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10 SEP 29 P 4:57

SENATE

Senate Bill No. 2549

RECEIVED BY: 

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Pursuant to the constitutional guarantee on freedom of expression and on the principle of giving priority to arts and culture to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development, the State shall promote and support the development and growth of the local film industry as an aesthetic and cultural medium for a better understanding and appreciation of Filipino social values and national identity and as an indispensable economic partner in nation-building.

Moreover, the film industry has become a significant social institution that exerts tremendous influence in the lives of our people and serves as a vital tool for socio-cultural changes in our society. There is thus a need for the government to integrate and rationalize all existing and planned policies and programs designed to encourage the preservation, growth, development and upgrading of the art and science of film making in the country, to the end that the film industry will not only be viable and profitable commercial endeavor intended for public entertainment, but an instrument to enhance the quality of life thru examination of the human and social conditions, contribute to the dignity and nobility of the human spirit, accelerate the artistic, scientific and socio-cultural advancement of the nation, promote patriotism, nationalism, total human liberation and development, and reinforce the national endeavor of social and economic development and progress for the Philippines.

Furthermore, there is a need to continue supporting the declared State policy to provide support and assistance to the local film industry, specifically for the purpose of achieving sound, effective and progressive integration and correlation of the business, economic and commercial functions and operations of the said industry, thereby making the said industry a truly dynamic and vigorous instrument for national cultural growth and development and vital social institution which will enhance the artistic, scientific and socio-cultural heritage of the nation.

The immediate passage of this bill is thus earnestly requested.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
TO PROMOTE AND SUPPORT THE DEVELOPMENT AND GROWTH OF THE PHILIPPINE FILM INDUSTRY, CREATING FOR THIS PURPOSE THE PHILIPPINE FILM COMMISSION, DEFINING ITS POWERS AND FUNCTIONS AND FOR OTHER PURPOSES

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

Section 1. **Short Title.** - This Act shall be known as the "Local Film Industry Development Act of 2010".

Section 2. **State Policy.** - Pursuant to the constitutional guarantee on freedom of expression and on the principle of giving priority to arts and culture to foster patriotism and nationalism, accelerate social progress, and promote total human liberation and development, the state shall promote and support the development and growth of the local film industry as an aesthetic and cultural medium for a better understanding and appreciation of Filipino social values and national identity and as an indispensable economic partner in nation-building.

To achieve this end, the State shall formulate and implement policies and programs to upgrade the art and craft of film making and encourage the production of films for commercial purposes, intended for public entertainment, that seek to enhance the quality of life, examine the human and social conditions and contribute to the dignity and nobility of the human spirit

Section 3. **Creation of the Philippine Film Commission.** - To implement the policies and attain the objectives enunciated in this Act, the Film Development Council of the Philippines (FDCP) created under Republic Act 9167 is hereby reorganized into the Philippine Film Commission hereinafter referred to as "Commission". The Commission shall be an independent agency. It shall render an annual report of its activities and achievements to the President and to the Congress and shall have its principal offices in Metropolitan Manila.

Section 4. **Composition of the Commission.** - The Commission shall be composed of a Chairperson and seventeen (17) members, eight (8) of whom shall be regular members while the other nine (9) shall be in an ex-officio capacity: *Provided*, That only the regular members are entitled to vote, while the Chairperson shall vote only in case of tie: *Provided further*, That the Chairperson shall be appointed by the President from the lists of nominees submitted to him by the regular members; *Provided finally*, That

the Chairperson shall be a person of proven administrative proficiency, independence, knowledgeable of the technical and artistic aspects of the film production and fully committed to the promotion and development of the Philippine Cinema as art.

The eight (8) regular members shall be as follows:

1. A regular representative of the Directors' Guild of the Philippines, Inc;
2. A regular representative of the Nagkakaisang Manggagawa ng Pelikulang Pilipino;
3. A regular representative of the Mowelfund;
4. A regular representative of the Actors' Guild of the Philippines, Inc.;
5. A regular representative from the National Cinema Association of the Philippines;
6. A regular representative from the academe;
7. A regular representative from the local film producers.
8. A regular representative from the Independent Film cooperative.

The nine (9) members who shall be ex-officio members of the Commission are the following:

1. The Secretary of the Department of Trade and Industry or his/her duly designated regular representative;
2. The Secretary of the Department of Education or his/her duly designated regular representative;
3. The Secretary of the Department of Tourism or his/her duly designated regular representative;
4. The Secretary of the Department of Foreign Affairs or his/her duly designated regular representative;
5. The Secretary of the Department of Interior and Local Government or his/her duly designated regular representative;
6. The Secretary of the Department of Finance or his/her duly designated regular representative;
7. The Director General of the Film Academy of the Philippines or his/her duly designated regular representative;
8. The President of the Cultural Center of the Philippines or his/her duly designated regular representative;
9. The head of the Cinema Committee of the National Commission for Culture and the Arts or his/her duly designated regular representative.

Section 5. Term of Office. – The Chairperson and the eight (8) regular members shall hold office for a term of three (3) years, unless sooner removed by the Commission:

Provided, That they shall be eligible for reappointment after the expiration of their terms: *Provided further*, That if a member fails to complete his/her term, the person appointed to fill the vacancy shall serve only the unexpired portion of the vacated term whom he/she succeeds; *Provided finally*, That such service of the unexpired portion shall not be counted as a term.

Section 6. Powers and Functions. - The Commission shall have the following powers and functions:

1. To coordinate all programs and policies of government departments and agencies that are related to the development of the local film industry
2. To establish and implement a Cinema Evaluation System in accordance with the criteria set forth in this Act;
3. To develop and implement an incentive and reward system for the producers based on merit to encourage the production of quality films;
4. To promote, organize, encourage or support a more scientific system in which local films can be marketed locally and internationally;
5. To develop and promote programs to enhance the skills and expertise of Filipino film artists, technicians and workers through continuous craft and technical upgrading as well as attitude training;
6. To set up and operate a one-stop shop to assist foreign and local producers making films in the country;
7. To develop and implement a two-pronged program that will encourage the production of quality films;
8. To encourage, support and coordinate the holding of national and regional film festivals exclusively of Filipino films;
9. To establish, organize, operate and maintain international film festivals, exhibitions and similar activities, including an ASEAN film festival and market;
10. To encourage and facilitate participation in international film festivals and to ensure the continuous presence of Philippine films in international markets.
11. To invest funds and other assets in such activities or undertakings that shall directly or indirectly promote development of the film industry, including the production of films, and other terms and conditions as it may deem wise and desirable;
12. To ensure the establishment of a film archive in order to conserve and protect film negatives and/or prints as part of the nation's historical, cultural and artistic heritage;
13. To take measures to acquire for safeguarding and preservation any part or all of the national film production, including the institution of mandatory deposit systems which is hereby expressly authorized;
14. To set up mechanics to address the welfare and working conditions of local film workers, a concern to be implemented in coordination with the Mowelfund and the Nagkakaisang Manggagawa ng Pelikulang Pilipino;

15. To promote the establishment of cinema clubs in barangays and schools in coordination with the Department of Education and the Commission on Higher Education and to develop elective courses related to film at the collegiate levels as part of a film audience development program;
16. To prescribe the procedures for the exercise of its powers and functions as well as the performance of its duties and responsibilities;
17. To determine the Commission's organizational structure and staffing pattern and appoint its officers and employees in accordance with Civil Service laws, rules, and regulations;
18. To promote the development and growth of the independent film movement;
19. To acquire, manage and hold such real and personal property as may be necessary to carry out the purpose and objectives of this Act; and
20. To perform such other functions as may be necessary to carry out the provisions of this Act.

Section 7. *Meetings.* - The Commission shall meet at least once a month or as often as necessary at the call of the Chairperson or majority of the members. A majority of the regular members of the Commission shall constitute a quorum to do business. The members of the Commission shall be entitled to *honoraria* based on existing government accounting and auditing rules and regulations.

Section 8. *The Chairperson.* - The Chairperson shall be the Chief Executive Officer and shall exercise overall administrative supervision to ensure the effective and efficient implementation of the policies lay down by the Commission. The Chairperson shall have the same rank and salary as an Undersecretary of a Department as provided for in the Salary Standardization Law.

Section 9. *Functions of the Chairperson.* - The Chairperson shall have the following functions:

1. Execute and administer the policies, plans and programs approved by the Commission;
2. Direct and supervise the operations and internal affairs of the Commission;
3. Establish the internal organization and administrative procedures of the Commission;
4. Recommend to the Commission the appointment, transfer or detail, suspension, dismissal for cause of its subordinate officials and employees; and
5. Such other functions, which the Commission may assign from time to time.

Section 10. *The Executive Director.* - The Chairperson shall be assisted by an Executive Director to be appointed by the Commission upon the recommendation of the Chairperson. The Executive Director shall have a salary comparable to that equivalent rank under the Revised Compensation and Position Classification System and shall be co-terminus with the Chairperson unless sooner removed for cause.

Section 11. Cinema Evaluation Board. - The Commission will absorb the Cinema Evaluation Board of the FDCP, hereinafter referred to as the "CEB", which shall evaluate and grade films submitted to the Commission, subject to the following:

- a) *Composition, Qualifications and Appointment* - The CEB shall be composed of a Board Chairperson and twenty (20) members, ten (10) of whom shall come from the film industry, and the other ten (10) from the arts, academe, business and such other sectors as the Commission may choose to identify. The Chairperson of the Commission shall appoint the members of the CEB from among thirty (30) submitted by the members of the Commission: *Provided*, That the persons appointed to the CEB should be knowledgeable of the artistic and technical aspects of film making and fully committed to the promotion and development of cinematographic art along world class standards and global marketability.
- b) *Term of Office* - The CEB Chairperson and members shall serve for a term of two (2) years and shall be eligible for re-appointment for a second term: *Provided*, That no member shall serve for more than two (2) consecutive terms: *Provided further*, if any member fails to complete a term, the person appointed to fill the vacancy shall serve only for the unexpired portion of the term of the person whom he/she succeeds, unless re-appointed: *Provided finally*, That the service of the unexpired portion shall not be counted as a term. In the initial appointments, the CEB Chairperson and the twenty (20) members shall hold office for two (2) years.
- c) *Participation* - No member of the CEB shall participate in the grading of a film in which he or she or any member of his or her family or any relative within the fourth degree of consanguinity or affinity shall have financial or any other interest: *Provided*, That such member shall disclose fully at the time of his or her inhibition, the nature of his or her interest including actual or potential conflict of interest and the reasons of his or her inhibition.

Section 12. Cinema Evaluation System. - The CEB shall formulate and establish a set of standards and criteria and procedures for the Cinema Evaluation System, subject to the approval of the Commission, primarily based on but not limited to the following: direction; screenplay; cinematography; editing; production design; musical scoring, sound and acting.

Section 13. Grading of Films. - The grading of films by the CEB shall be subject to the following provisions:

- (a) *Pre-qualification procedures and requirements* - The Commission shall prescribe pre-qualification procedures and requirements for application for grading: *Provided*, That only films whose premiere showing shall be held in the Philippines, and those which have not had any theatrical release, free television broadcast, cable broadcast or video release in any commercial medium anywhere in the world shall be qualified for evaluation by the board; *Provided further*, That the CEB should evaluate and grade only films that are intended for theatrical and other forms or exhibition that will charge admission fees and which are at least eighty (80) minutes in length and that the producer shall submit his/her film for grading at least seven (7) days before its scheduled day of play date.
- (b) *Evaluation Period* - A film shall be reviewed, evaluated and graded by the CEB within five (5) working days after submission of the application. The CEB shall transmit its decision to the Commission within twenty four (24) hours from the

rendering of the decision. The Commission shall inform the producer of the CEB's decision not later than twenty four (24) hours upon receipt therewith.

- (c) **Grading of Films** - The CEB shall review and grade a film submitted for grading. The CEB and the Commission shall, at any time neither be allowed to cut, delete, shorten or modify in any manner films being graded by the CEB, nor shall they be allowed to suggest cuts or deletion or any other form of modification to the film makers and pre requisites for earning the CEB grading. Such grading shall be given due weight and consideration by the Movie and Television Review and Classification Board (MTRCB), the Optical Media Board (OMB), the Department of Trade and Industry (DTI) and other government agencies for the graded film's viewing, reproduction, exportation and other purposes.
- (d) **Reconsideration to the Board En Banc** - The action taken by the CEB on the film submitted for evaluation and grading may be reconsidered upon motion to the CEB *en banc* within twenty four (24) hours from receipt of notice of said action, and the CEB *en banc* shall render its decision within forty eight (48) hours from its receipt of the motion for reconsideration. The CEB *en banc* must be composed of at least majority of the CEB.
- (e) **Finality of Grading** - The grading submitted by the CEB *en banc* to the Commission shall be final.

Section 14. Privileges of Graded Films. - Films which have obtained an "A" or "B" grading from the Commission pursuant to Sections 11 and 12 of this Act shall be entitled to the following privileges:

Amusement Tax Reward. - A grade "A" or "B" shall entitle the producer to an incentive equivalent to the amusement tax imposed and collected on the graded films by cities and municipalities in Metro Manila and other highly urbanized and independent component cities in the Philippines pursuant to Sections 140 and 151 of the Republic Act No. 7160 at the following rates:

1. For grade "A" Films – Eighty (80%) percent of the amusement tax collected on such films. The remaining twenty (20%) percent shall accrue to the funds of the Commission; and
2. For grade "B" Films - Sixty five (65%) percent of the amusement tax collected on such films. The remaining thirty five (35%) percent shall accrue to the funds of the Commission: *Provided*, That thirty (30%) percent of the amusement tax rebates shall accrue to the talents and workers involved in the film that was graded A or B, with the other seventy (70%) percent accruing to the film producer.

Section 15. Amusement Tax Deduction and Remittances. - All revenues from the amusement tax on the graded film which may otherwise accrue to the cities and municipalities in Metro Manila and highly urbanized and independent component cities in the Philippines pursuant to Sections 140 of the Republic Act No. 7160 during the period the graded film is exhibited, shall be deducted and withheld by the proprietors, operators or lessees of theaters or cinemas and remitted within thirty (30) days from the termination of the exhibition to the Commission which shall reward the corresponding amusement tax to the producers and the talents and workers of the graded film within fifteen (15) days from receipt thereof.

Proprietors, operators or lessees of theaters or cinemas who fail to remit amusement tax proceeds within the prescribed period shall be liable to a surcharge

equivalent to five (5%) percent of the amount due for each month of delinquency which shall be paid to the Commission.

Section 16. Enforcement. - For purposes of implementing the previous Section, the Commission may:

1. Impose administrative fines and penalties of not more than One hundred thousand pesos (Php100,000.00) for the violation of any of the provisions of this Act and/or its implementing rules and regulations issued by the Commission.
2. Cause or initiate the criminal or administrative prosecution of violators of this act and its implementing rules and regulations.
3. Cause the closure of any theater or cinema that fails or unreasonably refuse to remit tax collected on the graded film for a period not exceeding fifteen (15) days after which such period shall automatically be lifted without prejudice to the right of the Commission to cause or initiate criminal or administrative prosecution against the erring theater or cinema owners pursuant to paragraph 2 of this section.
4. Call upon representatives of the different government agencies and other various organizations in the movie industry to help ensure compliance with the provisions of this act and its implementing rules and regulations.

For this purpose, the Commission may constitute regional sub-commissions in the cities and municipalities throughout the country composed of representatives from the government and from the private sector as may be appropriate to implement the purposes and objectives of this Act and its implementing rules and regulations and they shall serve without compensation and only for such period of time as the Commissioner shall determine;

5. To deputize any law enforcement agency and instrumentality of the government for assistance for the implementation and enforcement of its functions and orders.

Section 17. Film Endowment Board. – There is hereby created a Film Endowment Board hereinafter referred to as the FEB which shall provide subsidy for the production of worthwhile screenplays and films submitted to the FEB for consideration, subject to the following:

- a. *Composition, Qualifications and Appointment* – The FEB shall be composed of a Board Chairperson and seven (7) members, four (4) of whom shall come from the film industry, and the other three (3) from the arts, academe, business and other sectors as the Commission may choose to identify. The Chairperson of the Commission shall appoint the members of the FEB from among fifteen (15) nominees submitted by the members of the Commission, Provided that the persons appointed to the FEB should be knowledgeable of the artistic and technical aspects of filmmaking and fully committed to the promotion and development of cinematographic art along world class standards and local and global marketability.
- b. *Term of Office* – The FEB Chairperson and members shall serve for a term of two (2) years and shall be eligible for re-appointment for a second term; *Provided*, That no member shall serve for two (2) consecutive terms; *Provided further*, That if any member fails to complete a term, the person appointed to fill the vacancy shall serve only for the unexpired portion of the term of the person whom he/she succeeds, unless re-appointed: *Provided*

finally, That the service of the unexpired portion shall not be counted as a term. The FEB Chairperson and the seven (7) members shall hold office for two (2) years.

- c. *Participation* – No member of the FEB shall participate in approving of funding for a film in which he or she or any member of his or her family or any relative within the fourth degree of consanguinity or affinity shall have financial or any other interest: *Provided*, That such member shall disclose fully at the time of his or her inhibition, the nature of his or her interest including actual or potential conflict of interest and the reasons of his or her inhibition.

Section 18. *Film Endowment Evaluation System.* – The FEB shall formulate and establish a set of standards and criteria and procedures for the Film Endowment Fund Evaluation System, subject to the approval of the Commission, based on but not limited to the following: the aesthetic value of the screenplay submitted; the marketability of the film product; and its integral cultural personality.

Section 19. *Endowment Funding for Films.* – The endowment funding for films by the FEB shall be subject to the following provisions:

- a. *Pre-qualification procedures and requirements* – The Commission shall prescribe pre-qualification procedures and requirements for application for endowment funding: *Provided*, That only original screenplays which have not yet been produced and which when filmed are at least eighty (80) minutes in length or only films whose premiere showing shall be held in the Philippines, and those which have not had any theatrical release, free television broadcast, cable broadcast or video release in any commercial medium anywhere in the world shall be qualified for evaluation by the board.
- b. *Evaluation period* – A submitted screenplay or film shall be evaluated and approved for funding within thirty (30) days after submission. The FEB shall transmit it to the Commission within twenty four (24) hours from the rendering of the decision. The Commission shall inform the filmmaker or scriptwriter of the FEB's decision not later than one (1) week upon receipt herewith.
- c. *Finality of endowment fund decision* – The evaluation submitted by the FEB en banc to the Commission shall be final.
- d. *Copyright and distribution* - Once the Commission approves a project for funding, the applicant receives an agreement that includes the Commission's policies on copyright, distribution, credits, and other matters. The Commission reserves the right to place additional conditions or stipulations deemed necessary or appropriate on an endowment award. Unless specifically provided otherwise, the following policies will apply to projects and to the use of materials produced or distributed with endowment funds.
 - 1. Ownership, copyright, distribution, exhibition, and use rights for all projects developed or distributed with endowment funds shall be vested in the producer, writer, artist, or other originator of the work provided that the Commission will require the applicant to assign a share of all rights including copyright in the work to the Commission as security for its investment. The Commission will take a fifty (50%) percent share of such rights, with fifty (50%) percent to be retained by the applicant. The Commission will require repayment of its endowment funding no later than one (1) year, at which time the Commission will assign its share of the copyright and other rights back to the applicant or its assignee. In order to secure repayment of

the Commission's development funding, applicant will not be able to assign, license or otherwise transfer any rights to the work without the prior written approval of the Commission.

2. Five DVD prints shall become property of the Commission. The Commission reserves the non-exclusive right to distribute or exhibit its copy for non-commercial purposes, as it deems appropriate.
3. The Commission reserves a royalty-free, non-exclusive, and irrevocable rights to reproduce, publish, or otherwise use these materials for government purposes and to authorize others to do so.

All projects developed through a Commission endowment, including associated publicity or promotional materials, shall carry a statement indicating that it was funded by the Commission. There shall also be a disclaimer statement to the effect that the views expressed therein are not necessarily those of the Commission. The project must be promoted as a Philippine work at film festivals and in markets abroad. In co-productions, the Philippine nationality of the produced film must be mentioned together with any others.

Section 20. Funding. - In order to provide for the initial funding of the Commission, there is hereby created a Philippine Film Commission Fund Account to be deposited in the National Treasury which shall be included in the annual General Appropriations Act and shall be constituted from the proceeds from a special film commission tax of two pesos (Php 2.00) which is hereby levied on all admission tickets of movie houses in the Philippines for a period of twenty (20) years;

To augment its operational expenses, the Commission may:

- 1) Utilize the remaining twenty (20%) percent and thirty five (35%) percent of the amusement tax collected during the period grade "A" and "B" films are exhibited, as provided under Sections 14 and 15 hereof; and
- 2) Impose reasonable fees and charges for services rendered: Provided, that the amount actually collected shall be deposited in the National Treasury as a special account in the General Fund and may be used to augment its maintenance and other operational expenses, and capital outlays except the purchase of motor vehicles, subject to existing accounting and budgeting rules and regulations;
- 3) Secure funding from the Philippine Amusement and Gaming Corporation for the amount necessary to subsidize the production of thirty (30) films annually.

Section 21. Authority to Accept Donations. - The Commission may accept donations, contributions, grants, bequest or gifts, in cash or in kind, from various sources, domestic or foreign, except from movie producers relevant to its functions. Said donations shall be deemed automatically appropriated for purposes specified by the donor or in the absence thereof, for the programs or projects as may be approved by the Commission subject to the usual government accounting and auditing rules and regulations: *Provided*, That cash donations shall not be used to fund the personal services requirements of the Commission. Any donation, contribution, subsidy or financial aid which may be made to the Commission shall be exempt from taxes of any kind and constitute allowable deduction in full from the income of the donors, contributors or givers for income tax purposes.

Section 22. Assistance from other Government Agencies. - The Commission may call on any department, bureau, office, agency or instrumentality of government for such direct assistance as may be needed in the performance of its functions.

Section 23. Implementing rules and Regulations. - The Commission shall, within ninety (90) days after the approval of this Act, issue the necessary rules and regulations to implement the provisions hereof.

Section 24. Transitory Provision. - To provide continuity in the operation of the Commission, the incumbent officials and employees of FDCP and the CEB shall, in a holdover capacity, continue to perform their respective duties and responsibilities and shall receive their corresponding salaries and benefits until such time that the organization of the Commission shall have been completed. The transition period shall not exceed six (6) months after effectivity of this Act.

All officials of the FDCP and CEB shall be deemed resigned from services upon the organization of the Commission: *Provided*, That the officials and employees who shall be laid off shall be given preferential treatment in appointments to new positions to which they may qualify under the new staffing pattern; *Provided finally*, That those who shall not be given new appointments shall be entitled to all compensation and benefits due them under existing laws.

All books, assets, rights, privileges, records, obligations and liabilities of FDCP and CEB are hereby transferred to the Commission.

Section 25. Organization Structure. - The organizational structure and staffing pattern of the Commission shall be established in coordination with the Department of Budget and Management (DBM) and in accordance with Civil Service laws, rules, and regulations.

Section 26. Annual Report. - The Commission shall, within ninety (90) days after the end of every fiscal year, submit to Congress an annual report on its compliance with, or accomplishments under this act, together with its plans and recommendations to improve and develop its capability to enforce the provisions of this Act, and a complete accounting of transactions with respect to any funds received under this Act.

Section 27. Repealing Clause. - Republic Act No. 9167, otherwise known as the Film Development Council of the Philippines Act, is hereby repealed.

All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 28. Separability Clause. - If, for any reason, any provision of this Act, or any part thereof, is declared invalid or unconstitutional, all others sections or provisions not affected thereby shall remain in force and effect.

Section 29. Effectivity. - This Act shall take effect fifteen (15) days after publication in two (2) newspapers of national circulation.

Approved,