



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

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 3364



Introduced by Honorable Pablo Roces Nava III

EXPLANATORY NOTE

One of the major socio-economic problems besetting the Philippine economy is the pervasiveness of poverty. Recent economic growth did not translate to an improved economic condition of the many who are poor.

In their attempt to improve their economic condition, a good number of poor families are engaged, not by choice but out of necessity, in microenterprises. A perennial problem of these microentrepreneurs is the lack of access to financial, as well as, non-financial services.

This bill seeks to encourage the creation and accreditation of private non-stock non-profit organizations to meet the credit, as well as, other demands of said microentrepreneurs through a variety of innovative financial and non-financial products and services. It also expects the government's assistance in the giving of tax incentives, in the capacity building and in the appropriate supervisory and regulatory framework to make markets more efficient and practice in the microfinance industry more viable.

Hence, the approval of this bill is earnestly prayed for.


PABLO ROCES NAVA III



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AN ACT

GOVERNING THE CREATION AND ACCREDITATION OF NON-STOCK NON-PROFIT MICROFINANCE DEVELOPMENT ORGANIZATIONS AND/OR CORPORATIONS, AND FOR OTHER PURPOSES

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

Chapter 1

General Provisions

Section 1. *Short Title.* – This Act shall be known as the “Microfinance Act of the Philippines.”

Section 2. *Declaration of Policy.* – It is declared policy of the State to free the people from poverty through policies that provide adequate social services, a rising standard of living, and an improved quality of life for all. It is therefore important to recognize the indispensable role of the private sector, especially those social and community enterprises which help the government build economy from the grassroots through the development of entrepreneurship

and awareness and acceptance of the responsibilities of citizenship among the poor.

In furtherance hereof, the government shall work in joint interest with qualified organizations and corporations, providing them with incentives for their encouragement to continue providing the poor the much needed microfinance programs, products and services, in order to improve the poor's economic condition and quality of life.

Section 3. *Basic Principles.* – A microfinance development organization or corporation covered by this Act shall conduct its operations in accordance with the basic principles of microfinance, which include, but are not limited to the following:

a. The poor shall be given access to appropriate financial services that are convenient, flexible, and reasonably priced, including, but not limited to credit, savings, and insurance;

b. Microfinance can and should be undertaken on a sustainable basis, where providers shall be able to recover all of their costs to allow sustainable operation and regular provision of financial services to the poor;

c. It must aim to provide financial, social protection and community development programs;

d. It shall abide by the Client Protection Principles, such as, but not limited to, appropriate product design and delivery, prevention of over-indebtedness, promotion of transparency, practice of responsible pricing, fair and respectful treatment of clients, privacy of client data and mechanisms for complaint resolution; and

e. Financial services, alone, is insufficient to achieve the goal of serving increasing numbers of poor and excluded people sustainably, thereby requiring that the microfinance sector develop financial and social performance standards that will help define and govern the industry toward greater outreach and sustainability.

Section 4. *Coverage* – This Act shall apply to non-stock non-profit development organizations and corporations duly registered or licensed with

appropriate government agencies with regulatory power over them and duly qualified and accredited as provided herein.

Section 5. *Definition of Terms.* – As used in this Act:

a. *Accrediting entity* refers to the Microfinance Regulatory Council as organized and designated under Chapter 3 of this Act which may be referred to herein as “MRC”;

b. *Microfinance* refers to the viable and sustainable provision of a broad range of financial services exclusively for the poor engaged in livelihood and microenterprise activities. It uses nontraditional and innovative methodologies and approaches such as, but not limited to, the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, cash-flow based lending, alternative loan repayments, minimum requirements for capital build-up/minimum balance retention, and small denominated savers’ instruments aimed to improve their asset base and expand their access to capital and savings.

c. *Poor* refers to individuals and families whose income fall below the poverty threshold as defined by the National Economic and Development Authority and/or cannot afford in a sustained manner to provide their minimum basic needs of food, health, education, housing and other essential amenities of life;

d. *Compensating balance* refers to the proportion of the total loan of a microfinance institution client, which is retained with the microfinance organization or corporation as capital build-up or savings. This amount serves as a hold-out deposit on the loan of the client and can be used by the microfinance institution to off-set the client’s outstanding balance in case of default. In view of this, the client is considered a net borrower from the microfinance institution rather than a net saver (i.e as a barrower of his own savings rather than as a depositor who finances other client’s borrowings/loans).

e. *Microfinance Loans* refer to small loans granted to the poor or basic sectors, as defined in the Social Reform and Poverty Alleviation Act of 1997 (Republic Act No. 8425), and other loans granted to the poor and low-income households for their microenterprises and small businesses so as to enable them to raise their income levels and improve

their living standards. Microfinance loans are granted on the basis of the borrower's cash flow and are typically unsecured.

f. *Microfinance Development Organization or Corporation* refers to a duly registered and accredited juridical entity covered by the application of this Act which may be referred to herein as "MIDOC";

g. *Social Performance* refers to the effective application of MIDOC's social mission or primary purpose; and

h. *Net worth* refers to the difference between total assets and total liabilities of an organization or corporation required for the registration as a MIDOC.

Chapter 2

The Microfinance Development Organization and Corporation

Section 1. *Microfinance Development Organizations and Corporations (MIDOCs)* – They are hereby recognized as juridical entities or institutions mandated to provide microfinance programs, products and/or services to the poor. They shall be organized and operated as non-stock non-profit organizations and/or corporations in accordance with Batas Pambansa Bilang 68 otherwise known as "The Corporation Code of the Philippines." These shall be governed by a Board of Trustees whose members shall not receive compensation: Provided that no part of the net income of MIDOCs inure to the benefit of the members, trustees, directors or officers: Provided, further, that the administrative expenses shall in no case exceed thirty percent (30%) of the total expenses within a taxable year and shall conform with the rules and regularizations prescribed by the Department of Finance (DOF) upon the recommendation of the Bureau of Internal Revenue (BIR).

Section 2. *Capital Requirements* – A MIDOC shall have a net worth of at least Ten Million (Php 10,000,000.00) Pesos, Philippine Currency, or in the case of newly organized MIDOC, an initial net worth of at least Five Million (Php 5,000,000.00) Pesos, Philippine Currency.

Section 3. *Powers and Functions of the MIDOC* – The MIDOC shall exercise such powers and functions and undertake such activities and operations in accordance with the policies, programs and services provided in this Act.

The MIDOC may also engage in any and/or all poverty alleviation activities or undertakings as allowed for non-stock non-profit organizations or corporations under Batas Pambansa Bilang 68, otherwise known as “The Corporation Code of the Philippines” and other relevant laws and issuances.

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

For the purpose of implementing this provision, deposit taking does not include taking of funds from current or prospective borrowers for the purpose of capital or equity build-up of an individual borrower’s loans. The MIDOC shall be a net lender at all times and the client is considered a net borrower from MIDOC rather than a net saver. The latter is considered a borrower of his own savings rather than a depositor who finance other client’s borrowings or loans.

Chapter 3

The Microfinance Regulatory Council

Section 1. *Creation and Composition of the Accrediting Entity* – An accrediting entity to be known as “Microfinance Regulatory Council” (MRC) shall be created under the National Anti-Poverty Commission (NAPC) in order to exercise the powers and perform the functions provided under this Act. It shall be composed of the following:

- a. The President of the National Anti-Poverty Commission (NAPC) or designated representative;
- b. The Secretary of the Department of Finance (DOF) or designated representative;
- c. The Secretary of the Department of Trade and Industry (DTI) or designated representative;
- d. The Governor of the Bangko Sentral Ng Pilipinas (BSP) or designated representative;
- e. The Chairperson of the Securities and Exchange Commission (SEC) or designated representative;

f. The President of the Microfinance Council of the Philippines (MFCP) or of duly registered or licensed network of MIDOCs or designated representative; and

g. The President of APPEND Incorporated or of any duly registered or licensed network of MIDOCs or designated representative.

The Microfinance Regulatory Council shall be assisted by a Secretariat in the exercise of its powers and performance of its functions. Funding of its operation shall be sourced from the two percent (2%) tax proceeds from MIDOCs to be remitted to the People's Development Trust Fund established under subparagraph a) Section 10 of Republic Act No. 8425, otherwise known as the "Social Reform and Poverty Alleviation Act."

Section 2. *Powers and functions of the Microfinance Regulatory Council (MRC)* – As the accrediting entity established pursuant to this Act, MRC shall have the following powers and functions:

a. Institute and operationalize a system of accreditation for MIDOCs;

b. Issue certificate of accreditation to a MIDOC applicant. Provided, that the certificate of registration shall be valid only for such period as may be prescribed under the implementing rules and regulations of this Act;

c. Maintain a national registry of duly registered and accredited MIDOCs;

d. Monitor the performance of MIDOCs to ensure compliance with the provisions of this Act and its implementing rules and regulations;

e. Require regular submission of reports by MIDOCs;

f. Place under probation any MIDOC, or suspend or revoke any issued certificate of accreditation upon due determination that a MIDOC violates this Act or its implementing rules and regulations, or no longer meets the criteria for accreditation;

g. Collect reasonable accreditation and monitoring fees from MIDOCs which shall be used for the MRC's operational needs or requirements;

h. Submit an annual report to the President of the Republic of the Philippines and the concerned committees of the Senate and the House of Representatives of Congress; and

i. Exercise such other powers and perform other functions as may be necessary to accomplish the purposes and objectives of this Act.

Chapter 4

Performance Management and Standards

Section 1. *Financial Performance Management.* MIDOCs shall develop and implement systems, practices and controls for efficient, effective and sustainable financial operations through prudent resource management, asset-liability management, liquidity management, and financial information management.

Section 2. *Social Performance Management.* MIDOCs must have an institutionalized process of translating social mission into practice which includes setting clear social goals, monitoring progress towards these objectives and using information to improve performance and practice. Social performance information must be integrated into the MIDOC's work, operational routines, and value system to affect decision-making practices at both operational and strategic levels.

Section 3. *Financial Performance Standards.* – The Microfinance Regulatory Council shall establish a set of parameters for assessing the financial performance of MIDOCs, such as, but not limited to, the following: portfolio quality, efficiency, sustainability, and outreach.

Section 4. *Social Performance Standards.* MIDOCs at the minimum, shall define and monitor its social goals; ensure board, management, and employee commitment to social performance; treat clients responsibly; design products, services, delivery models, and channels that meet clients' needs and preferences; treat employees responsibly; and balance financial and social performance.

Chapter 5

Microfinance Programs, Products, and Other Services

Section 1. *Minimum Core Programs and Services.* MIDOCs will provide the following programs, products, or services:

- a) Microcredit and financial literacy programs; and/or
- b) Microcredit and capital build-up or microsavings

Section 2. *Other Programs and Services.* The following are the other programs and services that MIDOCs may undertake:

- a) Agricultural Microfinance;
- b) Housing Microfinance;
- c) Microinsurance;
- d) Mobile or any innovative channels;
- e) Money Transfer and other related remittance services; and
- f) Other innovative programs, products and services, which are not contrary to existing laws and/ or regulations.

Chapter 6

Taxation of MIDOCs

Section 1. The MIDOC shall pay two percent (2%) of the gross income in lieu of all national and local taxes, fees, and charges which shall be remitted to the National Government. The tax proceeds shall form part of the disbursable portion of the People's Development Trust Fund established under Republic Act No. 8425. The term "gross income" shall mean gross receipts less sales return, allowances, discounts and other costs of services. The term "cost of service" shall mean all direct cost and expenses necessarily incurred to provide the services required by the customers and clients including salaries and employee benefits of personnel, consultants and specialists directly rendering the service and cost of facilities directly utilized in providing the service and cost of supplies. Interest expenses on borrowing for lending services of a MIDOC shall be deductible from gross receipts as part of cost of services in arriving at gross income. The term gross income shall exclude donations;

Section 2. Donations to the MIDOC shall be fully deductible from the gross income of the donor subject to the condition of Section 34 (c) of Republic Act No. 8424, as amended, otherwise known as “ National Internal Revenue Code of 1997”. *Provided, however,* that the accreditation of the MIDOC by the accrediting entity under this act shall be sufficient;

Section 3. Donations to the MIDOC shall be exempt from donors’ tax subject to the qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as “National Internal Revenue Code of 1997”. *Provided,* that for purpose of utilization, accreditation granted under this Act shall be sufficient; and

Section 4. Any and all microfinance transactions of MIDOC with its clients shall be exempt from value added tax and documentary stamp tax.

Chapter 7

Final Provisions

Section 1. *Implementing Rules and Regulations.* – The Microfinance Regulatory Council shall formulate the Implementing Rules and Regulations (IRR) of this Act within ninety (90) days after its effectivity. The IRR shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

Section 2. *Separability Clause.* – The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be unconstitutional, the remainder of the Act not otherwise affected shall remain in full force and effect.

Section 3. *Repealing Clause.* – All laws, executive orders, rules and regulations or parts thereof which are contrary to or inconsistent with this Act are hereby repealed.

Section 4. *Effectivity clause.* – This Act shall take effect after fifteen (15) days following the completion of the publication in the Official Gazette.

Approved.