

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

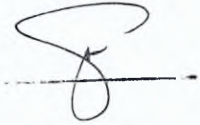
Senate
Office of the Secretary

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SENATE

S.B. No. 411

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Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT PROVIDING FOR GOVERNMENT FINANCIAL INSTITUTIONS
UNIFIED INITIATIVES TO DISTRESSED ENTERPRISES FOR ECONOMIC
RECOVERY
(GUIDE)**

EXPLANATORY NOTE

Article II, Section 20 of the 1987 Constitution provides that, "*The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments.*"

In order to contain the spread of the 2019 Coronavirus Disease (COVID-19) across the country, the National Government enforced a massive shutdown of economic activities, which adversely affected the economy, triggering an economic downturn. With the imposition of enhanced community quarantine in Luzon, and in several provinces, cities, and municipalities in Visayas and Mindanao, only private establishments providing basic necessities and essential services were allowed to remain open.

Based on the latest available data published by the Philippine Statistics Authority, a total of 957,260 business enterprises operates in the Philippines as of 2020. This is lower than the 1,003,111 business enterprises recorded as operating in the Philippines in 2018. Micro, small, and medium enterprises (MSMEs) account for 99.51% (952,969) of these recorded businesses. Micro enterprises constitute 88.77% (850,127) of total MSME establishments, followed by small enterprises at 10.25% (98,126) and medium enterprises at 0.49% (4,716).

The top five (5) industry sectors according to the number of MSMEs in 2020 were: 1) Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles (445,386); (2) Accommodation and Food Service Activities (134,046); (3) Manufacturing (110,916); (4) Other Service Activities (62,376); and (5) Financial and

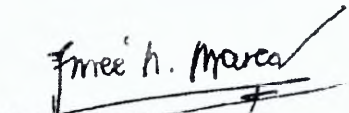
Insurance Activities (45,558). These industries accounted for about 83.77% of the total number of MSME establishments. Together, these MSMEs generated a total of 5.38 million jobs or 62.66% of the country's total employment. All these sectors were hard hit by the lockdown, as most of them fall under non-basic goods and services. In particular, accommodation and food service is strongly linked to the tourism industry, which suffered due to a lack of tourist activity.

However, MSMEs are not the only affected sector in the economy. In 2020, large enterprises generated 3.2 million jobs or 37.34% of the country's overall employment. Enterprises, whether MSMEs or large enterprises, were heavily impacted by the disruption in travel and transport of goods and services because of the COVID-19 outbreak. Some of these enterprises are strategically important to economic recovery and would require financial assistance in order to ensure their continued viability.

As such, government financial institutions must expand their credit programs to assist affected MSMEs and strategically important industries in meeting their liquidity needs. The Land Bank of the Philippines (LBP) and the Development Bank of the Philippines (DBP) need to expand their credit and rediscounting facilities to affected MSMEs and strategically important enterprises in the agriculture, infrastructure, and manufacturing industries. The Philippine Guarantee Corporation (PGC) also needs to expand its credit guarantee facilities to MSMEs as well, to incentivize the private sector in lending money to distressed MSMEs.

The proposed measure seeks to strengthen the capacity of the following Government Financial Institutions, namely the PGC, the LBP, and the DBP, in order to provide the needed assistance to MSMEs and other strategically important companies.

Considering the state of the economy and the urgent need for assistance of MSMEs and other strategically important companies, the approval of this measure is earnestly sought.


IMEE R. MARCOS

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Introduced by **SENATOR IMEE R. MARCOS**

**AN ACT PROVIDING FOR GOVERNMENT FINANCIAL INSTITUTIONS
UNIFIED INITIATIVES TO DISTRESSED ENTERPRISES FOR ECONOMIC
RECOVERY (GUIDE)**

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

1 **SECTION 1.** *Title.* — This Act shall be known as the "*Government Financial*
2 *Institutions (GFIs) Unified Initiatives to Distressed Enterprises for Economic Recovery*
3 *(GUIDE) Act.*"

4 **SEC. 2.** *Declaration of Policy.* — It is hereby declared the policy of the state to
5 protect employment and assist distressed enterprises to reinvigorate the economy.
6 The State recognizes the role of these businesses composed of micro, small and
7 medium enterprises (MSMEs) and strategically important companies in providing
8 employment to the Filipino people and in supporting the Philippine economy. Thus, it
9 is essential that these enterprises are given necessary access to credit and financial
10 assistance.

11 **SEC. 3.** *Definition of Terms.* — As used in this Act:

12 (a) *Agribusiness value chain* refers to a set of actors/players, such as farmers,
13 fisherfolk, traders, suppliers, processors, and aggregators, who make up the
14 linked sequence of value-adding activities undergone by an agricultural product
15 when converted from raw material to the final form it is presented to the
16 consumers;

17
18 (b) *Community Quarantine (CQ)* refers to the enhanced community quarantine
19 imposed in the entire Luzon area under Presidential Proclamation No. 929 dated
20 16 March 2020, as may be extended or modified pursuant to such other laws,

1 presidential proclamations or executive orders that may be subsequently issued
2 or promulgated for the purpose of containing the spread of COVID-19;

3
4 (c) *Critically impacted businesses* refer to non-essential businesses that have been
5 directly and adversely impacted by the COVID-19 outbreak such that (i) their
6 liabilities have become more than their assets, or (ii) they have experienced at
7 least a [50%] decline in gross receipts for at least one calendar quarter, and in
8 either instance, are generally unable to pay or perform their obligations as they
9 fall due in the ordinary course of business, as a result of the COVID-19
10 outbreak. 3 For purposes of this Act, Critically-Impacted Business shall include
11 the air transport industry, tourism industry, and export-import industry, but
12 shall exclude banks and other financial institutions under the supervision of the
13 Bangko Sentral ng Pilipinas (BSP);

14
15 (d) *Micro, Small and Medium Enterprises (MSMEs)* refer to any business activity or
16 enterprise engaged in industry, agribusiness and/or services, whether single
17 proprietorship, cooperative, partnership or corporation whose total assets,
18 inclusive of those arising from loans but exclusive of the land on which the
19 particular business entity's office, plant and equipment are situated, must have
20 value falling under the following categories:

21	Micro	:	not more than Php3,000,000.00
22	Small	:	Php3,000,000.00 – Php15,000,000.00
23	Medium	:	Ph15,000,000.00 – Php100,000,000.00

24
25
26 (e) Non-essential businesses refer to refer to business entities engaged in
27 businesses which are not allowed to operate during the CQ under applicable
28 laws, presidential proclamations or executive orders issued or promulgated for
29 the purpose of containing the spread of COVID-19. The term excludes business
30 entities allowed to operate during CQ such as those related to (i) the production
31 and sale of goods, or provision of services related to food, medicine, health
32 supplies, such as public markets, supermarkets, groceries, convenience stores,
33 hospitals, medical clinics, pharmacies, and drug stores, (ii) food preparation
34 and delivery services, water refilling stations, manufacturing and processing
35 plants of basic food products and medicines, (iii) banks and financial institutions
36 under the supervision of the BSP, and (iv) utility services involving power,
37 energy, water and telecommunications;

1 (f) *Senior executive officers* refer to top management officials exercising
2 responsible and critical roles, as may be determined in the implementing rules
3 and regulations.

4 **CHAPTER 1**
5 **Philippine Guarantee Corporation**

6 **SEC. 4. *Loan Guarantee Expansion by PGC.*** – To ensure that non-essential
7 businesses are able to fulfill their loan obligations, whether existing, outstanding or
8 new loans, to banks, lending or financing institutions, and to help strengthen the
9 liquidity and financial position of these non-essential businesses towards expediting
10 the country's economic recovery, the Philippine Guarantee Corporation (PGC) shall:

- 11 a. Issue an expanded government guarantee program for non-essential businesses
12 by increasing the maximum loan guarantee coverage per borrower, widening the
13 coverage of guarantees to loans provided by non-bank financial institutions and
14 lending and financing companies supervised by the Securities and Exchange
15 Commission (SEC), reducing eligibility requirements and guarantee fees, waiving
16 the right of excussion under the guarantee, relaxing the guidelines on claims by
17 allowing lenders to call on the guarantee when there is an occurrence of payment
18 default, and any other measures necessary to give non-essential businesses and
19 MSME+ access to better terms of credit.
- 20 b. Ease its current rules and regulations and give preference to critically impacted
21 businesses and MSME, including those in the informal sector, in issuing
22 government guarantees to help achieve the policy objectives of this Act.
- 23 c. PGC is mandated to implement a loan portfolio guarantee scheme whereby it
24 can guarantee a specified loan portfolio of partner financial institutions which
25 cover eligible MSME loans subject to the criteria set under the Implementing
26 Rules and Regulations. The criteria for accrediting partner financial institutions
27 shall likewise be stipulated therein.

28 For the efficient and faster implementation of the Section, the PGC may require
29 assistance, such as facilities and personnel resources, from other government financial
30 institutions. The PGC shall also implement measures aimed at the digital
31 transformation of its guarantee application and enrollment process. The PGC shall
32 coordinate with the DICT, Bangko Sentral ng Pilipinas (BSP), and solicit assistance
33 from the private sector for the proper implementation of this Section. The guarantee
34 program of PGC should meet the applicable standards and regulations of the BSP.

1 **SEC. 5. *Trust Fund of PGC.*** – For the implementation of Section 4 hereof, a
2 trust fund in the amount of Twenty Billion Pesos (PhP20,000,000,000.00) is hereby
3 established. The PGC may retain the guarantee fee from loans as administrative fee.
4

5 The PGC may process and grant loan guarantees to qualified businesses within
6 a period of three (3) years from the effectivity of this Act unless the President of the
7 Philippines extends it for a period of not more than three (3) years. Upon the maturity
8 of all the loans, the PGC shall start to wind up its activities, which shall be completed
9 within a period of two (2) years. The remaining amount of the fund shall be returned
10 to the National Treasury.
11

12 **CHAPTER 2**
13 **Development Bank of the Philippines**

14 **SEC. 6. *DBP Loan Assistance Program.*** – The Development Bank of the
15 Philippines (DBP) shall introduce an interest-free loan program available to MSMEs to
16 assist and encourage them to continue investing in their businesses: Provided, That
17 the interest-free loans shall be granted in accordance with the following guidelines
18 and such other conditions as may be imposed under the implementing rules that will
19 be issued by the Department of Finance (DOF) and the BSP:

20 (a) The loan shall be payable within three (3) to five (5) years: *Provided, further,*
21 That priority shall be given to infrastructure, services, and manufacturing
22 business.
23

24 (b) The loans to eligible MSMEs should meet the applicable standards and
25 regulations of the BSP.

26 Notwithstanding the foregoing, the President of the Philippines shall have the
27 power to (i) declare moratorium on the payment of loans of MSME; (ii) make available
28 emergency loans to MSMEs in critically-impacted businesses for additional capital
29 outlay under this Section; and (iii) ease regulations to ensure that MSMEs have
30 facilitated access to the loan facility provided herein.

31 **SEC. 7. *DBP Rediscounting and other Programs.*** – Subject to applicable
32 standards and regulations of the BSP, DBP may rediscount loans and other credit
33 accommodations to enterprises enumerated in Section 6(a) above granted by BSP-
34 supervised Financial Institutions (BSFIs), Small Business Corporation (SBC), and those
35 granted pursuant to credit programs of the Department of Agriculture Agricultural
36 Credit Policy Council (DA-ACPC) to MSMEs affected by the Coronavirus Disease 2019

1 (COVID-19) pandemic engaged in infrastructure, service industry, and/or
2 manufacturing business.

3 DBP may undertake other similar activities for purposes of this Act as may be
4 provided under the implementing rules and regulations to be issued.

5 **SEC. 8. Trust Fund of DBP.** – For the implementation of Chapters 2 and 4
6 hereof, a trust fund in the amount of Fifteen Billion Pesos (PhP15,000,000,000.00) is
7 hereby established. The DBP may retain the amount equivalent to one *per centum*
8 (1%) of collections from loans as administrative fee.

9
10 The DBP may process and grant loans and rediscounting to qualified businesses
11 within a period of three (3) years from the effectivity of this Act unless the President
12 of the Philippines extends it for a period of not more than three (3) years. Upon the
13 maturity of all the loans, the DBP shall start to wind up its activities, which shall be
14 completed within a period of two (2) years. The remaining amount of the fund shall
15 be returned to the National Treasury.

16
17 **CHAPTER 3**
18 **Land Bank of the Philippines**

19 **SEC. 9. LBP Loan Assistance Program.** – The Land Bank of the Philippines
20 (LBP) shall introduce an interest-free loan program available to MSMEs engaged in
21 activities in the agribusiness value chain encourage them to continue investing in their
22 businesses: Provided, That the interest-free loans shall be granted in accordance with
23 the following guidelines and such other conditions as may be imposed under the
24 implementing rules that will be issued by the DOF and the BSP:

25
26 (a) The loan shall be payable within three (3) to five (5) years: *Provided, further,*
27 That priority shall be given to agri-fishery businesses, and non-essential
28 businesses that are small and medium enterprises.

29
30 (b) The loans to eligible MSMEs should meet the applicable standards and
31 regulations of the BSP.

32 Notwithstanding the foregoing, the President of the Philippines shall have the
33 power to (i) declare moratorium on the payment of loans of MSME; (ii) make available
34 emergency loans to MSME in critically-impacted businesses for additional capital outlay
35 under this Section; and (iii) ease regulations to ensure that MSME have facilitated
36 access to the loan facility provided herein.

1
2 **SEC. 10.** *LBP Rediscounting and other Programs.* – Subject to applicable
3 standards and regulations of the BSP, LBP may rediscount loans to eligible MSMEs
4 engaged in activities in the agribusiness value chain granted by BSFIs, SBC, and those
5 granted pursuant to credit programs of the DA-ACPC to MSMEs affected by the COVID-
6 19 pandemic.

7 LBP may undertake other similar activities for purposes of this Act as may be
8 provided under the implementing rules and regulations to be issued.

9
10 **SEC. 11.** *Trust Fund of LBP.* – For the implementation of Chapters 3 and 4
11 hereof, a trust fund in the amount of Thirty-Five Billion Pesos (PhP35,000,000,000.00)
12 is hereby established. The LBP may retain the amount equivalent to one *per centum*
13 (1%) of collections from loans as administrative fee.

14
15 The LBP may process and grant loans and rediscounting to qualified businesses
16 within a period of three (3) years from the effectivity of this Act unless the President
17 of the Philippines extends it for a period of not more than three (3) years. Upon the
18 maturity of all the loans, the DBP shall start to wind up its activities, which shall be
19 completed within a period of two (2) years. The remaining amount of the fund shall
20 be returned to the National Treasury.

21
22 **CHAPTER 4**
23 **Strategically Important Companies**

24 **SEC. 12.** *Loans to Strategically Important Companies.* – To ensure that
25 strategically important companies remain solvent, LBP and DBP are hereby authorized
26 to offer interest-free loans to facilitate the rehabilitation of strategically important
27 companies affected by the COVID-19 pandemic which are experiencing solvency
28 issues, such as those with considerable impact on the economy including those from
29 the agriculture, infrastructure, service industry, and manufacturing industries and
30 other industries to be identified in the implementing rules and regulations, subject to
31 the following conditions:

- 32
33 (a) The debtor company must not reduce the number of employees beyond
34 the percentage prescribed by the loaning institution, as may be determined
35 in the implementing rules and regulations;
- 36 (b) The debtor company shall not, without prior authority from the loaning
37 institution, be allowed to issue stock dividends and repurchases during the
38 term of the loan;

- 1 (c) The debtor company shall not issue cash dividends during the term of the
2 loan;
- 3 (d) The debtor company must not increase the salaries, benefits and other
4 forms of remuneration of its senior executive officers and members of its
5 board;
- 6 (e) The debtor company shall not provide or grant senior executive officers and
7 members of its board separation pay or retirement pay: *Provided*, That any
8 amount received by the senior executive officers and members of the board
9 which is in violation of the foregoing shall be returned;
- 10 (f) The debtor company shall not incur irregular, unnecessary, excessive,
11 extravagant or unconscionable expenditures such as entertainment,
12 events, office/facility renovations, aviation/transportation services and
13 other activities.

14 CHAPTER 5

15 Incentives and Exemption Privileges of DBP and LBP,

16 **SEC. 13. Tax Exemptions and Fee Privileges.** – Any existing law to the contrary
17 notwithstanding and in order to ensure the effective implementation of the purposes
18 of this Act, the following transactions of DBP, LBP, shall be exempt from documentary
19 stamp tax, capital gains tax, creditable withholding income tax, value-added tax, gross
20 receipts tax, and such other taxes that may be imposed under Republic Act No. 8424,
21 as amended, or the "National Internal Revenue Code of 1997," whichever is applicable
22 pursuant to the regulations to be issued by the DOF, upon the recommendation of the
23 Bureau of Internal Revenue (BIR):

- 24 (a) Loan Assistance Program, Rediscounting, and other Programs of DBP and
25 LBP under Chapters 2 and 3 of this Act, respectively, including dation in
26 payment (*dacion en pago*) by the borrower or by a third party in favor of
27 DBP and LBP.

28 The abovementioned transfers shall also be subject to the following, in lieu of
29 the applicable fees:

- 30 (a) Fifty percent (50%) of the filing fees for any foreclosure initiated by DBP
31 and LBP in relation to Loan Assistance and Rediscounting Programs as
32 prescribed by the Rules of Court; and

1 (b) Fifty percent (50%) of the land registration fees prescribed under the
2 existing circulars of the LRA.

3 All sales or transfers of rediscounted loans/other credit accommodations,
4 including transfers by way of *dation in payment* by the borrower or by a third party to
5 DBP and LBP shall be entitled to the privileges enumerated herein for a period of not
6 more than three (3) years from the date of effectivity of the applicable implementing
7 rules and regulations or of the applicable revenue regulations, whichever comes later:
8 *Provided*, That the Secretary of Finance may extend such period by a maximum of
9 three (3) years.

10 CHAPTER 6 11 Miscellaneous Provisions

12
13 **SEC. 14. Appropriations.** – The amount of Seventy Billion Pesos (PhP
14 70,000,000,000.00) is hereby appropriated from the funds in the National Treasury
15 not otherwise appropriated to implement the provisions of this Act.

16 **SEC. 15. Implementing Rules and Regulations.** – Within thirty (30) days from
17 the effectivity of this Act, the DOF, acting as chairperson, the BIR, the BSP, the PGC,
18 the DBP, and the LBP shall jointly promulgate the necessary rules and regulations for
19 the effective implementation of this Act: *Provided*, That the DOF may call upon any
20 agency to provide information or assistance in the drafting of the rules and
21 regulations: *Provided*, Further, That within thirty (30) days from the effectivity of this
22 Act, the DOF, upon recommendation of the BIR, shall promulgate the revenue
23 regulations implementing the fiscal incentives under this Act.

24
25 **SEC. 16. Oversight Committee.** – There is hereby created a Joint Congressional
26 Oversight Committee (JCOC) to oversee, monitor, and evaluate the implementation of
27 this Act. The JCOC shall be composed of five (5) members each from the House of
28 Representatives and from the Senate. The JCOC shall be co-chaired by the
29 Chairpersons of the House Committee on Banks and Financial Intermediaries and the
30 Senate Committee on Banks, Financial Institutions and Currencies, with the Senate
31 and House of Representatives Chairpersons of the Committees on Economic Affairs,
32 Trade, Commerce and Entrepreneurship, Cooperatives, and one member each from
33 the minority as members.

34
35 **SEC. 17. Reports.** – The PGC, LBP, and DBP shall submit reports to the DOF,
36 DTI, and the JCOC regarding the implementation of this Act.

1
2
CHAPTER 7
Final Provisions

3 **SEC. 18. *Separability Clause.*** – If, for any reason or reasons, any part or
4 provision of this Act shall be declared as unconstitutional or invalid, the other parts or
5 provisions hereof which are not affected thereby shall continue to be in full force and
6 effect.

7 **SEC. 19. *Repealing Clause.*** – All provisions of existing laws, orders, rules and
8 regulations or parts thereof which are in conflict or inconsistent with the provisions of
9 this Act are hereby repealed, amended, or modified accordingly.

10 **SEC. 20. *Effectivity.*** – This Act shall take effect immediately upon its
11 publication in the Official Gazette or in a newspaper of general circulation in the
12 Philippines.

Approved,