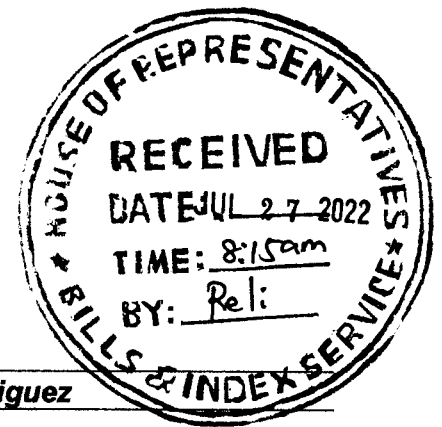


NINETEENTH CONGRESS)
 REPUBLIC OF THE PHILIPPINES)
 First Regular Session)

HOUSE OF REPRESENTATIVES



Introduced by Representative Rufus B. Rodriguez

House Bill No. 2463

EXPLANATORY NOTE

This bill was filed during the 18th Congress and was approved by the House of Representatives.

The Magna Carta for MSMEs first enacted as Republic Act 6977 in 1991, and amended by Republic Act 8289 in 1997 and further amended by Republic Act 9501 in 2008, draws the current national policy to promote, support, strengthen and encourage the growth and development of MSMEs.

The MSME Sector accounts for 62.8% of total jobs generated by all types of business establishment in 2014. Of the total number of MSMEs, 90.3% are micro enterprises, 9.3% are small enterprises and 0.4% are medium enterprises.

But despite its importance to the economy, lack of access to financing and related forms of support continue to be a major handicap to the country's MSMEs.

The strengthening of the Magna Carta for MSMEs is a necessary policy response to this need. Thus, the proposed amendments to the Magna Carta for MSMEs as offered in this bill addresses the following:

- extension of mandatory lending provisions to MSMEs for another 10 years without further extension, and providing for the rules of compliance thereof;
- Capitalization of SB Corporation and strengthening of its guarantee program; and
- providing for bankruptcy preventive measures in the form of an enterprise rehabilitation fund for enterprises affected by disasters and other crisis.

With this proposed legislation, it is expected that the benefits of an expanded Magna Carta for MSME would significantly impact the sector in line with the economic and societal priorities and strategies of the administration, and commensurate with the importance of the Philippine MSME sector.

In view of the foregoing, immediate approval of this bill is earnestly requested.


 RUFUS B. RODRIGUEZ

NINETEENTH CONGRESS)
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HOUSE OF REPRESENTATIVES

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AN ACT

FURTHER PROMOTING ENTREPRENEURSHIP BY STRENGTHENING, EMPOWERING AND ENHANCING THE FINANCING AND OTHER SUPPORT PROGRAMS FOR MICRO, SMALL AND MEDIUM ENTERPRISES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6977, AS AMENDED, OTHERWISE KNOWN AS THE "MAGNA CARTA FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSMES)"

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

SECTION 1. Section 2 of Republic Act No. 6977, as amended, is hereby further amended to read as follows:

"SEC. 2. Declaration of Policy. - Recognizing that MSMEs have the potential [for] TO GENERATE more employment [generation] and SPUR economic growth and therefore can help provide a self-sufficient industrial foundation for the country, it is hereby declared the policy of the State to promote, support, strengthen and encourage the growth and development of MSMEs in all productive sectors of the economy particularly rural/agri-based, MANUFACTURING, FINANCE AND SERVICES enterprises. To this end, the State shall recognize the specific needs of the MSMEs and shall undertake to promote entrepreneurship, support entrepreneurs, encourage the establishment of MSMEs and ensure their continuing viability and growth and thereby attain countryside industrialization by:

"x x x"

SEC. 2. Section 4 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 4. Eligibility for Government Assistance. -To qualify for assistance, counseling, incentives and promotion under this Act, businesses falling under the above definition must be:

"a) duly registered with the appropriate agencies as presently provided by law: Provided, "that in the case of micro enterprises as defined herein, registration with the office of the municipal or city treasurer shall be deemed sufficient compliance with this requirement;

"THE APPLICATION OF AN MSME FOR ANY PERMIT AND LICENSE FROM ANY LOCAL GOVERNMENT UNIT, INCLUDING A BARANGAY, SHALL BE AUTOMATICALLY APPROVED PROVISIONALLY, SUBJECT TO THE FINAL APPROVAL, OF THE APPLICATION AND THE ISSUANCE OF THE PERMIT OR LICENSE APPLIED FOR.

"THE TOTAL COST FOR THE ISSUANCE OF ALL PERMITS, LICENSES, CERTIFICATIONS, AND OTHER SIMILAR REQUIRED DOCUMENTATION FOR THE CONDUCT OF BUSINESS FOR REGISTERED MICRO ENTERPRISES SHALL NOT EXCEED FIVE HUNDRED PESOS (P500.00) FOR REGISTERED SMALL ENTERPRISES, THE TOTAL COST SHALL NOT EXCEED FIVE THOUSAND PESOS (P5,000.00) FOR A PERIOD OF FIVE (5) YEARS.

"b) one hundred percent (100%) owned, capitalized by Filipino citizens, whether 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;

"x x x.

"[Eligible MSMEs shall 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.] THE NATIONAL GOVERNMENT, ITS BUREAUS, OFFICES AND AGENCIES SHALL ALLOCATE AT LEAST TEN PERCENT (10%) OF ALL ITS PROCUREMENT OPPORTUNITIES FOR GOODS AND SERVICES TO ELIGIBLE MSMES IN ACCORDANCE WITH THE PROVISIONS OF REPUBLIC ACT NO. 9184, OTHERWISE KNOWN AS THE 'GOVERNMENT PROCUREMENT REFORM ACT' AND ITS IMPLEMENTING RULES AND REGULATIONS.

"The [Department of Budget and Management] GOVERNMENT PROCUREMENT POLICY BOARD (GPPB) shall FORMULATE RULES FOR THE EFFECTIVE IMPLEMENTATION OF THIS PROVISION AND monitor the compliance of government agencies on the required procurement for MSMEs and submit its report to the MSMED Council on a semestral basis and to the Congress of the Philippines, through its appropriate committees on a yearly basis.

"DULY REGISTERED MICRO AND SMALL ENTERPRISES SHALL BE ENTITLED TO A DISCOUNT OF AT LEAST TWENTY PERCENT (20%) ON SHIPPING AND DELIVERY FEES FOR THEIR PRODUCTS AND RAW MATERIALS, AS WELL AS FOR MAILING, FREIGHT AND OTHER SIMILAR SERVICES PROVIDED BY EITHER PUBLIC OR PRIVATE COURIERS.

"GOVERNMENT BUILDINGS, STRUCTURES AND OPEN AREAS, INCLUDING PUBLIC MARKETS, WHETHER WET OR DRY, AIRPORTS, SEA PORTS, FISH PORTS, PARKS, ZOOS, CONVENTION CENTERS, ENTERTAINMENT CENTERS, TOURISM CENTERS, SCHOOLS, SCHOOL CAMPUSES, AND OTHER SIMILAR STRUCTURES OR AREAS SUITABLE FOR SELLING OR MARKETING, WHETHER PERMANENT OR TEMPORARY, THAT CAN BE USED AS SELLING AREAS, SHALL GIVE AN AUTHORIZED MSME STORE FREE SPACE MEASURING AT LEAST ONE PERCENT (1%) OF THE TOTAL SPACE AVAILABLE THEREIN.

"PRIVATE MALLS, SUPERMARKETS, SHOPPING CENTERS, COMMERCIAL SELLING ESTABLISHMENTS, STRUCTURES, OR AREAS WITH A SELLING AREA, WHETHER PERMANENT OR TEMPORARY, MEASURING AT LEAST FIVE THOUSAND SQUARE METERS (5,000 SQM), INCLUDING COMMON AREAS, BUT EXCLUDING PARKING SPACES AND DRIVEWAYS, SHALL GIVE FREE SPACE OR AREA EQUIVALENT TO ONE HALF OF ONE PERCENT (0.5%) OF THE SAID SELLING AREA FOR EVERY FIVE THOUSAND SQUARE METERS (5,000) SQM OF SELLING AND COMMON SPACE, TO ANY AUTHORIZED MSME STORE. AS USED IN THIS ACT, "FREE SPACE" SHALL MEAN SPACE THAT MAY BE USED FOR SELLING PURPOSES WITHOUT NEED FOR THE PAYMENT OF RENT, GOODWILL FEES, ROYALTIES, COMMISSION, PERCENTAGES ON SALES, NOR ANY OTHER SIMILAR SCHEME.

"THE MSMED COUNCIL OF THE CONCERNED CITY, MUNICIPALITY OR BARANGAY SHALL APPROVE THE MSME STORE THAT WILL BE GIVEN FREE SPACE, UPON THE RECOMMENDATION OF THE LOCAL OFFICE OF THE DEPARTMENT OF TRADE AND INDUSTRY. THE FREE SPACE ALLOCATED FOR THE MSME STORE SHALL BE GIVEN IN THE FOLLOWING ORDER OF PREFERENCE:

1. ONE TOWN ONE PRODUCT (OTOP) STORE OR GO LOKAL! STORE OF THE DEPARTMENT OF TRADE AND INDUSTRY;
2. MSME KUMUNIDARAN PRODUKTO AT RESONABLENG SERBISYO STORE (KUMPARE STORE); OR
3. A LOCAL MICRO OR SMALL ENTERPRISE STORE.

"ONCE AN MSME STORE IS IN PLACE, REMOVAL OR REPLACEMENT SHALL NOT BE ALLOWED EXCEPT FOR VALID CAUSE AND AFTER DUE PROCESS.

"THE APPROVAL AND THE REMOVAL OF THE MSME STORE THAT WILL BE GIVEN FREE SPACE SHALL BE REPORTED BY THE MSMED COUNCIL OF THE CONCERNED CITY, MUNICIPALITY OR BARANGAY TO THE CONGRESSIONAL OVERSIGHT COMMITTEE ON MICRO, SMALL AND MEDIUM ENTERPRISE DEVELOPMENT.

"PRIVATE MALLS SHALL ALSO ALLOCATE TWENTY PERCENT (20%) OF THEIR TOTAL RENTABLE SPACE TO LOCAL MICRO AND SMALL ENTERPRISES WHICH SHALL BE EXTENDED A TWENTY PERCENT (20%) DISCOUNT ON RENTAL RATES. PRIVATE MALLS SHALL NOT CHARGE ROYALTY CHARGES, GOODWILL CHARGES, COMMISSION CHARGES, PERCENTAGE OF SALES, AND OTHER SIMILAR SCHEMES UPON THE MSMEs."

SEC. 3. Section 5 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 5. Guiding Principles. - To set the pace for MSME development, the State shall be guided by the following principles:

"a) *Minimal set of rules and simplification of procedures and requirements.* All government agencies having to do with MICRO AND small enterprises shall pursue the principles of minimum regulation to ensure stability of rules and to encourage entrepreneurial spirit among the citizenry. The agencies shall see to it that procedural rules and requirements, within their respective offices in coordination with other agencies, are minimized in the act of registration, availment of financing and accessing other government services and assistance.

"b) *Role of the private sector.* In order to hasten growth and expansion of MICRO, small and medium enterprises, the private sector throughout the country shall be encouraged to assist in the effective implementation of this Act by participating in government programs for MICRO, small and medium enterprises strictly in accordance with the law, and consistent with the attainment of the purposes hereof. To encourage private sector participation, the Council, in consultation with the concerned sector, may recommend simplified procedure and localized incentives to MICRO AND small enterprises. The Government shall encourage the organization and establishment of MICRO, small and medium enterprise industry associations at the local and regional levels preferably unified under a national federation/association.

"c) *Coordination of government efforts.* Government efforts shall be coordinated to achieve coherence in objectives. All appropriate offices,

particularly those under the Departments of Trade and Industry, Finance, Budget and Management, Agriculture, Agrarian Reform, Environment and Natural Resources, Labor and Employment, Transportation [and COMMUNICATIONS] INFORMATION AND COMMUNICATIONS TECHNOLOGY, Public Works and Highways, Science and Technology, Interior and Local Government, and Tourism as well as the National Economic and Development Authority, Philippine Information Agency, SECURITIES AND EXCHANGE COMMISSION and the Bangko Sentral ng Pilipinas, through their national, regional and provincial offices shall, to the best of their efforts and in coordination with local government units, provide the necessary support and assistance to MSMEs. THE DEPARTMENT OF TRADE AND INDUSTRY SHALL BE THE LEAD AGENCY THEREFOR.

"x x x."

SEC. 4. Section 6 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 6. Micro, Small and Medium Enterprises Development Plan (MSMEDP).
- The President OF THE PHILIPPINES shall approve a six-year micro, small and medium enterprises development plan prepared by the Department of Trade and Industry (DTI) which shall form part of the [Medium Term] Philippine Development Plan ([MT]PDP). It shall be formulated in consultation with the private sector, validated and updated semestraly. Such plan shall include a component on a micro credit financing scheme."

SEC. 5. Section 7 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 7. Micro Small and Medium Enterprise Development (MSMED) Council.
- The existing Small and Medium Enterprise Development Council, which was created by Republic Act No. 6977, as amended [by Republic Act No. 8289], shall be strengthened to effectively spur the growth and development of MSMEs throughout the country, and to carry out the policy declared in this Act and shall now be known as the Micro, Small and Medium Enterprise Development (MSMED) Council. The Council shall be attached to the Department of Trade and Industry and shall be constituted within sixty (60) days after the approval of this Act.

"The Council shall be the primary agency responsible for the promotion, growth and development of MICRO, small and medium enterprises in the country by way of facilitating and closely coordinating national efforts to promote the viability and growth of MICRO, small and medium enterprises, including assisting relevant agencies in the tapping of local and foreign funds for MICRO, small and medium enterprise development, as well as promoting the use of existing programs, as well as seeking ways to maximize the use of our labor resources."

SEC. 6. Section 7-A of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 7-A. Composition of the Micro, Small and Medium Enterprises Development (MSMED) Council. - The members of the Council shall be the following:

"(a) The Secretary of Trade and Industry as Chair;

"(b) The Secretary of Agriculture;

"(c) The Secretary of the Interior and Local Government;

"(D) THE SECRETARY OF FINANCE;

"[(d)] (E) Three (3) representatives from the MSME sector, [to represent Luzon, Visayas and Mindanao, with at least one (1) representative from the

microenterprise sector] TO BE DESIGNATED BY A NATIONAL ORGANIZATION REPRESENTING AND DOMINATED BY MSMES; AND

"[(e) One (1) representative from the women sector designated by the Philippine Commission on Women;]

"[(f) One (1) representative from the youth sector designated by the National Youth Commission; and]

"[(g)] (F) The [Chairman] PRESIDENT of THE Small Business Corporation.

"A. Advisory Unit. -There shall be an Advisory Unit to the Council, which shall consist of the following:

"(a) The Secretary of Science and Technology;

"(b) The Governor of the Bangko Sentral ng Pilipinas;

"(C) THE COMMISSIONER OF THE SECURITIES AND EXCHANGE COMMISSION;

"[(c)] (D) The President of the Land Bank of the Philippines;

"[(d)] (E) The President of the Development Bank of the Philippines;

"[(e)] (F) The Director General of the National Economic and Development Authority;

"(G) THE EXECUTIVE DIRECTOR OF THE COOPERATIVE DEVELOPMENT AUTHORITY;

(H) A REPRESENTATIVE OF A NATIONAL ORGANIZATION REPRESENTING AND DOMINATED BY MSMES;

"[(f)] (I) One (1) representative from the labor sector, to be nominated by accredited labor groups;

"[(g)] (J) A representative from the private banking sector to serve [alternatively] ALTERNATELY between the [c]Chamber of [t]Thrift [b]Banks, and the Rural Banker's Association of the Philippines (RBAP);

"[(h)] (K) A representative of the microfinance nongovernment organizations (NGOs), DESIGNATED BY THE MICROFINANCE NGO REGULATORY COUNCIL;

"[(i)] (L) A representative of the University of the Philippines-Institute for Small Scale Industries (UP-ISSI); [and]

"[(j)] (M) The President of the Credit Information Corporation[.];

"(N) ONE (1) REPRESENTATIVE FROM THE WOMEN SECTOR DESIGNATED BY THE PHILIPPINE COMMISSION ON WOMEN;

"(O) ONE (1) REPRESENTATIVE FROM THE YOUTH SECTOR DESIGNATED BY THE NATIONAL YOUTH COMMISSION; AND

"(P) A REPRESENTATIVE FROM NONSTOCK SAVINGS AND LOAN ASSOCIATIONS DESIGNATED BY THE ALLIANCE OF NON-STOCK SAVINGS AND LOAN INSTITUTIONS, INC. (ANSLI).

"x x x"

SEC. 7. Section 7-B of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 7-B. Powers and Functions. – A. The MSMED Council shall have the following powers, duties and functions:

"xxx;

"d) To review the existing policies of government agencies that would affect the growth and development of MSMEs and recommend changes to the President and Congress through the Committee on Economic Affairs of the Senate and the Committee on [Small Business and Entrepreneurship] MICRO, SMALL AND MEDIUM ENTERPRISE Development of the House of Representatives, whenever deemed necessary. This shall include efforts to simplify rules and regulations, as well as review of the applicability and relevance of procedural and documentary requirements in the registration,

financing, and other activities relevant to MSMEs the result shall be included in the annual report to be submitted to Congress;

"x x x;

"h) To promote the productivity and viability of MSMEs IN DTI'S TOP PRIORITY INDUSTRIES FOR DEVELOPMENT by way of directing [and/]or assisting relevant government agencies and institutions at the national, regional and provincial levels towards the:

"x x x;

"12) Through appropriate government agencies:

"x x x;

"f) Set-up new MSME NEGOSYO centers and revitalize already established MSME NEGOSYO centers to provide MSMEs in the regions easier access to services such as the following:

"x x x."

"B. ADDITIONAL FUNCTIONS OF THE MSMED COUNCIL. – AS PROVIDED FOR IN SECTION 10 OF REPUBLIC ACT NO. L0644, OTHERWISE KNOWN AS THE "GO NEGOSYO ACT", THE MSMED COUNCIL SHALL HAVE THE FOLLOWING ADDITIONAL FUNCTIONS:

"(A) COORDINATING AND OVERSIGHT BODY FOR THE MSME NEGOSYO CENTER. – THE MSMED COUNCIL, THROUGH THE DTI, SHALL ACT AS THE COORDINATING AND SUPERVISING BODY FOR ALL THE AGENCIES INVOLVED IN THE ESTABLISHMENT AND OPERATION OF THE MSME NEGOSYO CENTERS. FURTHER, THE MSMED COUNCIL SHALL MONITOR AND ASSESS THE PROGRESS OF THE MSME NEGOSYO CENTERS, WHICH SHALL BE INCLUDED IN ITS ANNUAL REPORT SUBMITTED TO THE CONGRESS;

"(B) PROVISION OF A COMPLIANCE GUIDE. - FOR EACH RULE OR GROUP OF RELATED RULES ISSUED BY ANY GOVERNMENT AGENCY FOR COMPLIANCE BY MSMES, THE COUNCIL SHALL PUBLISH COMPLIANCE GUIDELINES WHICH SHALL BE WRITTEN IN PLAIN LANGUAGE OR IN THE LOCAL DIALECT, IF NECESSARY.

"THE COUNCIL SHALL PREPARE SEPARATE COMPLIANCE GUIDES COVERING GROUPS OR CLASSES OF SIMILARLY AFFECTED MSMES AND SHALL COOPERATE WITH INDUSTRY ASSOCIATIONS TO DEVELOP AND DISTRIBUTE SUCH COMPLIANCE GUIDES. THE PUBLICATION OF EACH COMPLIANCE GUIDE SHALL INCLUDE THE POSTING OF THE GUIDE IN A CONSPICUOUS LOCATION ON THE WEBSITE OF THE AGENCY, AND DISTRIBUTION OF THE GUIDE TO KNOWN INDUSTRY CONTACTS, SUCH AS SMALL ENTITIES, ASSOCIATIONS OR INDUSTRY LEADERS AFFECTED BY THE RULE.

THE ISSUING GOVERNMENT AGENCY SHALL PUBLISH AND DISSEMINATE THE COMPLIANCE RULES WITHIN NINETY (90) DAYS FROM THE DATE OF ISSUANCE;

"(C) CONDUCT OF RESEARCH ON WOMEN ENTREPRENEURSHIP. – THE COUNCIL SHALL CONDUCT RESEARCH TO SUPPORT WOMEN ENTREPRENEURSHIP INCLUDING ENTREPRENEURIAL BEHAVIOR, BARRIERS, PARTICIPATION AND CESSATION RATES, DISCRIMINATORY PRACTICES AND CONTRIBUTION TO THE NATIONAL ECONOMY AND GROWTH;

"(D) POLICY FORMULATION ON WOMEN ENTREPRENEURSHIP. – THE COUNCIL SHALL PROVIDE POLICY DIRECTION TOWARDS RECOGNIZING WOMEN'S PROPENSITY AND TALENT IN

ENTREPRENEURSHIP AS WELL AS ESTABLISH LINKAGES THAT WILL ENABLE MORE OPPORTUNITIES FOR WOMEN TO ENGAGE IN ENTREPRENEURSHIP; AND

"(E) DEVELOPMENT OF ENTREPRENEURIAL EDUCATION AND TRAINING. - THE MSMED COUNCIL SHALL DEVELOP, IN COORDINATION WITH THE DEPARTMENT OF EDUCATION, TECHNICAL EDUCATION AND SKILLS DEVELOPMENT AUTHORITY, AND COMMISSION ON HIGHER EDUCATION, A COURSE CURRICULUM OR TRAINING PROGRAM IN ENTREPRENEURSHIP THAT WILL PROMOTE ENTREPRENEURIAL CULTURE AND COMPETENCE.

ENTREPRENEURSHIP SHALL BE INTEGRATED IN THE CURRICULUM OF EDUCATIONAL AND TRAINING INSTITUTIONS IN ALL LEVELS.

SEC. 8. A new subsection is hereby inserted after Section 7-B of the same act, as amended, and numbered as Section 7-C to read as follows:

"SEC. 7-C. CITY, MUNICIPALITY AND BARANGAY MSMED COUNCIL. - THERE SHALL BE CREATED A MSMED COUNCIL IN EVERY LOCAL GOVERNMENT UNIT WHICH SHALL HAVE THE AUTHORITY TO PROPOSE POLICIES THAT ARE GEARED TO ASSIST MSMES IN THE AREAS OF PRODUCTIVITY ENHANCEMENT, MARKETING, ACHIEVING SUSTAINABILITY BY EXTENDING CREDIT TO CUSTOMERS, AND IMPLEMENTING EFFICIENT LOAN COLLECTION SYSTEMS, AMONG OTHER STRATEGIES.

"THE LOCAL MSMED COUNCIL, IN THE CASE OF A CITY OR MUNICIPALITY, SHALL BE COMPOSED OF THE CITY OR MUNICIPAL BUSINESS PERMIT AND LICENSING OFFICER AS CHAIRPERSON, THE PRESIDENT OF THE ASSOCIATION OF BARANGAY CAPTAINS, THE PRESIDENT OF THE SANGGUNIANG KABATAAN FEDERATION, THE TOURISM OFFICER, AND THE CITY OR MUNICIPAL AGRICULTURIST OR THE CITY PLANNING OFFICER.

THE BARANGAY MSMED COUNCIL SHALL BE COMPOSED OF THE PUNONG BARANGAY AS CHAIRPERSON, THE SANGGUNIANG KABATAAN CHAIRPERSON, A REPRESENTATIVE OF THE LADIES' BRIGADE OR LADIES' SECTOR, A REPRESENTATIVE OF THE BARANGAY PUBLIC SAFETY OFFICE, AND A REPRESENTATIVE OF THE SENIOR CITIZENS.

"TO ENSURE THEIR CONTINUED FINANCIAL VIABILITY, THE CITY, MUNICIPAL, AND BARANGAY MSMED COUNCILS SHALL COORDINATE AND FORMULATE MEASURES TO ENSURE OPERATIONAL AND FINANCIAL VIABILITY WITHIN THEIR TERRITORIAL JURISDICTION, TAKING INTO CONSIDERATION THE RELEVANT FACTORS AFFECTING THE CAPACITIES OF THE MSMES."

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

"SEC. 8. Designation of the Bureau of Micro, Small and Medium Enterprise Development as Council Secretariat. - xxx:

"1) to prepare, in coordination with local government units and./or associations of local government officials, and recommend annual as well as medium-term MICRO, small and medium enterprise development plans for approval of the Council;

"xxx;

"3) to assist the Council in coordinating and monitoring MICRO, small and medium enterprise policies and programs and activities of all government agencies with respect to MICRO, small and medium enterprises;

"4) to prepare, collate and integrate all inputs to the Council's yearly report on the status of MICRO, small and medium enterprises in the country;
"x x x."

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

"SEC. 11. Creation of THE Small Business [Guarantee and Finance] Corporation - There is hereby created a body corporate to be known as the Small Business [Guarantee and Finance] Corporation, hereinafter referred to as the [Small Business Corporation (SB Corporation)] SB CORPORATION, which shall be charged with the primary responsibility of implementing comprehensive policies and programs to assist MSMEs in all areas, including but not limited to finance and information services, training and marketing."

SEC. 11. Section 11-A of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 11-A. Composition of the Board of Directors and its Powers. – The SB Corporation [corporate powers shall be vested on] SHALL HAVE a Board of Directors composed of [eleven (11)] THIRTEEN (13) members which shall include the following:

"a) The Secretary of Trade and Industry, WHO SHALL ACT AS CHAIRPERSON OF THE BOARD UNTIL SUCH TIME THAT THE PRESIDENT OF THE PHILIPPINES SHALL HAVE APPOINTED THE CHAIRPERSON OF THE BOARD FROM AMONG ITS MEMBERS;

"b) The Secretary Finance;

"c) THE PRESIDENT OF THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS);

"d) THE PRESIDENT OF THE SOCIAL SECURITY SYSTEM (SSS);

"[e] E) A private sector representative to be appointed by the President OF THE PHILIPPINES upon the recommendation of the MSMED Council;

"[f] F) Seven (7) representatives of the SB Corporation common stock shareholders who shall be elected based on proportional distribution, in accordance with Section [24] 23 of the REVISED Corporation Code; and

"[g] G) The president of the SB Corporation as ex-officio member and to serve as vice chairman of the Board.

"The President OF THE PHILIPPINES shall appoint the [chairman] CHAIRPERSON of the Board from among its members.

"All members of the Board so appointed, except for the ex-officio members, shall serve for a term of three (3) years [without reappointment.] AND MAY BE REAPPOINTED TO ANOTHER TERM UNLESS EARLIER REVOKED. IF THE TERM OF THE INCUMBENT MEMBER HAS EXPIRED, THE MEMBER SHALL CONTINUE TO FUNCTION IN A HOLDOVER CAPACITY UNTIL A REPLACEMENT HAS BEEN APPOINTED AND QUALIFIED. [The] ANY person [so] appointed to replace a member who has resigned, died, or been removed for cause shall serve only for the unexpired portion of the term.

"The Board of Directors shall have, among others, the following specific powers and authorities:

"x x x" and

"f) [Notwithstanding the provisions of Republic Act No. 6758 and Compensation Circular No. 10, Series of 1989 issued by the Department of Budget and Management, the Board shall have the authority to p] Provide for the organizational structure, [and] staffing pattern [of SB Corporation and to extend to the employees and personnel thereof salaries, allowances and fringe benefits similar to those extended to and currently enjoyed by employees and personnel of other government financial institutions.] AND COMPENSATION

OF EMPLOYEES AND PERSONNEL OF THE SB CORPORATION, FOR SUBMISSION TO THE GOVERNANCE COMMISSION FOR GOCCs."

SEC. 12. Section 11-B of the same Act, as amended, is hereby further amended, to read as follows:

"SEC. 11-B. Corporate Structure and Powers. - A. The SB Corporation shall:

"x x x.

"B. For this purpose, the SB Corporation [subject to compliance with the rules and regulations to be issued by the Bangko Sentral ng Pilipinas (BSP) and the Securities and Exchange Commission,] shall have the following functions and duties:

"a) Source and adopt development initiatives for globally competitive MSMEs in finance and business technologies;

"b) [To] [e] Extend all forms of financial assistance, EXCEPT GRANTS AND SUBSIDIES, to eligible MSMEs[.], AND NOT TO PRECLUDE RETAIL LENDING IN AREAS WHERE PRIVATE BANKS ARE NOT ABLE TO SERVE, SUBJECT TO CONSULTATION WITH PRIVATE BANKS. SB Corporation may also engage in wholesale lending. The SB Corporation shall be given two (2) years from the effectivity of this Act to comply with this requirement;

"c) [Guarantee loans obtained by qualified MSMEs under such terms and conditions adopted by the SB Corporation Board of Directors;] ESTABLISH AN ENTERPRISE REHABILITATION FUND FOR CALAMITY-STRICKEN MSMEs NOT TO EXCEED FIVE HUNDRED MILLION PESOS (P500,000,000.00) AS PART OF SB CORPORATION'S CAPITALIZATION BY THE NATIONAL GOVERNMENT;

"xxx;

"f) Apply for, receive and accept grants and donations from sources within and outside the country; [and]

"g) Hold, own, purchase, acquire, sell, mortgage, dispose or otherwise invest or re-invest in stocks, bonds, treasury bills, debentures, securities and similar forms of indebtedness of the government, its agencies and instrumentalities or any government financial institution [.]; AND

"H) SUBMIT AN ANNUAL REPORT TO THE MSMED COUNCIL, THE CONGRESS OF THE PHILIPPINES AND THE GOVERNANCE COMMISSION FOR GOCCs ON THE PERFORMANCE AND FINANCIAL CONDITION OF THE CORPORATION.

"THE SB CORPORATION SHALL BE EXEMPT FROM SECURING PRIOR BSP AUTHORIZATION FOR ENGAGING IN QUASI-BANKING ACTIVITIES AND SHALL NOT BE SUBJECT TO BSP SUPERVISION AND REGULATION FOR SUCH ACTIVITIES."

SEC. 13. A new subsection is hereby inserted after Section 11-B of the same Act, as amended, and numbered as Section 11-C to read as follows:

"SEC. 11-C. STRATEGIC MANAGEMENT OF THE SB CORPORATION. - THE BOARD OF THE SB CORPORATION, THROUGH ITS CHAIRPERSON, SHALL BE FULLY RESPONSIBLE AND ACCOUNTABLE FOR THE PERFORMANCE OF THE CORPORATION'S MANDATE. TO ENSURE THIS, THE BOARD SHALL BE CONSTITUTED AS A MANAGING BOARD, LED BY ITS CHAIRPERSON, TO CONCEPTUALIZE THE STRATEGIC PLANS AND POLICIES OF THE CORPORATION.

"THE SB CORPORATION SHALL ADOPT A BALANCED SCORECARD MANAGEMENT APPROACH, SUBJECT TO THE REVIEW AND APPROVAL OF THE GOVERNANCE COMMISSION FOR GOCCs, TO ENABLE IT TO MANAGE ITS FINANCIAL PERFORMANCE WHILE PURSUING ITS PUBLIC

POLICY OBJECTIVES OF SUPPORTING MICRO, SMALL AND MEDIUM ENTERPRISES DEVELOPMENT."

SEC. 14. Section 12 of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 12. Capitalization and Funding of the SB Corporation. - The SB Corporation shall have an authorized capital stock of Ten billion pesos (P10,000,000,000.00). The initial capital of One billion pesos (P1,000,000,000.00) shall be established from a pool of funds to be contributed in the form of equity investments in common stock by the Land Bank of the Philippines (LBP), the Development Bank of the Philippines (OBP), in the amount of Two hundred million pesos (P200,000,000.00) each. The Social Security System (SSS) and the Government Service Insurance System (GSIS) shall also set aside Two hundred million pesos (P200,000,000.00) each for the SB Corporation. Authorized capital stock of the [s]Small [b]Business [c]Corporation shall be divided into 80,000,000 common shares and 20,000,000 preferred shares with a par value of One hundred pesos (P100.00) per share: Provided, That the common shares which have been issued, including those issued against the assets of the KKK Guaranty Fund consolidated under the [s]Small [b]Business [c]Corporation by virtue of Executive Order No. 233, Series of 2000 and Executive Order No. 19, Series of 2001 and including those already subscribed, shall form part of the capitalization of the corporation: Provided, further, That holders of preferred shares issued under Republic Act No. 6977, as amended, shall have the option to convert the same into common shares. Additional equity funding shall come from trust placements of excess and unused funds of existing government agencies, bilateral and multilateral official development assistance funds, subscriptions from government owned or controlled corporations AND THE NATIONAL GOVERNMENT THROUGH THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM), and investments of private financial institutions and corporations: Provided, finally, That any investment from the private sector shall only be in the form of preferred shares.

"[To allow for capital build-up, SB Corporation shall be given a five (5) year grace period on dividend commitments beginning on the date of effectivity of this amendment. Thereafter, [it] THE SB CORPORATION may [only] declare as dividend not more than thirty percent (30%) of its net income and the rest withheld as retained earnings."

SEC. 15. Section 13 of the same Act, as amended, is hereby deleted.

"[SEC. 13. The SB Corporation shall be subject to the supervision and examination of the Bangko Sentral ng Pilipinas taking into consideration its developmental objectives.]"

SEC. 16. Section 14 of the same Act, as amended, is hereby renumbered as Section 13, and further amended to read as follows:

"SEC. [14] 13. Venture Capital and Micro Finance Trust Fund. - The SB Corporation may set aside an amount of money to encourage the setting up of a venture capital and micro finance trust fund for the purpose of promoting AVAILABLE business opportunities [available] to THE MSME sector. The Venture Capital Fund shall be used mainly for venture capital finance especially in technology-oriented industries. The micro finance trust fund shall be used to provide collateral-free fixed and working capital loans to micro and small enterprises run by those emerging out of poverty. THE INITIAL AMOUNT OF AT LEAST TEN PERCENT (10%) OF THE EQUITY CONTRIBUTION OF THE NATIONAL GOVERNMENT TO THE CAPITALIZATION OF THE SMALL

BUSINESS CORPORATION, NOT TO EXCEED FIVE HUNDRED MILLION PESOS (P500,000,000.00), SHALL BE APPROPRIATED TO FUND THE VENTURE CAPITAL AND MICRO FINANCE TRUST FUND."

SEC. 17. Section 15 of the same Act, as amended, is hereby renumbered as Section 14, and further amended to read as follows:

"SEC. [15] 14. Mandatory Allocation of Credit Resources to Micro, Small and Medium Enterprises. - For the period of ANOTHER ten (10) years from the date of the effectivity of this amendatory Act, all lending institutions [as defined under Bangko Sentral ng Pilipinas rules], whether public or private, shall set aside at least [eight percent (8%) for micro and small enterprises and at least two percent (2%) for medium enterprises] TEN PERCENT (10%) of their total loan portfolio based on their balance sheet as of the end of the previous quarter FOR MICRO, SMALL AND MEDIUM ENTERPRISES, and make it available for MSME credit as herein contemplated: PROVIDED, THAT A MAXIMUM OF ONE PERCENT (1%) THEREOF SHALL BE THE ALLOCATION FOR MEDIUM ENTERPRISES.

"Compliance of this provision shall be:

"a) actual extension of loans to eligible MSMEs; or

"x x x" or

"f) [subscribe] SUBSCRIPTION/purchase of liability instruments as may be offered by the SB Corporation. THE SAME SHALL NOT BE DEEMED AS QUASI-BANKING OPERATIONS, AND SHALL NOT REQUIRE A QUASI-BANKING LICENSE FROM THE BSP; OR

(G) EXTENSION OF LOANS TO MSME VALUE CHAIN ACTORS WHO ALLOW MSMEs TO PARTICIPATE IN ORGANIZED OR FORMAL VALUE CHAINS. VALUE CHAIN ACTORS INCLUDE, AMONG OTHERS, TRADERS, SUPPLIERS, PROCESSORS, AGGREGATORS WHO CONDUCT LINKED SEQUENCE OF VALUE ADDING ACTIVITIES INVOLVED IN BRINGING A PRODUCT TO FINAL CONSUMERS.

"The Bangko Sentral ns Pilipinas AND THE SECURITIES AND EXCHANGE COMMISSION, IN CONSULTATION WITH THE MSMED COUNCIL AND THE DEPARTMENT OF TRADE AND INDUSTRY, shall formulate 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 provisions: Provided, further That the Bangko Sentral ng Pilipinas AND THE SECURITIES AND EXCHANGE COMMISSION, IN CONSULTATION WITH ALL STAKEHOLDERS, shall establish [an] A MEANINGFUL incentive [program] SYSTEM to encourage [lending to micro, small and medium industries beyond the mandatory credit allocation to said enterprises.] COMPLIANCE WITH THIS PROVISION, such as possible reduction in bank's reserve requirement[.]: PROVIDED, FINALLY THAT THE BANGKO SENTRAL NG PILIPINAS AND THE SECURITIES AND EXCHANGE COMMISSION SHALL ALIGN THEIR REGULATIONS ON THE PENALTIES FOR BANKS AND OTHER ENTITIES, FOR NONCOMPLIANCE WITH THE PROVISION FOR MANDATORY LENDING.

"The MSMED Council shall set up the appropriate systems to monitor all loan applications of MSMEs in order to account for the absorptive capacity of the MSME sector. EACH LENDING INSTITUTION SHALL DESIGNATE A CHIEF COMPLIANCE OFFICER WHO WILL PREPARE AND SIGN THE REPORT ON COMPLIANCE AND NONCOMPLIANCE WITH THE MANDATORY CREDIT ALLOCATION, FOR SUBMISSION TO THE BANGKO SENTRAL NG PILIPINAS IN THE CASE OF BANKS, AND THE SECURITIES AND EXCHANGE COMMISSION IN THE CASE OF NON-BANK FINANCIAL INTERMEDIARIES. The Bangko Sentral ng Pilipinas IN THE CASE OF

BANKS, AND THE SECURITIES AND EXCHANGE COMMISSION IN THE CASE OF NON-BANK FINANCIAL INTERMEDIARIES, shall furnish to the MSMED Council on a quarterly basis comprehensive reports on the [bank's] LENDING ENTITY'S compliance [,] AND noncompliance [and penalties of] WITH the above provisions on the mandatory credit allocation for MSMEs[.], AND SHALL SUBMIT AN ANNUAL REPORT, SIGNED BY AN OFFICER WITH THE RANK OF AT LEAST A MANAGING DIRECTOR, ON THE AMOUNTS OF THE PENALTIES FOR NONCOMPLIANCE WITH THE MANDATORY LENDING PROVISION OF THIS ACT.

"ALL BANKS SHALL PROVIDE ACCESS TO DEPOSIT ACCOUNTS, SUCH AS SAVINGS, CHECKING AND DEBIT ACCOUNTS, TO REGISTERED MSMEs. FINANCIAL TECHNOLOGY SHALL BE PROVIDED TO MSMEs TO ENSURE THEIR FINANCIAL INCLUSION.

"ALL LENDERS SHALL REPORT CREDIT INFORMATION AND TRANSACTIONS OF MSMEs TO A NATIONAL CREDIT REGISTRY TO MONITOR PROPER COMPLIANCE AND EFFICIENT IMPLEMENTATION.

"FOR EFFICIENT IMPLEMENTATION AND OPERATION, COOPERATIVES EXCEPT COOPERATIVE BANKS AND INSURANCE COOPERATIVES SHALL BE UNDER THE SOLE SUPERVISION AND EXAMINATION OF THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA); ALL OTHER FINANCIAL ENTITIES, CORPORATIONS AND FINANCIAL INTERMEDIARIES, SUCH AS NON-GOVERNMENT ORGANIZATIONS, FINANCING COMPANIES, NON-STOCK SAVINGS AND LOAN ASSOCIATIONS, MICROFINANCE NON-GOVERNMENT ORGANIZATIONS, AND LENDING INVESTORS SHALL BE UNDER THE SECURITIES AND EXCHANGE COMMISSION (SEC); BANKS SHALL BE UNDER THE BANGKO SENTRAL NG PILIPINAS(BSP); AND INSURANCE COMPANIES SHALL BE UNDER THE INSURANCE COMMISSION (IC).

FOR CLARITY, COOPERATIVE BANKS SHALL BE UNDER THE SUPERVISION AND EXAMINATION OF THE CDA AND BSP; WHILE INSURANCE COOPERATIVES SHALL BE UNDER THE SUPERVISION AND EXAMINATION OF THE CDA AND INSURANCE COMMISSION (IC).

"Lending institutions which are not qualified to acquire or hold lands of the public domain in the Philippines shall be permitted to bid and take part in sales of mortgaged real property in case of judicial or extra-judicial foreclosure, as well as avail of receivership, enforcement and other proceedings, solely upon default of a borrower, and for a period not exceeding five (5) years from actual possession: Provided, That in no event shall title to the property be transferred to such lending institution. If the lending institution is the winning bidder, it may, during said five (5) year period, transfer its rights to a qualified Philippine national, without prejudice to a borrower's rights under applicable laws."

SEC. 18. Sections 16 and I-7 of the same Act, as amended, are hereby renumbered as Sections 15 and 16, respectively, to read as follows:

"SEC. [16] 15. Micro, Small, and Medium Enterprise Week. - x x x."

"SEC. [17] 16. Presidential Awards for Outstanding MSME. - x x x."

SEC. 19. Section 18 of the same Act, as amended, is hereby renumbered as Section 17, and further amended to read as follows:

"SEC. [18] 17. Congressional Oversight Committee. – To monitor and oversee the implementation of this Act, there shall be a Congressional Oversight Committee on Micro, Small and Medium Enterprise Development (COC-MSMED) composed of the chairpersons of the Senate Committee on Economic Affairs and the House Committee on [Small Business and

Entrepreneurship Development] MICRO, SMALL AND MEDIUM ENTERPRISE DEVELOPMENT as chairperson and co-chairperson, respectively; xxx."

SEC. 20. Section 19 of the same Act, as amended, is hereby renumbered as Section 18, and further amended, to read as follows:

"SEC. [19] 18. Penal Clause. - The Bangko Sentral Ng Pilipinas IN THE CASE OF BANKS, AND THE SECURITIES AND EXCHANGE COMMISSION IN THE CASE OF NON-BANK FINANCIAL INTERMEDIARIES, shall impose administrative sanctions and other penalties on the lending institutions for non-compliance with THE provisions of this Act [including a fine of not less than Five hundred thousand pesos (P500,000.00)]. THE MINIMUM AMOUNT FOR THE PENALTY FOR NONCOMPLIANCE IS FIVE HUNDRED THOUSAND PESOS (P500,000.00) AND THE MAXIMUM PENALTY IS FIVE MILLION PESOS (P5,000,000.00), IN PROPORTION TO THE BANK'S OR OTHER ENTITY'S LEVEL OF COMPLIANCE: PROVIDED, THAT IN CASE OF FAILURE OF THE MANDATED ENTITIES TO COMPLY WITH THE MANDATORY CREDIT ALLOCATION SET OUT IN SECTION 14 OF THIS ACT, AN ADDITIONAL PENALTY EQUIVALENT TO TWENTY PERCENT (20%) PER ANNUM OF

THE TOTAL AMOUNT OF NON-COMPLIANCE SHALL BE IMPOSED.

"Penalties on noncompliance shall be directed to the development of the MSME sector. Ninety percent (90%) of the penalties collected [should] SHALL go to the [MSMED council Fund] "START-UP FUND" AS PROVIDED UNDER REPUBLIC ACT NO. 10644, OTHERWISE KNOWN AS THE "GO NEGOSYO ACT", while the remaining ten percent (10%) [should] SHALL be [given] REMITTED to the BSP, THE SECURITIES AND EXCHANGE COMMISSION, OR THE APPROPRIATE AGENCY THAT EXERCISES REGULATORY JURISDICTION OVER SUCH LENDING ENTITY, to cover for administrative expenses.

"THE MSMED COUNCIL SHALL SUBMIT TO THE CONGRESS OF THE PHILIPPINES AN ANNUAL REPORT ON THE STATUS OF THE PENALTIES REMITTED AND HOW THE SAME WERE USED OR ARE BEING USED IN RELATION TO THE IMPLEMENTATION OF SERVICES TO MSMEs IN THE AREAS OF CAPACITY BUILDING, TECHNOLOGY INFORMATION, INFORMATION COLLECTION AND DISSEMINATION, AND OTHER INTERVENTIONS FOR MSME DEVELOPMENT, GROWTH AND SUSTAINABILITY."

SEC. 21. A new section, numbered Section 19, is hereby inserted after re-numbered Section 18 of the same Act, as amended, to read as follows:

"SEC. 19. OTHER VIOLATIONS. - EXCEPT FOR SECURITIES COVERED UNDER THE SECURITIES REGULATIONS CODE OR REPUBLIC ACT NO. 8799, ENTITIES SHALL SECURE THE NECESSARY APPROVAL OF THE SECURITIES AND EXCHANGE COMMISSION PRIOR TO RECEIVING INVESTMENTS AS WELL AS GIFTS, ITEMS OR OTHER COMMODITIES, EITHER IN THE FORM OF CASH OR ITS EQUIVALENT CASH VALUE IN CONSIDERATION OF RETURN OF PROFIT, BENEFIT, OR BLESSINGS COMING FROM MORE THAN TWENTY (20) INDIVIDUALS, OR SUFFER THE PENALTY OF THIRTY (30) TO ONE HUNDRED EIGHTY (180) DAYS IMPRISONMENT, OR A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) BUT NOT EXCEEDING ONE HUNDRED THOUSAND PESOS (P100,000.00) OR BOTH, AT THE DISCRETION OF THE COURT.

"ANY PERSON, WHETHER NATURAL OR JURIDICAL, WHO FAILS TO ACQUIRE THE APPROVAL OF THE FOOD AND DRUGS AUTHORITY (FDA)

AND THE DEPARTMENT OF TRADE AND INDUSTRY (DTI) FOR SELLING, MARKETING, AND DISTRIBUTING PRODUCTS AND SERVICES THAT ARE REGULATED BY THE FDA SHALL SUFFER THE PENALTY OF THIRTY (30) DAYS TO ONE HUNDRED EIGHTY (180) DAYS IMPRISONMENT, OR A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) BUT NOT EXCEEDING ONE HUNDRED THOUSAND PESOS (P100,000.00) OR BOTH, AT THE DISCRETION OF THE COURT."

SEC. 22. Implementing Rules and Regulations (IRR). - The Department of Trade and Industry, through the Bureau of Micro, Small and Medium Enterprise Development and in consultation with the Bangko Sentral ng Pilipinas in the case of banks, and the Securities and Exchange Commission in the case of non-bank financial intermediaries, and other concerned government agencies, nongovernment organizations and private sector agencies involved in the promotion of MSMEs, shall formulate the rules and regulations (IRR) necessary to implement the provisions of this Act within ninety (90) days from the approval of this Act: Provided, That the IRR shall be reviewed yearly: Provided, further, That the IRR shall be approved by the MSMED Council.

SEC. 23. Separability Clause. - The provisions of this Act are hereby declared to be separable. If any provision of this Act shall be held unconstitutional, the remainder of this Act not otherwise affected shall remain in full force and effect.

SEC. 24. Repealing Clause. - Section 22 of Republic Act No. 8367 is hereby repealed. All laws, decrees, proclamations, issuances, or ordinances that are contrary to or inconsistent with the provisions of this act are hereby amended, repealed or modified accordingly.

SEC. 25. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,