and concerns of CDA have been expanded with the passage of RA No. 9520, otherwise known as the Philippine Cooperative Code of 2008?

d. The proposal making the Chairman as the Administrator. The proposal to cloth the Chairman of the BOA with the power to make policies and implement such policies at the same time makes the Chairman too powerful to wield the directions of the CDA towards his experiences, biases and priorities. This is a dangerous proposition and unhealthy towards the growth and development of cooperatives which expense is very broad.

Besides, making the Chairman as a policy-maker and policy-implementer at the same time is contrary to the principle of a separation of policy-making function of the BOA and policy implementation function of the career executives of the CDA.

e. We believe that the correct nomenclature of the governing body of CDA is BOARD OF ADMINISTRATORS, not BOARD OF DIRECTORS, because the

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BOARD OF CDA administers, not direct, the provisions of the Philippine Cooperative Code of 2008.

- f. On limiting training standards for cooperative officer and members to basic cooperative principles and values, business management and conflict management.

This is a very limiting provision on cooperative education and trainings. The principles of cooperative on education, training and information are a continuous process that encompasses provision for officers and members as well and the technical and institutional aspects of the business of cooperatives. It is therefore inappropriate to limit the scope of providing the standard of training to only basic cooperative principles and values, business management and conflict management.

CONCLUSION:

The CDA concludes that the proposed S.B. No. 2134 is not an improvement of RA No. 6939. In fact it further weakens CDA due to the following:

- a) Abolition of the development function;
- b) Dilution of the administrative organization of the CDA by making the members of the Board of Administrators, except the Chairman, all part-timers; and
- c) Absence of increase in the plantilla positions and budget.

In fact, the CDA has been performing its functions without the amendment of its charter since the passage of Republic Act No. 9520. Therefore, there is no need to amend Republic Act No. 6939.

PROPOSAL OF CDA

Given the observations and discussions presented above, which the CDA firmly believes to be substantial and material, **THE CDA PROPOSES NOT TO AMEND OR REPEAL AT ALL REPUBLIC ACT NO. 6939.** It is noteworthy to mention that since the enactment of Republic Act No. 6938 and the subsequent approval of

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Republic Act No. 9520, the CDA has been functioning without any problem implementing the provisions of the Codes. Instead, initiatives should be directed towards the amendment of the Philippine Cooperative Code of 2008.

The following, among others, are the suggested areas of amendment.

- a) Amend Article 137 of the Cooperative Code of 2008 to grant CDA quasi-judicial power to resolve intra-cooperative conflicts involving election of officers and conflicts between officers and members;
- b) Include in the classification of cooperative agriculture cooperatives and to re-classify types of cooperatives to reflect major groups of cooperatives; and
- c) Re-define the use of CETF to accommodate the idea of creating a system of cooperative education and training leading to the creation Cooperative College.

On quasi-judicial power

The granting of quasi-judicial power to CDA to resolve intra-cooperative conflicts involving election of officers and governance of cooperative is important to make CDA useful to the resolution of these two most commonly encountered problems among cooperatives.

In this regard, however, CDA is aware of Article 137 Republic Act No. 9520, otherwise known as the Philippine Cooperative Code, as far as resolution of intra-cooperative conflicts is concerned. Under this rule, the intra-cooperative conflicts shall be settled through mediation and conciliation, and resolved thru voluntary arbitration. Observations, however, point out that this procedure is ineffective in resolving intra-cooperative conflicts involving election of officers and cooperative governance. As a consequence, the non-resolution of the conflicts results to splitting of cooperative, an outcome not conducive to the growth and development of cooperatives in the country.

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On cooperative in education system

The CDA proposes the retention of the section on Cooperative in the Education System with some modifications. The section should read as:

“The Authority shall create a system of education, training and research for cooperatives. The system shall recognize the existing state and private schools, colleges and universities as well as cooperatives with capacity to conduct education and training for cooperatives. The Authority shall also re-define the use of cooperative education and training fund (CETF) in the creation of the said system of education, training and research for cooperatives.”

A new system of education, training and research should now be installed to insure a uniform or standard way of delivering the education and training services to members. The new system shall evolve towards the creation of a Cooperative College.

As of today, we allow cooperatives to conduct the training for their officers and members. The collected Cooperative Education and Training Fund (CETF) is used as the source of fund for this purpose. The observations are clear that the CETF is not properly used and the conduct of training and education is so varied in terms of depth, breadth and methods. The use of CETF shall be re-defined to partly finance the operations of the Cooperative College.

So much time and resources have been lost in the present system of education and training. It is now the high time a new system shall be installed to have a sound, effective, and efficient system of cooperative education, training and research in the Philippines.

In addition, the Education and Training Committee should be made a standing committee of all cooperatives. This is because Education, Training and Information is a principle of cooperatives and the law mandates the setting aside at most 10% of the net-surplus of the cooperative for Cooperative Education and

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Training Fund for the conduct of education and training programs for cooperatives.

On Agricultural Cooperative

Under RA No. 9520, agriculture cooperative is not particularly defined as a type of cooperative. This is a big oversight in the law.

CDA strongly proposes the inclusion of this section in the revision of the Cooperative Code.

Agriculture including agrarian reform is the largest sector of the economy in terms of land area covered, number of people dependent on it for living, and contribution to GDP. It is also a major source of foreign exchange. But the ability of our agriculture sector to feed our people is now declining. It also a known fact that the highest incidence of poverty in the country is in the agriculture and rural sector.

Given the abovementioned considerations, it is imperative that in order for our country to survive and compete in a globalized economic system, we need a strong productive agriculture sector. The development of cooperatives in agriculture and rural areas is the only way for the Philippines to compete in the globalized economy, to feed its people, have food security, and reduce rural poverty.

On the Transitory Provision.

It is our firm collective stand that CDA personnel should be automatically absorbed, not just merely given preference in the event that the CDA will be reorganized. However, those who opt to separate from the service instead, shall be given a separation pay computed at 1.5 month's salary for every year of service. At least six (6) months of service shall be considered one (1) year.

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