



HOUSE OF REPRESENTATIVES

H. No. 7311

BY REPRESENTATIVES SALCEDA, VERGARA, SUANSING (M.A.), DIONISIO, TY, HARESCO, LAGON (S.), YAP (ERIC), LUISTRO, EUDELA, KHO (R.), SALO, TULFO (J.), DAGOOC, CUA, PUMAREN, ALVAREZ (J.), PADIERNOS, ORDANES, LOYOLA, GUTIERREZ, SALIMBANGON, LEE, SORIANO, TARRIELA, TAMBUNTING, SUAN, DUTERTE, CAOAGDAN, RODRIGUEZ (R.), CRUZ (A.), FUENTEBELLA, BARONDA, GARIN, PANOTES, SUANSING (H.), LACSON-NOEL, REYES, CALDERON, BARBERS, CUARESMA, CAJAYON-UY, SINGSON-MEEHAN, TAN (S.J.), RECTO, ALVAREZ (M.), ROBES, CAGAS, PALMA, VERZOSA, CHATTO, ALBA, GORRICETA AND DALIPE, PER COMMITTEE REPORT NO. 342

AN ACT

SETTING STANDARDS FOR THE CONTRACTING OF LOANS AND GRANTS WITH BILATERAL AND MULTILATERAL PARTNERS, AMENDING FOR THE PURPOSE SECTIONS 2, 3, 4, 7, AND 9 OF REPUBLIC ACT NO. 8182, AS AMENDED BY REPUBLIC ACT NO. 8555, OTHERWISE KNOWN AS THE "OFFICIAL DEVELOPMENT ASSISTANCE ACT OF 1996"

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

- 1 SEC. 1. Section 2 of Republic Act No. 8182, as amended, otherwise known as the
2 "Official Development Assistance Act of 1996", is hereby amended to read as follows:
3 "SEC. 2. *Official Development Assistance (ODA)*. – For purposes of this Act,
4 ODA, is a loan or loan and grant which meets all of the following criteria:

1 “(a) It must be administered with the objective of promoting sustainable social
2 and economic development, and welfare of the Philippines;

3 “(b) It must be [contracted] **COVERED BY OFFICIAL NATIONAL OR**
4 **INTERNATIONAL INSTRUMENTS IN THE NATURE OF EXCHANGES OF**
5 **NOTES, MEMORANDA OF UNDERSTANDING, OR SIMILAR**
6 **INSTRUMENTS**, with governments of foreign countries with whom the Philippines
7 has diplomatic, trade relations or bilateral agreements or which are members of the
8 United Nations, their agencies and international or multilateral lending institutions[;]:
9 **PROVIDED, THAT THE DONOR GOVERNMENT, BILATERAL OR**
10 **MULTILATERAL AGENCY, OR INTERNATIONAL OR MULTILATERAL**
11 **LENDING INSTITUTION MAY MOBILIZE FINANCING FROM PRIVATE**
12 **OR COMMERCIAL INSTITUTIONS IN FUNDING THE LOAN OR GRANT:**
13 **PROVIDED, FURTHER, THAT IN THE CASE OF BILATERAL ODA**
14 **AGREEMENTS, THE DONOR GOVERNMENT SHALL ISSUE A**
15 **GUARANTEE COVERING AT LEAST SEVENTY-FIVE PERCENT (75%) OF**
16 **THE COMMERCIAL COMPONENT OF THE LOAN: PROVIDED, FINALLY,**
17 **THAT THE BILATERAL OR MULTILATERAL AGENCY, OR**
18 **INTERNATIONAL OR MULTILATERAL LENDING INSTITUTION SHALL**
19 **ENSURE THE TIMELY RELEASE OF FUNDS COMMITTED BY SUCH**
20 **PRIVATE OR COMMERCIAL INSTITUTIONS;**

21 “(c) There are no available comparable financial instruments in the capital
22 market; and

23 “(d) It must contain a grant element of at least [twenty-five] **FIFTEEN** percent
24 [(25%)] (15%). Grant element under this Act is the reduction enjoyed by the borrower
25 whenever the debt service payments which shall include both principal and interest and
26 expressed at their present values discounted at ten percent (10%) are less than the face
27 value of the loan or loan and grant. The grant element of a loan or loan and grant is
28 computed at the ratio of (i) the difference between the face value of the loan or loan and
29 grant and the debt service payments to (ii) the face value of the loan or loan and grant.

30 **“AGREEMENTS ON ODA QUALIFYING UNDER THESE**
31 **CONDITIONS SHALL BE CONSIDERED EXECUTIVE AGREEMENTS.”**

32 **SEC. 2.** Section 3 of Republic Act No. 8182, as amended, is hereby amended to read
33 as follows:

1 “SEC. 3. *Amendatory Clause.* – Official Development Assistance, as defined in
2 this Act, is hereby excluded from the application of Paragraph 1, Section 2 of Republic
3 Act No. 4860, as amended: [*Provided*, That the weighted average grant element of all
4 ODA at anytime shall not be less than forty percent (40%);] *Provided*, [further,] That
5 in no case shall the **EFFECTIVE** interest rate **AND THE TERMS** on the loan or loan
6 component, **INCLUDING PRIVATE OR COMMERCIAL FINANCING**
7 **MOBILIZED BY BILATERAL OR MULTILATERAL PARTNERS**, exceed
8 seven percent (7%) **OR THE RATE, TERMS, AND GRANT COMPONENT**
9 **DETERMINED BY THE DEPARTMENT OF FINANCE AS CONCESSIONAL.”**

10 **SEC. 3.** Section 4 of Republic Act No. 8182, as amended, is hereby further amended
11 to read as follows:

12 “SEC. 4. *Use of ODA for Equitable Development.* – The proceeds of ODA shall
13 be used to achieve equitable growth and development in all provinces through priority
14 development projects for the improvement of economic and social service facilities
15 taking into account such factors as land area, population, scarcity of resources, low
16 literacy rate, infant mortality and poverty incidence in the area: *Provided*, That rural
17 infrastructure, countryside development and economic zones established under the
18 PEZA law shall be given preference in the utilization of ODA funds. Towards this end,
19 the National Economic and Development Authority (NEDA) shall endeavor to obtain
20 ODA funds from donor countries, which shall approximately be five percent (5%) of
21 the total ODA loan from the immediately preceding year. Said funds shall be
22 administered by the NEDA for project identification, feasibility studies, master
23 planning at local and regional levels, and monitoring and evaluation: *Provided, further*,
24 That ODA shall not be availed of or utilized directly or indirectly for the following:

25 “(a) Telephone programs contracted as of 1 January 1996 except basic telephone
26 programs and projects for rural areas not adequately serviced and/or currently
27 developed by private enterprises shall be entitled to ODA loan availments;

28 “(b) Projects mandated primarily by law to be served by the private sector; and

29 “(c) Financing for private corporations with access to commercial credit.

30 The NEDA shall ensure that the ODA obtained shall be for previously identified
31 national priority projects which are urgent or necessary. ODA shall not be accepted or
32 utilized solely because of its availability, convenience, or accessibility.

33 “**LOCAL GOVERNMENT UNITS (LGUS) SHALL BE ELIGIBLE FOR**
34 **ODA LOANS; PROVIDED, THAT NO CONTINGENT LIABILITY ARISING**

1 FROM ODA LOANS TO LGUS SHALL BE INCURRED BY THE NATIONAL
2 GOVERNMENT. LIABILITIES THAT LGUS MAY INCUR FROM ODA
3 LOANS, INCLUDING THOSE ARISING FROM EXPOSURE TO FOREIGN
4 CURRENCY RISKS, SHALL BE SUBJECT TO DEBT LIMITATIONS
5 PRESCRIBED BY THE BUREAU OF LOCAL GOVERNMENT FINANCE OF
6 THE DEPARTMENT OF FINANCE.

7 “THE DEPARTMENT OF FINANCE MAY PROVIDE RELIEF FROM
8 VALUE-ADDED TAX FOR CERTAIN ODA LOANS AND GRANTS TO LGUS.”

9 SEC. 4. Section 7 of Republic Act No. 8182 is hereby amended to read as follows:

10 “SEC. 7. *Applicability.* – [This Act shall apply to ODA loans and loans and grants
11 contracted on or after 1 January 1995.]

12 [“Notwithstanding the exclusion of ODA loans as prescribed in Section 3 hereof
13 from the debt ceiling of Ten billion US dollars (US\$10B) prescribed in Section 2 of
14 Republic Act No. 4860, as amended by Presidential Decree No. 1939, nothing
15 contained in this Act shall be interpreted to mean that whatever ODA loans that are
16 within the debt ceiling of Ten billion US dollars (US\$20B) can be substituted or
17 replaced by non-ODA loans.]

18 “ODA LOANS CONTRACTED BETWEEN 1 JANUARY 1995 AND 31
19 DECEMBER 2023 SHALL BE GOVERNED BY THE TERMS AND LAWS,
20 RULES, AND REGULATIONS UNDER WHICH SUCH WERE
21 CONTRACTED. UNUTILIZED BALANCES UNDER SAID LOANS MAY BE
22 UTILIZED FOR OTHER PROJECTS: *PROVIDED*, THAT THE
23 ADJUSTMENT SHALL BE REFLECTED THROUGH AMENDMENTS IN
24 THE CORRESPONDING TERMS, MEMORANDA OF UNDERSTANDING,
25 EXCHANGES OF NOTES, AND OTHER APPLICABLE OFFICIAL
26 NATIONAL OR INTERNATIONAL INSTRUMENTS OF AGREEMENT.

27 “ODA LOANS CONTRACTED ON OR AFTER 1 JANUARY 2024 SHALL
28 BE GOVERNED BY THIS ACT.”

29 SEC. 5. Section 9 of Republic Act No. 8182 is hereby amended to read as follows:

30 “SEC. 9. *EVALUATION AND Continuous Monitoring.* — All concerned
31 implementing and oversight agencies shall submit to the NEDA all information and
32 reports as may be required by it to review draft contracts and to assess the performance
33 of individual ongoing projects as well as the overall performance of all projects which
34 are funded in whole or in part by ODA.

1 **“ALL ODA PROJECTS SHALL BE SUBJECT TO EVALUATION AND**
2 **APPROVAL OF THE NEDA - INVESTMENT COORDINATION**
3 **COMMITTEE, WHICH SHALL CONSIDER EACH PROJECT’S**
4 **COMPLIANCE WITH ENVIRONMENTAL, SOCIAL, AND GOVERNANCE**
5 **STANDARDS.”**

6 **SEC. 6. *Implementing Rules and Regulations.*** – Within thirty (30) days from the
7 effectivity of this Act, the Secretary of Finance shall promulgate the necessary rules and
8 regulations for its effective implementation.

9 **SEC. 7. *Separability Clause.*** – If any provision of this Act is held invalid or
10 unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

11 **SEC. 8. *Repealing Clause.*** – All laws, presidential decrees, executive orders, rules and
12 regulations and other issuances or parts thereof which are inconsistent with the provisions of
13 this Act are hereby repealed, amended or modified accordingly.

14 **SEC. 9. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in
15 the *Official Gazette* or in at least two (2) newspapers of general circulation in the Philippines.

Approved,