

13 JUL 22 2015

SENATE
Senate Bill No. **1030**

Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

EXPLANATORY NOTE

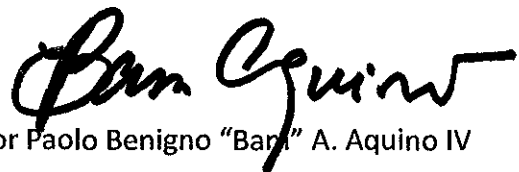
In all parts of the country, micro enterprises comprise the bulk of business enterprises in the country. The Department of Trade and Industry (DTI) estimates that, as of 2011, at least 99.6% of all businesses in the Philippines were classified as micro, small, and medium enterprises (MSMEs), while the remaining 0.4% were large enterprises. Of the total number of MSMEs, at least 91.0% were micro enterprises, with asset sizes not greater than Three Million Pesos (P3 million) and with up to 10 employees.

At their very core, micro enterprises enable poor families to undertake entrepreneurial activities to meet their minimum basic needs, including income generation. However, one major barrier for micro entrepreneurs is their lack of access to credit or capital. One way for them to access such funding is through micro finance.

"Micro finance", as is defined in this bill, "refers to the provision of a broad range of financial services exclusively for the poor to improve the asset base of households and expand their access to savings and enable them to raise their income levels and living standards." Therefore, micro finance is that much-needed first step between subsistence and sustainability, enabling the poor to start up businesses that can lift themselves out of poverty.

However, the micro finance sector has yet to be acknowledged by government as an integral partner in poverty alleviation. Moreover, the unique structure and purpose of micro finance institutions (MFIs) have yet to be recognized as different from those of purely commercial enterprises.

Therefore, we are proposing a Microenterprise Development Strategy that is embodied in the **Micro enterprise Institutions Development ("MicroDev") Act**. This measure seeks to provide an enabling policy environment and support for MicroDevs through appropriate tax reforms. It also aims to develop a social reform program that will empower the poor, aid them in managing financial risks, and, in doing so, expand access to micro finance services, such as: microcredit, microsavings, health care, and others. This Act also opens up access to a broad range of financial, business, and other human development services. The ultimate goal of the MicroDev Act is the lift people out of poverty and enable them to live more productive, self-sufficient lives.

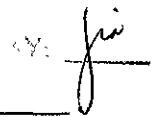


Senator Paolo Benigno "Bam" A. Aquino IV

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SENATE
S. B.No. 1030

RD

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AN ACT
GOVERNING THE CREATION AND ACCREDITATION OF MICROENTERPRISE DEVELOPMENT
INSTITUTIONS AND FOR OTHER PURPOSES

1 **Section 1. Title.** – This Act shall be known as the “Microenterprise Development Institutions Act
2 of 2013.”

3 **SECTION 2. Declaration of Policy.** – It is hereby declared the policy of the State to pursue a
4 program of poverty eradication wherein poor Filipino families shall be encouraged to undertake
5 entrepreneurial activities to meet their minimum basic needs including income security. In
6 pursuance of this policy, the government shall support and work in partnership with qualified
7 institutions in the private sector providing general and other entrepreneurial services to the
8 poor.

9 **SECTION 3. Definition of Terms.** – For purposes of implementing this Act, the following
10 definitions shall apply:

- 11 (a) *MICRODEV Accreditation Center* refers to the entity created under Section 7 of this Act.
12 (b) *Microenterprise Development Strategy* refers to a social reform program to empower
13 the poor, manage risks and vulnerabilities and thereby improve their asset base and
14 expand access to microfinance services, such as microcredit, microinsurance,
15 microsavings, health care and microhousing through a broad package of financial,
16 business and human development services and other nonfinancial services, including
17 education to enable them to lead productive lives.
18 (c) *Microfinance* refers to the provision of a broad range of financial services exclusively for
19 the poor to improve the asset base of households and expand their access to savings
20 and enable them to raise their income levels and living standards.
21 (d) *Net worth* refers to the difference between total assets and total liabilities of an entity.
22 (e) *Poor* refers to individuals and families whose income fall below the poverty threshold as
23 defined by the National Economic and Development Authority of those who cannot
24 afford in a sustained manner to provide their minimum basic needs of food, health care,
25 education, housing and other essential amenities of life as defined by Republic Act No.
26 8425, otherwise known as the “Social Reform and Poverty Alleviation Act.”
27 (f) *Regulatory Authorities* refer to the entities as designated under Section 9 of this Act.

1 (g) *Social Reform* refers to the continuing process of addressing the basic inequities in
2 Philippine society through a systematic, unified and coordinated delivery of socio-
3 economic programs or packages.

4 **SECTION 4. *Recognition of Micro-enterprise Development Institutions (MICRODEVs).*** –
5 MICRODEVs are hereby recognized as institutions mandated to implement a
6 microenterprise development strategy. MICRODEVs shall be operated as non-stock and
7 non-profit corporations in accordance with the Securities and Exchange Commission (SEC)
8 rules and regulations and provisions of Title XI (Non-Stock Corporations) of Batas Pambansa
9 Blg. 68, otherwise known as “The Corporation Code of the Philippines.” These shall be
10 governed by a Board of Trustees whose members shall not receive compensation: Provided,
11 That no part of the net income of MICRODEVs inure to the benefit of the members,
12 trustees, directors or officers: Provided, further, That the administrative expenses shall in
13 no case exceed thirty percent (30%) of the total expenses with the rules and regulations to
14 be prescribed by the Department of Finance (DOF) upon the recommendation of the Bureau
15 of Internal Revenue (BIR).

16 **SECTION 5. *Powers and Functions of a MICRODEV.*** – A MICRODEV shall exercise such
17 powers and functions and undertake such activities in accordance with the policies,
18 programs and services provided in this Act. It shall:

- 19 (a) Provide the poor access to reasonable and affordable credit and related services which
20 may include microfinance, microinsurance, micro enterprise development, health care
21 and microhousing;
22 (b) Provide human development services to help the poor achieve a level of sustainability
23 and empowerment and adopt measures to promote a spirit of generosity and selfless
24 giving among individuals and institutions that would help support all programs directly
25 involved in poverty eradication.

26 Any accredited MICRODEV shall not undertake deposit-taking activities, engage
27 in the insurance business and carry out fund management activities without the
28 necessary licenses and authority from relevant regulatory agencies.

29 For the purpose of implementing this provision, deposit-taking does not include
30 taking of funds from current or prospective borrowers for the purpose of equity build-
31 up of an individual borrower’s own loans. Where applicable, a MICRODEV shall be a net
32 lender at all times, wherein net loans mean total loans minus total equity build-up.

33 **SECTION 6. *Capital Requirements.*** – A MICRODEV shall have a net worth of at least Twenty
34 million pesos (P20,000,000.00), or in the case of newly organized MICRODEVs, an initial net
35 worth of at least Ten million pesos (P10,000,000.00)

36 **SECTION 7. *Creation and Composition of the Accrediting Entity.*** – An accrediting entity to be
37 known as the MICRODEV Association Center shall be created under the National Anti-Poverty
38 Commission (NAPC) to perform the functions provided herein. It shall be composed of the
39 following:

- 40 (a) The President of the NAPC or designated representative;
41 (b) The Secretary of DOF or designated representative;

- 1 (c) The Secretary of the Department of Trade and Industry (DTI) or designated
2 representative;
- 3 (d) The Governor of the Bangko Sentral ng Pilipinas (BSP) or designated representative;
- 4 (e) The Chairperson of the SEC or designated representative; and
- 5 (f) The President of the Microfinance Council of the Philippines (MFCP) or designated
6 representative.

7 The MICRODEV Accreditation Center shall be assisted by a Secretariat in the performance of
8 its functions. Funding for its operation shall be sourced from the two percent (2%) tax
9 proceeds from MICRODEVs to be remitted to the People's Development Trust Fund
10 established under Republic Act No. 8425, as provided for in subparagraph (a) of Section 10
11 of this Act.

12 **SECTION 8. Powers and Functions of the Accrediting Entity** – The MICRODEV Accreditation
13 Center established under this Act shall have the following functions and responsibilities:

- 14 (a) Institute and operationalize a system of accreditation for MICRODEVs;
- 15 (b) Issue certificate of accreditation as a MICRODEV to a non-stock and non-profit
16 corporation applicant. *Provided, That*, the certificate of accreditation shall be valid only
17 for such a period as may be prescribed under the implementing rules and regulations of
18 this Act: *Provided, further*, That no application shall be processed for accreditation as a
19 MICRODEV unless the applicant enterprise secures a valid registration or license with
20 the government agency that exercises regulatory function over such corporation;
- 21 (c) Monitor the performance of MICRODEVs to ensure compliance with the provisions of
22 this Act and its implementing rules and regulations;
- 23 (d) Suspend or revoke any certificate of accreditation upon determination that a MICRODEV
24 no longer meets the criteria for accreditation;
- 25 (e) Require regular submission of reports by MICRODEVs;
- 26 (f) Collect reasonable accreditation and monitoring fees from a MICRODEV which shall be
27 used for the accrediting entity's operational requirements;
- 28 (g) Submit an annual report to the President of the Philippines and the concerned
29 committees of both houses of congress; and
- 30 (h) Perform such other functions as may be necessary to accomplish the purposes and
31 objectives of this Act.

32 **SECTION 9. Power of the Regulatory Authorities to examine MICRODEVs.** The BSP and the
33 Insurance Commission, in coordination with the accrediting entities shall have the power to
34 examine the operations of MICRODEVs, solely for the purpose of determining that MICRODEVs
35 are not engaged in unauthorized undertakings or activities which are subject to their respective
36 regulations.

37 **SECTION 10. Taxation of Accredited MICRODEVs** – The taxation of MICRODEVs shall be as
38 follows:

- 39 (a) The MICRODEV shall pay two percent (2%) of the gross income in lieu of all national and
40 local taxes which shall be remitted to the National Government. The tax proceeds shall
41 form part of the disbursable portion of the People's Development Trust Fund
42 established under Republic Act No. 8425. The term "gross income" shall mean gross

1 receipts less sales returns, allowances, discounts and other costs of services. The term
2 "cost of services" shall mean all direct costs and expenses necessarily incurred to
3 provide the services required by the customers and clients including salaries and
4 employee benefits of personnel, consultants and specialists directly rendering the
5 service and cost of facilities directly utilized in providing the service and cost of supplies.
6 Interest expenses on borrowings for lending services of a MICRODEV shall be deductible
7 from gross receipts as part of cost of services in arriving at gross income. The term gross
8 income shall exclude donations;

9 (b) Donations to the MICRODEV shall be fully deductible from the gross income of the
10 donor subject to the condition of Section 34 (c) of Republic Act No. 8424, as amended,
11 otherwise known as "National Internal Revenue Code of 1997". *Provided, however,* that
12 the accreditation of the MICRODEV by the accrediting entity under this act shall be
13 sufficient;

14 (c) Donations to the MICRODEV shall be exempt from donors' tax subject to the
15 qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as
16 "National Internal Revenue Code of 1997". *Provided,* that for purposes of utilization,
17 accreditation granted under this Act shall be sufficient; and

18 (d) Transactions of the MICRODEV and its clients shall be exempt from documentary stamp
19 tax.

20 **SECTION 11. *Implementing Rules and Regulations.***—The NAPC, in coordination with the DOF,
21 the BIR, the BSP, the DTI and the MFCP, shall formulate the implementing rules and regulations
22 (IRR) of this Act with ninety (90) days after its approval. The IRR shall take effect fifteen (15)
23 days after its publication in a newspaper of general circulation in the Philippines.

24 **SECTION 12. *Penalty Clause.*** If the BSP or the Insurance Commission finds, pursuant to its
25 power under Section 9 of this Act, MICRODEVs engaging in unauthorized undertakings or
26 activities, the BSP or the Insurance Commission may impose administrative sanctions including,
27 but not limited to, issuance of an order requiring the MICRODEV and/or the directors and/or
28 officers concerned to cease and desist from the indicated practice or violation, and may further
29 order that immediate action be taken to correct the conditions resulting from such violation.
30 The cease and desist order shall be immediately effective upon service of such order to the
31 respondents. Further, MICRODEVs and/or its directors and/or officers found to be engaged in
32 unauthorized undertakings and activities shall be subject to criminal and administrative fines as
33 provided for in Sections 36 and 37 of Republic Act No. 7653 or the New Central Bank Act, and in
34 case of unauthorized activities regulated by the Insurance Commission, be liable under the
35 applicable insurance laws.

36 **SECTION 13. *Separability Clause.*** – The provisions of this Act are hereby declared to be
37 separable. If any provision of this Act shall be unconstitutional, the remainder of the Act not
38 otherwise affected shall remain in full force and effect.

39 **SECTION 14. *Repealing Clause.*** – All executive orders, rules and regulations or parts thereof
40 which are contrary to or inconsistent with this Act are hereby repealed.

41 Approved,