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## УГОДИ ВАУЧИНГУ У СФЕРІ ПРИРОДНО-ЗАПОВІДНОГО ФОНДУ: ОСНОВНІ ТЕОРЕТИЧНІ АСПЕКТИ

**Актуальність.** Інститут ваучингу є невід'ємною складовою економіки всього світу, але в Україні, ця форма організації підприємницької діяльності перебуває на початковому етапі. Існує багато міжнародних компаній, які зацікавлені в розвитку механізмів запровадження екологічного ваучингу в сферу заповідної справи. Крім того, ваучинг може стати потенційним екологічним старт-апом для представників малого та середнього бізнесу, що мають намір займатись інноваційною господарською діяльністю.

**Мета та завдання.** Метою статті є розгляд ваучингу, як форми співробітництва між представниками приватного сектору економіки та державою, що може стати новим вектором розвитку еколога - інноваційної діяльності. Наше дослідження присвячене проблемам формування та використання інструментів ваучингу в заповідній галузі, аналізу переваг та недоліків впровадження таких договорів, як для установ природно-заповідного фонду, так і для представників приватного сектору економіки.

**Результати.** Ваучинг може стати формою фінансово-організаційної підтримки екологічно-безпечної господарської діяльності, вектором співпраці природно-заповідних об'єктів та представників приватного сектору, що мають на меті здійснення своєї діяльності з урахуванням екологічних імперативів, та виробляти екологічно чистий продукт. Наразі, механізм ваучингу має бути формалізований у правову структуру та самостійний об'єкт нормативно-правового регулювання.

**Висновки.** Формування угод екологічного ваучингу, як окремою нормативною конструкцією, форми співпраці держави та приватних підприємців, механізму фінансової підтримки бізнес-угруповань у сфері заповідної справи, потребує детального та комплексного аналізу не лише з точки зору теоретичних та методологічних аспектів, але й розробки ефективних інструментів практичної реалізації таких угод. Дослідження екологічного ваучингу, як економічного та еколога-соціального методу регулювання екологічно орієнтованої підприємницької діяльності, у сфері заповідної справи, дасть змогу розвинути інфраструктуру системи платних послуг, що можуть надавати установи природно-заповідного фонду України.

**Ключові слова:** ваучинг, державно-приватне партнерство, природно-заповідний фонд, підприємницька діяльність.

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## VOUCHING ACTIVITIES IN THE FIELD OF NATURE RESERVE FUND: MAIN THEORETICAL ASPECTS

**Topicality.** Vouching is an integral part of the economy in the whole world, but in Ukraine this form of business organization is staying at the initial stage of its development. There are many international companies that are interested in eco-vouching their services in Ukraine. The eco-start-up "vouching" serves as a corporate strategy of small and medium enterprises.

**Aim and tasks.** The aim of the article is represented vouching, as public private partnership, which can attribute economic privileges to the results of innovation activities. Our research is devoted to the problems of the formation and use the vouching tool in the field of conservation work, advantages and disadvantages of implementing the mechanism of vouching contracts are considered both for the NRF institutions, and for representatives of the private sector of the economics.

**Research results.** The vouching tool can also become a form environmentally oriented business activities, a development vector of cooperation of naturally reserved fund institutions and representatives of the private sector, who want to carry out their activities taking into account environmental imperatives and produce truly ecologically pure

products, but first of all corresponding contractual mechanism must be formalized into a legal structure and an independent object of normative-legal regulation.

**Conclusion.** *The formation of vouching agreements as legal construct, an independent object of normative and legal regulations in Ukraine and forms of public-private partnership in the reserve area requires detailed and complex analysis not only from the point of view of theoretical and methodological aspects, but the development of effective instruments and mechanisms for implementing such agreements in a practical field as well. Investigation of the vouching, as economic and social method for regulating environmentally directed entrepreneurial activity in the field of conservation, will enable to develop the level and infrastructure of the paid services system, which may be provided by institutions of Naturally Reserved Fund of Ukraine.*

**Keywords:** *vouching, public-private partnership, nature reserve fund, business activity, institutional mechanisms of regulation.*

**Problem statement and its connection with important scientific and practical tasks.** Market changes in the state demands radical transformations in all spheres of economy, in particular in environmental and environmental-reserve areas. The development of economic-environmental vector relations in the field of protected area demands convenient and economically-effective ways to provide contractual obligations, including several credit. Individuals of entrepreneurial activity, aimed to perform their economic activity in the reserve, neighboring and another nature-protected territories, to use ecologically pure or “influence-free” raw material, or create ecologically-safe production, provide services environmentally oriented nature not always have appropriate level of financial organized resource for realization its final purpose and obtaining real income. In this regard the practical significant is acquired to the environmental contract or environmental vouching, the essence of which is to provide economic and financial support to business entities, and guarantees to fulfill entrepreneur’s obligations to the banking institution or other creditors. Vouching can be effective non-state nature support tool for representatives of economy private sector, intended to implement their economy activities in protected areas or use its resources.

**Analysis of recent publications on the problem.** Economic-normative structure of vouching provided by current legislation in Ukraine does not exist. Vouching (in English vouching – bail, guarantee of the partner reliability) is used as form of financial audit in the field of economy activity, proof of support and reliability of the agreement[1]. Among domestic scientists the surety research as a way to provide commitment was paid attention by scientists, such as D.M.Ghrydzhuk[2], I.Yi.Puchkovska[3], I.A.Lavrinenko [4], O.V.Mykhalniuk [5], M.Andrianov [6], L. Shymon [7] and others.

Novytskyi I.B. noted « bail is one of the oldest ways to ensure the fulfillment of obligations, which is taken roots in Roman law. Guy in the Institutions formulated the bail (adpromisso) as an agreement, where the third party in order to ensure interests of the creditor takes responsibility for the obligation[8,p.337].

Mieniailo L.M., Tyshshenko I.V., Ivanova Yu.A. determine, that essence of bail is hidden under its «guarantee nature»[9]. That is, to implement obligation is involved a third party, in turn from «property mass» of this person are subject to satisfy the creditor’s claims in case of breach of obligation by the debtor. In this case, the interests of the creditor are ensured by the fact that insolvency of the debtor under the main obligation there is opportunity to collect the debt from the guarantor. Bail as a means of insurance to fulfill obligations, allows to secure personal responsibility of a guarantor for the main debtor’s obligation[9].

Braghynskiy M.I., Vitrianskyi V.V. define « surety – as one of traditional ways to ensure the fulfillment of civil-legislative obligations, the purpose is the guarantor undertakes to the creditor of another person to be responsible for the latter’s performance of his obligation entirely or in his part» [10,p. 571].

Zakharova A.V.,Komissarova Ye.Gh. emphasize, that economically-legislative nature of phenomenon of bail – is a matter of branch affiliation of norms, which regulate these relations, and also the mechanism for determining the «responsible» norms for regulating this economic group – civil relations[11,p.23].

As of today, the term « a surety agreement» is used in multifaceted understanding: 1) as an agreement; 2) as obligatory legal relations or actually bail, arisen on the basis of implementation of the agreement - the conclusion of the guarantee agreement; 3)as a document(an agreement form) [12,p.46]. However, some authors equate a franchise agreement with a vouching or agency agreement. According to O.Voronkov: «A specific kind of vouching is franchising, or a bail form helps to give own trademark to another company[13,p.89].»

In Ukrainian law such type of agreements is known as a surety agreement, relatively in Civil Code of Ukraine to the guarantee agreements are devoted paragraph 3 of Chapter49 «Guarantee agreement»[14].

**Allocation of previously unsolved parts of the general problem.** In the scientific literature are currently absent thorough researches devoted to the analysis of economic,ecological-economic,

organizational and normative aspects of using vouching agreements in the fields of nature-protected and nature reserves and the mechanism of practical use of the relevant economic-normative forms. The use of non-standard economic-normative forms, as an environmental vouching, will promote involvement of new entities of economic activity in the environmental and reserve branch, improving the level of development of ecological-economic relations. Vouching can become a tool for the development of ecological-economic inclusion.

**Formulation of research objectives (problem statement).** In this work based on the theoretical-methodological foundations of the development economic-environmental relation in nature protected and reserve areas of national economy is proposed to study agreements of nature protected vouching, as an innovative economic-normative structure, its essence to provide economic-financial guarantee support for entities of business activities aimed to carry out environmentally-safe entrepreneurial activities, by financial, financial-credit or banking institutions. Vouching, as a tool of economic-financial support of extra-budgetary nature can provide the involvement of the wide range of entities in the relevant field, and will be a tool for expanding environmentally oriented directions of entrepreneurial activity. The purposes of the research are to regulate relations of ecological-financial, economic-technical nature of financial, financial-credit, banking institutions in terms of providing the work of private sector representatives of economy, intended to perform ecological-safe or environmentally oriented directions of economic activity, or business activity within reserve areas.

**An outline of the main results and their justification.** The modern institute of surety finds its implementation in the works of Roman thinkers, who reflected the condition of legal thought of ancient Rome. Definition of surety also contains in Guy Institutions and Yustyniana Institutions. In contrast to such ways to ensure performance of contractual obligations, like penalty stipulation, pledge and deposit - a guarantee (expressed in three forms - sponsio, fidepromissio, fideiussio and united by the concept of adpromisso) was the most regulated way to ensure the fulfillment of obligations [15, p.155-156]. The legislator does not sufficiently detail the essence of the surety agreement, namely, determines that under the surety agreement the surety is entrusted to the debtor's creditor for the performance of his duty [14].

According to Karasava O.P. domestic legislative does not correctly define the concept of surety agreement and provides arguments of the following nature:

- in defining any concept, phenomenon or object, the definition should be provided by other well-known categories different from the concept being disclosed. Instead, in Art.553 of the Civil Code of Ukraine, the essence of the guarantee is determined by the word «guaranteed»;

- a debtor's duties, which go from civil-legal and economic-legal transactions, in legal science are called obligations. The surety agreement is derived from the main obligation, that is it derives from a binding legal relationship, and therefore it would be more appropriate to note the guarantor is liable to the debtor's creditor for the performance of its obligations rather than duties;

- structure «a guarantor guarantees» does not disclose the essence of the surety, which in turn is to obligate a guarantor to be liable for a debtor's obligations in the main obligation in case its violation;

- the analysis of the current legislation of other countries, where is provided the definition of the legal relations of the surety, confirms the above mentioned arguments about incorrectness of the definition of the surety, that contains in Art.553 of the Civil Code of Ukraine «Guarantee Agreement» [16, p.204]

B.M.Ghonghalo writes, that «a surety is an obligation of the guarantor to pay the creditor of another person (a debtor) a sum of money in case of latter failure. And this amount is not paid for the debtor. By paying it, the guarantor fulfills his duty» [17, p.88].

In turn, we propose to consider the environmental vouching agreement - as an agreement where a third party (guarantor) assumes the obligation to the creditor to bear the burden of environmental, economic or other liability for the debtor in case of default or improper performance by the latter of its obligations to the creditor (author's interpretation). In turn, the "burden of responsibility" is proposed to be considered as:

- an obligation to commit a certain act of a tangible or intangible nature (for example, the production of ecologically friendly goods instead of a debtor, conversion of production to environmentally friendly, etc.);

- an obligation to perform measures of compensatory nature (for example, credit or debt obligations); the obligation to take compensatory measures;

- an obligation to perform the complex of measures connected with the creation or realization intellectual (author) rights, scientific or scientific-exploring works (for example, carrying out economic activities under the brand of protected affairs – NRF-logo);

- creation of new algorithms of economic-labor or educational-information activity (for example, environmental coaching, webinars, master classes).

If a representative of the private sector intends to carry out environmentally safe economic activities or production in protected areas, and requires a large amount of financial or economic-technical investments, the voucher tool can provide support of public-private or purely private nature (Fig.1).

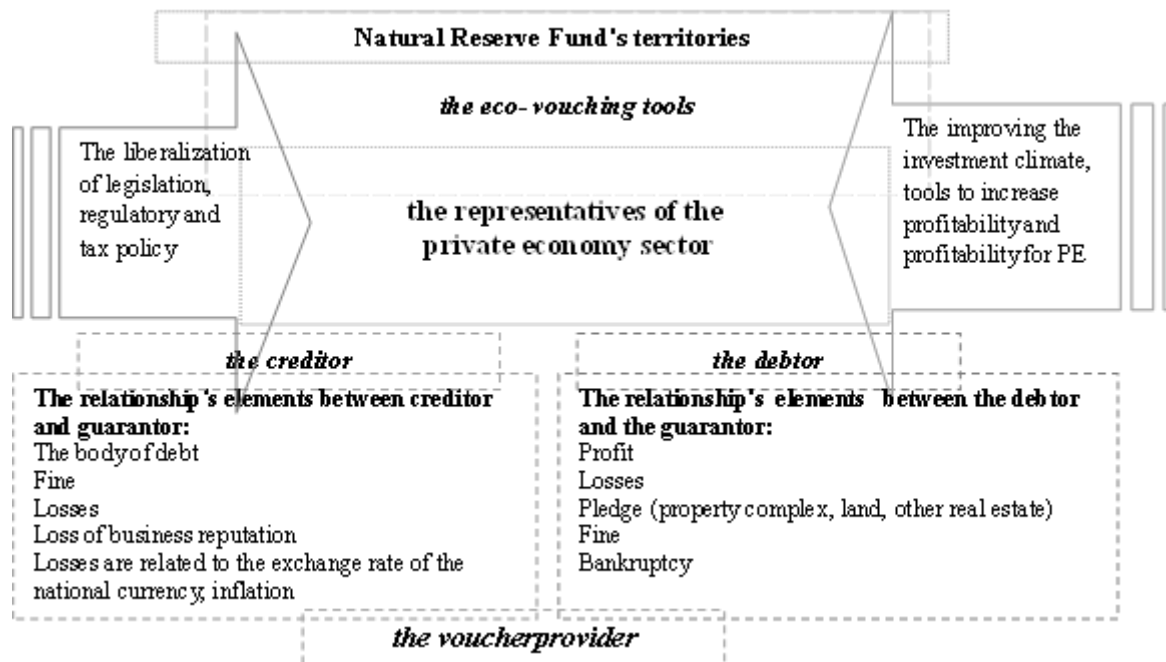


Fig.1. The relationship between the parties in environmental vouching agreements (author's development)

For example, a private entrepreneur plans to produce the final product of goods from environmentally oriented raw materials under national nature park logo, and must provide an environmentally friendly system of production of goods or provision of services. The business entity has opportunity to work under a franchise agreement, but the relevant legal entity does not have a sufficient level of financial security to purchase the equipment. The financial and credit union, which operates in the administrative unit where nature reserve facility is located, becomes a guarantor for a representative of private sector of the economy, which enters into a loan agreement with the bank. For the bank, the relevant financial institution acts as a guarantor, for a private entrepreneur - a voucher. If the business entity receives a profit, the voucher provider also receives a profit, as a percentage of the total amount stipulated in the contract; in case of bankruptcy - the voucher will pay the bank "the loan body", fine, profit on the loan and other losses provided by the loan agreement instead of the debtor.

In order to ensure mutually beneficial cooperation on the part of the creditor, voucher, debtor and the state, the following conditions must be met:

- intention to carry out exclusively ecologically oriented economic activity on the part of a private entrepreneur;
- support of depressed areas of the country and creation of new jobs in remote areas;
- orientation of eco-intensive economic activity on ecological-economic-social needs of the local community;
- the amount of the guarantee from the voucher provider is not less than 1 million hryvnias ("tranche vouching"); UAH 3 million («starting vouching»);
- availability of public-private partnership programs, which will ensure a coordination and support function, for both the voucher provider and the debtor;
- cooperation with banks and financial-credit institutions, located in the local community territories;
- development of effective tools for cooperation of public authorities (local communities) with vouchers (guarantors);
- development minimum necessary financial-organizational requirements for legal entities, intended to be vouchers providers (for example the volume of power, the availability of property complexes, an annual amount of «pure profit», etc);
- formation a register of legal entities, who can act as voucher providers and the opportunity of obtaining access to such information by private entrepreneurs (debtors);

- creation of a tax benefits system or other preferences for vouchers(guarantors) by public authorities;
- availability of a certain percentage of qualified and highly qualified employees among the staff of legal entity (for example, not less than 30%);
- formation of crisis support tools for vouchers(for example, providing legal, economic-financial, consulting support, etc);
- development of tools for insurance of vouchers, both state and non-state nature.

With the purpose of formation a transparent calculation of the expected amount and actual profits for vouchers(entities of business activity, that provide«the body of vouching»)it is advisable to apply the following system of ditching (calculator) of profits for a voucher, namely:

- the amount of voucher provider’s investments(Ov);
- expected profit ratio, in % (Kop);
- ratio of an actual profit, in % (Kfp);
- the size of fine(in case of non-fulfillment by a voucher recipient of its obligations under the contract)(P);
- the amount of losses(in case of bankruptcy of the voucher recipient);
- state support (Dp);
- an inflation index, in % (I-inf).

1)If a voucher recipient(debtor) fulfills the amounts of its obligations accordingly to the requirements of the vouching agreements and the calendar plan, the final income of the voucher provider should be calculated by the following way,and have positive meaning:

$$\Sigma \text{ actual income} = Ov * Kop + (Kop\% - Kfp\%) * Dp;$$

2)If the voucher recipient(debtor)has not fulfilled its obligations partly or has gone bankrupt,the final income of the voucher provider will be calculated in the following algorithms and has negative meaning:

$$\Sigma \text{ actual income} = [Ov * Kop + (Kop\% - Kfp\%) * Dp] - P * \text{number of calendar days} * I\text{-inf}.$$

In turn the amounts of actual profit will depend on the role the voucher provider performs in the relevant relationship:

- *an active voucher provider (guarantor)* – carry out constant support of the entity of business activity(3-5 tranches annually/ every six months)for the re-profiling or fulfillment of environmentally friendly production. The starting amount should not be less than 1 million hryvnias, and the availability of constant support for the first three years of business entity, which will fulfill environmentally oriented economic activity;

- *the starting(passive) voucher provider(guarantor)* – one-time support of organizational-financial or actually economic nature in order to start economic activity by the business entity.«The starting amount» should be at least 3 million hryvnias, further assistance can be carried out only by concluding additional agreements between the guarantor and the debtor.

As of today, the case law shows that the legislator distinguishes between two types of bail agreements: property and non-property[18].However, taking into account the specifics of the application of vouching agreements in the field of nature protection and nature reserves, we offer a broader qualification of the relevant regulatory structures (Table 1).

Table 1.

<b>Types of ecological vouching agreements</b>		
<b>Agreement of ecological vouching (surety)</b>		
<i>depends on the subject</i>		
<i>Financial-organizational vouching</i>	<i>Ecological-economic vouching</i>	<i>Environmentally protected(reserve) vouching</i>
The subject of the agreement:financial, economic-organizational, financial-technical, material support (equipments, production lines, etc) <i>A guarantor:</i> credit unions; agencies (brokerage, real estate,intermediary,etc.); insurance company, banks;credit-financial institutions	The subject of the agreement: provision economic-ecological or ecologically friendly services;the development of start-ups; support for entrepreneurs-inclusive; support to PE,which carry out additional economic activities) <i>A guarantor:</i> public authorities ( iclu. under SNE agreement, local communities; farms etc.)	The subject of the agreement: copyright and related rights; intellectual property; scientific and scientific-technical developments; methodological-consultative measures; environmental coaching) <i>A guarantor:</i> public authorities; nature protected institutions, administrations of NRF facilities; ecological public organizations; scientific-research institutions in the relevant field

<i>depending on the role of the voucher provider</i>		
active		passive
<i>depending on the degree of state participation</i>		
state (programs of public-private support)	non-state (private)	multilateral (in case of participation of international financial institutions/ organizations)
<i>depending on the economic-social role</i>		
purely financial (aimed at obtaining a profit on the part of the voucher and the debtor)	economic-ecological (aimed at the development of environmentally friendly fields of economic activities and the development of ecological oriented economic activities in the reserve areas)	complexion (combine elements of purely financial vouching and economic-ecological vouching)
<i>depending on the degree of environmental orientation</i>		
purely environmental (the subject of vouching is a financial provision, a support for solving and eliminating environmental problems)	infrastructural(aimed at the development and financial support of complex intersectoral programs,for example:ecological-rehabilitation,ecological-healthy, Green-med, etc)	environmental-social(aimed at the development of innovative and modern directions of economic activities in the reserve areas; the development and provision of environmental-social services to population)
<i>depending on financial nature of vouching</i>		
«vouching body» the voucher provides the starting amount,the amount of funds, requires necessarily to launch and conduct ecologically oriented economic activities.	«truncated vouching» vouching provider provides constant financial organizational support to the debtor through the first 3-5 years since the beginning of ecologically friendly economic activities.	«compensatory vouching» a guarantor provides financial support for the debtor in case of the large amount of the loan, but before the beginning of a bankruptcy procedure

\*compiled from the materials of articles [24],[25],[26],[27]

Some modern scientists distinguish surety agreements according to the obligation content, arisen in the guarantor into:

- 1)compensation,
- 2)replacement bail[23,p.228-229].

In the environmental and reserve areas a compensatory vouching is financial-organizational (according to which the guarantor reimburses the debtor for obligations in financial, organizational-technical or financial-organizational(mixed)equivalent;replacement-ecological-economic and environmental(reserved vouching) (according to which the guarantor independently or with the assistance of the third parties carries out certain actions instead of the debtor).

The implementation of vouching will become a tool of economic-financial support for representatives of the economy private sector, intended to fulfill environmentally friendly economic activities; with the guarantee of proper fulfillment of environmental obligations by business entities for the state; a source of additional income for financial-credit and banking institutions. In turn, in the nature protected area, vouching will promote the formation of innovative economic-contractual structures, that will ensure constant flow of investment, both through public-private partnership agreements and through "direct" contractual structures (hereinafter-NRF).Vouching, as ecological-financial service, represents itself the following measures, directed to provide environmental and ecological-financial support to the private sector representatives of economy, intended to carry out their business activity in reserved, unique territories, or to produce raw material or «final product» from environmentally friendly resources.

Vouching, as economic-normative(contractual) is a series of active financial actions, economic-organizational or other nature by a third party, that is aimed to support the private sector representatives of economy, intended to perform economic activity of environmentally friendly or ecological-economic directions. In this case an important role is played by paid or free nature of provision services. In turn vouching, as economic-normative(contractual) structure will provide a greater amount of economic-

environmental rights for all parties of the agreement and will ensure the involvement of larger number of entities to the nature-reserve field of national economy (Fig. 2 )

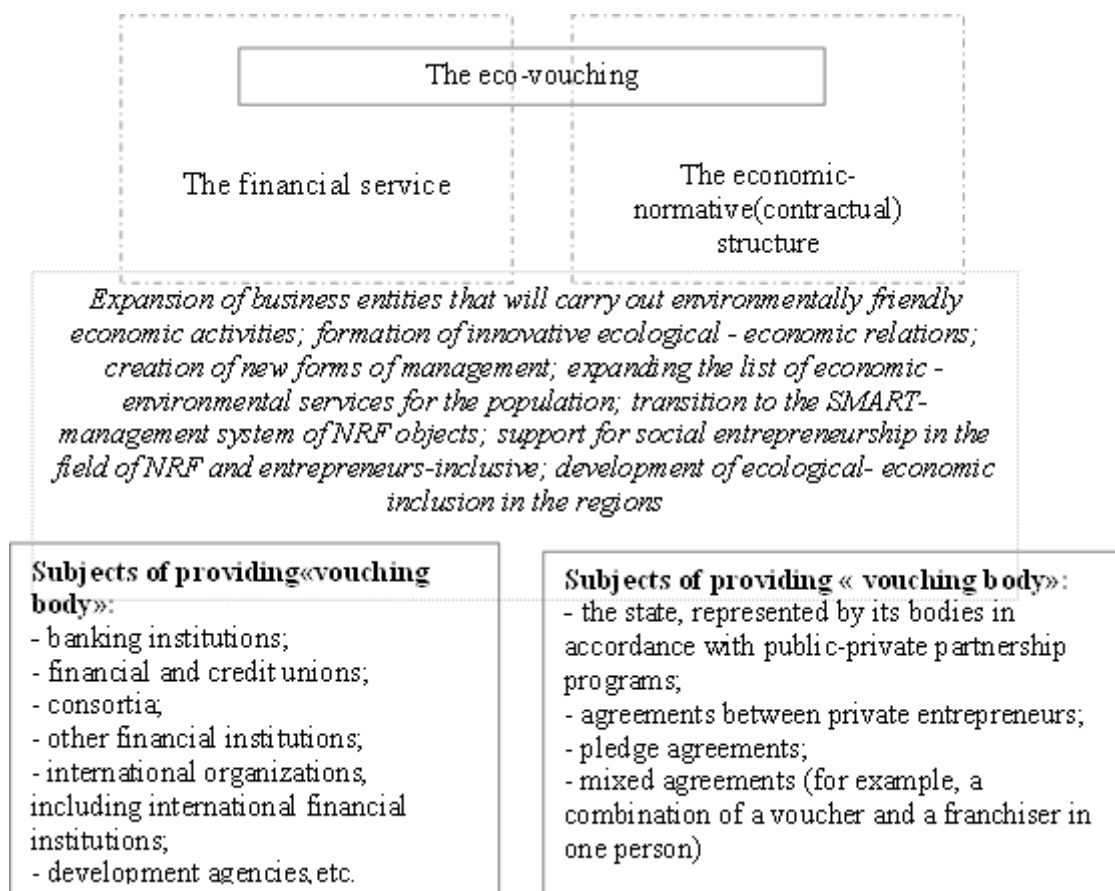


Fig.2. The essence of environmental vouching

\*compiled from the materials of articles [24],[25],[26],[27]

**Conclusions and perspectives of further research.** Thus, the application of vouching agreements in the environmental and protected areas of the national economy is at an early stage. Entrepreneurs, intended to carry out environmentally oriented economic activities conclude "direct agreements" with banks, in turn in case of inability to fulfill their financial-organizational obligations in time they go bankrupt. The low level of financial, economic-organizational, consulting support of such legal entities inhibits the development of the economic system and environmental relations in general.

Environmental vouching agreements have industry specifics, so they are not actually a guarantee, which is traditionally considered by modern scientists, as they provide a wider range of rights and responsibilities for both (voucher) guarantor and debtor, both financial and organizational and environmental and economic character. Vouching, as a modern economic and regulatory structure, aims not only to obtain a «net profit» at the end of the calendar year or in other terms provided by the agreement, but also to ensure development of new instruments of environmental and infrastructural support of local communities and entrepreneurs.

In the field of environmental protection the tool of vouching should be differentiated depending on its subject, the scope of rights and duties of the parties and the ecological-economic nature of obligations, as a financial service and as an economic-normative (contractual) structure.

The practical application of vouching agreements in the fields of environmentally protected and reserve areas will allow:

- involve «new» financial players in these fields of the national economy (for example, credit units, insurance companies);
- increase investment attractiveness for business-groups, which intend to carry out services of economic-ecological direction (creation tools to increase efficiency and profitability);

- stimulate the private sector representatives of economy to participate in the projects of public-private partnership in the relevant direction(reducing the level of financial-organizational loading on the private sector);
- provide effective support to entrepreneurs, intended to carry out economic activities of the ecological-innovative nature(for example,«eco»,start-ups, creation of hubs on the basis of institutions of nature-reserve fund, etc.);
- improve the dynamics of economic-ecological development of the regions of location of reserve and nature protected territories(creation work places, reducing the level of labor and social migration, increasing the financial flow in the remote settlements of the state);
- ensure the effective development of the system of ecological-economic inclusion both in regions and in the country(state and extra-budgetary support for entrepreneurs-inclusive, social-ecological entrepreneurship );
- intensify the role of nature-reserve fund institutions in the system of economic-ecological relations(nature protected coaching, brand or logo of the NRF facility,etc).

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