

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
Third Regular Session

HOUSE BILL NO. **10544**



Introduced by: REP. Allan Benedict S. Reyes

EXPLANATORY NOTE

The government has finite resources. In as much as it may want to, it can only give so much to help businesses affected by the pandemic - either through national agencies and local government units (LGUs). Therefore, aside from financial subsidies, special credit facilities that will service the financing needs of Barangay Micro Business Enterprises (BMBEs)¹ must also be made more available and easily accessible to them.

Under Republic Act No. (R.A.) 9178² otherwise known as the BMBE Act of 2002, it is the declared 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 granting of incentives and benefits to generate much-needed employment and alleviate poverty."

One of the incentives and benefits granted to BMBEs under R.A. 9178 is credit delivery wherein 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) were mandated to set up a special credit window that will service the financing needs of BMBEs registered in accordance with the said law, and consistent with the Bangko Sentral ng Pilipinas (BSP) policies, rules and regulations. The Government Service Insurance System (GSIS) and Social Security System (SSS) were likewise directed to set up a special credit window that will serve the financing needs of their respective members who wish to establish a BMBE.³ The said financial institutions are likewise *encouraged* to wholesale funds to accredited private financial institutions including community-based organizations such as cooperatives, NGOs and people's organizations engaged in granting credit, for relending to BMBEs.

According to a study by the Asian Development Bank (ADB), however, the share of MSME loans in the total outstanding bank loans was only 6.1% in 2019.

¹ "Barangay Micro Business Enterprise" or "BMBE" 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 (P3,000,000.00).

² An Act to Promote the Establishment of Barangay Micro Business Enterprises (BMBEs), Providing Incentives and Benefits therefor, and for Other Purposes, 13 November 2002. [hereinafter, "BMBE Act"].

³ Section 9, BMBE Act.

Moreover, bank loans to MSMEs accounted for only 3.2% of the country's GDP during the same period.

Even under Republic Act (R.A.) No. 6977⁴ or the Magna Carta for Small Enterprises, while all lending institutions, whether public or private, were required "to set aside a portion of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for small enterprise credit," the said mandatory allocation of credit resources to small enterprises was barely met. In particular, the portion mandated to be so set aside shall then at least be, five per cent (5%) by the end of the year of the effectivity of this Act (year 1991), ten percent (10%) by the end of the second year through the end of the fifth year (years 1992 to 1997), and five percent (5%) by the end of sixth year (year 1998) and may come down to zero by the end of the seventh year (year 1999).⁵

Later on, R.A. 6977 was further amended by Republic Act (R.A.) 9501 to become the Magna Carta for Micro, Small and Medium Enterprises (MSMEs). Under this amendatory Act, for the period of ten (10) years from year 2008 or the date of the effectivity of the said law, all lending institutions were mandated to set aside at least eight percent (8%) for micro and small enterprises of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for MSME credit.

The ten-year period mandatory allocation of credit resources to MSMEs as provided under R.A. 9501, already ended on 16 June 2018. Consequently, "the allocation has been on a major downward dive, with the following data: a) 2017: 3.32% micro and small enterprises (MSEs) and 5.03% medium enterprises (MEs); b) 2018: 3.12% MSEs and 4.55% MEs; c) 2019: 2.8% MSEs and 4.3% MEs and d) Q12020: 2.09% MSEs and 3.31% MEs."⁶ These data are also consistent with the findings of the 2020 Philippine Statistics Authority (PSA) survey which recorded a total of 957,620 business enterprises operating in the country. Of these, the PSA noted that 952,969 are actually MSMEs but "the latest tally of bank loans to them is a mere total of 5.4%."⁷

To note, this was the situation for MSMEs even prior to the COVID-19 pandemic that hit the country in 2020. Specific data for BMBEs may even be worse. As can be gleaned from available studies, however, it is very clear that a very small number of these businesses have access to bank credit "and their ability to access finance faces constraints even during non-crisis periods."⁸ Needless to say, MSMEs, including those at the barangay level, find it even more difficult to cope with the financial crisis brought about by the pandemic.

⁴ An Act to Promote, Develop and Assist Small and Medium Scale Enterprises Through the Creation of a Small and Medium Enterprise Development (SMED) Council, and the Rationalization of Government Assistance Programs and Agencies Concerned with the Development of Small and Medium Enterprises, and for Other Purposes, 24 January 1991.

⁵ Section 13, *Id.*

⁶ Benel Dela Paz Laguna, The SME finance gap during the pandemic, 17 September 2021, available at <https://www.bworldonline.com/the-sme-finance-gap-during-the-pandemic/> (last accessed 20 November 2021).

⁷ *Id.*

⁸ Shigehiro Shinozaki and Lakshman N. Rao, COVID-19 Impact on Micro, Small, and Medium-Sized Enterprises under the Lockdown: Evidence from a Rapid Survey in the Philippines, 21 February 2021 available at <https://www.adb.org/sites/default/files/publication/677321/adb-wp1216.pdf> (last accessed 20 November 2021).

In fact, in the same study by the ADB, it was concluded that “a prolonged pandemic will make it more difficult for MSMEs to raise funds from formal financial institutions and to survive the crisis and its aftermath, which could contribute to more potential losses to the Philippine economy and risk the projected economic rebound in 2021.”⁹

To address this, we need to revisit the BMBE Act to ensure that it can effectively address the difficulties faced by BMBEs in obtaining bank financing. Currently, the BMBE Act only provides that in case of non-compliance with the provisions of Section 9 of the said Act regarding credit facility, “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).”¹⁰ Similarly, the penal clause of the Magna Carta for MSMEs only authorizes the Central Bank to “impose administrative sanctions and other penalties on the lending institution for non-compliance with provisions of the Act.” While “the president, members of boards of directors, and other officers of the erring lending institutions shall be individually liable for imprisonment of not less than six (6) months and a fine of not less than Five hundred thousand (P500,000) each”¹¹ it is often that big banking institutions will just “choose to pay penalties for non-compliance rather than take on this riskier segment compared to the corporate sector.”¹² As amended, the BSP currently imposes administrative sanctions and other penalties on the lending institutions for non-compliance with provisions of this Act including a fine of not less than Five hundred thousand pesos (P500,000.00).¹³

As it stands, therefore, we need to better ensure that BMBEs, just like MSMEs, have available and easier access to bank credit. For this purpose, we need to give our current laws more teeth to ensure that credit resources are efficiently allocated to cater to the unique financial needs of BMBEs.

In view of the foregoing, passage of this bill is earnestly sought.


HON. ALLAN BENEDICT S. REYES *app*
Representative, 3rd District, Quezon City

⁹ Shigehiro Shinozaki and Lakshman N. Rao, COVID-19 Impact on Micro, Small, and Medium-Sized Enterprises under the Lockdown: Evidence from a Rapid Survey in the Philippines, 21 February 2021 available at <https://www.adb.org/sites/default/files/publication/677321/adbi-wp1216.pdf> (last accessed 20 November 2021).

¹⁰ Section 13, BMBE Act.

¹¹ Section 14, *Id.*

¹² Melissa Luz Lopez, “Big banks fail to meet required MSME lending” available at <https://www.bworldonline.com/big-banks-fail-to-meet-required-msme-lending/> (last accessed 20 November 2021).

¹³ Section 19, MSME Act.

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HOUSE BILL NO. **10544**

Introduced by: **REP. Allan Benedict S. Reyes**

**AN ACT MANDATING PUBLIC AND PRIVATE BANKING AND OTHER
FINANCIAL INSTITUTIONS TO LEND TO BARANGAY MICRO
BUSINESS ENTERPRISES (BMBEs), PROVIDING PENALTIES FOR
VIOLATIONS THEREOF AND FOR OTHER PURPOSES**

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

SECTION 1. *Short Title.* - This Act shall be known as the ***“Mandatory BMBE Credit Facility Act of 2021.”***

SECTION 2. *Declaration of Policy.* - It is hereby declared a policy of the State to promote, support, strengthen and encourage the growth and development of Barangay Micro Business Enterprises (BMBEs) in all productive sectors of the economy by facilitating their access to sources of funds through private banking and other financial institutions.

SECTION 3. *Coverage.* This Act shall apply to all private banking and other financial institutions (collectively, “lending institutions” as defined under Bangko Sentral ng Pilipinas rules), whether public or private, in the Philippines. As used in this Act, the term “Barangay Micro Business Enterprises (BMBEs)” shall refer 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 (P3,000,000.00) as defined under the BMBE Act of 2002.

SECTION 4. *Mandatory Allocation of Credit Resources to BMBEs.* All lending institutions shall set aside at least four percent (4%) for BMBEs of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for BMBE credit as herein contemplated.

SECTION 5. *Penal Clause.* The Bangko Sentral ng Pilipinas shall impose administrative sanctions and other penalties on the lending institutions for non-compliance with provisions of this Act including a fine of not less than Five Million pesos (P5,000,000.00).

SECTION 6. *Implementing Rules and Regulations and Standard Forms.* - Within sixty (60) days from the promulgation of this Act, the Bangko Sentral ng Pilipinas

(BSP) shall formulate rules for the effective implementation of Section 4 of this Act. The BSP shall also establish an incentive program to encourage lending to BMBEs beyond the mandatory credit allocation to said enterprises.

SECTION 7. *Repealing Clause.* – All laws, executive orders, administrative orders, rules, regulations, decrees, and other issuances or parts thereof, which are inconsistent with the provisions of this Act are hereby revoked, repealed, or modified accordingly.

SECTION 8. *Separability Clause.* - If any provision of this Act is held unconstitutional or invalid, the other provisions not affected thereby shall continue in operation and remain in full force and effect.

SECTION 9. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in a newspaper of general circulation or the Official Gazette.