

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH (15th) CONGRESS
1st Regular Session

HB NO. 1708

Introduced by REP. TOMAS V. APACIBLE

EXPLANATORY NOTE

The year 2002 underscored the need for policy initiatives to support micro business enterprises through the enactment into law of Republic Act No. 9178 otherwise known as the **“Barangay Micro Business Enterprises (BMBEs) Act of 2002.”** This law was intended to spur development in the country's barangays, the basic political unit in the country. However, it was seen in the implementation of RA 9178 that the intent of the law may have been negated by the very nature of the enterprise sought to be supported. The delimitation in “labelling” the enterprise as barangay-based seems to have limited the number of registrants since even the residence of the employees have been interpreted to be only within the barangay. This thinking forestalls expansion to other barangays or even outside the municipality or city. Moreover, the facility of access to credit was not adequate enough and even Bangko Sentral ng Pilipinas issuances have confused the BMBEs with micro enterprises under the purview of the Social Reform and Poverty Alleviation Act. Considering that the maximum asset size of the BMBE according to the law is Three Million Pesos (Php 3,000,000.00), it is highly likely that a BMBE, though starting with a relatively smaller asset size, will expand outside the barangay where it is initially located. Also, they will need more avenues for funding support.

Although the current law highlights the existence of informal entrepreneurs and in fact encourages them to be mainstreamed, most often than not, the marginalized entrepreneurs who remain informal in nature are those with much smaller asset size and many of whom may fall under the category of micro enterprises covered by the Social Reform and Poverty Alleviation Act., as stated above. On the other hand, it is possible that those with larger asset size but remain informal do not have the adequate information about the benefits/incentives under the law. There are also instances that the concerned local government units do not have policies to support the law. It is also distressing to note that even with the provisions of RA 9178 providing for simplified registration, access to credit, technical assistance, and exemptions to income tax, only around 1% of the potential registrants have actually been listed.

However, even as incentives will continue to be made available to the micro business enterprises and the proposed amendments mandate the local government units to support the MBEs through the MBE Registry and an appropriate ordinance for the incentives, it is also recognized that incentives should have a timeframe and also may have limitations. The proposal therefore, limits the effectivity of the Certificate of Authority for the MBE to avail of the incentives under the law for a maximum of five (5)

years. Further, it provides that the Micro, Small and Medium Enterprises Development Council shall issue a negative list on activities which cannot have incentives.

Notwithstanding the above limitations, the proposed law seeks to ensure that the appropriate agencies in the executive and legislative branches monitor the implementation of the law, within their areas of jurisdiction. The proposed law also updates the government support to micro business enterprises by recognizing the recent amendment of the Magna Carta for Micro, Small and Medium Enterprises or MSMES. Thus, we see that our overseas Filipino workers will also be encouraged to take their place in entrepreneurship development in our country. It is hoped that with the support systems in place as well as the firm rationalizing of why the "barangay" label has been eliminated, more enterprises will take advantage of the benefits of the law, seek to grow and to participate in local and national development.

In view thereof, approval of this bill is earnestly sought and recommended.


TOMAS V. APACIBLE
Representative
1st District - Batangas

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

FIFTEENTH (15TH) CONGRESS
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HOUSE BILL NO. 1708

Introduced by the Honorable TOMAS V. APACIBLE

AN ACT
TO PROMOTE THE ESTABLISHMENT OF MICRO BUSINESS ENTERPRISES (MBEs),
PROVIDING INCENTIVES AND BENEFITS THEREFOR, AND FOR OTHER
PURPOSES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9178,
OTHERWISE KNOWN AS THE BARANGAY MICRO BUSINESS ENTERPRISES ACT
OF 2002.

PRELIMINARY PROVISIONS

SECTION 1. Section 1 of Republic Act No. 9178 is hereby amended to read as follows:

“Section. 1. *Short Title.* – This Act shall be known as the “[Barangay] Micro Business Enterprises ([B]MBEs) Act of 200[2]9”.”

SEC. 2. Section 2 of the same Act is hereby amended to read as follows:

“SEC. 2. *Declaration of Policy.* - It is hereby declared to be the policy of the State to hasten the country’s economic development by encouraging the formation and growth of [barangay] micro business enterprises which effectively serve as seedbeds of Filipino entrepreneurial talents, [and integrating those in the informal sector with the mainstream economy,] through the rationalization of bureaucratic restrictions, the active intervention of the government specially in the local level, and the granting of incentives and benefits to generate much-needed employment and alleviate poverty.

SEC. 3. Section 3 of the same Act is hereby amended to read as follows:

SEC. 3. *Definition of Terms.* – As used in the Act, the following terms shall mean:

(a) “[Barangay] Micro Business Enterprise,” hereinafter referred to as [B]MBE, refers to any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity’s office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00). The above definition shall be subject to review and upward adjustment by the MICRO, SMALL AND MEDIUM ENTERPRISE DEVELOPMENT (MSMED) Council, as mandated under Republic Act No. 6977, as amended [by Republic Act No. 8289].

For the purpose of the Act, “services” shall exclude those rendered by any one, who is duly licensed by the government after having passed a government licensure examination, in connection with the exercise of one’s profession. THE MSMED COUNCIL SHALL LIKEWISE ISSUE A NEGATIVE LIST WHICH SHALL CONTAIN AN INVENTORY OF SPECIFIC ACTIVITIES THAT CANNOT QUALIFY FOR INCENTIVES UNDER THIS ACT, DULY SUPPORTED BY STUDIES CONDUCTED BY CONCERNED AGENCIES.

(b) “Certificate of Authority” is the certificate issued granting the authority to the registered [B]MBE to operate and be entitled to the benefits and privileges accorded thereto.

(c.) “Assets” refers to all kinds of properties, real or personal, owned by the [B]MBE and used for the conduct of its business as defined by the MSMED Council: *Provided*, That for the purpose of exemption from taxes and fees under the Act, this term shall mean all kinds of properties, real or personal, owned and/or used by the [B]MBE for the conduct of its business as defined by the MSMED Council.

(D) “MBE REGISTRY” REFERS TO THE DATABASE OF MBEs IN THE CITY/MUNICIPALITY WHICH IS TO BE UPDATED ANNUALLY.

(E) [(d)] “Registration” refers to the inclusion of the [B]MBE in the [B]MBE Registry of a city or municipality.

(F) [(e)] “Financing” refers to all borrowings of the [B]MBE from all sources after registration.

REGISTRATION AND OPERATION OF [B]MBEs

SEC. 4. Section 4 of the same Act is hereby amended to read as follows:

“SEC. 4. *Registration and Fees.* - The BUSINESS PERMIT AND LICENSING Office [of the Treasurer] of each city or municipality shall register the [B]MBEs and issue a Certificate of Authority to enable the [B]MBE to avail of the benefits under this Act. Any such application shall be processed within fifteen (15) working days upon submission of complete documents. Otherwise, the [B]MBEs shall be deemed registered. The Municipal or City Mayor may appoint a [B]MBE Registration Officer [who shall be under the Office of the Treasurer]. Local government units (LGUs) are encouraged to establish a One-Stop-Business Registration Center to handle the efficient registration and processing of permits/licenses of [B]MBEs. Likewise, LGUs shall make a periodic evaluation of the [B]MBEs' financial status for monitoring and reporting purposes.

The LGUs shall issue the Certificate of Authority promptly and free of charge. However, to defray the administrative costs of registering and monitoring the [B]MBEs, the LGUs may charge a fee not exceeding [One Thousand Pesos (P1,000.00)] FIVE HUNDRED (P500.00) PESOS.

The Certificate of Authority shall be effective for a period of ONE (1) [two (2)] year[s], renewable [for a period of two (2) years for every renewal], EVERY YEAR FOR A MAXIMUM OF 5 YEARS.

As much as possible, [B]MBEs shall be subject to minimal bureaucratic requirements and reasonable fees and charges.

SEC. 5. Section 5 of the same Act is hereby amended to read as follows:

“SEC. 5. *Who are Eligible to Register.* - Any person, natural or juridical, or cooperative, or association, having the qualifications as defined in Section 3(a) hereof may apply for registration as [B]MBE.”

SEC. 6. Section 6 of the same Act is hereby amended to read as follows:

“SEC. 6. *Transfer of Ownership.* - [The] [B]MBE shall report to the city or municipality of any change in the status of its ownership structure, and shall surrender the original copy of the

[B]MBE Certificate of Authority for notation of the transfer.”

SEC. 7. There shall be incorporated after Section 6 of the same Act a new section to read as follows:

SEC.7. MONITORING OF MBEs. THE DILG SHALL SUBMIT AN ANNUAL REPORT TO THE MSMED COUNCIL, ON THE IMPLEMENTATION OF THIS ACT BY THE LOCAL GOVERNMENT UNITS (LGUs). SUCH REPORT SHALL CONTAIN, AMONG OTHERS, THE FOLLOWING:

- A. THE NAMES AND ADDRESSES OF MBEs REGISTERED FOR THE PERIOD; THEIR LINE OF BUSINESS; THEIR OWNERS OR STOCKHOLDERS; AND KEY OFFICERS; AND THEIR ASSET BASE;
- B. THE AMOUNT OF INCOME FOR WHICH EXEMPTION FROM INCOME TAX WAS AVAILED OF;
- C. THE ANNUAL GROSS INCOME DERIVED BY THE MBEs;
- D. THE ACCESS TO CREDIT PROBLEMS FACED BY THE MBEs WITHIN THE JURISDICTION OF THE LGUs AND POSITIVE STEPS IF ANY WHICH HAVE BEEN TAKEN BY THE LGUs TO PROVIDE A FACILITATIVE POLICY ENVIRONMENT, WITHIN THEIR MANDATES, TO CREDIT CONDUITS.

INCENTIVES AND BENEFITS

SEC. 8. Section 7 of the same Act is hereby renumbered as Section 8, and is amended to read as follows:

SEC. [7]8. *Exemption from Taxes and Fees.* – NOTWITHSTANDING EXISTING TAX LAWS, All [B]MBEs shall be exempt from income tax for income arising from the operations of the enterprise.

The LGUs are encouraged either to reduce the amount of local taxes, fees and charges imposed or to exempt the [B]MBEs from local taxes, fees and charges. THE LOCAL SANGGUNIAN SHALL ISSUE AN ORDINANCE FOR THE EFFECTIVE IMPLEMENTATION OF THIS ACT WITHIN THIRTY (30) DAYS FROM ITS APPROVAL.

SEC. 9. Section 8 of the same Act is hereby renumbered as Section 9, and is amended to read as follows:

SEC. [8] 9. *Exemption from the Coverage of the Minimum Wage Law.* - The [B]MBEs shall be exempt from the coverage of the Minimum Wage Law: *Provided*, That all employees covered under this Act shall be entitled to the same benefits given to any regular employee such as social security and healthcare benefits.

SEC. 10. Section 9 of the same Act is hereby renumbered as Section 10, and is amended to read as follows:

SEC. [9] 10. *Credit Delivery.* - Upon the approval of the Act, the Land Bank of the Philippines (LBP), the Development Bank of the Philippines (DBP), the Small Business Guarantee and Finance Corporation (SBGFC), and the People's Credit and Finance Corporation (PCFC) shall set up a special credit window that will service the financing needs of [B]MBEs registered under the Act consistent with the Bangko Sentral ng Pilipinas (BSP) policies, rules and regulations. The Government Service Insurance System (GSIS) [and], Social Security System (SSS) AND OVERSEAS WORKERS WELFARE ADMINISTRATION (OWWA) shall likewise set up a special credit window that will serve the financing needs of their respective members who wish to establish a [B]MBE. The concerned financial institutions (FIs) are encouraged to wholesale the funds to accredited private financial institutions including community-based organizations such as credit, cooperatives, non-government organizations (NGOs) and people's organizations, which will in turn, directly provide credit support to [B]MBEs.

All loans from whatever sources granted to [B]MBEs under the Act shall be considered as part of alternative compliance to Presidential Decree No. 717, otherwise known as the Agri-Agra Law, or to Republic Act No. 9501, known as the Magna Carta for Small and Medium Enterprises, as amended. For purposes of compliance with Presidential Decree No. 717 and Republic Act No. 9501, as amended, loans granted to [B]MBEs under this Act shall be computed at twice the amount of the face value of the loans.

Any existing laws to the contrary notwithstanding, interests, commissions and discounts derived from the loans by the LBP, DBP, PCFC and SBGFC granted to [B]MBEs as well as loans extended by the GSIS and SSS to their respective member- employees under the Act shall be exempt from

gross receipts tax (GRT).

To minimize the risks in lending to the [B]MBEs, the SBGFC [and], THE OWWA FOR OVERSEAS CONTRACT WORKERS AND the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR) under the Department of Agriculture, in case of agribusiness activities, shall set up a special guarantee window to provide the necessary credit guarantee to [B]MBEs under their respective guarantee programs.

The LBP, DBP, PCFC, SBGFC, SSS, GSIS, OWWA and QUEDANCOR shall annually report to the appropriate Committees of both Houses of Congress on the status of the implementation of this provision.

The BSP shall formulate the rules for the implementation of this provision, SUBJECT TO THE APPROVAL OF THE MSMED COUNCIL and shall likewise establish incentive programs to encourage and improve credit delivery to the [B]MBEs.

SEC. 11. Section 10 of the same Act is hereby renumbered as Section 11, and is amended to read as follows:

SEC. [10] 11. *Technology Transfer, Production and Management Training, and Marketing Assistance.* - A [B]MBE Development Fund shall be set up with an endowment of Three Hundred Million Pesos (P300,000,000.00) from the Philippine Amusement and Gaming Corporation (PAGCOR) and shall be administered by the MSMED Council.

The Department of Trade and Industry (DTI), the Department of Science and Technology (DOST), the University of the Philippines Institute for Small Scale Industries (UP ISSI), Cooperative Development Authority (CDA), Technical Education and Skills Development Authority (TESDA), [and] Technology and Livelihood Resource Center (TLRC) AND THE WORKERS IN THE INFORMAL SECTOR OF THE NATIONAL ANTO POVERTY COMMISSION (NAPC-WISC) may avail of the said Fund for technology transfer, production and management training and marketing assistance to [B]MBEs.

The DTI, in coordination with the private sector and non-government organizations (NGOs), shall explore the possibilities of linking or matching-up [B]MBEs with small, medium and large enterprises, and likewise establish incentives therefor.

The DTI, in behalf of the DOST, UP ISSI, CDA, TESDA [and], TLRC AND NAPC-WISC shall be required to furnish the appropriate Committees of both Houses of Congress a yearly report on the development and accomplishments of their projects and programs in relation to technology transfer, production and management training and marketing assistance extended to [B]MBEs.

SEC. 12. Section 11 of the same Act is hereby renumbered as Section 12, and is amended to read as follows:

SEC. [11] 12. *Trade and Investment Promotion.* - The data gathered from business registration shall be made accessible to and shall be utilized by private sector organizations and non-government organizations for purposes of business matching, trade and investment promotion.

INFORMATION DISSEMINATION

SEC. 13. Section 12 of the same Act is hereby renumbered as Section 13, and is amended to read as follows:

SEC. [12] 13. *Information Dissemination.* - The Philippine Information Agency (PIA), in coordination with the Department of Labor and Employment (DOLE), the DILG, the DOF, THE NAPC-WISC and the DTI, shall ensure the proper and adequate information dissemination of the contents and benefits of the Act to the general public especially to its intended beneficiaries specifically at the barangay level. THE PIA, IN COORDINATION WITH DILG, DOLE, DOF, NAPC-WISC AND DTI, SHALL MEET AT THE REGIONAL LEVEL, TO PREPARE AN ACTION PLAN TO ENSURE PROPER DISSEMINATION OF THE LAW TO THE GENERAL PUBLIC, MOST ESPECIALLY THE BENEFICIARIES AT THE LOCAL LEVEL.

PENALTY

SEC. 14. Section 13 of the same Act is hereby renumbered as Section 14, and is amended to read as follows:

SEC. [13] 14. *Penalty.* - Any person who shall willfully violate any provision of this Act or who shall in any manner commit any act to defeat any provisions of this Act shall, upon conviction, be punished by a fine of not less than [Twenty-five Thousand Pesos (P25,000.00)] **FIFTY THOUSAND PESOS (P50,000.00)** but not more than [Fifty Thousand Pesos (P50,000.00)] **ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00)** and suffer imprisonment of not less than six (6) months but not more than two (2) years.

In case of non-compliance with the provisions of Section 9 of the Act, the BSP shall impose administrative sanctions and other penalties on the concerned government financial institutions, including a fine of not less than [Five Hundred Thousand Pesos (P500,000.00)] **ONE MILLION PESOS (P1,000,000.00).**

MISCELLANEOUS PROVISIONS

SEC. 15. Section 14 of the same Act is hereby renumbered as Section 15, and is amended to read as follows:

SEC. [14] 15. *Annual Report.* - The DILG, DTI, DOF, DOLE and BSP shall submit an annual report to the COMMITTEE ON ECONOMIC AFFAIRS OF THE SENATE AND THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP DEVELOPMENT OF THE HOUSE OF REPRESENTATIVES [Congress] on the status of the implementation of the Act.

SEC. 16. Section 15 of the same Act is hereby renumbered as Section 16, and is amended to read as follows:

SEC. [15] 16. *Implementing Rules and Regulations.* - The Secretary of the Department of Trade and Industry, in consultation with the Secretaries of the DILG, DOF, and the BSP Governor shall formulate the necessary rules and regulations to implement the provisions of the Act within [ninety (90)] ONE HUNDRED TWENTY (120) days after its approval. The rules and regulations issued pursuant to this section shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

SEC. 17. Section 16 of the same Act is hereby renumbered as Section 17.

SEC. [16] 17. *Separability Clause.* - - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 18. Section 17 of the same Act is hereby renumbered as Section 18.

SEC.[17] 18. *Repealing Clause.* - Existing laws, presidential decrees, executive orders, proclamations or administrative regulations that are inconsistent with the provisions of the Act are hereby amended, modified, superseded or repealed accordingly.

SEC. 19. Section 18 of the same Act is hereby renumbered as Section 19.

SEC. [18] 19. *Effectivity.* - The Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,