

LEGAL INTERPRETATION OF ARTICLES 28(2) AND 43 OF THE COOPERATIVE CODE

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In order to fully implement the provisions of the Cooperative laws and in accordance with Section 3(o) of RA 6939, the Authority hereby adopts the following interpretations of Articles 28(2) and Article 43 of the Cooperative Code;

"Article 28. Government Officers and Employees – xxx xxx xxx (2) Elective officials of the government except barangay officials shall be ineligible to become officers and directors of cooperatives" xxx xxx xxx"

Under the provision, barangay captains and other officials of the barangay are allowed to be officers and directors of cooperatives. In case the barangay captain is elected president of the Association of Barangay Captains of his municipal council, the barangay captain is still qualified to become an officer or director of his cooperative. His seat in the municipal council is by virtue of the fact that he is the president of the ABC and not having been elected to the municipal council.

"Article 43. Officers of the Cooperative — The Board of Directors shall elect from among themselves only the chairman and vice-chairman and elect or appoint other officers of the cooperative from outside the board in accordance with their by-laws. All officers shall serve during good behavior and shall not be removed except for cause after due hearing. Loss of confidence shall not be a valid ground for removal unless evidenced by acts or omissions causing loss of confidence in the honesty and integrity of such officers. No two (2) or more persons with relationships up to the third degree of consanguinity or affinity shall serve as elective or appointive officers in the same board."

The following shall be considered as the officers of the cooperative:

- I. The officers of the Board elected by the board members from among themselves such as the Chairman and the Vice-Chairman.
- II. The officers elected/appointed by the board such as the Secretary, the Treasurer and other officers as prescribed in their by-laws.

The prohibition on relationship by consanguinity and affinity within the third civil degree applies within each category since the Code says "No two or more persons within the third civil degree of consanguinity or affinity shall serve as elective or appointive officers in the same board. (Underscoring ours)

For purposes of clarity hereunder are the degree of relationships covered under the said prohibition.

I

Relationship by Consanguinity

1. First Degree — Parent to Child
2. Second Degree — Grandparent to Child
Brother to Sister
3. Third Degree — Uncle to Child,

Aunt to Child,
Greatgrandparent to Child

II

Relationship by Affinity

1. First Degree — Parent-in-law to Daughter/
Son-in-law

2. Second Degree — Brother-in-law to Sister-in-
law

3. Third Degree — Greatgrandparent-in-law to
Daughter/Son-in-law Uncle/
Aunt-in-law to
Niece/Nephews-in-law

For your information and guidance.

Adopted: 17 Mar. 1992

(SGD.) EDNA E. ABERILLA
Chairman

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