

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
First Regular Session



COMMITTEE REPORT NO. 932

Submitted by the Committee on Small Business and Entrepreneurship Development on
10 MAY 2011

Re : House Bill 4688

Recommending its approval in substitution of HB Nos. 213 and 1114

Sponsor/s: Reps. Teodoro A. Casiño, Neptali M. Gonzales II, Teodorico T. Haresco, Jr.,
Emmeline Y. Aglipay, and Ferdinand Martin G. Romualdez

Mr. Speaker:

The Committee on Small Business and Entrepreneurship Development to which were
referred House Bill Nos. 213 introduced by Rep. Neptali M. Gonzales II entitled:

**"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISE
DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES"**

and House Bill No. 1114 introduced by Rep. Ferdinand Martin G. Romualdez, entitled:

**"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISE
DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES"**

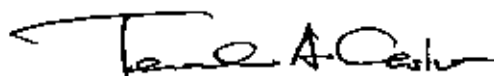
has considered the same and recommends that the attached House Bill No. 4688
entitled:

**"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISE
DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES"**

be approved in substitution of HB No. 213 and HB No. 114 with Representatives Neptali M.
Gonzales II, Ferdinand Martin G. Romualdez, Teodoro A. Casiño, Teodorico T. Haresco, Jr.,
Emmeline Y. Aglipay, Philip A. Pichay, Bernadette R. Herrera-Dy, Augusto D. Syjuco, Jr.,

Christopher S. Co, Rodel M. Batocabe, Alfredo A. Garbin, Ma. Jocelyn V. Bernos and Rufus B. Rodriguez as authors thereof.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Teodoro A. Casio". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

HON. TEODORO A. CASIÑO

Chairperson

Committee on Small Business and Entrepreneurship Development

THE HONORABLE

The Speaker

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH (15th) CONGRESS
1st Regular Session

HOUSE BILL No. 4688
(In substitution of House Bills No. 213 and 1114)

Introduced by Representatives Neptali M. Gonzales II, Ferdinand Martin G. Romualdez, Teddy A. Casiño, Teodorico T. Haresco, Emmeline Y. Aglipay, Philip A. Pichay, Bernadette R. Herrera-Dy, Augusto D. Syjuco, Jr., Christopher S. Co, Rodel M. Batocabe, Alfredo A. Garbin, Ma. Jocelyn V. Bernos and Rufus B. Rodriguez

AN ACT
GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISE DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES

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

1 **Section 1. Title.** This Act shall be known as the "Micro-Enterprise Development
2 Institution Act of 2011."

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

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

- 11 a) MICRODEV Accreditation Center refers to the entity created under Section 7 of
12 this Act;
- 13 b) *Micro-Enterprise Development Strategy* refers to a social reform program to
14 empower the poor, manage risks and vulnerabilities and thereby improve their
15 asset base and expand access to micro-finance services, such as micro-credit,
16 micro-insurance, micro-savings, health care and micro-housing through a broad
17 package of financial, business and human development services and other
18 non-financial services, including education to enable them to live productive
19 lives;
- 20 c) *Micro Finance* refers to the provision of a broad range of financial services
21 exclusively for the poor to improve the asset base of households and expand

1 their access to savings and enable them to raise their income levels and living
2 standards;

3 d) *Net Worth* refers to the difference between total assets and total liabilities of an
4 entity;

5 e) *Poor* refers to individuals and families whose income fall below the poverty
6 threshold as defined by the National Economic and Development Authority or
7 those who cannot afford in a sustained manner to provide their minimum basic
8 needs of food, health care, education, housing and other essential amenities of
9 life as defined by Republic Act No. 8425, otherwise known as the "Social
10 Reform and Poverty Alleviation Act";

11 f) *Regulatory Authorities* refer to the entities as designated under Section 9 of this
12 Act; and

13 g) *Social Reform* refers to the continuing process of addressing the basic
14 inequities in Filipino society through a systematic, unified and coordinated
15 delivery of socio-economic programs or packages;

16 **Section 4. Recognition of Micro-Enterprise Development Institutions**
17 **(MICRODEVs).** *Micro-Enterprise Development Institutions (MICRODEVs)* are hereby
18 recognized as institutions mandated to implement a micro-enterprise development
19 strategy. MICRODEVs shall be operated as non-stock and non-profit corporations in
20 accordance with the Securities and Exchange Commission (SEC) rules and regulations
21 and provisions of Title XI (Non-Stock Corporations) of Batas Pambansa Blg. 68, otherwise
22 known as "The Corporation Code of the Philippines." These shall be governed by a Board
23 of Trustees whose members shall not receive compensation: *Provided*, That no part of
24 the net income of MICRODEVs inure to the benefit of the members, trustees, directors or
25 officers: *Provided, further*, That the administrative expenses shall in no case exceed thirty
26 percent (30%) of the total expenses within a taxable year: *Provided, finally*, That the
27 administrative expenses shall conform with the rules and regulations to be prescribed by
28 the Department of Finance upon the recommendation of the Bureau of Internal Revenue.

29 **Section 5. Powers and Functions of a MICRODEV.** A MICRODEV shall
30 exercise such powers and functions and undertake such activities in accordance with the
31 policies, programs and services provided in this Act. It shall:

32 a) provide the poor access to reasonable and affordable credit and related
33 services including micro-finance, micro-insurance, health care and micro-
34 housing;

35 b) provide business development opportunities such as leadership training and

entrepreneurial skills training; and

- c) provide human development services to help the poor achieve a level of sustainability and empowerment and adopt measures to promote a spirit of generosity and selfless giving among individuals and institutions that would help support all programs directly involved in poverty eradication.

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

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

Section 6. Capital Requirements. A MICRODEV shall have a net worth of Twenty Million Pesos (P20,000,000.00), or in the case of newly organized MICRODEVs, an initial net worth of Ten Million Pesos (P10,000,000.00).

Section 7. Creation and Composition of the Accrediting Entity. An accrediting entity to be known as the MICRODEV Accreditation Center shall be created under the National Anti-Poverty Commission (NAPC) to perform the functions provided hereof. It shall be composed of the following:

- a) The President of the NAPC or designated representative;
- b) The Secretary of the Department of Finance (DOF) or designated representative;
- c) The Secretary of the Department of Trade and Industry (DTI) or designated representative;
- d) The Governor of the Bangko Sentral ng Pilipinas (BSP) or designated representative;
- e) The Chairperson of the SEC or designated representative; and
- f) The President of the Microfinance Council of the Philippines (MFCP) or designated representative.

The MICRODEV Accrediting Center shall be assisted by a Secretariat in the performance of its functions. Funding for its operation shall be sourced from the two percent (2%) tax proceeds from MICRODEVs to be remitted to the Peoples Development Trust Fund established under R. A. No. 8425 as provided for in subparagraph (a) of Section 10 of this Act.

Section 8. Powers and Functions of the Accrediting Entity. The MICRODEV Accreditation Center established under this Act shall have the following functions and responsibilities:

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

Section 9. Power of the Regulatory Authorities to Examine MICRODEVs. The BSP and the Insurance Commission, in coordination with the accrediting entities, shall have the power to examine the operations of MICRODEVs, solely for the purpose of determining that MICRODEVs are not engaged in an unauthorized undertaking or activities which are subject to their respective regulations.

Section 10. Taxation of Accredited MICRODEVs. The taxation of MICRODEVs shall be as follows:

- a) The MICRODEVs shall pay two percent (2%) of the gross income in lieu of all national and local taxes which shall be remitted to the National Government. The tax proceeds shall form part of the disbursement portion of the Peoples Development Trust Fund established under R. A. No. 8425. The term *gross income* shall mean gross receipts less sales returns, allowances, discounts and other costs of services. The term 'cost of services' shall mean

all direct costs and expenses necessarily incurred to provide the services required by the customers and clients including salaries and employee benefits of personnel, consultants and specialists directly rendering the service and cost of facilities directly utilized in providing the service and cost of supplies. Interest expenses on borrowings for lending services of a MICRODEV shall be deductible from gross receipts as part of cost of services in arriving at gross income. The term gross income shall exclude donations;

b) Donations to the MICRODEV shall be fully deductible from the gross income of the donor subject to the conditions of Section 34 (c) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997: *Provided*, however, That the accreditation of the MICRODEV by the accrediting entity under this Act shall be sufficient;

c) Donations to the MICRODEV shall be exempt from donor's tax subject to the qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997: *Provided*, That, for purposes of utilization, accreditation granted under this Act shall be sufficient; and

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

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

Section 12. *Penalty Clause.* If the BSP or the Insurance Commission finds, pursuant to its power under Section 9 of this Act, MICRODEVs engaging in unauthorized undertakings or activities, the BSP or the Insurance Commission may impose administrative sanctions including, but not limited to, issuance of an order requiring the MICRODEV and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such violation. The cease and desist order shall be immediately effective upon service of such order to the respondents.

Further, MICRODEVs and/or its directors and/or officers found to be engaged in unauthorized undertakings and activities shall be subject to criminal and administrative

1 fines as provided in Section 36 and 37 of Republic Act No. 7653 or the New Central Bank
2 Act, and in case of unauthorized activities regulated by the Insurance Commission, be
3 liable under the applicable insurance laws.

4 **Section 13. *Separability Clause.*** The provisions of this Act are hereby declared
5 to be separable. If any provision of this Act shall be held unconstitutional, the remainder of
6 the Act not otherwise affected shall remain in full force and effect.

7 **Section 14. *Repealing Clause.*** All executive orders, rules and regulations, or
8 parts thereof, which are contrary to or inconsistent with this Act are hereby repealed,
9 amended or modified accordingly.

10 **Section 15. *Effectivity.*** This Act shall take effect after fifteen (15) days from its
11 publication in at least two (2) national newspapers of general circulation.

12 Approved,

FACT SHEET

House Bill No. 4688
(As approved on 23 November 2010)

AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICRO ENTERPRISE DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES

Introduced by: NEPTALI M. GONZALES II, FERDINAND MARTIN G. ROMUALDEZ, TEDDY A. CASIÑO, HERMILANDO I. MANDANAS, TEODORICO T. HARESCO, EMMELINE Y. AGLIPAY, PHILIP A. PICHAY, BERNADETTE R. HERRERA-DY, AUGUSTO D. SYJUCO, JR., CHRISTOPHER S. CO, RODEL M. BATOCABE, ALFREDO A. GARBIN AND MA. JOCELYN V. BERNOS

*Committee Referral: COMMITTEE ON SMALL BUSINESS AND
ENTREPRENEURSHIP DEVELOPMENT*

Committee Chairperson: TEODORO A. CASIÑO

Committee Referral: COMMITTEE ON WAYS AND MEANS

Committee Chairperson: HERMILANDO I. MANDANAS

OBJECTIVE/S:

- To establish the policy framework that will promote the growth and development of small enterprises as a strategy for poverty alleviation

KEY PROVISIONS:

- Provides for the creation of Micro-enterprise Development Institutions (MICRODEVs) which shall be organized as non-profit institutions accredited by proper government authorities to implement social reform programs.
- Requires MICRODEV net worth of Twenty Million Pesos (P20,000,000.00), or in the case of newly organized MICRODEVs, an initial net worth of Ten Million Pesos (P10,000,000.00).
- Imposes a tax on MICRODEVs at two percent (2%) of the gross income in lieu of all national and local taxes. The tax proceeds shall form part of the disbursable portion of the People's Development Trust Fund established under Republic Act No. 8425 otherwise known as the "Social Reform and Poverty Alleviation Act".
- Creates an accrediting agency known as the MICRODEV Accreditation Center under the National Anti-Poverty Commission (NAPC).

RELATED LAWS:

- R.A. 8425 Social Reform and Poverty Alleviation Act
- R.A. 8424 National Internal Revenue Code of 1997
- Batas Pambansa Blg. 68 Corporation Code of the Philippines



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 213

Introduced by Hon. Neptali M. Gonzales II

AN ACT
GOVERNING THE CREATION AND ACCREDITATION OF MICRO-
ENTERPRISE DEVELOPMENT INSTITUTIONS, AND FOR OTHER
PURPOSES

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

Section 1. *Short Title.* This Act shall be known and cited as the "*Micro-
Enterprise Development Institution Act of 2010.*"

Section 2. *Declaration of Policy.* It is hereby declared the policy of the
State to pursue a more focused program of poverty eradication wherein every
poor Filipino family shall be empowered to meet its minimum basic needs
including income security.

In pursuance of this policy, the government shall work in partnership with
qualified institutions in the private sector for the poor to have more access to

micro-finance, micro-insurance, health care, micro-housing, business development such as leadership training and entrepreneurial skills training, and human development services to help the poor achieve a level of sustainability and empowerment and adopt measures to promote a spirit of generosity and selfless giving among individuals and institutions that would help support all programs directly involved in poverty eradication.

Section 3. Coverage. The scope of coverage of this Act shall apply to non-stock and non-profit micro-enterprise development institutions duly qualified and accredited as provided herein.

Section 4. Definition of Terms. For purposes of implementing this Act, the following definitions shall apply:

- a) *Micro-Enterprise Development Institution (MEDI)* refers to a non-stock and non-profit corporation organized to implement a micro-enterprise development strategy, as defined in letter (b) hereof: *Provided*, That no part of the net income of a MEDI inures to the benefit of its member, trustee, director or officer: *Provided, further*, That the administrative expenses shall in no case exceed thirty percent (30%) of the total expenses within a taxable year: *Provided*, finally, That the administrative expenses shall conform with the rules and regulations to be prescribed by the Department of Finance upon the recommendation of the Bureau of Internal Revenue.

- b) *Micro-Enterprise Development Strategy* refers to a social reform program to empower the poor manage risks and vulnerabilities and thereby improve their asset base and expand access to micro-finance services, such as micro-credit, micro-insurance, micro-savings, health care and micro-housing through a broad package of financial, business and human development services and other non-financial services, including education to enable them to live a productive life.
- c) *Poor* refers to individuals and families whose income fall below the poverty threshold as defined by the National Economic and Development Authority or cannot afford in a sustained manner to provide their minimum basic needs of food, health care, education, housing and other essential amenities of life.
- d) *Social Reform* refers to the continuing process of addressing the basic inequities in Filipino society through a systematic, unified and coordinated delivery of socio-economic programs or packages.
- e) *Micro Finance* 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.
- f) *Accrediting Entity* refers to the entity as designated under Section 8 of this Act.

- g) *Fund Balance* refers to the difference between total assets and total liabilities of the required capitalization for registration as a MEDI.

Section 5. *Form of Organization.* A MEDI as defined in Section 4 (a) hereof shall be established as a non-stock and non-profit corporation in accordance with the Securities and Exchange Commission (SEC) rules and regulations. It shall be governed by a Board of Trustees who shall receive no compensation.

Section 6. *Capital Requirements.* A MEDI shall have a fund balance of Twenty Million Pesos (P20,000,000.00), or in the case of newly organized MEDIs, an initial fund of Ten Million Pesos (P10,000,000.00).

Section 7. *Powers and Functions of the MEDI.* The MEDI shall exercise such powers and functions and undertake such activities in accordance with the policies, programs and services provided in this Act.

The MEDI may likewise engage in all poverty eradication activities as allowed for non-stock and non-profit corporations under Batas Pambansa Bilang 68 otherwise known as “The Corporation Code” and other relevant laws and issuances.

The accredited MEDI shall not undertake deposit taking activities, engage in the insurance business and carry out fund management activities without the necessary licenses and authority from the relevant regulatory agencies.

For the purpose of implementing this provision, deposit taking does not include taking of funds from current or prospective borrowers for the purpose of equity build-up of an individual borrower's own loans.

Section 8. *Accrediting Entity.* The National Anti-Poverty Commission (NAPC) in consultation with the Department of Finance (DOF), Department of Trade and Industry (DTI), Bangko Sentral ng Pilipinas (BSP) and other concerned agencies and institutions, public and private, shall establish an appropriate accrediting entity to perform the functions provided under this Act. The accrediting entity shall be assisted by a Secretariat in the performance of its functions.

Section 9. *Powers and Functions of the Accrediting Entity.* The accrediting entity established under this Act shall have the following functions and responsibilities:

- a) Institute and operationalize a system of accreditation for MEDIs;
- b) Issue Certificate of Accreditation as a MEDI to a non-stock and non-profit corporation applicant: *Provided, That*, the certificate of accreditation shall be valid only for such period as may be prescribed under the implementing rules and regulations of this Act.

No application shall be processed for accreditation as a MEDI unless it secured a valid registration or license with the government agency that exercises regulatory function over such corporation;

- c) Monitor the performance of the MEDIs to ensure compliance with the provisions of this Act and its implementing rules and regulations;
- d) Suspend or revoke any certificate of accreditation upon determination that a MEDI no longer meets the criteria for accreditation;
- e) Require regular submission of reports by MEDIs;
- f) Collect reasonable accreditation and monitoring fees from a MEDI which shall be used for the accrediting entity's operational requirements;
- g) Submit an annual report to the President of the Philippines and the concerned committees of Congress; and
- h) Perform such other functions as may be necessary to accomplish the purposes and objectives of this Act.

Section 10. *Taxation of Accredited MEDIs.* The taxation of MEDIs shall be as follows:

- a) The MEDIs shall pay two percent (2%) of the gross income in lieu of all national and local taxes which shall be remitted to the National Government. The tax proceeds shall form part of the disbursable portion of the Peoples Development Trust Fund established under Republic Act No. 8425 otherwise known as the "Social Reform and Poverty Alleviation Act."

The term “gross income” means gross receipts less sales returns, allowances, discounts and other costs of services. The term ‘cost of services’ shall mean all direct costs and expenses necessarily incurred to provide the services required by the customers and clients including salaries and employee benefits of personnel, consultants and specialists directly rendering the service and cost of facilities directly utilized in providing the service and cost of supplies. Interest expenses on borrowings for lending services of a MEDI shall be deductible from gross receipts as part of cost of services in arriving at gross income. The term gross income shall exclude donations.

- b) Donations to the MEDI shall be fully deductible from the gross income of the donor subject to the conditions of Section 34 (c) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997: *Provided*, however, That the accreditation of the MEDI by the accrediting entity under this Act shall be sufficient.
- c) Donations to the MEDI shall be exempt from donor’s tax subject to the qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997: *Provided*, That, for purposes of utilization, accreditation granted under this Act shall be sufficient.

- d) The transaction of the MEDI and its clients shall be exempt from documentary stamp tax.

Section 11. *Implementing Rules and Regulations.* The NAPC, in coordination with the DOF, BIR, BSP, DTI and other concerned government agencies and Non-Government Organizations (NGOs), shall formulate the Implementing Rules and Regulations of this Act within ninety (90) days after its approval and shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

Section 12. *Separability Clause.* The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be held unconstitutional, the remainder of the Act not otherwise affected shall remain in full force and effect.

Section 13. *Repealing Clause.* All executive orders, rules and regulations, or parts thereof, which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

Section 14. *Effectivity.* This Act shall take effect after fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

Approved,

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City**

**FIFTEENTH CONGRESS
First Regular Session**

HOUSE BILL NO. 1114

Introduced by Hon. FERDINAND MARTIN G. ROMULADEZ

EXPLANATORY NOTE

Adhering with the declared policy of the state to promote a more focused program of poverty eradication, the objective of this proposed legislation is to pursue a more focused poverty eradication program wherein every poor Filipino family will be empowered to meet its basic needs including income security.

The bill seeks the creation of micro-enterprise development institutions (MEDIs) to tap vast opportunities to promote, enhance and protect the interests of the poor not only to access credit but as well as to have access in all related microfinance services, such as insurance, health care, education, housing, and other value added services to help eradicate poverty in the Philippines.

The MEDI will provide the poor immediate relief assistance, resettlement, social and livelihood services and a broader financial package including human and business development services enabling them to operate their own productive economic activities.

Not only that, but of equal importance is that the establishment of MEDIs shall help generate micro-enterprises and open new market opportunities for the existing microfinance (MF) retailers such as rural banks, cooperatives and non-government organizations (NGOs). In fact, the Land Bank of the Philippines has continued to increase its lending to micro-enterprises in recognition of their role as the lifeblood of the economy.

With the considerable number of NGOs currently involved in retail microfinance, this measure aims to create an appropriate policy environment for their active participation for the provision of financial and non-financial services to poor entrepreneurs.

This means expanding microfinance to include micro-insurance, education, social housing, and health care in partnership with government agencies, and the provision of human development services like leadership and entrepreneurial skills training. Additionally, this also means the inclusion of business mentoring, or the provision of services on business development solutions that will help micro-entrepreneurs to graduate to being small or medium-based entrepreneurs.

The proposed legislation also aims to strengthen partnership between government and microfinance-NGO sector to better implement social reform programs particularly in regard to the national efforts to revenue generation and socio-economic development.

In sum, the proposed law shall cover MF-NGOs, to be known as Micro-Finance Development Institutions (MEDIs) which shall be organized as non-profit institutions, to be credited by proper government authorities. They shall be subject to a tax of 2% of their gross income as contribution to the People's Development Trust Fund created and established under Republic Act No. 8425, otherwise known as the "The Social Reform and Poverty Alleviation Act." The 2% tax on gross income will be in lieu of all taxes whether imposed by the National or Local Governments.

Hence, the immediate passage of this bill is earnestly sought.

FERDINAND MARTIN G. ROMUALDEZ

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1114

Introduced by Hon. FERDINAND MARTIN G. ROMULADEZ

AN ACT
GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISE
DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES

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

Section 1. Title. This Act shall be known and cited as the "Micro-Enterprise Development Institution Act of 2010."

Sec. 2. Declaration of Policy. It is hereby declared the policy of the State to pursue a more focused program of poverty eradication wherein every poor Filipino family shall be empowered to meet its minimum basic needs including income security.

In pursuance of this policy, the government shall work in partnership with qualified institutions in the private sector for the poor to have more access to micro-finance, micro-insurance, health care, micro-housing, business development such as leadership training and entrepreneurial skills training, and human development services to help the poor achieve a level of sustainability and empowerment and adopt measures to promote a spirit of generosity and selfless giving among individuals and institutions that would help support all programs directly involved in poverty eradication.

Sec. 3. Coverage. The scope of coverage of this Act shall apply to non-stock and non-profit micro-enterprise development institutions duly qualified and accredited as provided herein.

Sec. 4. Definition of Terms. For purposes of implementing this Act, the following definitions shall apply:

- a) *Micro-Enterprise Development Institution (MEDI)* refers to a non-stock and non-profit corporation organized to implement a micro-enterprise development strategy, as defined in letter (b) hereof: *Provided*, That no part of the net income of a MEDI inures to the benefit of its member, trustee, director or officer: *Provided, further*, that the administrative expenses shall in no case exceed thirty percent (30%) of the total expenses within a taxable year: *Provided, finally*, that the administrative expenses shall conform with the rules and regulations to be prescribed by the Department of Finance upon the recommendation of the Bureau of Internal Revenue.
- b) *Micro-Enterprise Development Strategy* refers to a social reform program to empower the poor to manage risks and vulnerabilities and thereby improve their asset base and expand access to micro-finance services, such as micro-credit, micro-insurance, micro-savings, health care and micro-housing through a broad package of financial, business and human development services and other non-financial services, including education to enable them to live a productive life.
- c) *Poor* refers to individuals and families whose income fall below the poverty threshold as defined by the National Economic and Development Authority or cannot afford in a sustained manner to provide their minimum basic needs of food, health care, education, housing and other essential amenities of life.
- d) *Social Reform* refers to the continuing process of addressing the basic inequities in Filipino society through a systematic, unified and coordinated delivery of socio-economic programs or packages.
- e) *Micro Finance* 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.

- f) *Accrediting Entity* refers to the entity as designated under Section 8 of this Act.
- g) *Fund Balance* refers to the difference between total assets and total liabilities of the required capitalization for registration as a MEDI.

Sec. 5. Form of Organization. A MEDI as defined in Section 4 (a) hereof shall be established as a non-stock and non-profit corporation in accordance with the Securities and Exchange Commission (SEC) rules and regulations. It shall be governed by a Board of Trustees who shall receive no compensation.

Sec. 6. Capital Requirements. A MEDI shall have a fund balance of Twenty Million Pesos (Php20,000,000.00), or in the case of newly organized MEDIs, an initial fund of Ten Million Pesos (Php10,000,000.00).

Sec.7. Powers and Functions of the MEDI. The MEDI shall exercise such powers and functions and undertake such activities in accordance with the policies, programs and services provided in this Act.

The MEDI may likewise engage in all poverty eradication activities as allowed for non-stock and non-profit corporations under Batas Pambansa Bilang 68 otherwise known as "The Corporation Code" and other relevant laws and issuances.

The accredited MEDI shall not undertake deposit taking activities, engage in the insurance business and carry out fund management activities without the necessary licenses and authority from the relevant regulatory agencies.

For the purpose of implementing this provision, deposit taking does not include taking of funds from current or prospective borrowers for the purpose of equity build-up of an individual borrower's own loans.

Sec. 8. Accrediting Entity. The National Anti-Poverty Commission (NAPC) in consultation with the Department of Finance (DOF), Department of Trade and Industry (DTI), Bangko Sentral ng Pilipinas (BSP) and other concerned agencies and institutions, public and private, shall establish an appropriate accrediting entity to perform the functions provided under this Act.

The accrediting entity shall be assisted by a Secretariat in the performance of its functions.

Sec. 9. Powers and Functions of the Accrediting Entity. The accrediting entity established under this Act shall have the following functions and responsibilities:

- a) Institute and operationalize a system of accreditation for MEDIs;
- b) Issue Certificate of Accreditation as a MEDI to a non-stock and non-profit corporation applicant: *Provided*, that, the certificate of accreditation shall be valid only for such period as may be prescribed under the implementing rules and regulations of this Act.

No application shall be processed for accreditation as a MEDI unless it secured a valid registration or license with the government agency that exercises regulatory function over such corporation;

- c) Monitor the performance of the MEDIs to ensure compliance with the provisions of this Act and its implementing rules and regulations;
- d) Suspend or revoke any certificate of accreditation upon determination that a MEDI no longer meets the criteria for accreditation;
- e) Require regular submission of reports by MEDIs;
- f) Collect reasonable accreditation and monitoring fees from a MEDI which shall be used for the accrediting entity's operational requirements;

- g) Submit an annual report to the President of the Philippines and the concerned committees of Congress; and
- h) Perform such other functions as may be necessary to accomplish the purposes and objectives of this Act.

Sec. 10. Taxation of Accredited MEDIs. The taxation of MEDIs shall be as follows:

- a) The MEDIs shall pay two percent (2%) of the gross income in lieu of all national and local taxes which shall be remitted to the National Government. The tax proceeds shall form part of the disbursable portion of the Peoples Development Trust Fund established under Republic Act No. 8425 otherwise known as the "Social Reform and Poverty Alleviation Act."

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

- b) Donations to the MEDI shall be fully deductible from the gross income of the donor subject to the conditions of Section 34 (c) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997: *Provided*, however, that the accreditation of the MEDI by the accrediting entity under this Act shall be sufficient.
- c) Donations to the MEDI shall be exempt from donor's tax subject to the qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997: *Provided*,

that, for purposes of utilization, accreditation granted under this Act shall be sufficient.

- d) The transaction of the MEDI and its clients shall be exempt from documentary stamp tax.

Sec. 11. *Implementing Rules and Regulations.* The NAPC, in coordination with the DOF, BIR, BSP, DTI and other concerned government agencies and Non-Government Organizations (NGOs), shall formulate the Implementing Rules and Regulations of this Act within ninety (90) days after its approval and shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

Sec. 12. *Separability Clause.* The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be held unconstitutional, the remainder of the Act not otherwise affected shall remain in full force and effect.

Sec. 13. *Repealing Clause.* All executive orders, rules and regulations, or parts thereof, which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

Sec. 14. *Effectivity.* This Act shall take effect after fifteen (15) days from its publication in at least two (2) national newspapers of general circulation.

Approved,

MINUTES OF THE INITIAL DELIBERATION OF THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP DEVELOPMENT HELD ON 23 NOVEMBER 2010 AT CONFERENCE ROOM 13, RAMON V. MITRA BUILDING, HOUSE OF REPRESENTATIVES

MEMBERS PRESENT:

HON. TEDDY A. CASIÑO, Bayan Muna	Chairperson & Presiding
HON. TEODORICO T. HARESCO, JR., Kasangga	Vice Chair
HON. EMMELINE Y. AGLIPAY, Diwa	Member
HON. FERDINAND MARTIN G. ROMUALDEZ, 1 st Leyte	Member & Author
HON. PHILIP A. PICHAY, 1 st Surigao del Sur	

GUESTS/RESOURCE PERSONS:

ATTY. RHIO FUENTES-NUYLAN	}	Bangko Sentral ng Pilipinas
MS. ROCHELLE TOMAS	}	
MR. ROMEO B. CARANDANG	}	Development Bank of the Philippines
MS. CATHERINE T. CAMARAO	}	
MR. HERMEO BAUTISTA	}	Land Bank of the Philippines
MS. EVA EQUIPAJE	}	National Housing Authority
MR. JOEL MACALINGAG	}	
MR. NELSON SALAS	}	National Anti Poverty Commission
ATTY. DORENDA DASMARIÑAS	}	Social Security System
MR. RENE E. CRISTOBAL	}	APPEND
MS. VIRGINIA P. JUAN	}	
MR. F. R. FLORO	}	Philippine Chamber of Commerce, Inc.
ATTY. CORNELIO C. GISON	}	TSPI Development Corp.
ATTY. LEONARDA D. BANASEN	}	

CALL TO ORDER

The meeting was called to order at 2:00PM by the Honorable Teddy Casiño, Committee Chairperson. Honorable Emmiline Aglipay motioned to defer calling of the role. Likewise, Rep. Aglipay motioned for the approval of the minutes of the previous meeting. Both motions were seconded by Honorable Teodorico Haresco, carried and approved respectively.

OPENING REMARKS

Chairman Teddy Casiño informed the body that House Bills 213 & 1114 are identical bills authored by Cong. Neptali M. Gonzales II and Cong. Ferdinand Martin G. Romualdez, respectively. A similar bill was filed in the 14th Congress and passed on second reading. The Chair enumerated the merits of the proposed bill which include, among others, the following:

- Provides for the creation of Micro-Development Institutions which shall be organized as non-profit institutions accredited by proper government authorities to implement social reform programs.

- Mandates MEDI capitalization of Twenty Million pesos, or in case of newly organized MEDIs, and initial fund of Ten Million pesos.
- Imposes a tax on MEDIs at two percent of the gross income in lieu of all national and local taxes. The tax proceeds shall form part of the disburseable portion of the People's development Trust established under Republic Act No. 8425 otherwise known as the Social Reform Poverty Act.
- Exempts transactions of the MEDI and its clients from documentary tax.
- Mandates the national Anti-Poverty Commission in establishing the appropriate accrediting entity to perform the functions provided under the Act, in consultation with the Departments of Finance and Trade & Industry, Bangko Sentral ng Pilipinas and other concerned agencies.

STATEMENT OF THE AUTHOR

Cong. Romualdez reiterated the statement of the Chair that the proposed bill was filed and passed on second reading in the Fourteenth Congress. Although it has been deliberated extensively by all stakeholders, he submits it to new insights by the new members, and leaves it to the sound judgment of the committee to approve the same.

MEETING PROPER

Chairperson Casiño proceeded to the presentation of position papers by the invited resource persons.

The Chairman of Alliance of Philippine Partners in Enterprise Development (APPEND), likewise concurrent President of Tulay sa Pag-unlad, Inc. (TSPI) Development Corp., Mr. Rene Cristobal briefed the body on the programs and services provided by their group. The APPEND Network provides micro-finance, micro-insurance, education, business and community development, value-chain financing for agriculture, values education and character building, health services and environmental protection, all geared at improving the welfare of impoverished Filipino families. As a result of their growth in the field of microfinance which is the core of their program, their loan portfolio at present stands at Four Billion Pesos with a repayment trend of 99.9%. Mr. Cristobal expressed apprehensions that back taxes and other forms of taxes both local and national, as required by the Bureau of Internal Revenue (BIR), will increase the cost of borrowing to the detriment of the poor beneficiaries, and could wipe-out the capital accumulated over time rolled-over and over to reach the target beneficiaries of five million households by the year 2015. The proposed bill will hopefully remedy the tax problem and regulate the non-government organizations.

The representatives of Social Security System (SSS), Development Bank of the Philippines (DBP), Land Bank of the Philippines (LBP), *Bangko Sentral ng Pilipinas (BSP)*, National Housing Authority (NHA) and National Anti-Poverty Commission (NAPC) were unanimous in expressing their respective agency's support for the bill. The *BSP* representative read their comments and sought the body's approval of their proposed amendments, to wit:

- On Sec. 5, the law must be explicit that a MEDI shall be established and operated in accordance with the provision of Title XI (Non-Stock Corporations) of *Batas Pambansa*

Blg. 68 (The Corporation Code of the Philippines) to ensure that MEDIs will not be operated for profit.

- On Sec. 6, P20 Million is the minimum capitalization to be maintained by a MEDI.
- On Sec. 7, on the provision that deposit taking does not include taking of funds from current or prospective borrowers for the purpose of equity build-up of an individual borrower's own loan, it is suggested to append the phrase to include "provided that the MEDI shall be a net lender at all times, wherein net loans means total loans minus total equity build-up" to be consistent with the National Regulatory Framework for Microfinance, as approved by the National Credit Council.
- On Sec. 9, it is proposed that the accrediting entity shall consult with the Microfinance Council of the Philippines in establishing and operationalizing a system of accreditation to determine the qualifications of the MEDI. This will ensure that the relevant stakeholders are represented in the formulation of the accreditation policies.
- Insert a new section granting the concerned regulatory agencies (i.e. BSP and Insurance Commission) the authority to examine MEDIs, in coordination with the accrediting entity, solely for the purpose of determining compliance with the authorized activities. Any adverse findings shall be subject to criminal sanctions and administrative fines as provided in Sections 36 and 37 of the New Central Bank Act or under the insurance laws, whichever violation is applicable, or will result in the suspension or revocation of MEDI accreditation.
- On Sec. 11, it is proposed that the Implementing Rules and Regulations be drafted in consultation with the Microfinance Council of the Philippines.

DISCUSSION/OPEN FORUM

The Chair commented that it is very unusual that Non-Government Organizations (NGOs) would want to be taxed, as proposed in the bill. The same comment was echoed by Vice-Chair Haresco. Atty. Gison, Corporate Secretary and Accountant of TSPI Dev. Corp. and APPEND replied that because of their microfinance aspect activity, documentary stamps on promissory notes – mostly Five Thousand Peso loan – and Value Added Tax are being levied by the Bureau of Internal Revenue (BIR). Both taxes increase the cost of loans, the cost being passed on to micro-entrepreneurs. NGOs and other microfinance conduits do not want any tax issue with BIR as it hampers and restricts their vision and mission to eradicate poverty, through, among others, access to micro financing. Atty Gison informed the body that they were able to seek suspension of the documentary tax, however, VAT remains an issue. To put the issue to rest, they are submitting themselves to a two percent (2%) tax on their gross income in lieu of all national and local taxes.

On the query of both the Chair and Vice-Chair on how much interest rate is charged on microloans by government financial institutions, Land Bank informed the body that they do not loan directly to micro-enterprises, but through conduits, mostly NGOs, and charge 8%-8.5% interest rate per annum. APPEND, an NGO, charge 2.5% - 3% per month, and added the information that the repayment is 99.9%. Vice-Chair Haresco further inquired on how the BSP regulate LBP and DBP with regards to loans to MSMEs. BSP replied by referring to the mandatory allocation and penalty provision of Republic Act 9125 otherwise known as the Magna Carta for Micro, Small and Medium Enterprises.

The Chair further queried on any guaranty that NGOs will not abuse the provisions of the proposed law and remain to be non-stock, non-profit organizations. BSP replied to get the Securities and Exchange Commission involved as one of the accrediting agencies.

As regards to the other proposed amendments by BSP, Cong. Romualdez expressed agreement to the same. He however, articulated his sentiments to keep the wordings of the bill simple and not too formal or technical. Mr. Cristobal of APPEND rejoined by proposing to put in the implementing rules and regulations (IRR) any other technical definitions.

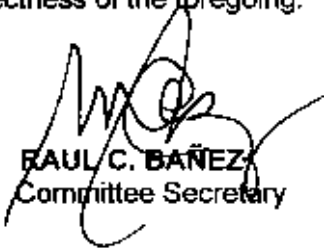
COMMITTEE ACTION

The discussion was concluded by Cong. Pichay's motion to approve HB 213 and HB 1114 subject to amendment and style. Cong. Aglipay seconded the motion with a manifestation to make all members present as co-authors of the bill. There being no objection, Chairperson Casiño and the members of the committee approved the measures.

ADJOURNMENT

The meeting was adjourned at 3:57PM.

I hereby certify to the correctness of the foregoing.


RAUL C. BAÑEZ
Committee Secretary

Attested by


CONG. TEDDY A. CASINO
Chairman



Republic of the Philippines
House of Representatives
Quezon City, Metro Manila

February 15, 2011

HON. TEODORO A. CASIÑO

Chairman

Committee on Small Business & Entrepreneurship Development
House of Representatives

Dear Chairman Casiño:

The Committee on Ways and Means in its meeting today, February 15, 2011, has deliberated upon and approved without amendment the tax provisions specifically on Section 11 of the Unnumbered Substitute Bill, entitled, AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISES DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES.

Very truly yours,

HERMILANDO L. MANDANAS

Chairman

Committee on Ways and Means

COMMITTEE ON WAYS AND MEANS

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