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SENATE

S. No. 961

RECEIVED BY: 

Introduced by Senator Manuel "Lito" M. Lapid

EXPLANATORY NOTE

Music is part of our cultural heritage. Artistic blood run through the veins of each and every Filipino. Through the years, our very own musical composers, singers and singing groups have taken center stage in the international music scene, earning world wide recognition for themselves and for the country.

However, foreign music has continued to dominate the Philippine music industry. Greater exposure to and preference for foreign music made Original Pilipino Music (OPM) a mere second choice among the people. Because of this it became necessary for the President to issue Executive Order No. 255, requiring radio stations to play a minimum of four (4) original Pilipino musical composition per hour. Despite this order, the airtime ratio is still favorable to foreign music. This condition should be reversed. This bill intends to bring about a broader access by our people to their own music. It aims to make the market relatively more favorable to OPM. The objective is to provide a greater impetus to the musical creativity and excellent performance of our own composers, artists and performers.

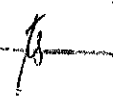
The approval of this measure for the development and appreciation of Filipino music is urgently needed.


MANUEL "LITO" M. LAPID
Senator 

10 JUL -8 AM 109

SENATE

S. No. 961

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**AN ACT
TO PROMOTE THE DEVELOPMENT OF THE PHILIPPINE MUSIC
INDUSTRY, AND FOR OTHER PURPOSES**

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

SECTION 1. Short Title. - This Act shall be known as the "**Music
Industry Development Act of 2010.**"

SEC. 2. Declaration of Policy. - In consonance with the constitutional
mandate to conserve, promote, and popularize the nation's historical and cultural
heritage and resources as well as its artistic creations, it is hereby declared to be the
policy of the State to develop and enhance the musical creativity of the Filipino; to
promote and cultivate the development of Filipino music; and to encourage and support
the promotion and propagation of Filipino music here and abroad.

In adherence to such policies, this Act shall have the following objectives:

- (a) To identify, develop, protect and promote Filipino musical talent, be it in
composition, rendition, or production;
- (b) To provide opportunities for the appropriate training and professional
development of the musically talented;
- (c) To provide adequate mechanisms and support for the development and
protection of the Filipino music industry; and
- (d) To popularize and promote Filipino music in the country and abroad.

SEC. 3. Definition of Terms. -

(1) **Original Pilipino Music (OPM)** - refers to any musical composition with or
without lyrics, originally created by a Filipino, whether the lyrics be in Pilipino, English or
other foreign languages, or any other Philippine dialect.

(2) **Performers** - refer to actors, singers, musicians, dancers, and other persons who act, sing deliver, declaim, play in, or otherwise perform in any musical work / field.

(3) **Musical Score** - refers to any exclusively visual fixation of sound for renditions, sound recording, or broadcasting.

(4) **Sound Recording** - refers to any exclusively aural fixation of sound of a performance or a recording.

(5) **Producer of Sound Records** - refers to the person who, or the legal entity which first fixes the performance or recording.

(6) **Publication** - refers to the issue or offering to the public of copies of a sound recording or a musical score in reasonable quantity.

(7) **Reproduction** - refers to the making of a copy or copies of a recording or a musical score.

(8) **Broadcasting Organization** - refers to proprietorships duly authorized to engage in broadcasting.

(9) **Broadcasting** - refers to the transmission for public reception of sounds or of images and sounds.

(10) Rights of the composer refer to:

(a) **Performance** - the broadcasting of musical works be it live or recorded.

(b) **Mechanical** - refers to disc and tape reproduction of musical works.

(c) **Synchronization** - the coordination between musical works and visual images in motion pictures, television shows and advertising commercials.

(d) **Printing** - the publication of works in musical or vocal arrangement.

SEC. 4. Musical Industry Development Council. - To achieve the objectives of this Act, there is hereby created a Music Industry Development Council, hereinafter referred to as the Council.

The Council shall have the following powers and functions:

(a) To stimulate and promote the creation and rendition of good music by means of grants, loans and other forms of assistance to qualified persons and institutions applying therefor;

(b) To encourage and facilitate the organization of clubs and societies throughout the Philippines for the promotion and popularization of Filipino music through media;

(c) To encourage the development of plans and programs, whether by the private or government sectors, for the identification, selection, training and support of musically gifted children;

(d) To devise a system of payment of royalties to Filipino musicians that will guarantee Filipino musicians a minimum amount of royalty that will adequately compensate him or her for the work;

(e) To promote the rights and privileges of the Filipino artists performing in the country, giving priority to local artists over foreign performers;

(f) To monitor, mediate or arbitrate in the following cases, in accordance with guidelines it shall formulate:

- 1) Infringement of copyright and neighboring rights of whatever nature or character;
- 2) Controversies arising out of royalty rates, license schemes, compulsory licenses and relations between and among intellectual property creators, users, publishers, collecting societies, performers, producers of sound recordings and broadcasting organizations;
- 3) Controversies involving intellectual property in music, its assignment or transfer, or those involving licenses, whether exclusive or non-exclusive;

(g) To accept donations, grants or contributions and to undertake fundraising activities and administer the funds solicited thereat, for the attainment of the objectives of this Act; and

(h) To submit an annual report of its activities as well as recommendations to the Department of Education (DepEd).

SEC. 5. Board of Directors. - There shall be a Board of Directors composed of nine (9) members who, as far as practicable, should come from recognized associations in the music industry representing the following: composers, arrangers, singers, instrumentalists, conductors and producers of sound recordings.

The Board shall also have as one of its members, a director of a reputable music school, a music patron and a representative from the Department of Education (DepEd).

The Chairman of the Board shall be elected by the members from among themselves.

The first members of the Board shall be appointed by the President with the following staggered terms: three (3) for a term of two (2) years; three (3) for a term of

three (3) years; and three (3) for a term of four (4) years from the date they qualify and assume office.

Their successors shall be appointed by the President for a uniform term of six (6) years, except that any person elected by the Board to fill a vacancy in the Board shall serve only for the unexpired term of the member whom he/she succeeds.

SEC. 6. Equity. - Equity or the preferential right of local performers over foreign performers, shall be given to local performers, producers of sound recordings, and all others involved in the music industry.

An equity fee chargeable to the foreign performer / worker per show, from the lead artists down to the minor workers, shall be in such amount as may be determined by the Council: *Provided*, That it shall not be applied to the following:

- (a) classical artists;
- (b) those who perform under a cultural exchange program;
- (c) those who are sponsored or sent by counterpart cultural organizations;
- (d) those who perform for the benefit of organizations of Filipino artists;
- (e) those who waive their regular fees or perform without fees; and
- (f) Filipino artists who have acquired foreign citizenship.

The income from equity collections of the Council shall be constituted into a Fund which shall be administered and managed by the Council in accordance with rules and regulations duly adopted by it.

The Fund shall be utilized primarily for the benefit of local performers.

SEC. 7. Taxation of Foreign Recordings. - The Council shall have the authority to impose reasonable taxes on foreign musical recordings, the proceeds of which shall go to the Fund.

SEC. 8. Promotion and Popularization of Filipino Music. - All radio stations shall allot at least sixty percent (60%) of airtime to Filipino musical compositions, including background music, in every clockhour of a program with a musical format.

All musical / variety / cultural programs in all TV stations shall also allot at least sixty percent (60%) of airtime to Filipino compositions, including background music, for every clockhour of showtime / airtime.

All advertisements with music format over radio and TV stations shall likewise allot at least seventy-five percent (75%) of airtime to Filipino compositions.

All background music of Filipino films shall allot at least seventy-five percent (75%) of playtime to Filipino music.

All public places shall be required to play at least sixty percent (60%) of Filipino music for every clockhour. These public places are specified as follows:

- (a) Moviehouses -- during screening intervals;
- (b) Parks / Plazas -- music played through their public address systems;
- (c) Hotels and other lodging places, restaurants -- piped-in music or entertainment fare;
- (d) Shopping Malls -- music played through their public address systems, in shows and entertainment fare;
- (e) Public transportation by air, land and sea -- piped-in music and recordings played;
- (f) Government offices and buildings -- piped-in music;
- (g) Schools, colleges, universities -- music played through their public address systems, in school programs, shows, or ceremonies.

SEC. 9. Enforcement and Implementation. - The enforcement and implementation of the above mentioned provision shall be performed by government agencies such as the Department of Education (DepEd), in coordination with the Department of Transportation and Communications (DOTC), Kapisanan ng mga Broadcasters ng Pilipinas (KBP), the Department of Interior and Local Government (DILG), volunteer groups, civic organizations and deputized police agencies.

SEC. 10. Penalties. - In case of violation, the punishment or penalty is as follows:

(a) Any franchise holder or operator / owner of a radio / TV station which fails to play at least sixty percent (60%) OPM during airtime shall be fined in the amount of Twenty Thousand Pesos (Php 20,000.00) per violation.

(b) After due hearing, the appropriate government agency shall cancel the Certificate of Registration and Authority to operate any radio / TV station in the event of three (3) repeated violations.

SEC. 11. Government Incentives. - To develop the music industry, the following incentives are provided:

(a) Formation of regional recording studios -- Regional recording studios administered by the Council shall be established to provide equal access to recording studios.

(b) Tax relief -- The following tax incentives shall be imposed:

- 1) Taxes on imported musical instruments, as long as they do not compete with local counterparts of the same quality, shall be reduced to fifty percent (50%);
- 2) Taxes on imported musical equipment needed for recordings and/or live performances, as long as they do not compete with local counterparts of the same quality, shall be reduced by fifty percent (50%);
- 3) Taxes on raw materials used in recording, whether it be local or imported, shall be reduced by twenty percent (20%).

(c) Grants/ Awards / Scholarships -- Scholarship grants shall be created for both amateur and professional singers / musicians in order to further develop their capabilities.

Musical awards shall be given annually to both amateur and professional singers / artists / performers and all other music-related performances and jobs, at the provincial, regional and national levels, to be called the "*Parangal sa Musikang Pilipino*."

The Council, in coordination with agencies and entities involved in the promotion of Filipino music, shall organize these annual events.

SEC. 12. *Promotions and Marketing.* - There shall be created a Promotions and Marketing Bureau of the Council for promotion and marketing of talents both locally and internationally. It shall closely coordinate with the Department of Foreign Affairs and the Department of Tourism for the purpose.

The Bureau's main functions are as follows:

- (a) To determine, adopt and implement the best possible means for the Filipino performers to penetrate the international market;
- (b) To disseminate to all Filipino performers information on national and international competitions, including the mechanics and processes involved in achieving national and international success;
- (c) To develop mechanisms whereby tourists and other foreigners are exposed to Filipino music and musical performances;
- (d) To coordinate with the various producers, agents, talent directors both in the local and international market.

SEC. 13. *Tax Exemption.* - All donations, contributions, subsidies or aids which may be made to the Council shall be considered allowable deductions from the income of the donors or grantors for income tax purposes.

SEC. 14. Appropriations. - Out of any funds in the National Treasury not otherwise appropriated, the sum of Five Million Pesos (Php 5,000,000.00) is hereby appropriated as aid to the Council for its initial expenses. Thereafter, the Council shall submit a proposed annual budget for inclusion in the annual General Appropriations Act.

SEC. 15. Repealing Clause. - All existing laws, decrees, executive orders, and rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 16. Separability Clause. - In any part, section or provision of this Act shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 17. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,