

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

**FIFTEENTH CONGRESS
Second Regular Session**

HOUSE BILL NO. 4970

**INTRODUCED BY
REPRESENTATIVES ERICO B. AUMENTADO AND JOCELYN S. LIMKAICHONG**

EXPLANATORY NOTE

I. TARGET BENEFICIARY

Based on the report of the Department of Trade and Industry, there were 780,437 business enterprises operating in the Philippines as of 2009. Of these, 99.6% are micro, small and medium enterprises or mSMEs which contributed almost 63.2% of the total jobs generated that year.

This sector, considered as the backbone of our economy, could contribute more to the economic growth of our country if their problems, particularly the lack of capital and access to credit from banks, are addressed. The mSMEs' need to expand or develop new products is hampered by these barriers.

Most, if not all, cooperatives fall under the category of mSMEs. There are several hundred well-capitalized cooperatives in the country whose economic potential is waiting to be harnessed. Likewise, there are many non-government organizations registered with the Securities and Exchange Commission supporting the mSMEs.

Republic Act No. 9520, otherwise known as The Philippine Cooperative Code of 2008, provides the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice.

II. THE PROBLEM

Republic Act No. 9501, otherwise known as the Magna Carta for mSMEs was passed into law on 23 May 2008 to strengthen financial and other support mechanisms to mSMEs. Under the law, banking institutions are required to allocate eight percent (8%) of their loan portfolio to micro and small enterprises and two percent (2%) to medium enterprises.

Despite this requirement, banks are still hesitant to extend credit to mSMEs including cooperatives in particular because of: (1) lack of acceptable collaterals; (2) unstable income cash flows; (3) lack of business experience or track record; and (4) low paying capacity.

Thus, a great number of mSMEs are forced to finance their working capital requirements from informal sources that charge unconscionable rates of interest. Such environment cannot sustain growth of the sector. mSMEs and other productive sectors must therefore be made credit worthy and bankable.

III. THE SOLUTION

To solve the problem of mSMEs, the Bangko Sentral ng Pilipinas spearheaded the implementation of a program called "Credit Surety Fund" or CSF for short.

The CSF is essentially a partnership between the citizens (represented by members of cooperatives, non-government organizations and community based banks) and the government (represented by the provincial, city or municipal government and other government agencies) and is managed at the provincial, city or municipal level. It is a credit enhancement scheme aimed at democratizing access to credits of mSMEs from formal sources without the need of collateral.

The CSF is a fund generated from contributions by well-capitalized and well-managed cooperatives and non-government organizations with counterpart contribution from the provincial, city or municipal government at least equal to the amount contributed by the cooperatives. Other government agencies and financial institutions or individuals may also contribute to the fund. The CSF is organized by way of a Memorandum of Agreement among participating cooperatives, non-government organizations, local government units, and other government agencies and financial institutions.

Through the CSF, mSMEs can have access to credit facility from banks even without collateral by way of a surety cover issued jointly by the member-cooperative and the CSF Oversight Committee in favor of the creditor bank. Eventually, there will be an increase in the flow of credit in the countryside.

The first CSF was established in the Province of Cavite; thereafter, CSFs were set up in the provinces of Aurora, Bohol, Negros Oriental, Compostela Valley, Davao del Norte, Negros Occidental, North Cotabato, Davao Oriental, Albay, Occidental Mindoro, Pangasinan, South Cotabato as well as in the cities of Cebu, Iloilo and Dipolog.

The Bangko Sentral still continues to receive requests from a number of provincial executives to set up a Credit Surety fund in their jurisdiction.

IV. LEAD IMPLEMENTING AGENCY

Under Republic Act No. 7653, the Bangko Sentral ng Pilipinas has the mandate to provide policy directions in the areas of money, banking and credit. It also has as its primary objective the maintenance of price stability conducive to a balanced and sustainable growth of the economy. With this unique function, responsibilities, and primary objectives, the Bangko Sentral which has the required capability, competence and resources is the ideal government instrumentality to spearhead the implementation of the program.

For these reasons, the approval of this bill is earnestly sought.



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AN ACT
TO INSTITUTIONALIZE THE CREDIT SURETY FUND TO ENHANCE THE
ACCESSIBILITY OF MICRO, SMALL AND MEDIUM ENTREPRENEURS TO THE
CREDIT FACILITY OF BANKS AND FOR OTHER PURPOSES

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

SECTION 1. Short Title.

This Act shall be known as the "*Credit Surety Fund Act of 2011*".

SECTION 2. Declaration of Policy.

The State recognizes the importance of micro, small, and medium enterprises (mSMEs) in developing the economy and in providing employment to its citizens. In furtherance thereof, the State shall encourage and promote the establishment of a national program that will allow mSMEs and cooperatives engaged in business easier access to credit from banking institutions without undue risk to the lending institution and thereby enhance the sustainability and growth of mSMEs.

SECTION 3. Statement of Objectives.

It is the purpose of this Act to:

- a. Enhance the credit worthiness of mSMEs which shall include cooperatives and broaden their access to the credit facilities of formal lending institutions.
- b. Sustain the continuous flow of credit in the countryside thru, among other methods, the creation of a mechanism by which mSMEs can collateralize their loans from banking institutions through the surety cover issued jointly by Credit Surety Fund (CSF) and the endorsing cooperative and the concomitant eligibility for rediscounting by the Bangko Sentral ng Pilipinas of these loans.

- c. Build up the capability of cooperatives and non-government organizations in the areas of credit evaluation, loan and risk management, and governance principles.
- d. Generate more employment and give support to the poverty alleviation program of the government.
- e. Increase government revenue through collection of taxes, licenses and registration fees arising from regularization of the business operations of mSMEs and increased economic activities.

SECTION 4. Definition of Terms.

1. **Credit Surety Fund, Surety Fund, Fund or CSF** – refers to a trust fund generated from the contributions of well-capitalized and well-managed cooperatives as determined by the **Bangko Sentral ng Pilipinas** and non-government organizations with counterpart contribution from the Local Government Unit and other donors.
2. **Cooperative** – an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

A cooperative as used in this [Act], may either be:

- a. Primary – the members of which are natural persons;
- b. Secondary – the members of which are primaries; and
- c. Tertiary – the members of which are secondary cooperatives

(Articles 3 and 23(2)(a), Republic Act No. 9520, otherwise known as the "Philippine Cooperative Code of 2008")

3. **Donor** – refers to (a) government agencies and instrumentalities such as the Development Bank of the Philippines, Land Bank of the Philippines, Industrial Guarantee and Loan Fund, and Small Business Corporation whose contribution to the Surety Fund could either be treated as investment or grant and, (b) individuals who contribute to the Surety Fund which contribution shall be treated as donation to the CSF.
4. **Non- Government Organization** – refers to any non-profit, voluntary citizens' group that contributes to, or participates in, cooperation projects, education, training or other humanitarian, progressive, or watchdog activities.
5. **Local Government Unit** – refers to the provincial, city or municipal government that is authorized under this law to contribute to the surety fund established in their locality in the form of investment or grant to the CSF, in an amount at least equal to the total contributions of the cooperatives.
6. **Government Agencies/Instrumentalities** – refer to government institutions such as Development Bank of the Philippines, Land Bank of the Philippines, Industrial

Guarantee and Loan Fund and Small Business Corporation who may contribute funds to the CSF.

7. **Oversight Committee** – refers to the governing body of the Credit Surety Fund whose members consist of the authorized representatives of the local government unit and other donors as ex-officio members and elected representatives of contributor-cooperatives/NGOs to the Fund.
8. **Micro Enterprise** – refers to a business entity whose asset base does not exceed P3.0 million.
9. **Small Enterprise** – refers to a business entity whose asset base is over P3.0 million but not more than P15.0 million.
10. **Medium Enterprise** – refers to a business entity whose asset base is over P15.0 million but not more than P100.0 million.
11. **Surety Cover** – refers to an agreement executed by the authorized representatives of the CSF Oversight Committee and the sponsoring cooperative of an mSME-borrower in favor of the lending bank obligating themselves to be jointly and severally liable for the account of the mSME-borrower in the event of default.

SECTION 5. Establishment of a Credit Surety Fund

A Credit Surety Fund may be established in each province and chartered city all over the country. The original contributions to the Credit Surety Fund shall come from participating cooperatives and NGOs in each province, city or municipality. The provincial, city or municipal government shall contribute to the CSF in an amount at least equal to the total contributions of the cooperatives. Other government agencies and instrumentalities such as the Development Bank of the Philippines, Land Bank of the Philippines, Industrial Guarantee and Loan Fund, and Small Business Corporation shall provide support to the program by giving a contribution which may or may not be equal to the total contributions of the cooperatives. Their contributions shall be treated as investment or grant to the Surety Fund. Individuals may also contribute to the Surety Fund which contribution shall be treated as donation to the CSF.

SECTION 6. Implementing Government Agency

Pursuant to its mandate to provide policy direction in the areas of money, banking and credit under Republic Act No. 7653, and to complement its microfinance advocacy to enhance credit creation in the rural areas, the Bangko Sentral ng Pilipinas shall spearhead the promotion, encouragement, creation and organizational development of Credit Surety Funds all over the country. In addition, the Bangko Sentral shall, as it may deem necessary to achieve the objectives and purposes of this Act, provide assistance such as training, technical services, and facilitation measures.

SECTION 7. Administration of the Fund

The CSF will be governed by an Oversight Committee, whose members consist of the authorized representatives of the local government unit and donor institutions as ex-officio members and representatives elected by contributor-cooperatives and non-

government organizations. Each contributor shall be entitled to only one (1) vote, regardless of the amount of its contribution. The governing Oversight Committee shall designate any bank authorized to accept government deposits as administrator of the Fund subject to the eligibility requirements of the Bangko Sentral ng Pilipinas.

SECTION 8. Powers of the Oversight Committee.

The Committee shall have the authority to:

- a. Determine and formulate the general policies and guidelines on the proper administration and management of the Surety Fund and authorize its investment, reinvestment and disposition;
- b. Act as Administrator of the Fund until such time that a trustee bank is designated or appointed as Administrator;
- c. Designate a bank duly licensed and highly rated by the BSP to accept government deposits to act as administrator/investment manager of the Surety Fund;
- d. Promulgate such rules and guidelines governing the infusion of additional contributions to the Surety Fund and admission of new members;
- e. Enter into contracts and transactions involving, affecting or relating to the Surety Fund;
- f. Periodically review the Surety Fund's assets as well as its investment, reinvestment and disposition and is responsible for taking appropriate action on the audit of the financial condition and operations of the Surety Fund;
- g. Create committees and appoint other officers as it deems necessary;
- h. Delegate to the Chairman, Vice-Chairman, or any member of the Oversight Committee, any of its powers whenever deemed necessary for the best interest of the Surety Fund and as allowed by law;
- i. Exercise general supervision of all the affairs of the Surety Fund and shall be directly accountable to its general membership;
- j. Issue a surety cover jointly with the endorsing cooperative in favor of the lending bank to secure the loans of member-mSMEs with that bank; and
- k. Perform such acts and exercise such powers and duties as may be necessary and proper in order to achieve the purpose for which the Surety Fund was created or for any purpose which will redound to the benefit of the Members of the Surety Fund as well as any acts necessary or incidental to achieve the foregoing purposes.

SECTION 9. Withdrawal of Contributions.

A contributing cooperative or non-government organization may withdraw all or part of its contributions only when it has no outstanding obligation with the Surety Fund on account of the surety covers issued.

SECTION 10. Dissolution of the Surety Fund.

The Surety Fund may be dissolved by a majority vote of the members of the Oversight Committee and confirmed by 2/3 vote of all the contributing members of the Surety Fund. For the purpose of dissolving the Fund, each contributing member shall have only one vote each regardless of the size of its contribution to the Fund.

The Oversight Committee shall act as liquidator and shall distribute the remaining assets of the Surety Fund to its stakeholders pro-rated according to their respective contributions. Thereafter, the Oversight Committee shall be dissolved.

SECTION 11. Tax Incentives.

Considering that the stakeholders of the Surety Fund are mostly cooperatives that play a vital role in the attainment of economic development and social justice and are given support only by the donors, all income of the Surety Fund shall be exempt from tax.

SECTION 12. Miscellaneous.

Nothing provided herein shall preclude the contributors from converting the Surety Fund to a more formal corporate body to carry out its purposes subject to the implementing rules and regulations as shall be prescribed.

SECTION 13. Implementing Guidelines.

Within sixty (60) days from approval, the Bangko Sentral ng Pilipinas shall issue guidelines to implement the provisions of this Act.

SECTION 14. Effectivity Clause.

This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,