

SENATE

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COMMITTEE REPORT NO. 130

Submitted jointly by the Committees on Trade, Commerce & Entrepreneurship; Economic Affairs; Banks, Financial Institutions and Currencies; & Ways and Means on MAY 06 2015

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Re: Senate Bill No. 2752

Recommending its approval in substitution of Senate Bill Nos. 106, 307, 1030, 1484 and 1832

Sponsor: Senator Paolo Benigno "Bam" Aquino IV

MR. PRESIDENT:

The Committees on Trade, Commerce & Entrepreneurship; Economic Affairs; Banks, Financial Institutions and Currencies; & Ways and Means to which were referred Senate Bill No. 106, introduced by Senator Legarda, entitled:

"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICRO-ENTERPRISE DEVELOPMENT INSTITUTIONS, AND FOR OTHER PURPOSES"

Senate Bill No. 307, introduced by Senator Villar, entitled:

"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICROENTERPRISE DEVELOPMENT INSTITUTIONS AND FOR OTHER PURPOSES"

Senate Bill No. 1030, introduced by Senator Aquino, entitled:

"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICROENTERPRISE DEVELOPMENT INSTITUTIONS AND FOR OTHER PURPOSES"

Senate Bill No. 1484, introduced by Senator Estrada, J., entitled:

"AN ACT GOVERNING THE CREATION AND ACCREDITATION OF MICROENTERPRISE DEVELOPMENT INSTITUTIONS AND FOR OTHER PURPOSES"

and Senate Bill No. 1832, introduced by Senator Aquino, entitled:

"AN ACT CREATING THE MICROFINANCE CODE OF THE PHILIPPINES"

have considered the same and have the honor to report them back to the Senate with the recommendation that the attached bill, Senate Bill No. 2752 prepared by the Committees, entitled:

"AN ACT STRENGTHENING NON-GOVERNMENT ORGANIZATIONS ENGAGED IN MICROFINANCE ACTIVITIES FOR THE POOR"

be approved in substitution of Senate Bill Nos. 106, 307, 1030, 1484 and 1832 with Senators Legarda, Villar, Aquino IV and Estrada, J. as authors thereof.

Respectfully submitted:

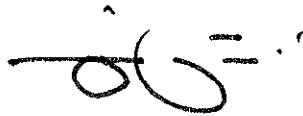
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SENATE
S.B. No. 2752

RECEIVED BY: 

(In Substitution of Senate Bill Nos. 106, 307, 1030, 1484, and 1832)

Prepared by the Committee on Trade, Commerce and Entrepreneurship joint with the Committees on Economic Affairs, Banks, Financial Institutions and Currencies and Ways and Means with Senators Legarda, Villar, Estrada and Aquino IV, as authors thereof.

AN ACT
STRENGTHENING NON-GOVERNMENT ORGANIZATIONS
ENGAGED IN MICROFINANCE ACTIVITIES FOR THE POOR

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "Microfinance NGOs Act."

2 **SEC. 2. *Declaration of Policies.*** – It is hereby declared the policy of the State to pursue a
3 program of poverty eradication wherein poor Filipino families shall be encouraged to undertake
4 entrepreneurial activities to meet their minimum basic needs including income security. Towards
5 this end, the State recognizes the indispensable role of non-government organizations in fostering
6 local enterprise development and social entrepreneurship, including the provision of
7 microfinance services to microenterprises. In pursuance of this policy, the State shall support and
8 work in partnership with qualified non-government organizations in promoting financially
9 inclusive and pro-poor financial and credit policies and mechanisms, such as microfinance and
10 its allied services.

11 **SEC. 3. *Definition of Terms.*** - The following terms shall mean:

- 12 a. "Accreditation" refers to the process of giving official recognition to duly registered
13 microfinance non-government organizations, after meeting the minimum standards set by
14 the relevant regulator;
- 15 b. "Compensating Balance" refers to the proportion of the total loan of a microfinance
16 client, which is retained with the microfinance institution as capital build-up (CBU) or
17 microsavings. This amount can be used by the microfinance institution to offset the
18 client's outstanding balance in case of default.

- 1 c. "Microenterprise Development Strategy" refers to a social reform program to empower
2 the poor, manage risks and vulnerabilities and thereby improve their asset base and
3 expand access to microfinance services, such as microcredit, microinsurance,
4 microsavings, health care and microhousing through a broad package of financial,
5 business and human development services and other nonfinancial services, including
6 education to enable them to lead productive lives.
- 7 d. "Microfinance" refers to the viable and sustainable provision of a broad range of financial
8 services to poor/unbanked/financially underserved/low-income households engaged in
9 livelihood and microenterprise activities. It uses nontraditional and innovative
10 methodologies and approaches such as, but not limited to, the extension of small loans,
11 simplified loan application procedures, group character loans, collateral-free
12 arrangements, cash-flow based lending, alternative loan repayments, minimum
13 requirements for CBU/minimum balance retention, and small denominated savers'
14 instruments aimed to improve their asset base and expand their access to capital and
15 savings.
- 16 e. "Microfinance Loans" refers to small loans granted to the basic sectors, as defined in
17 Republic Act No. 8425, otherwise known as the Social Reform and Poverty Alleviation
18 Act, and other loans granted to the poor and low-income households for their
19 microenterprises and small businesses so as to enable them to raise their income levels
20 and improve their living standards. Microfinance loans are granted on the basis of the
21 borrower's cash flow and are typically unsecured.
- 22 f. "Microfinance NGO" refers to a duly registered non-stock, non-profit organization with
23 the primary purpose of implementing a microenterprise development strategy and
24 providing microfinance programs, products, and services, such as, but not limited to,
25 microcredit and microsavings.
- 26 g. "Microsavings" refer to the program of a Microfinance NGO to collect relatively small
27 amounts of money from their clients and/or member-beneficiaries for purposes of
28 maintaining a compensating balance.
- 29 h. "Non-Government Organization (NGO)" refers to duly registered non-stock, non-profit
30 organizations focusing on the upliftment of the basic or disadvantaged sectors of society
31 by providing advocacy, training, community organizing, research, access to resources,
32 and other similar activities, as defined in Republic Act No. 8425, otherwise known as the
33 Social Reform and Poverty Alleviation Act;

- 1 i. "Poor" refers to individuals and families whose income fall below the poverty threshold
2 as defined by the National Economic and Development Authority (NEDA), and/or the
3 Philippine Statistics Authority-National Statistical Coordination Board (PSA-NSCB).
4 Generally, the poor are regarded as those who cannot afford, in a sustained manner, to
5 provide their minimum basic needs of food, health care, education, housing and other
6 essential amenities of life as defined by Republic Act No. 8425, otherwise known as the
7 Social Reform and Poverty Alleviation Act.
- 8 j. "Social Performance" refers to the effective translation of a Microfinance NGO's mission
9 into practice.
- 10 k. "Social welfare promotion/purposes," shall refer to the thrusts, objectives, plans,
11 programs, services, and activities designed to aid and/or ameliorate the living conditions
12 of the poor, disadvantaged, marginalized, vulnerable, and underprivileged individuals and
13 their families, in order to attain improved quality of life and well-being.

14 **SEC. 4. *Scope of Application.*** - This Act shall apply to Non-Government Organizations
15 with the primary purpose of implementing a microenterprise development strategy and providing
16 microfinance programs, products, and services for the poor. These shall be referred to as
17 "Microfinance NGOs."

18 **SEC. 5. *Core Principles of Microfinance NGOs.*** – Microfinance NGOs shall conduct its
19 operations in accordance with the basic principles of microfinance, which include, but are not
20 limited to the following:

- 21 a. The State recognizes Microfinance NGOs as its effective partners in promoting social
22 welfare and development and pursuing poverty alleviation and holistic transformation
23 and acknowledges microfinance as a viable solution to empower the poor;
- 24 b. The poor shall be given access to appropriate financial services that are convenient,
25 flexible, and reasonably priced, including, but not limited to credit, savings, and
26 insurance;
- 27 c. Microfinance shall be undertaken on a sustainable basis, where providers shall be able to
28 recover all of its costs to allow sustainable operation and regular provision of financial
29 services to the poor;

- 1 d. Microfinance NGOs shall aim to provide both financial and social protection programs to
2 an increasing number of disadvantaged and for underprivileged people;
- 3 e. Microfinance NGOs shall abide by the Client Protection Principles, such as, but not
4 limited to, appropriate product design and delivery, prevention of over-indebtedness,
5 promotion of transparency, practice of responsible pricing, fair and respectful treatment
6 of clients, privacy of client data and mechanisms for complaint resolution;
- 7 f. Microfinance NGOs shall develop financial, social, and governance performance
8 standards that shall help define and govern the industry toward greater outreach and
9 sustainability.
- 10 g. Microfinance NGOs shall develop and provide the appropriate community development
11 projects and programs to ensure attainment of social welfare and holistic transformation
12 of the poor.

13 **SEC. 6. *Basic Features and Purposes of Microfinance NGOs.*** – A Microfinance NGO
14 shall have the following features and purposes:

- 15 a. Provides the poor direct access to reasonable and affordable credit and related programs
16 and services, which shall include but shall not be limited to, microfinance,
17 microinsurance, micro enterprise development, health care and micro-housing, subject to
18 existing laws and regulations.
- 19 b. Provides business development opportunities such as leadership training and
20 entrepreneurial skills enhancement.
- 21 c. Provides human development services to help the poor achieve a level of sustainability
22 and empowerment and adopts measures to promote a spirit of generosity and selfless
23 giving among individuals and institutions that shall help support programs directly
24 involved in poverty eradication;
- 25 d. Collects compulsory savings or capital build-up only from its members for purposes of
26 maintaining the compensating balance in relation to the same member's loan. Acceptance
27 of client/member savings for this purpose shall not cause the Microfinance NGO to be
28 deemed engaged in deposit-taking operations; and that it should not, at any time,
29 undertake deposit-taking activities. For the purpose of implementing this provision,
30 deposit-taking shall not include taking of funds from current or prospective borrowers for

1 the purpose of equity build-up of an individual borrower's own loans. A Microfinance
2 NGO shall be a net lender at all times, wherein net loans mean total loans minus total
3 equity build-up. The compensating balance or total capital build-up should not exceed the
4 total loan portfolio.

5 e. Is prohibited from directly engaging in the insurance business without the necessary
6 licenses or authority from relevant regulatory agencies. However, a Microfinance NGO
7 may establish partnerships with authorized microinsurance agents and/or entities in the
8 furtherance of its social protection objectives.

9 f. Charges reasonable interest and collect such necessary fees and charges incidental to its
10 microfinance operations;

11 g. Borrows money or incur such obligations for the purpose of relending to microfinance
12 borrowers, subject to existing laws; Provided that a Microfinance NGO shall not be
13 deemed as engaged in quasi-banking activities if the proceeds of such borrowings are
14 used for relending to microfinance borrowers;

15 h. Accepts donations or grants or contributions in accordance with existing laws and
16 regulations;

17 i. Invests its funds in any sound, non-speculative enterprises and instruments, subject to
18 such rules and regulations of the relevant government regulatory agency;

19 j. *Maintains a transparent and comprehensive management information system; and*

20 k. Publishes and discloses audited accounts at the end of every financial year.

21 Nothing in this section shall be construed as precluding a Microfinance NGO from performing
22 such services or exercising such powers as may be granted by existing laws or as may be
23 incidental to its activities as a non-stock, non-profit non-government organization.

24 **SEC. 7. *Minimum Core Programs and Services.*** – Microfinance NGOs shall provide at
25 least any of the following programs, products, or services:

26 a. Microcredit and financial literacy programs;

27 b. Microcredit and capital build-up or microsavings.

1 **SEC. 8. *Other Programs and Services.*** - The following are the other programs and
2 services that Microfinance NGOs may undertake, subject to existing laws and regulations:

- 3 a. Agricultural Microfinance;
- 4 b. Housing Microfinance;
- 5 c. Microinsurance, in partnership with authorized microinsurance companies, agents and/or
6 entities;
- 7 d. Mobile or any innovative electronic/digital channels;
- 8 e. Money Transfer and other related remittance services, in partnership with authorized
9 agents and/or entities;
- 10 f. Other relevant and/or innovative programs, products and services that address social
11 welfare purposes and which are not contrary to existing law and regulations.

12 **SEC. 9. *Establishment of the Microfinance NGO Regulatory Council.*** – The Securities
13 and Exchange Commission (SEC) shall have the power to establish and/or register a self-
14 regulatory organization for the Microfinance NGO sector to be known as the Microfinance NGO
15 Regulatory Council, herein referred to as the “Council.”

16 **SEC. 10. *Accreditation of Microfinance Institutions Registered as Non-Stock, Non-***
17 ***Profit Corporation.*** – Microfinance NGOs shall seek accreditation from the Council as a pre-
18 requisite for engaging in the practice of microfinance in the Philippines.

19 **SEC. 11. *Issuance of the Rules and Regulations for the Establishment of the Council.***
20 – The SEC shall prescribe rules and regulations which are necessary or appropriate for the public
21 interest or for the protection of Microfinance NGOs to govern self-regulatory organizations and
22 other organizations licensed or regulated pursuant to the authority granted in this Section,
23 including the requirement of cooperation within and among all Microfinance NGOs to ensure
24 transparency and facilitate exchange of information.

25 Likewise, the SEC shall prescribe the requirements for the establishment of the Council, such as
26 industry representation, governance structure, which will include a board of directors, selection
27 and appointment of directors, and such other requirements to ensure free, fair, and healthy
28 competition in the industry.

29 **SEC. 12. *Functions and Responsibilities of the Microfinance NGO Regulatory***
30 ***Council.*** – As the accrediting entity, the Council shall have the following functions and
31 responsibilities:

- 1 a. Institute and operationalize a system of registration, licensing and accreditation for
2 Microfinance NGOs;
- 3 b. Issue certificate of accreditation as a Microfinance NGO; *Provided that, the certificate of*
4 *accreditation shall be valid only for such a period as may be prescribed under the*
5 *implementing rules and regulations of this Act;*
- 6 c. Monitor the performance of Microfinance NGOs to ensure compliance with the standards
7 and provisions of this Act and its implementing rules and regulations;
- 8 d. Suspend or revoke any certificate of accreditation upon determination that a
9 Microfinance NGO no longer meets the criteria for accreditation;
- 10 e. Require regular submission of reports by Microfinance NGOs;
- 11 f. Collect reasonable accreditation and monitoring fees from a Microfinance NGO which
12 shall be used for the accrediting entity's operational requirements;
- 13 g. Submit an annual report to the President of the Philippines and the concerned committees
14 of both houses of Congress; and
- 15 h. Perform such other functions as may be necessary to accomplish the purposes and
16 objectives of this Act.

17 **SEC. 13. *Financial Performance Management.*** - Microfinance NGOs shall develop and
18 implement systems, practices and controls for efficient, effective and sustainable financial
19 operations through prudent resource management, asset-liability management, liquidity
20 management, and financial information management.

21 **SEC. 14. *Social Performance Management.*** - Microfinance NGOs must have an
22 institutionalized process of translating social mission into practice, which includes setting clear
23 social goals, monitoring progress towards these objectives and using information to improve
24 performance and practice. Social performance information must be integrated into the
25 Microfinance NGO's work, operational routines, and value system to affect decision-making
26 practices at both operational and strategic levels.

27 **SEC. 15. *Financial Performance Standards.*** - The Council shall establish a set of
28 parameters for assessing the financial performance of Microfinance NGOs, such as, but not
29 limited to portfolio quality, efficiency, sustainability, and outreach.

30 **SEC. 16. *Social Performance Standards.*** - Microfinance NGOs, at the minimum, shall
31 define and monitor its social goals; ensure board, management, and employee commitment to
32 social performance; treat clients and employees responsibly; design products, services, delivery
33 models, and channels that meets clients' needs and preferences; and balance financial and social
34 performance.

1 **SEC. 17. *Governance Standards.*** – Microfinance NGOs shall abide by the standards and
2 principles of good corporate governance, such as but not limited to fairness, management
3 responsibility, respect for rights, corporate integrity, loyalty, compliance with regulations and
4 transparency.

5 **SEC. 18. *Access to Government Programs and Projects.*** - Duly accredited Microfinance
6 NGOs shall be given ready access to related programs and projects of the government, including
7 credit facilities sponsored by or made available through government financial institutions.

8 **SEC. 19. *Technical Assistance.*** - Duly accredited Microfinance NGOs are entitled to
9 access any form of technical assistance from the government, donors, and other support
10 organizations in facilitating the linkage between the poor households/microenterprises and
11 microfinance institutions, community organizations and capacity building of the target clientele;
12 social preparation activities, and those that will lead to the broadening and deepening of
13 microfinance services such as development of microfinance products, training in microfinance
14 technologies, and upgrading of performance standards, operating systems and procedures.

15 **SEC. 20. *Tax Fairness for Microfinance NGOs.*** - In recognition of the vital role of
16 Microfinance NGOs in addressing poverty at the grassroots, increasing self-reliance among the
17 poor, and expanding opportunities for them toward improving their quality of life, thereby
18 making them distinct and different from the traditional/formal financial intermediaries and other
19 non-bank financial institutions, a duly accredited Microfinance NGO shall not be subject to any
20 government taxes and fees imposed under the Internal Revenue Laws and other tax laws.

21 **SEC. 21. *Tax on Donations Received.*** –

22 a. Donations to Microfinance NGOs shall be fully deductible from the gross income of the
23 donor, subject to the provisions of Section 34(c) and qualifications set forth in Section
24 101 of Republic Act No. 8424, as amended, otherwise known as the National Internal
25 Revenue Code of 1997; Provided that the accreditation under this Act shall be sufficient.

26 b. Donations to the Microfinance NGOs shall be exempt from donor’s tax subject to the
27 qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as
28 “National Internal Revenue Code of 1997;” Provided that for purposes of utilization,
29 accreditation granted under this Act shall be sufficient.

1 **SEC. 22. Exemption from Liability for Unremitted Taxes.** - The Bureau of Internal
2 Revenue, in consultation with the Council, shall issue a circular detailing the standards,
3 guidelines, rules, and regulations of a tax amnesty program for non-stock, non-profit
4 microfinance institutions with tax assessments duly issued, arising from microfinance loans and
5 other related programs and services extended.

6 **SEC. 23. Appropriations.** – The amount necessary to carry out the initial implementation
7 of this Act shall be sourced from the current budget of the Department of Finance (DOF).
8 Thereafter, such sums as may be necessary for the continued implementation of this Act shall be
9 included in the succeeding General Appropriations Act.

10 **SEC. 24. Implementing Rules and Regulations.** - Within six months after the effectivity
11 of this Act, the SEC, in coordination with the DSWD and other relevant agencies and/or
12 pertinent organizations, shall promulgate the rules and regulations for the implementation of this
13 Act.

14 **SEC. 25. Penal provisions.** - A fine of not less than ten thousand pesos (P10,000.00) and
15 not more than fifty thousand pesos (P50,000.00) or imprisonment of not less than six months but
16 not more than six years or both, at the discretion of the court, shall be imposed upon:

17 a. Any individual or individuals, or in case of an organization, its officers, trustees and
18 managing officers, who shall knowingly and willingly:

19 1) Engage in any activity sought to be regulated under this Act without a validly
20 subsisting authority from the relevant regulatory authority;

21 2) Hold themselves out to be a Microfinance NGO, either through advertisement in
22 whatever form, whether in its stationery, commercial paper, or other document, or
23 through other representations without authority;

24 3) Engage in other acts inimical or adverse defined by the Council; and

25 4) Violate the provisions of this Act.

26 b. Any officer, employee or examiner of the accrediting or other agency concerned with
27 implementing this Act, who shall commit, connive, aid or assist in the commission of acts
28 enumerated under Subsection 1 of this Section.

1 **SEC. 26. *Separability clause.*** - If for any reason, a provision or part hereof is declared
2 invalid or unconstitutional, the other provisions not affected thereby shall remain in full force
3 and effect.

4 **SEC. 27. *Repealing clause.*** - All laws, issuances, rules and regulations inconsistent with
5 any provision of this Act shall be deemed amended, modified, or repealed accordingly.

6 **SEC. 28. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication in
7 any newspaper of general circulation.

Approved,