

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. **1036**



Introduced by HONORABLE FERDINAND MARTIN G. ROMUALDEZ

EXPLANATORY NOTE

Heeding the clamor for a more responsive legislation to address roadblocks in the implementation of the BMBE law, this proposed bill seeks to amend Republic Act 9178 otherwise known as the "Barangay Micro Business Enterprises (BMBEs) Act of 2002."

It has been several years since the enactment of the BMBE Law and yet very little headway has been accomplished. Government agencies like the Department of Finance through the Bureau of Internal Revenue are averse to implement the income tax exemption provision of the present BMBE law. These provisions of tax breaks and minimum wage exclusions are commonly misconstrued as defeating the mandates of LGUs and concerned government agencies of collecting revenues for the government, thus explaining the lack of information dissemination from their end.

While the existing law has very commendable objectives of encouraging the start-up of barangay micro business enterprises and for those in the underground economy to formalize and integrate their businesses to the mainstream economy, many barangay micro businesses still opt to remain informal due to fear of countless bureaucratic requirements, even with the incentives provided in the law, thus explaining the decline of registered enterprises at 5.29% with micro enterprises at 4.17% over an 8-year period. The NSO likewise released in April 2008 figures of the informal sector at an estimate of 10.5 million of which 29.6% is accounted for by the wholesale and services sector.

The present data of duly registered BMBEs are far lesser than expected. After a few years of implementation, the BMBE law yielded only 6,598 registered BMBEs of some 720 thousand potential registrants (or about 1%). On the other hand, Kalakalan 2020 (Countryside Barangay Business Enterprises or CBBE) an earlier enactment, recorded 6,085 registrants after four years of implementation out of 59,537 potential registrants (or about 0.10%).

Anchored on the necessity to rectify inadequacies of the existing BMBE law, this proposed legislation, which among others removed "Barangay," thus now reading as Micro Business Enterprises (MBEs), also provides for a maximum limit of 5 years for MBE certification renewal to encourage them to graduate from being Micro Enterprises with less than P3,000,000 in asset size to a more progressive level. The five-year maximum renewal also limits their access or availment of the fiscal incentives in the law, thereby contributing to income generation for the economy.

The following are some of the salient provisions of the bill:

- 1.) The creation of the MBE registry;
- 2.) Directing the PIA, in coordination with DILG, DOLE, and DTI, to meet at the regional level, to prepare an action plan to ensure proper dissemination of the law to the general public, most especially the beneficiaries at the local level;
- 3.) Increase in the penalty for violations, viz:
 - a.) For persons, a fine of not less than P50, 000 but not more than P150, 000 and suffer imprisonment of not less than 6 months but not more than 2 years; and
 - b.) For GFIs violating Sec. 9 of the Act, a fine of not less than One Million Pesos (P1,000,000.00)

Likewise, this bill provides new developments by providing a mechanism to filter the beneficiaries the law, thus, making it easier for government entities to generously provide the incentives to eligible micro enterprises. Further, the bill raises our country's policy in promoting the formation of micro business enterprises (MBEs), by providing them with an effective environment and efficient system that will allow these seedbeds of Filipino entrepreneurial talents, to grow and develop into bigger enterprises.

Hence, the approval 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. 1036

Introduced by Hon. FERDINAND MARTIN G. ROMUALDEZ

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

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

PRELIMINARY PROVISIONS

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

Section. 1. *Short Title.* – This Act shall be known as the
“[Barangay] Micro Business Enterprises ([B]MBEs) Act of 20[2]13”.

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

SEC. 2. *Declaration of Policy.* - It is hereby declared to be the
policy of the State to hasten the country's economic development by
encouraging the formation and growth of [barangay] micro business
enterprises which effectively serve as seedbeds of Filipino entrepreneurial
talents, [and integrating those in the informal sector with the mainstream
economy,] through the rationalization of bureaucratic restrictions, the

active intervention of the government specially in the local level, and the granting of incentives and benefits to generate much-needed employment and alleviate poverty.

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

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

(a) “[Barangay] Micro Business Enterprise,” hereinafter referred to as [B]MBE, refers to any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity’s office, plant and equipment are situated, shall not be more than Three Million Pesos (Php3,000,000.00). The above definition shall be subject to review and upward adjustment by the MICRO, SMALL AND MEDIUM ENTERPRISE DEVELOPMENT (MSMED) Council, as mandated under Republic Act No. 6977, as amended [by Republic Act No. 8289].

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

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

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

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

(E) [(d)] "Registration" refers to the inclusion of BMBE in the BMBE Registry of a city or municipality.

(F) [(e)] "Financing" refers to all borrowings of the BMBE from all sources after registration.

REGISTRATION AND OPERATION OF [B]MBEs

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

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

periodic evaluation of the [B]MBEs' financial status for monitoring and reporting purposes.

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

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

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

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

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

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

SEC. 6. *Transfer of Ownership.* – [The] [B]MBE shall report to the city or municipality of any change in the status of its ownership structure, and shall surrender the original copy of the [B]MBE Certificate of Authority for notation of the transfer.

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

SEC.7. MONITORING OF MBEs. THE DILG SHALL SUBMIT AN ANNUAL REPORT TO THE MSMED COUNCIL, ON THE LGUs'

IMPLEMENTATION OF THE ACT. SUCH REPORT SHALL CONTAIN, AMONG OTHERS, THE FOLLOWING:

- A. THE NAMES AND ADDRESSES OF MBEs REGISTERED FOR THE PERIOD; THEIR LINE OF BUSINESS; THEIR OWNERS OR STOCKHOLDERS; AND KEY OFFICERS; AND THEIR ASSET BASE;
- B. THE AMOUNT OF INCOME FOR WHICH EXEMPTION FROM INCOME TAX WAS AVAILED OF;
- C. THE ANNUAL GROSS INCOME DERIVED BY THE MBEs.

INCENTIVES AND BENEFITS

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

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

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

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

SEC. [8] 9. *Exemption from the Coverage of the Minimum Wage Law.* - The [B]MBEs shall be exempt from the coverage of the Minimum Wage

Law: *Provided*, That all employees covered under this Act shall be entitled to the same benefits given to any regular employee such as social security and healthcare benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

INFORMATION DISSEMINATION

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

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

PENALTY

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

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

In case of non-compliance with the provisions of Section 9 of the Act, the BSP shall impose administrative sanctions and other penalties on the concerned government financial institutions, including a fine of not less

than [Five Hundred Thousand Pesos (P500,000.00)] **ONE MILLION PESOS (P1,000,000.00).**

MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

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

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

Approved,