

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session .)

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SENATE

S. No. 3162

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Introduced by Senator Franklin M. Drilon

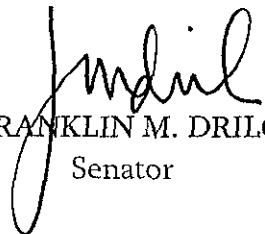
EXPLANATORY NOTE

In Asia, microenterprises provide income and employment for significant proportions of workers in rural and urban areas by producing basic goods and services for rapidly growing populations. They account for more than 60 percent of all enterprises and up to 50% of paid employment. Microenterprises play a significant role in achieving economic equity and growth and in improving the well-being of the poor through income-and-employment opportunities.¹

Recognizing the role of the microenterprises in the improvement of household and economic vitality, it is incumbent upon the State to facilitate the creation of a viable environment to advance microenterprise development and address the constraints that hamper their development, among which is the lack of access to affordable credit and business development opportunities.

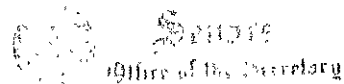
Towards this end, this measure endeavors to pursue a program of poverty eradication through entrepreneurship by partnering with qualified microenterprise development institutions (MICRODEVs) and mandating them to implement microenterprise development strategy that will empower the poor and give them access to microfinance services to enable them to live productive lives.

In view of the foregoing, the urgent passage of the proposed measure is earnestly requested.


FRANKLIN M. DRILON
Senator

¹ Microenterprise Development: Not by Credit Alone, Foreword by Kazi F. Jalal

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

*Be 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 “Microenterprise
2 Development Institutions Act of 2011.”

3 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State
4 to pursue a program of poverty eradication wherein poor Filipino families shall be
5 encouraged to undertake entrepreneurial activities to meet its minimum basic
6 needs including income security. In pursuance of this policy, the government shall
7 support and work in partnership with qualified institutions in the private sector
8 providing general and other entrepreneurial services to the poor.

9 SEC. 3. *Definition of Terms.* – For purposes of implementing this Act, the
10 following definitions shall apply:

11 (a) MICRODEV Accreditation Center refers to the entity created under
12 Section 7 of this Act.

1 (b) Microenterprise Development Strategy refers to a social reform
2 program to empower the poor, manage risks and vulnerabilities and
3 thereby improve their asset base and expand access to microfinance
4 services, such as microcredit, microinsurance, microsavings, health care
5 and microhousing through a broad package of financial, business and
6 human development services and other nonfinancial services, including
7 education to enable them to live productive lives.

8 (c) Microfinance refers to the provision of a broad range of financial
9 services exclusively for the poor to improve the asset base of households
10 and expand their access to savings and enable them to raise their
11 income levels and living standards.

12 (d) Networth refers to the difference between total assets and total
13 liabilities of an entity.

14 (e) Poor refers to individuals and families whose income fall below the
15 poverty threshold as defined by the National Economic and
16 Development Authority or those who cannot afford in a sustained
17 manner to provide their minimum basic needs of food, health care,
18 education, housing and other essential amenities of life as defined by
19 Republic Act No. 8425, otherwise known as the "Social Reform and
20 Poverty Alleviation Act".

21 (f) Regulatory Authorities refer to the entities as designated under Section
22 9 of this Act.

1 (g) Social Reform refers to the continuing process of addressing the basic
2 inequities in Philippine society through a systematic, unified and
3 coordinated delivery of socioeconomic programs or packages.

4 SEC. 4. *Recognition of Microenterprise Development Institutions*

5 (*MICRODEVs*). – MICRODEVs are hereby recognized as institutions mandated to
6 implement a microenterprise development strategy. MICRODEVs shall be
7 operated as nonstock and nonprofit corporations in accordance with the Securities
8 and Exchange Commission (SEC) rules and regulations and provisions of Title XI
9 (Non-Stock Corporations) of Batas Pambansa Blg. 68, otherwise known as “The
10 Corporation Code of the Philippines”. These shall be governed by a Board of
11 Trustees whose members shall not receive compensation: *Provided*, That no part
12 of the net income of the MICRODEVs inure to the benefit of the members,
13 trustees, directors or officers: *Provided, further*, That the administrative expenses
14 shall in no case exceed thirty percent (30%) of the total expenses within a taxable
15 year: *Provided, finally*, That the administrative expenses shall conform with the
16 rules and regulations to be prescribed by the Department of Finance (DOF) upon
17 the recommendation of the Bureau of Internal Revenue (BIR).

18 SEC. 5. *Powers and Functions of a MICRODEV*. – A MICRODEV shall
19 exercise such powers and functions and undertake such activities in accordance
20 with the policies, programs and services provided in this Act. It shall:

1 (a) Provide the poor access to reasonable and affordable credit and related
2 services including microfinance, microinsurance, health care and
3 microhousing;

4 (b) Provide business development opportunities such as leadership training
5 and entrepreneurial skills training; and

6 (c) Provide human development services to help the poor achieve a level of
7 sustainability and empowerment and adopt measures to promote a spirit of
8 generosity and selfless giving among individuals and institutions that
9 would help support all programs directly involved in poverty eradication.

10 Any accredited MICRODEV shall not undertake deposit-taking
11 activities, engage in insurance business and carry out fund management
12 activities without the necessary licenses and authority from the relevant
13 regulatory agencies.

14 For the purposes of implementing this provision, deposit-taking
15 does not include taking of funds from current or prospective borrowers for
16 the purpose of equity build-up of an individual borrower's own loans. A
17 MICRODEV shall be a net lender at all times, wherein net loans mean total
18 loans minus total equity build-up.

19 SEC. 6. *Capital Requirements.* – A MICRODEV shall have a net worth of
20 Twenty million pesos (P20,000,000.00), or in the case of newly organized
21 MICRODEVs, an initial net worth of Ten million pesos (P10,000,000.00).

1 SEC. 7. *Creation and Composition of the Accrediting Entity.* – An accrediting
2 entity to be known as the MICRODEV Accreditation Center shall be created
3 under the National Anti-Poverty Commission (NAPC) to perform the functions
4 provided herein. It shall be composed of the following:

- 5 (a) The President of the NAPC or designated representative;
- 6 (b) The Secretary of the DOF or designated representative;
- 7 (c) The Secretary of the Department of Trade and Industry (DTI) or designated
8 representative;
- 9 (d) The Governor of the Bangko Sentral ng Pilipinas (BSP) or designated
10 representative;
- 11 (e) The Chairperson of the SEC or designated representative; and
- 12 (f) The President of the Microfinance Council of the Philippines (MFCP) or
13 designated representative.

14 The MICRODEV Accreditation Center shall be assisted by a
15 Secretariat in the performance of its functions. Funding for its operation
16 shall be sourced from the two percent (2%) tax proceeds from
17 MICRODEVs to be remitted to the People’s Development Trust Fund
18 established under Republic Act No. 8425, as provided for in subparagraph
19 (a) of Section 10 of this Act.

20 SEC. 8. *Powers and Functions of the Accrediting Entity.* – The MICRODEV
21 Accreditation Center established under this Act shall have the following functions
22 and responsibilities:

- 1 (a) Institute and operationalize a system of accreditation for MICRODEVs;
- 2 (b) Issue certificate of accreditation as a MICRODEV to a nonstock and
3 nonprofit corporation applicant: *Provided*, That, the certificate of
4 accreditation shall be valid only for such period as may be prescribed under
5 the implementing rules and regulations of this Act: *Provided, further*, That
6 no application shall be processed for accreditation as a MICRODEV unless
7 the applicant enterprise secures a valid registration or license with the
8 government agency that exercises regulatory function over such
9 corporation;
- 10 (c) Monitor the performance of MICRODEVs to ensure compliance with the
11 provisions of this Act and its implementing rules and regulations;
- 12 (d) Suspend or revoke any certificate of accreditation upon determination that
13 a MICRODEV no longer meets the criteria for accreditation;
- 14 (e) Require regular submission of reports by MICRODEVs;
- 15 (f) Collect reasonable accreditation and monitoring fees from a MICRODEV
16 which shall be used for the accrediting entity's operational requirements;
- 17 (g) Submit an annual report to the President of the Philippines and the
18 concerned committees of both Houses of Congress; and
- 19 (h) Perform such other functions as may be necessary to accomplish the
20 purposes and objectives of this Act.

21 SEC. 9. *Power of Regulatory Authorities to Examine MICRODEVs.* – The BSP
22 and the Insurance Commission, in coordination with the accrediting entities, shall

1 have the power to examine the operations of MICRODEVs, solely for the purpose
2 of determining that MICRODEVs are not engaged in unauthorized undertakings
3 or activities which are subject to their respective regulations.

4 SEC. 10. *Taxation of Accredited MICRODEVs.* – The taxation of MICRODEVs
5 shall be as follows:

6 (a) The MICRODEVs shall pay two percent (2%) of the gross income in lieu of
7 all national and local taxes which shall be remitted to the National
8 Government. The tax proceeds shall form part of the disbursable portion of
9 the People’s Development Trust Fund established under Republic Act No.
10 8425. The term “gross income” shall mean gross receipts less sales returns,
11 allowances, discounts and other costs of services. The term “cost of
12 services” shall mean all direct costs and expenses necessarily incurred to
13 provide the services required by the customers and clients including
14 salaries and employee benefits of personnel, consultants and specialists
15 directly rendering the service and cost of facilities directly utilized in
16 providing the service and cost of supplies. Interest expenses on borrowings
17 for lending services of a MICRODEV shall be deductible from gross
18 receipts as part of cost of services in arriving at gross income. The term
19 gross income shall exclude donations;

20 (b) Donations to the MICRODEV shall be fully deductible from the gross
21 income of the donor subject to the conditions of Section 34(c) of Republic
22 Act No. 8424, as amended, otherwise known as the “National Internal

1 Revenue Code of 1997”: *Provided, however,* That the accreditation of the
2 MICRODEV by the accrediting entity under this Act shall be sufficient;

3 (c) Donations to the MICRODEV shall be exempt from donor’s tax subject to
4 the qualifications of Section 101 of Republic Act No. 8424, as amended,
5 otherwise known as the “National Internal Revenue Code of 1997”:

6 *Provided,* That for purposes of utilization, accreditation granted under this
7 Act shall be sufficient; and

8 (d) Transactions of the MICRODEV and its clients shall be exempt from
9 documentary stamp tax.

10 SEC. 11. *Implementing Rules and Regulations.* – The NAPC, in coordination
11 with the DOF, the BIR, the BSP, the DTI and the MFCP, shall formulate the
12 implementing rules and regulations (IRR) of this Act within ninety (90) days after
13 its approval. The IRR shall take effect fifteen (15) days after its publication in a
14 newspaper of general circulation in the Philippines.

15 SEC. 12. *Penalty Clause.* – If the BSP or the Insurance Commission finds,
16 pursuant to its power under Section 9 of this Act, MICRODEVs engaging in
17 unauthorized undertakings or activities, the BSP or the Insurance Commission
18 may impose administrative sanctions including, but not limited to, issuance of an
19 order requiring the MICRODEV and/or the directors and/or officers concerned to
20 cease and desist from the indicated practice or violation, and may further order
21 that immediate action be taken to correct the conditions resulting from such

1 violation. The cease and desist order shall be immediately effective upon service of
2 such order to the respondents.

3 Further, MICRODEVs and/or its directors and/or officers found to be
4 engaged in unauthorized undertakings and activities shall be subject to criminal
5 and administrative fines as provided for in Sections 36 and 37 of Republic Act No.
6 7653 or the New Central Bank Act, and in case of unauthorized activities regulated
7 by the Insurance Commission, be liable under the applicable insurance laws.

8 SEC. 13. *Separability Clause.* – The provisions of this Act are hereby declared
9 to be separable. If any provision of this Act shall be held unconstitutional, the
10 remainder of the Act not otherwise affected shall remain in full force and effect.

11 SEC. 14. *Repealing Clause.* – All executive orders, rules and regulations or parts
12 thereof which are contrary to or inconsistent with this Act are hereby repealed,
13 amended or modified accordingly.

14 SEC. 15. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days
15 from its publication in at least two (2) national newspapers of general circulation.

16 Approved,