

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Thirteenth Congress
First Regular Session

House Bill No. 3812



Introduced by Hon. Speaker Jose de Venecia

EXPLANATORY NOTE

Microenterprises and poor households are practically shut out from the formal financial system. The only option for them is to borrow at very high cost usually from loan sharks and/or, using their future harvest priced very low as mortgage/collateral to traders/middlemen. As a result, most of them (especially farming and fishing families) are in a poverty trap, spending a large part of the loan for paying interests and covering personal consumption rather than on business expansion.

On the part of large formal financial institutions, the seemingly unattractive task of catering to small borrowers is basically due to the perception that lending to the poor and small-scale clients is a very risky venture due to various reasons such as the poor's inability to provide collateral and asymmetry of information. Moreover, lending a thousand pesos to one thousand individuals may be more costly than providing a P1 million loan to a large enterprise.

To address this deficiency, microfinance institutions (MFIs), which initially included only the credit-granting nongovernment organizations (NGOs) and then later, a slowly growing number of rural banks, took up the slack (Llanto, 2003). They set up schemes that evolved through the years and enabled the poor and the disenfranchised sectors to borrow and enjoy various financial services that would otherwise not be made possible through the banks.

Recent data from the Microfinance Council of the Philippines (MCP), People's Credit and Finance Corporation and the BSP indicate that as of the first quarter of 2004, about 1,099,025 poor individuals have borrowed from MFIs. However, in the 1998 Annual Poverty Indicator Indicators Survey, only 20% out of the 8.5 million families with business surveyed had obtained credit to finance their business.

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**AN ACT TO PROMOTE AND HASTEN THE DEVELOPMENT OF
MICROFINANCE NGOs IN THE PHILIPPINES**

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

PART I – TITLE AND DECLARATION OF POLICY

Section 1. Title. This Act shall be known as the “ Microfinance NGOs Development Act of 2005”.

Section 2. Declaration of Policy. It is hereby declared the policy of the state to put priority on the alleviation of poverty in the country. In view hereof, providing greater access to financial services is a vital instrument in improving the living conditions of the disadvantaged sectors of the economy. The government shall, therefore, continue to pursue a liberalized and market-oriented economy where private entities such as non-government organizations (NGOs) play a major role and where the government provides the enabling environment to these entities for them to contribute more effectively to poverty alleviation efforts.

PART II – GENERAL PROVISIONS

Section 3. Objective. This Act aims to enhance the role of microfinance NGOs in poverty alleviation efforts through the provision of tax incentives which will contribute to their institutional growth and sustainability as well as support their investments and costs in social intermediation and social development.

Furthermore, this Act seeks to rationalize the processes required of microfinance NGOs seeking a donee institution status.

Section 4. Coverage. This law shall apply to non-stock, non-profit BIR accredited non-government organizations (NGOs) or foundations engaged primarily in the provision of microfinance services. Provided, that these NGOs or foundations are qualified to gain a donee institution status subject to Section 8 of this Act.

Section 5. Definition of Terms. Whenever used in this Act, the following terms shall have their respective meanings:

- a) “Microfinance” – A credit and savings mobilization program exclusively for the poor to improve the asset base of households and expand the access to savings of the poor. It involves the use of viable alternative credit schemes and savings programs including the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, alternative loan repayments, minimum requirements for savings, and small denominated savers’ instruments and insurance schemes;
- b) “Non-government Organization” – Refers to duly registered non-stock, non-profit organizations focusing on the upliftment of the basic or disadvantaged sectors of society by providing advocacy, training, community organizing, research, access to resources, and other similar activities;
- c) “Microfinance NGO” – A non-government organization or foundation with the primary business of providing microfinance services and acts as a financial intermediary.
- d) Donee institution – a non-stock, non-profit corporation or non-government organization, to which donations are wholly tax deductible from gross income of the donor or exempt from donor’s tax in accordance with Sections 34(h) and 101 of Republic Act 8424.

PART III – TAX INCENTIVES

Section 6. Exemption from Liability for Unremitted Taxes. A general amnesty on all taxes past due and unremitted, including penalties thereof, as of the

date of approval of this Act is hereby granted to non-stock, non-profit BIR accredited microfinance NGOs or foundations.

Section 7. Donee Institution Status. Microfinance NGOs or foundations shall automatically be given a Donee Institution Status upon accreditation by the Philippine Council on NGO Certification (PCNC) and the Bureau of Internal Revenue (BIR).

Donations to BIR-accredited, non-stock, non-profit microfinance NGOs or foundations shall be fully tax deductible from the gross income of the donor for the period of ten (10) years under this tax incentive. Provided that after the 10-year period, any new donations shall be subject to the regular Donor's tax.

Section 8. The Department of Finance shall set the guidelines for screening, evaluation and approval of tax incentives for microfinance NGOs, based on established industry standards for microfinance operations. The DOF shall likewise determine a performance criteria which will serve as conditions for withdrawing the tax incentives as well as the donee institution status from microfinance NGOs. Moreover, it may deputize private sector tertiary organizations for assistance in carrying out its functions.

Section 9. The Bureau of Internal Revenue (BIR) shall issue a certification of donee institution status, as well as a certificate of tax amnesty/exemption from liability as may be applicable, to these NGOs or corporation arms.

PART IV – FINAL PROVISIONS

Section 10. Separability Clause. The provisions of this act are hereby declared separable and in the event any such provision is declared unconstitutional, invalid or unenforceable, the other provisions will remain in force and effect.

Section 11. Repealing Clause. The pertinent provisions of Republic Act 8425, and all other laws, decrees, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 12. Effectivity. This Act shall take effect immediately within 30 days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,