

Republic of the Philippines
CONGRESS OF THE PHILIPPINES

FIFTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 6085



Introduced by Representative Lorenzo "Erin" R. Tañada

EXPLANATORY NOTE

Social enterprises refer to organizations engaged in providing goods and services that are directly related to its mission of improving societal well-being. It generates profit or surplus with due regard to social and environmental costs, and makes a pro-active contribution to resolving social and environmental problems. At this point, we are in need of such organizations in order to provide a concrete and sustainable response against poverty.

This bill, the Magna Carta for Social Enterprises, will promote and develop social enterprises as a tool in the government's poverty reduction program. It aims to embody all the provisions that would uphold the interest and give due advantage to social enterprises with the poor as its primary stakeholders to become viable and sustainable. It is a Magna Carta in the sense that it vests rights and privileges to social enterprises. The bill proposes the formulation and adoption by the national government of a Poverty Reduction through Social Entrepreneurship or PRESENT Program.

The bill mandates various incentives and benefits for social enterprises. These include access to capital and other resources (Chapter VII), fund for capability building (Sections 11 and 12 of Chapter V), tax exemptions (Chapter VIII), marketing, research, and systems development support (Sections 13 and 14 of Chapter V), and the preferential right of social enterprises to government procurement (Section 28). It also grants cash incentives to start-up social enterprises employing persons with disabilities (Section 24). Moreover, the bill also mandates the creation of a Social Enterprise Commission (Section 6).

It is essential for us to enact a law that will empower these social enterprises that are geared towards uplifting the conditions of the marginalized in society. It is only through cooperation between the government and the citizenry that we can truly address the pressing issues brought about by poverty. This proposed measure seeks to ensure that this can be achieved.

With these, the passage of this bill is earnestly sought.


LORENZO "ERIN" R. TAÑADA III
Representative
Fourth District, Quezon Province

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INTRODUCED BY HON. LORENZO "ERIN" R. TAÑADA III

AN ACT ORDAINING THE PROMOTION AND DEVELOPMENT OF SOCIAL ENTERPRISES IN ORDER TO ENSURE POVERTY REDUCTION, PROVIDING THE MECHANISMS THEREFOR, AND FOR OTHER PURPOSES

CHAPTER I
TITLE, POLICIES AND OBJECTIVES

SECTION 1. *Short Title.* – This Act shall be known as the "Magna Carta for Social Enterprises of 2012". It may alternatively be cited as the Poverty Reduction Through Social Entrepreneurship (PRESENT) Act of 2012".

SECTION 2. *Declaration of Policy and Statement of Objectives* - It is hereby declared the policy of the State to promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.

It is likewise declared a policy of the State that the goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged and that, in the pursuit of these goals, all sectors of the economy and all regions of the country shall be given optimum opportunity to develop. Private enterprises, including corporations, cooperatives, and similar collective organizations, shall be encouraged to broaden the base of their ownership.

Further, all economic agents shall contribute to the common good and that individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own, establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands.

The State shall particularly recognize the important role of entrepreneurship that contributes responsibly to social and economic goals as embodied in the Agenda 21 of the United Nations Conference on Environment and Development. Specifically, small and medium-sized entrepreneurs shall be recognized as major agents for rural development,

increasing off-farm employment and providing the transitional means for improving the livelihoods of women.

Finally, it is declared a policy of the State that the promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

In furtherance of these policies, the Government shall pursue a poverty reduction program that promotes an environment conducive to the development and viability of social enterprises with the poor as the primary stakeholders, establishing the mechanisms essential to realizing their potential and achieving their full growth, and extending the assistance necessary for their advancement.

The Government and all its departments, agencies, subdivisions, branches, and instrumentalities shall ensure the provision of technical and financial assistance and other services and incentives free from any conditions that might infringe upon the autonomy or organizational integrity of said social enterprises in order for them to develop into viable and vital anti-poverty agents and thereby result in a strong social entrepreneurship movement that shall be instrumental in bringing about a substantial reduction in poverty in the country.

CHAPTER II DEFINITION OF TERMS

SECTION 3. *Definition of Terms* – For purposes of this Act, the following terms shall mean:

- a) *Absolute poverty* refers to the condition of the household below the food threshold level;
- b) *Assets* refer to all kinds of properties, real or personal, owned by the social enterprise (SE) as defined in paragraph (dd) of this Section and used for the conduct of its business: *Provided*, That for the purpose of exemption from taxes and to benefit from other incentives under this Act, this term shall mean all kinds of properties, real or personal, owned and/or used by the SE for the conduct of its business;
- c) *Basic sectors* shall refer to the disadvantaged sectors of Philippine society, namely: farmer-peasant, artisanal fisherfolk, workers in the formal sector and migrant workers, workers in the informal sector, indigenous peoples and cultural communities, women, persons with disability, senior citizens, victims of calamities and disasters, youth and students, children, and urban poor as defined under Republic Act (R.A.) No. 8425, otherwise known as the "Social Reform and Poverty Alleviation Act";
- d) *Bottom line* shall refer to the objectives or purposes for which a SE is established, which include, among others, financial, social and ecological objectives;
- e) *Capability building* refers to the process of enhancing the viability and sustainability of SEs and pertain to education, training, coaching and other learning events like study tours; technical, consultancy and advisory services; assistance in organizational systems development; technology incubation, development and dissemination; value chain and subsector development; conduct of SE trade fairs and

missions; networking and policy advocacy initiatives and other such activities that enable SEs to be effective and efficient vehicles for poverty reduction. The term capability building precludes the grant of any loan or equity funds to the SE and shall in no way refer to the provision of equity investments, seed funding, partnership's seed funds, equity participation, start-up funds or any such activity that connotes the infusion of capital or funds from the government or from the SE Development Fund created under Section 11 of this Act;

f) *Civil society organizations* refer to private voluntary organizations of citizens that are established to pursue a mission, usually involving the interest of the public, marginalized groups or specific sectors of society. They include non-government organizations, socio-civic groups, foundations and people's organizations;

g) *Commission* shall refer to the SE Commission;

h) *Cooperative* shall refer to 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 as defined in R.A. 6938, as amended by R.A. 9520, otherwise known as the "Philippine Cooperative Code of 2008";

i) *Corporate Social Responsibility or CSR* shall refer to the commitment of a private enterprise or business to contribute on a voluntary basis to a sustainable social and economic development by working with relevant stakeholders to improve their lives in ways that are good for business, the social reform agenda, the sustainable development agenda, and society at large. CSR-related activities shall include, but not be limited to, the following: 1) Charitable programs and projects; 2) Scientific research; 3) Youth and sports development; 4) Cultural or educational promotion; 5) Services to veterans and senior citizens; 6) Social welfare; 7) Environmental sustainability; 8) Health development; 9) Disaster relief and assistance; and Employee and worker welfare related CSR activities;

j) *Economic subsectors* are networks of related actors and enterprises performing various functions in value chains. These actors and enterprises transform raw materials into finished products, or develop services, and distribute or provide them through market channels to final consumers; they may be identified by key raw material source, by finished product or final service provided. An economic subsector may be comprised of several competing value chains. By understanding the dynamics of economic subsectors and using them as units of planning social entrepreneurship interventions, government agencies, support institutions and SEs shall more effectively reach and benefit a greater number of poor in poverty reduction programs;

k) *Empowerment strategy* shall mean a development strategy that enables the marginalized sectors to own, manage, and control SEs in order for them to reap maximum benefits from it and which acts as a channel for directly distributing income;

l) *Fair trade* shall refer to a trading partnership based on dialogue, transparency and respect and which seeks greater equity in international trade and the transformation and adaptation of trading structures and practices in favor of the poor and disadvantaged by offering better trading conditions to, and securing the rights of, marginalized producers and workers;

- m) *Fair trade organizations* shall mean enterprises certified by internationally and nationally recognized Fair Trade networks;
- n) Fair trade principles refer to the values adopted by fair trade organizations in their day-to-day operation. These include creating opportunities for economically-disadvantaged producers; transparency and accountability; payment of a fair price; ensuring no child labor and forced labor; commitment to non-discrimination, gender equity and freedom of association; ensuring good working conditions; providing capacity building; and, respect for the environment;
- o) *Foundation* shall mean the categorization of a non-profit organization that typically either donates funds and support to other organizations or provides the source of funding for its own charitable purposes. Unlike a company, foundations have no shareholders though they may have a board, an assembly and voting members. A foundation may hold assets in its own name for the purposes set out in its constitutive documents, and its administration and operation are carried out in accordance with its statutes or articles of association rather than fiduciary principles;
- p) *GPPB* refers to the Government Procurement Policy Board established in accordance with Article X of R.A.No.9184, otherwise known as the "Government Procurement Reform Act;"
- q) *Intermediation strategy* shall refer to a development strategy that provides financial, agricultural, business development and institutional development services to the entrepreneurial poor and employers of the poor and provides as well product development and marketing support using the principles of fair trade to marginalized producers. A SE engaged in intermediation strategy need not be owned by the marginalized stakeholders but provide immediate access to services among a critical mass of these marginalized stakeholders;
- r) *Marginalized Sectors* shall refer to groups of people who are stigmatized or marginalized by virtue of their physical, psychological, economic, social or cultural circumstance;
- s) *Micro-enterprise* as defined in R.A. No. 6977, as amended by R.A. No. 9501, otherwise known as the "Magna Carta for Small Enterprises," shall refer to any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have a value of not more than Three Million Pesos (P3,000,000.00). This amount is subject to review and adjustments by the Micro, Small and Medium Enterprises Development (MSMED) Council, taking into account inflation and other economic indicators and may use other variables such as number of employees, equity capital and assets size;
- t) *Microfinance* shall refer to the provision of a broad range of financial services such as deposits, loans, payment services, money transfers and insurance products to the poor and low-income households and their microenterprises and small businesses, to enable them to raise their income levels and improve their living standards;
- u) *Minimum basic needs* shall refer to the needs of a Filipino family pertaining to survival (food and nutrition; health; water and sanitation), security (shelter; peace and

order; public safety, income and livelihood); and enabling services (basic education and literacy, participation in community development, family and psycho-social care);

v) *Non-Government Organization or NGO* refers to a duly registered non-stock, non-profit organization 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 and, as defined under Section 34 (H)(2)(c) of Republic Act No. 8424, as amended, otherwise known as the National Internal Revenue Code of 1997, organized and operated exclusively for scientific, research, educational, character-building and youth and sports development, health, social welfare, cultural or charitable purposes, or a combination thereof, and no part of the net income of which inures to the benefit of any private individual;

w) *People's Organization or PO* refers to a self-help group belonging to the basic sectors and/or disadvantaged groups composed of members having a common bond of interest who voluntarily join together to achieve a lawful common social or economic end;

x) *Persons with Disability* shall refer to those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;

y) *Poor* shall refer to individuals and families whose income fall below the poverty threshold as defined by the National Economic and Development Authority and/or are deprived of the means to provide in a sustained manner their minimum basic needs of food, health, education, housing and other essential amenities of life, as defined under R.A. 8425;

z) *Poverty reduction/alleviation* shall mean overcoming the income, resource, and capability deprivation among the poor as defined in the preceding paragraph and the marginalized sectors as defined in paragraph (q) hereof;

aa) *Private Enterprise* shall refer to an organization engaged in a business activity organized for the purpose of accumulating profit and whose primary stakeholders and beneficiaries are its owners;

bb) *Procuring Entity* refers to any branch, department, office, agency, or instrumentality of the government, including state universities and colleges, government-owned and/or - controlled corporations, government financial institutions, and local government units procuring Goods, Consulting Services and Infrastructure Projects;

cc) *Resource mobilization strategy* shall refer to a development strategy intended to generate income from the sale of products and services of a SE in order to finance or subsidize the operations of its core development program or development interventions among the marginalized sectors;

dd) *SEPPS* refers to a SE with the poor as primary stakeholders and which is a wealth creating organization that explicitly declares and pursues poverty reduction/alleviation or improving the quality of life of specific segments of the poor as principal objective. A SEPPS engages and invests in the poor to become effective workers, suppliers, clients and/or owners, and ensure that a substantive part of the wealth created by the enterprise is distributed to, or benefits, them. In addition to reinvesting its surplus or profits back to the enterprise to sustain the fulfilment of its social mission, a SEPPS also uses its surplus or profits and mobilizes other resources to assist the poor to become partners in SE or value chain

management/governance and to become partners in community, sectoral and societal transformation;

ee) *SEGFP* refers to the SE Guarantee Fund Pool created under this Act;

ff) *Social development* refers to the continuing process of addressing the needs of society, beginning with the people's minimum basic needs, through a systematic implementation of socioeconomic programs or packages;

gg) *Social Enterprise* or *SE* refers to an organization, whether an association, single proprietorship, partnership, corporation, or a cooperative, whose primary stakeholders and/or beneficiaries are marginalized sectors of society, engaged in providing goods and services that are directly related to its mission of improving societal well-being. It is established to achieve multiple bottom lines such as financial, social and ecological. It generates profit or surplus with due regard to social and environmental costs, and makes a pro-active contribution to resolving social and environmental problems. A SE, for purposes of this Act, shall principally mean a SEPPS;

hh) *Social Enterprise Service Institution* refers to an organization that provides assistance to SEs for them to become viable and sustainable and which assistance pertains to supplying needs such as trainings, education and other capacity-building measures, research and development, and other similar activities;

ii) *Social Enterprise Advocacy Group* refers to an organization whose primary purpose is supporting the cause of SEs especially with regard to public policy and articulating issues or causes related to social entrepreneurship;

jj) *Social entrepreneur* refers to an innovative individual or institution that promotes the creation and operationalization of enterprises or livelihood endeavors for those in need or which address social problems and improve societal well-being;

kk) *Social entrepreneurship* entails innovations designed to explicitly improve societal well-being, housed within entrepreneurial organizations, which initiate, guide or contribute to change in society;

ll) *Social Inclusion strategy* refers to the development strategy that assists groups of people who are stigmatized or marginalized by virtue of their physical, psychological, economic, social or cultural circumstance in order to restore their dignity by not only removing the barriers that limit their access to the delivery of basic social services and employment, but more importantly, by nurturing work and other environments that create avenues for their participation as productive members of society;

mm) *Social Investors* are individuals or institutions that choose to put in money to a business endeavor or activity not principally for financial profit but to fulfill a social mission which may include poverty reduction, concern for environmental protection, strong organizational governance, and a desire for a more economically just world;

nn) *Social reform* refers to the continuing process of addressing the basic inequities in society through a systematic, unified and coordinated delivery of socioeconomic programs or packages;

oo) *Transactional roles* refer to enterprise-related functions performed by the poor that involve an exchange of goods or services for money including being workers, suppliers, clients or owners;

pp) *Transformational roles* are functions performed by the poor as conscious agents of change to lift their own selves from poverty and to participate in group efforts to improve the quality of life of their community, sector or society as a whole;

qq) *Transactional services* pertain to enterprise or market-driven activities, such as providing loans, demonstrating new technologies or conducting trainings that are necessary for the poor in the SE system to effectively and efficiently perform their roles as workers, suppliers, clients and owners. Transactional services may be fee-based, such as the granting of loans, or non-fee based, such as the extension of production-related trainings;

rr) *Transformational services* pertain to activities that empower the poor, such as leadership formation and organizational development, asset build-up and providing education and experiential learning opportunities, to become conscious change agents for themselves, for their communities, sectors and society as a whole;

ss) *Underemployment* shall mean an economic position where an employed person's desire to have additional hours of work in his/her present job or to have an additional job, or to have a new job with longer working hours is not met;

tt) *Unemployment* shall mean an economic situation where persons who are 15 years old and over as of their last birthday and are 1) without work or have no job or business, 2) available for work and willing to take up work in paid employment or self-employment, 3) seeking work and had taken specific steps to look for a job or establish a business but failed to; and

uu) *Value chain* refers to value-adding economic activities that an enterprise is interlinked with in the process of producing goods and/or services to serve its chosen market. A value chain typically consists of: 1) inbound distribution or logistics, 2) manufacturing operations, 3) outbound distribution or logistics, 4) marketing and selling, and 5) after-sales service. These activities are supported by 6) purchasing or procurement, 7) research and development, 8) human resource development, and 9) organizational development. A SE that understands and manages its value chain improves its capability to create economic, environmental and social values towards improving the position and benefits of the poor in the value chain and towards ensuring the viability and sustainability of the enterprise.

CHAPTER III POVERTY REDUCTION THROUGH SOCIAL ENTREPRISES

SECTION 4. *Social Enterprise (SE); General Concept and Coverage* – A SE, for purposes of this Act, refers principally to a SE with the poor as primary stakeholders. As such, it declares and pursues poverty reduction/alleviation or the improvement in the quality of life of specific segments of the poor as its principal objective. It pursues this objective by directly engaging and investing in the poor to become effective workers, suppliers, clients and/or owners of the SE as well as partners in poverty reduction, economic and social development. A SE may be collectively owned by the poor in the form of cooperatives or associations where the poor are the exclusive owners or comprise a majority of the members.

In order for the SE to fall under this definition, and thereby be eligible for the services, assistance and incentives set forth hereunder, said SE:

- (a) shall provide or facilitate the provision of a combination of transactional and/or transformational services to improve the position and benefits derived by the poor from the SE and the value chain or economic subsector where the SE is located, including becoming worker-owners, supplier-owners, supervisors and managers, active members and leaders in governing bodies of the SE or its allied organizations;
- (b) shall invest a substantive part of its surplus, profits or mobilize other resources to assist the poor to become partners in SE or value chain management/governance and/or to become partners in community, sectoral and societal transformation;
- (c) shall make a pro-active contribution to resolving social and environmental problems and generate profit or surplus with due regard to social and environmental costs;
- (d) shall employ any of the following development strategies in the pursuit of its social mission: 1) empowerment strategy; 2) social inclusion strategy; 3) intermediation strategy; and, resource mobilization strategy;
- (e) shall reinvest part of its surplus or profits back to the SE to sustain the fulfilment of its social mission;
- (f) shall be engaged in an economic activity within the sectors of agriculture and fisheries, industry and services which, for purposes of this Act, shall refer to an activity in any of the economic subsectors;
- (g) shall ensure that a substantive part of the wealth created by the enterprise is distributed to the poor in the form of services, dividends and other forms of benefits, and payments and incentives for products or services rendered consistent with the principles of fair trade;
- (h) shall be duly registered with the appropriate agencies as provided under the Corporation Code or the Cooperative Code of the Philippines;
- (i) shall be one hundred percent (100%) owned and capitalized by Filipino citizens if single proprietorship or partnership. If the enterprise is a juridical entity, at least sixty percent (60%) of its capital or outstanding stocks must be owned by Filipino citizens;
- (j) shall neither be a branch, subsidiary or division of a private enterprise, regardless of the size of such private enterprise, nor may its policies be determined by a private enterprise or by persons who are not owners or employees of the said SE. *Provided*, That this shall not preclude a SE from accepting subcontracts from large private enterprises or firms or from joining in cooperative or joint-venture activities with other SEs or foundations practicing CSR.

Only SEs with the poor as their primary stakeholders are entitled to the services, assistance, and incentives set forth under this Act: *Provided*, That SEs that have not achieved financial sustainability may be eligible to avail of the services, assistance and incentives set forth in this Act by presenting a workable strategy to achieve financial sustainability over a reasonable period of time. This is cognizant of the fact that SEs create a combination of economic, environmental and social values much of which is not easily quantified especially in financial terms and that these social objectives are primary and

cannot be sacrificed; thus, it is generally more difficult for SEs to achieve financial sustainability. It is further recognized that SEs may also be creating positive social value even if they have not achieved financial sustainability.

Micro, small, and medium enterprises established under R.A. No.6977, as amended by R.A. No.8299 and R.A. 9150; Barangay Micro Business Enterprises established under R.A. 9178; Fair Trade certified organizations or certified Fair Trade organizations; Overseas Filipino Workers (OFWs) and their dependents that are organized and assisted by the Overseas Workers Welfare Administration (OWWA) and the National Livelihood and Development Corporation (NLDC) under the Livelihood Development Program for OFWs; agrarian reform beneficiary organizations (ARBO) under the various programs of the Department of Agrarian Reform (DAR); as well as community-based associations composed of poor families organized by the Department of Social Welfare and Development and the local government units (LGUs) under the Self-Employment Assistance – Kaunlaran Program as an alternative to the Conditional Cash Transfer Program that meet the preceding requirements shall be regarded as a SE under this Act.

Within ninety (90) days from the effectivity of this Act, the Commission shall formulate the implementing rules and regulations governing the application of SEs to qualify and be regarded as SE under this Act, following the principles of self-regulation, transparency and responsibility.

SECTION 5. *Formulation of a Poverty Reduction Through Social Entrepreneurship (PRESENT) Program* — To promote the development of SEs with the poor as primary stakeholders, a comprehensive and fully-integrated Poverty Reduction Through Social Entrepreneurship (PRESENT) Program shall be formulated, guided by the following principles:

- a) Incorporation of the PRESENT Program in the government's poverty reduction drive as a major sustainable and comprehensive strategy;
- b) Rationalization of poverty reduction programs by streamlining and coordinating the various anti-poverty programs of the government to reduce inefficiency and duplication and to improve the effectiveness of each program;
- c) People's participation and empowerment by mobilizing civil society organizations and social movement groups working with the poor;
- d) Promoting sustainable programs that reduce inequality in incomes across economic sectors and increase self-reliance among the poor;
- e) Enabling SEs to overcome constraints and to take advantage of opportunities for enhancing the position and benefits of the poor in economic subsectors and value chains; and,
- f) Gender-sensitivity by ensuring women's equal rights and access to SE's resources.

The planning framework of the PRESENT Program and its planning process shall ensure that the poor are engaged as primary stakeholders. It shall add value and complement ecosystem-based, area-based, community-based and other tools and

processes in local economic development by promoting and utilizing the economic subsector as a strategic unit of analysis and planning SE development interventions.

The PRESENT Program shall identify and develop key SEs and resource institutions as partners in strategic economic subsectors that have the potential for growth and where large numbers of the poor are concentrated. SEs shall be developed as vehicles to ensure that the poor benefit the most from sustainable subsector development.

PRESENT medium-term and annual development plans shall be formulated in synchrony with the medium-term development plan of the national government.

CHAPTER IV INSTITUTIONAL MECHANISMS

SECTION 6. *Creation and Composition of the Commission on SEs* -- To carry out the above-stated policy and to spur the growth and development of SEs in the country, the Commission on SEs, hereinafter referred to as the Commission, is hereby created under the Office of the President.

The Commission shall be the primary agency tasked to carry out the promotion, propel the development, and spur the growth of SEs in the country. It shall be responsible for facilitating and coordinating national efforts to promote the viability and progress of SEs.

The Commission shall be headed by a Chairperson, to be appointed by the President, with the Secretary of the Department of Trade and Industry (DTI) and the Secretary of the Department of Agriculture as Co-Vice-Chairpersons and shall be composed of the following:

- (a) Lead Convenor of the National Anti-Poverty Commission (NAPC);
- (b) Director-General of the National Economic Development Authority (NEDA);
- (c) Secretary of the Department of Finance (DOF);
- (d) Secretary of the Department of the Interior and Local Government (DILG);
- (e) Secretary of the Department of Labor and Employment (DOLE);
- (f) Secretary of the Department of Science and Technology (DOST);
- (g) Chairperson of the Cooperative Development Authority (CDA);
- (h) Secretary of the Department of Education (DepEd);
- (i) Secretary of the Department of Social Welfare and Development (DSWD);
- (j) Secretary of the Department of Agrarian Reform (DAR);
- (k) Secretary of the Department of Health (DOH);
- (l) Secretary of the Department of Environment and Natural Resources (DENR)
- (m) Nine (9) representatives from SEs, three (3) representatives each from the main island groupings of Luzon, Visayas, and Mindanao;
- (n) Three (3) representatives from SE Service Institutions; and
- (o) Three (3) representatives from SE Advocacy Groups.

Cabinet-ranked *ex officio* members of the Commission shall designate a permanent representative in case they fail to attend its meetings. The designated permanent representative of any of the aforementioned Cabinet-ranked members of the Commission must hold a position not lower than a bureau director.

The representatives of the SEs from the main island groupings of Luzon, Visayas, and Mindanao, the SE Service Institutions, and the SE Advocacy Groups shall be chosen by the President from among the nominees submitted by their respective national organizations to serve in the Commission for a term of three (3) years. These representatives must be conversant in the theory and practice of SE and committed to the policies and programs provided under this Act.

The Chairperson and members of the Commission shall be entitled to a reasonable *per diem* for each meeting actually attended at such amount as may be fixed by the Commission in accordance with existing laws, rules and regulations.

The Commission shall, from time to time, call upon the participation of any government agency to attend in its meetings to assist in clarifying issues and finding resolution to problems that concern their respective offices with respect to the implementation of the PRESENT Program enunciated hereunder and which affects the growth and development of SEs.

The Commission may create an Executive Committee of seven (7) members elected by the Commission members from among themselves or their designated permanent representatives, with at least three (3) members representing the SEs, and with authority to act for and on behalf of the Commission during intervals of Commission meetings, and within the specific authority granted by the Commission.

SECTION 7. Powers and Functions – The Commission shall have the following powers and functions:

(a) Formulate policies, plans, programs and projects to develop and promote SEs as a tool for poverty reduction consistent with national development objectives;

(b) Oversee the successful implementation of the PRESENT Program and other Public-Private Partnership programs with the poor as the primary stakeholders;

(c) Identify sources of financing to expand SEs;

(d) Monitor and evaluate the performance of programs and projects for appropriate incentives;

(e) Call upon any government agency to carry out and implement programs and projects identified by the Commission;

(f) Call upon POs, NGOs, the academe and other sectors to provide advice on matters pertaining to SEs and conduct of transactional and transformational services to farmers, producers, workers, consumers and other stakeholders;

(g) Submit annual and other periodic reports to the President and Congress of the Philippines through the Congressional Oversight Committee;

(h) Promulgate such rules and regulations and exercise such other powers and functions as may be necessary to carry out effectively the purposes and objectives of this Act; and

(i) Perform such other functions as may be necessary for its effective operations and for the continued enhancement, growth or development of SEs.

SECTION 8. *Secretariat and Office* – There is hereby created a Commission secretariat headed by an Executive Director to serve as the national technical and administrative secretariat of the Commission with the member agencies providing additional staff support as the need arises. The secretariat shall perform the following functions:

- (a) to provide staff support to the Commission, with the assistance of the National Economic and Development Authority secretariat, in the formulation of the PRESENT development programs and plans;
- (b) to assist the Commission in the implementation of the PRESENT development program and the annual and medium-term development;
- (c) to assist the Commission in the accreditation of SEs;
- (d) to assist the Commission in monitoring the PRESENT development programs and the activities of the various concerned government agencies with respect SEs;
- (e) to prepare, collate and integrate all necessary inputs to the Council's yearly report on the status of SEs in the country;
- (f) to submit periodic reports to the Commission on the progress and accomplishment of its work programs; and
- (g) to perform ad/hoc functions as are authorized by the Commission.

The Commission shall have its principal place of business in Metro Manila and may establish such branches within the Philippines as may be deemed necessary by the President of the Philippines to carry out the powers and functions of the Commission.

SECTION 9. *The National Center for SE Development* - There shall be established a National Center for SE Development (NCSED) under the Commission which shall develop a research and development system, provide training and education on SE development, and establish a SE marketing services in order to implement the provisions of this Act.

In this regard, it shall, in coordination with relevant agencies, perform the following functions:

- (a) provide SEs with capability-training and education through the SE Capability Building Program created under Section 11 of this Act;
- (b) develop and enhance a research and development system that shall equip every SE with innovative and sustainable approaches that ensures improvement in the access to more desirable basic social services by the poor pursuant to Section 13 hereunder; and
- (c) manage a SE Marketing Assistance Program (SMAP) that will ensure the generation of the highest possible income for the SEs pursuant to Section 14 hereof.

The NCSED shall be headed by the Executive Director of the Commission Secretariat. It shall maintain a multi-sectoral, multi-disciplinary pool of experts including those from the academe, practicing professionals, business and industry, youth, women and other concerned sectors, who shall be screened according to the qualifications set by the Commission.

The NCSED shall, in addition to coordinating with relevant agencies, partner with the University of the Philippines Institute for Small Scale Industries (UP ISSI), State Universities and Colleges, other universities and academic organizations, the Technical Education and Skills Development Authority (TESDA), and Technology and Livelihood Resource Center (TLRC), Department of Transportation and Communication (DOTC), and CSOs in implementing its programs.

SECTION 10. *Role of LGUs in SE Development* - Pursuant to the relevant provisions of R.A. No. 7160, otherwise known as the Local Government Code, the LGUs shall be primarily responsible for the development of SEs and the implementation and enforcement of the relevant provisions of this Act within their respective jurisdictions with the end in view of reducing poverty therein. The LGUs are hereby mandated to include in their respective local development plans certain policies and programs geared toward the development of SEs in their jurisdiction.

LGUs with viable SE development plan as incorporated in their respective local development plans are entitled to avail of the SE Development Fund created under the immediately succeeding section for the purpose of initiating and facilitating the development and sustainability of SEs in their own jurisdiction: *Provided, That no LGU shall establish and operate its own SE.*

CHAPTER V DEVELOPMENT OF SOCIAL ENTERPRISES

SECTION 11. *SE Capability Building and Sustainability Program; Creation of SE Development Fund* – There is hereby established a SE Capability Building and Sustainability Program whose primary objective is to guarantee the viability and sustainability of SEs through activities that advance, in general, both transformational services and transactional services. This program shall include training in social entrepreneurship development, institutional strengthening, human resource competency and skills training, business planning and advisory services, upgrading of accounting and auditing systems, technical assistance for the installation or improvement of management information systems, technology intervention, technology incubation/commercialization, market studies, and product development competitiveness, business matching activities, trade fairs and missions, policy advocacy, disaster-resiliency and other related activities.

The SE Capability Building and Sustainability Program shall likewise include the establishment of an insurance system for SEs affected by natural calamities in line with the National Framework Strategy on Climate Change 2010-2022 as provided for under RA 9729 or the Climate Change Act of 2009 and RA 10121 or the Philippine Disaster Risk Reduction and Management Act of 2010.

Toward strategically developing the nation's human resource capability in social entrepreneurship, the DepEd and the CHED shall cause the integration of SE content and inclusion of SE courses in the curricula at all levels, especially in the secondary and tertiary levels.

For this purpose, there is hereby created and established a SE Development Fund (SEDF) in the amount of Three Billion Pesos (P3,000,000,000.00) to be administered by the Commission with an endowment from the earnings of the Philippine Amusement and Gaming Corporation (PAGCOR), in addition to appropriations by Congress, voluntary contributions, grants, gifts from both local and foreign sources as may be accepted by the Commission. Capability building projects approved by the Commission shall be implemented by the NCSED.

Only the fruits of the SEDF shall be used for the purposes provided herein. Any undisbursed fruits for the preceding year shall form part of the disbursable portion of the SEDF in the following year.

SECTION 12. Promotion and Development of SEs as One of the Purposes of the People's Development Trust Fund (PDTF) – The promotion and development of SEs is hereby declared one of the purposes of the PDTF established under Section 10 of R.A. 8425.

For this purpose Sec. 11 of R.A. 8425 is hereby amended to read as follows:

“Sec. 11. Purposes of the People's Development Trust Fund. – The earnings of the PDTF shall be utilized for the following purposes:

- (1) Consultancy and training services for microfinance institutions and their beneficiaries on the establishment of the necessary support services, social and financial preparation of beneficiaries, preparation of plans and programs including fund sourcing and assistance, establishment of credit and savings monitoring and evaluation mechanisms **AS WELL AS CONSULTANCY AND TRAINING SERVICES ON SE MANAGEMENT IN THE FUNCTIONAL AREAS OF MARKETING, ORGANIZATIONAL AND HUMAN RESOURCE MANAGEMENT, OPERATIONS MANAGEMENT, FINANCIAL MANAGEMENT AND STRATEGIC MANAGEMENT;**
- (2) Scholarships or training grants for microfinance **OR SE** staff and officers, and selected beneficiaries;
- (3) Community organizing for microfinance, livelihood, **SE** and micro-enterprises training services;
- (4) Livelihood/micro-enterprise/**SE DEVELOPMENT AND CAPABILITY BUILDING** project/program feasibility studies and researches;
- (5) x x x;
- (6) x x x;
- (7) Legal and other management support services such as registration/**ACCREDITATION**, documentation, contract review and enforcement, financial audit and operational assessment;
- (8) Information dissemination of microfinance technology **AND SE DEVELOPMENT;** and
- (9) Other activities to support microfinance **AND SEs** as approved by the designated agency administering the PDTF.

“The PDTF may be accessed by the following:

- (a) x x x;
- (B) THE NCSED;
- (C) QUALIFIED SEs;
- (D) x x x
- (E) x x x

SECTION 13. *Social Enterprise Research and Development System* -The Commission, in coordination with the NEDA, DOST, and DTI, and other appropriate agencies and research institutions, shall develop and enhance a research and development system that:

- (a) provides studies on opportunities for poverty reduction and SE development in key economic subsectors and other inputs for the Commission to undertake strategic planning for its PRESENT Program;
- (b) equip SEs and support institutions with technologies that are appropriate for enhancing the participation and benefits of the poor in various economic subsectors; and,
- (c) equip SEs and support institutions with innovative and sustainable approaches to improve access of the poor to quality basic social services.

SECTION 14. *Social Enterprise Marketing Infrastructure Development* - The Commission shall promote the development and expansion of local and foreign markets for the products and services of SEs, guided by the principles of fair trade. Consistent with this, the Commission shall:

- (a) establish a SE Marketing Assistance Program (SMAP) that will assist SEs match supply with demand in both domestic and foreign markets, as well as promote SE products and services through tri-media, trade fairs and trade missions;
- (b) develop, install and sustain a SE market information system with the assistance of the DTI and DOTC which shall be called the SE Marketing Information Network (SMIN).

The SMIN shall be set up from the level of the municipal and provincial LGUs, the regional and up to the Commission level within one (1) year from the approval of this Act, taking into account existing information networks such as the internet and using a dedicated website for the purpose, to ensure linkage of the SEs with the government and its various departments, agencies, bureaus and instrumentalities, the local and domestic markets, as well as research institutions. The Commission shall provide technical assistance in setting up the SMIN at the local and regional levels.

All government departments, agencies, bureaus, research institutions, as well as the LGUs shall consolidate and continuously update all relevant information and data that would be of use to SEs on a periodic basis and make such data available in a dedicated website on the internet.

The SMIN shall provide information and marketing services related to products of SEs which shall include the following:

1. Supply data;
2. Demand data;
3. Price and Price trends;
4. Product standards;
5. Directory of, but not limited to SEs, traders, key market centers, processors and business institutions both at the national and local levels;
6. Information and technology generated from research institutions;
7. International, regional and local market forecasts; and
8. Resource accounting data.

CHAPTER VI

ACCESS TO CREDIT RESOURCES AND GUARANTEE FUND

SECTION 15. *SEs' Access to Credit Resources and Mandatory Allocation Thereof* - In the pursuit of poverty reduction through SEs, there is a need to ensure their access to credit. In this regard, the active participation of the banking sector and government financial institutions is hereby mandated.

In addition to and apart from the special credit windows mandated under Section 16 of R.A. No. 8425 to be opened by the Land Bank of the Philippines, Development Bank of the Philippines, Philippine Postal Bank, and Al Amanah Bank for the promotion of microfinance, the foregoing banks are hereby mandated to set aside at least eight percent (8%) of their total loan portfolio based on their balance sheet as of the end of the preceding quarter and open a special credit window for SEs as herein contemplated.

For a period of ten (10) years from the date of the effectivity of this Act, all other lending institutions as defined under Bangko Sentral ng Pilipinas (BSP) rules, whether public or private, shall likewise set aside at least eight (8%) percent of their total loan portfolio based on their balance sheet as of the end of the previous quarter and make the same available for SEs through a special credit window.

The BSP, in consultation with the Commission, shall formulate the rules for the effective implementation of this provision: *Provided, That* the purchase of government notes, securities and other negotiable instruments shall not be deemed compliance with the foregoing provision: *Provided, further, That* the BSP shall establish an incentive program to encourage lending to SEs beyond mandatory credit allocation to said enterprises, such as possible reduction in bank's reserve requirement.

The Commission shall establish the appropriate systems to monitor all loan applications of SEs in order to account for the absorptive capacity of the SE sector.

The BSP shall require lending institutions covered by this Act to furnish the Commission on a quarterly basis a regular report on their respective compliance with the above provisions on the mandatory credit allocations for SEs and act with dispatch on the Commission's reports of non-compliance therewith.

The special credit window for SEs shall bear lower than market interest rates with longer terms or repayment and waiver of applicable fees.

SECTION 16. *SEs' Special Credit Window; Purposes* – The special credit

window mandated in the preceding section to be created shall be intended for, but not limited to, the following purposes:

(a) **Organizational Developmental Loan or Capacity-Building Loan** for the conduct of social preparation activities or the conduct of capability-building/training or professional development of the board, management and staff of the SE intended for social entrepreneurship development and institutional strengthening, human resource competency and skills training, business planning and advisory services, technology intervention, technology incubation/commercialization, market studies, and product development competitiveness, business matching activities, trade fairs and missions, and policy advocacy;

(b) **Credit Line for Business Development Loan or Working Capital Loan** to cover the operational and management expenses of a start-up/existing business or income generating project, including receivable financing and/or purchase of additional inventory, and soft or intangible investments such as: trade fair participation; pre-operating expenses for expansion project; rental deposit; IT software packages; franchise development packages, and others;

(c) **Fixed Assets Financing** to cover acquisition of fixed assets like machinery and equipment or motor vehicle; lot acquisition for project site and/or the construction of a plant and building and the improvements thereof;

(d) **Value Chain Financing** to cover any of the value chain activities (production, processing and marketing) with direct forward or backward link;

(e) **Domestic Letter of Credit/Trust Receipt** to provide a standby credit facility for the borrower for the purchase of product inputs, equipment, machinery, implements, and spare parts, whereby payment of which is guaranteed and to be made to the seller by the lending institution, provided all documents conform with the terms and conditions of the credit; and

(f) **Revolving Credit Line** for re-lending to finance the livelihood project requirements of end-borrowers.

SECTION 17. Eligibility for Agriculture and Fisheries Credit - At least ten percent (10%) of the funds created under Section 6 of Republic Act No. 10000, otherwise known as "The Agri-Agra Reform Credit Act of 2009", and mandated to be set aside by all banking institutions, whether government or private, for agriculture and fisheries credit shall be made available for SEs engaged in agriculture and fisheries activities.

SECTION 18. SE Guarantee Fund Pool - There shall be evolved a SE credit insurance and financing system to improve the viability and productivity of the SE through government and private banking institutions.

There is hereby created a SE Guarantee Fund Pool (SEGFP) which shall comprise five percent (5%) of the 2012 surplus of the government-owned and/or – controlled corporations and government financial institutions including the Philippine Amusement and Gaming Corporation (PAGCOR), the Philippine Charity Sweepstakes Office (PCSO), the Social Security System (SSS), and the Government Service Insurance System (GSIS), the National Power Corporation and the Philippine National Oil Company as contribution to the SGFP in accordance with relevant laws, charters and by-laws, in addition to voluntary

contributions, grants and gifts from both local and foreign sources as may be accepted by the Commission.

The SEGFP shall be administered by the Commission and shall be used to mitigate the risks involved in SE sector lending, thereby facilitating the provision of credit therefor. Such fund shall be placed in trust with the Land Bank of the Philippines for the purpose of providing guarantee cover to participating financial institutions and other parties in extending financing to SEs: *Provided*, That the fund may also be used to cover the performance bond of SEs in government procurement. The Commission, in coordination with the Land Bank of the Philippines, shall draw up the mechanics and administrative arrangements and issue the implementing guidelines for the fund pool.

CHAPTER VII INCENTIVES AND BENEFITS

SECTION 19. *Incentives and Benefits.* - In recognition of the social value created by the SEs in addressing the problem of poverty, reducing inequality in incomes across economic sectors, increasing self-reliance among the poor and creating opportunities for them toward raising their quality of life, the SEs created and/or accredited in accordance with this Act shall, in addition to their entitlement for organizational development under Sections 11 through 14 and to gain greater access to financing under Sections 15 through 17, be entitled to the fiscal incentives and benefits provided in Sections 20 through 22 of this Act. In addition, social investors shall also be entitled to certain incentives under Section 23 hereunder.

To level the playing field and in recognition of the circumstances of start-up SEs primarily employing persons with disabilities, the SEDF created in Section 11 of this Act shall provide a cash incentive for every person with disability employed, representing at least twenty five percent (25%) of the daily minimum wage, until such time that the said SE is able to achieve financial sustainability.

SECTION 20. *Tariffs and Duties Exemption for the Importation of Product Inputs, Equipment, Machinery, and Implements* - All SEs as duly certified by the Commission in consultation with the Department of Finance and the Board of Investment of the Department of Trade and Industry shall, for five (5) years after the effectivity of this Act, be exempted from the payment of tariff and duties for the importation of all types of product inputs, equipment, machinery, implements, and spare parts: *Provided*, however, That these inputs, equipment, machinery, implements, and spare parts shall be for the exclusive use of the importing SEs and can be shown to be directly related to further improve the value chain operations of the SEs.

The Commission, in consultation with the Department of Finance and the Board of Investment, shall, within ninety (90) days from the effectivity of this Act, formulate the implementing rules and regulations governing the importation of the inputs, equipment, machinery, and implements for use by the SEs.

SECTION 21. *Taxation of an Accredited SE* – The taxation of a SE shall be as follows:

- a) A SE with a net income of not more than Ten Million Pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature: *Provided*, That a cooperative with accumulated

reserves and undivided net savings of not more than Fifteen Million Pesos (P15,000,000.00) that qualifies as a SE under this Act shall likewise be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature.

- b) Transactions of the SE and its clients shall be exempt from documentary stamp tax.
- c) Sales or exchanges of real property by the SE classified as capital assets or shares of stock shall be exempt from Capital Gains Tax.
- d) A reinvestment made by a SE for the expansion of its socioeconomic projects within the area of its operation shall be tax deductible from the gross income for income tax purposes.

SECTION 22. *Preferential Right for SEs Transacting Procurement Business with Government* – SEs shall be accorded a preferential right in the procurement process and the implementation of procurement contracts by the government and all its branches, departments, agencies, subdivisions, and instrumentalities, including government-owned and/or -controlled corporations and local government units.

All Annual Procurement Plans of a Procuring Entity of the government as cited in Section 7 of R.A. No. 9184 or the "Government Procurement Reform Act" shall promote, to the extent possible or available, the preferential procurement of goods produced and services rendered by SEs.

The provisions of Section 10 of R.A. 9184 to the contrary notwithstanding, the Procuring Entity shall, at all times, resort first to direct contracting, shopping, or negotiated procurement in obtaining goods or services where such goods or services may be obtained from a SE within the area of operation of the Procuring Entity and is duly certified by the Commission as having the capacity to supply the same.

- (a) For this purpose, Sections 50, 52, and 53 of R.A. 9184 are hereby amended to read as follows:

"Sec. 50. Direct Contracting. - Direct Contracting may be resorted to only in any of the following conditions:

- a. x x x;
- b. x x x;
- c. x x x; or

D. WHERE THERE EXISTS A SE SELLING THE GOODS OR SERVICES REQUIRED BY THE PROCURING ENTITY AS CERTIFIED BY THE COMMISSION.

"Sec. 52. Shopping. - shopping may be resorted to under any of the following instances:

- a. When there is an unforeseen contingency requiring immediate purchase: **PROVIDED, THAT THE PROCUREMENT OF THE GOODS OR SERVICES IS FIRST OBTAINED FROM A SE WITHIN THE AREA OF OPERATION OF THE**

PROCURING ENTITY WHICH IS DULY CERTIFIED BY THE COMMISSION AS HAVING THE CAPACITY TO SUPPLY SAID GOODS AND SERVICES: Provided, however, That the amount shall not exceed [~~Fifty thousand pesos (P50,000)~~] **ONE HUNDRED THOUSAND PESOS (P100,000);** or

b. Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding Two hundred fifty thousand pesos (P250,000): Provided, however, That the Procurement does not result in Splitting of Contracts: Provided, further, That **A PRICE QUOTATION FROM A SE CERTIFIED BY THE COMMISSION AS HAVING THE CAPACITY TO FURNISH OR PROVIDE SUCH OFFICE SUPPLIES AND EQUIPMENT SHALL FIRST BE OBTAINED; PROVIDED, FINALLY, THAT ONLY AFTER THE FAILURE OF SUBMISSION OF A PRICE QUOTATION BY A SE THAT** at least three (3) price quotations from OTHER bona fide suppliers shall be obtained.

x x x

"Sec. 53. Negotiated Procurement. - Negotiated Procurement shall be allowed only in the following instances:

a. x x x;

b. x x x;

c. x x x;

d. x x x;

e. x x x; or

F. WHERE THE GOODS OR SERVICES SUBJECT OF THE PROCUREMENT CONTRACT MAY BE OBTAINED FROM A SE WITHIN THE AREA OF OPERATION OF THE PROCURING ENTITY AND WHICH IS DULY CERTIFIED BY THE COMMISSION AS HAVING THE CAPACITY TO SUPPLY SAID GOODS OR SERVICES.

- (b) Only if and when no procurement is perfected by way of direct contracting, shopping, or negotiated procurement by reason of the absence of a SE within the area of operation of the Procuring Entity which is certified by the Commission as having the capacity to supply the goods and services subject of the procurement contract or of the lack of interest to supply from a SE shall the Procuring Entity through its Bids and Awards Committee issue an invitation to bid;
- (c) A Procuring Entity shall, where applicable, have at least one member representing SEs;
- (d) In the implementation of R.A. No. 7880, otherwise known as the "Fair and Equitable Access to Education Act", in particular the allocation for textbooks, desks, furniture and equipment used for instructional purposes, the ten percent (10%) out of the twenty five percent (25%) of the amount released for the purchase of desks, furniture and equipment allocated to SEs or cooperatives of persons with disabilities shall always be observed notwithstanding the provisions of R.A. 9184 or the "Government Procurement Reform Act" to the contrary;

- (e) Registered small enterprises under R.A. 6977, otherwise known as the "Magna Carta for Small Enterprises," as amended by R.A. 8299 and R.A. 9150, that qualify as SE under this Act shall, consistent with Section 4 of R.A. 9150, be entitled to a share of at least ten percent (10%) of total procurement value of goods and services supplied to the Government, its bureaus, offices and agencies annually.
- (f) The Commission and the Department of Budget and Management shall issue the rules and regulations that shall implement the preferential right accorded to SEs under this Section, including the limitations and restrictions in the application of the same.

SECTION 23. *Incentives for Social Investors* – Social investors and other institutions that contribute money or other forms of donation in the promotion and development of SEs shall be entitled to the following tax incentives:

- (a) Equity investments and donations to SEs shall be fully deductible from the gross income of the investor and/or 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 SE by the Commission under this Act shall be sufficient; and
- (b) Donations to the SE 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.

CHAPTER VIII PENAL PROVISIONS

SECTION 24. *Non-Compliance with the Mandatory Allocation of Credit Resources* – The BSP shall impose administrative sanctions and other penalties on the lending institutions for non-compliance with the provision of this Act including a fine of not less than Five hundred thousand pesos (P500,000).

SECTION 25. *Penalty Clause* - Any person who, intentionally or by gross negligence, commits an act, other than the non-compliance with the mandatory allocation of credit resources as provided in the preceding section, in violation of any provision of this Act, fails to perform his/her functions under this Act and/or who shall, in any manner, commit any act to defeat any provisions of this Act shall, upon conviction, be punished with a fine of not less than Twenty-Five Thousand pesos (P25,000.00) but not more than Fifty thousand pesos (P50,000.00) and suffer imprisonment of not less than six (6) months but not more than two (2) years, without prejudice to being charged before a regular court for violation of the provisions of the Revised Penal Code, Civil Code and other pertinent laws.

If the violation is committed by the SE or government agency, the members, officers, directors or trustees thereof who have actually participated in, authorized, or ratified the prohibited act shall, upon conviction, be held liable.

If the violation is committed by the employees and agents who acted in gross violation of the provisions of this Act, the officers, directors or trustees, or incorporators of

the SE shall be jointly and severally liable with the offending employees, agents, and the enterprise.

In the case of a public official or employee, the offender shall, upon conviction, suffer the accessory penalty of absolute disqualification.

CHAPTER IX TRANSITORY PROVISION

SECTION 26. *Incorporation of the PRESENT Program in All the Poverty Alleviation Programs of the Government.* - Unless circumstances warrant otherwise, all agencies of the Government implementing a poverty alleviation program shall, in coordination with the Commission and within a period of five (5) years but in no case longer than ten (10) years from the approval of this Act, incorporate in their respective poverty alleviation programs the development of SEs as a tool for poverty reduction.

The Commission, in coordination with the various government agencies with poverty alleviation programs, shall prepare the appropriate beneficiaries thereof and organize them into full-fledged SEs under the contemplation of this Act.

Within a period of 5 years, the Commission shall facilitate the development and dissemination of tools, and invest in the development of the capability of SEs to plan, monitor and evaluate their social and financial performance and outcomes. *Further*, the Commission shall evolve socially acceptable benchmarks for evaluating the performance of SEs and incorporate such to more effectively develop and regulate the sector.

CHAPTER X MISCELLANEOUS PROVISIONS

SECTION 27. *Compliance With Other Laws that Govern the Relationship Between a SE and its Employees* – The Labor Code and all other labor laws, the Social Security Act, the Medical Care Act, and all other social legislations, and all other laws and executive orders that govern the relationship between a SE and its employees shall apply and 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.

SECTION 28. *Congressional Oversight Committee on SE* - There is hereby created a Congressional Oversight Committee on SE composed of the Chairman of the Senate Committee on Economic Affairs, Trade and Commerce and the Chairman of the House Committee on Trade and Industry, four (4) members of the Senate and four (4) members of the House of Representatives. The members from the Senate shall be appointed by the Senate President from among the members of the Senate Committee on Economic Affairs, Trade and Commerce based on the proportional representation of the parties or coalition therein. The members from the House of Representatives shall be appointed by the Speaker from among the members of the House Committee on Trade and Industry based on the proportional representation of the parties or coalitions therein.

The Oversight Committee, upon review and approval of the Implementing Rules and Regulations mandated under Sec. 31 of this Act shall become *functus officio* and

therefore cease to exist: *Provided, however,* That the Commission shall submit to the Committee on Economic Affairs, Trade and Commerce of the Senate and the Committee on Trade and Industry of the House of Representatives an annual report on the implementation of this Act.

The appropriation for the oversight committee shall be charged to the budget of both Houses of Congress in the Annual General Appropriations Act.

SECTION 29. Appropriations – To carry out the provisions of this Act, the following amounts are appropriated as follows:

(1) The sum of One Hundred Million Pesos (P100,000,000.00) is hereby appropriated as the initial operating fund which sum shall be sourced from the President's Contingent Fund and/or voluntary contributions, grants and gifts from both local and foreign sources as may be accepted by the Commission. In the subsequent years, the Commission shall have a separate annual appropriation under the Office of the President which shall be provided in the General Appropriation Act starting in the fiscal year immediately following the approval of this Act.

(2) The aggregate sum of Three Billion Pesos (P3,000,000,000.00) for ten (10) years is hereby appropriated for the establishment of the SEDF from the share of the national government in the earnings of the Philippine Amusement and Gaming Corporation (PAGCOR) and/or voluntary contributions, grants and gifts from both local and foreign sources as may be accepted by the Commission, in the following manner: on the first year, One Hundred Million Pesos (P100,000,000.00); on the second year, One Hundred Fifty Million Pesos (P150,000,000.00); on the third year, Two Hundred Million Pesos (P200,000,000.00); on the fourth year, Two Hundred Fifty Million Pesos (P250,000,000.00); on the fifth year, Three Hundred Million Pesos (P300,000,000.00); and every year thereafter until the tenth year, Four Hundred Million Pesos (P500,000,000.00) annually.

SECTION 30. Social Enterprise Week - In order to institute continuing awareness on the primacy of SEs with the poor as the primary stakeholders as a viable government strategy in pursuing poverty reduction, the week of the month when this Act shall have been signed into law shall be declared as the "Social Enterprise Week" and shall be celebrated annually. The Commission, through the NCSED shall be responsible in organizing activities for the event.

SECTION 31. Implementing Rules and Regulations – The Commission shall formulate and promulgate, in consultation with the concerned sectors, the rules and regulations necessary to implement the provisions of this Act within three (3) months from its effectivity.

SECTION 32. Printing and Distribution – 1) The National Printing Office shall publish this Act in the Official Gazette in full within sixty (60) days from the date of its effectivity. Copies of this Act shall be given to every department, agency, subdivision, and instrumentality of the Government, including government-owned and controlled corporations, regional and provincial offices, and local governments.

2) All duly accredited SEs shall be given one (1) copy each at cost. Thereafter, every newly accredited SE shall be issued at cost a copy of this Act and the rules and regulations promulgated thereunder together with its certificate of accreditation.

SECTION 33. *Information Dissemination* - The Philippine Information Agency (PIA), in coordination with the Commission, the DTI, DA, and the DILG, shall ensure the proper and adequate information dissemination of the contents and benefits of this Act to the general public especially to its intended beneficiaries.

CHAPTER XI FINAL PROVISIONS

SECTION 34. *Non-Impairment Clause* - Nothing in this Act shall be construed as to diminish, impair, or repeal rights recognized, granted, or available to marginalized or basic sectors under existing laws

SECTION 35. *Separability Clause* - If any provision of this Act shall be held invalid or unconstitutional, the remaining provisions thereof not affected thereby shall remain in full force and effect.

SECTION 36. *Interpretation and Construction* – In case of doubt as to the meaning of any provision of his Act or the rules and regulations issued in pursuance thereof, the same shall be resolved liberally in favor of the SEs and their stakeholders.

SECTION 37. *Repealing Clause* - (a) Sec. 11 of R.A. 8425, otherwise known as the "Social Reform and Poverty Alleviation Act," is hereby amended by including SE promotion and development as one of the purposes of the People's Development Trust Fund;

(b) Art. 61 of R.A. 9520, otherwise known as the "Philippine Cooperative Code of 2008" is hereby amended;

(c) Sections 10, 50, 52, and 53 of R.A. No. 9184, otherwise known as the "Government Procurement Reform" Act are hereby amended;

(d) All laws, decrees, proclamations, orders, other issuances, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed, amended or modified accordingly.

SECTION 38. *Effectivity* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) national newspapers of general circulation.