

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



Senate
Office of the Secretary

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SENATE

S.B. No. 307

BY: *Jia*

Introduced by SENATOR CYNTHIA A. VILLAR

EXPLANATORY NOTE

The concept of microenterprise was founded by Dr. Mohammad Yunus and emerged in the developing world through the Grameen Bank (Bank of the Poor) in the country of Bangladesh in 1976, with the fundamental principle that credit is a human right. The bank was established with the practice of making small loans to the poor - predominantly women --to help them obtain economic self-sufficiency. The Grameen Bank has been extremely successful, reporting a 97% rate of repayment.

Much of Asia's vast and growing population forms part of the economy that lies outside the regulatory framework of governments in what is known as the informal sector. The informal sector, whether rural or urban, comprises small scale and microenterprises producing and distributing goods and services in unregulated, but competitive markets. The enterprises are generally independent, largely family owned, employ low levels of skills and technology, and are highly labor intensive.

In this era of globalization, generating economic growth in developing countries while reducing poverty is a primary development challenge. To ensure that the contribution of microenterprises to key subsectors and national economy is maximized, and that the poor are not left out of market development, microenterprises need access to finance, business services, and improved inputs. They also need a conducive enabling environment that facilitates rather than inhibits their participation in markets.

This Bill endeavors to support and work in partnership with qualified institutions, to be known as MICRODEVs which will implement a microenterprise development strategy in order to provide general and other entrepreneurial services to the poor with the end in view of alleviating poverty and raising the quality of life for all Filipinos. In brief, MICRODEVs will provide the poor with the following, among others: access to credit including microfinance, microinsurance, health care and microhousing; business development opportunities like entrepreneurial skills training; and other human development services.

In view of the foregoing, the passage of this bill is recommended.

Cynthia Villar
CYNTHIA A. VILLAR

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SENATE

RE: BY: *ja*

S.B. No. 307

Introduced by SENATOR CYNTHIA A. VILLAR

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

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

SECTION 1. *Title.* – This Act shall be known as the “Microenterprise Development Institutions Act of 2013”.

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

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

- (a) *MICRODEV Accreditation Center* refers to the entity created under Section 7 of this Act;
- (b) *Microenterprise Development Strategy* refers to a social reform program to empower the poor, manage risks and vulnerabilities and thereby improve their asset base and expand access to microfinance services, such as microcredit, microinsurance, microsavings, health care and microhousing through a broad package of financial, business and human development services and other nonfinancial services, including education to enable them to live productive lives;
- (c) *Microfinance* refers to the provision of a broad range of financial services exclusively for the poor to improve the asset base of households and expand their access to savings and enable them to raise their income levels and living standards;

- (d) *Net Worth* refers to the difference between total assets and total liabilities of an entity;
- (e) *Poor* refers to individuals and families whose income fall below the poverty threshold as defined by the National Economic and Development Authority or those who cannot afford in a sustained manner to provide their minimum basic needs of food, health care, education, housing and other essential amenities of life as defined by Republic Act No. 8425, otherwise known as the "Social Reform and Poverty Alleviation Act";
- (f) *Regulatory Authorities* refer to the entities as designated under Section 9 of this Act; and
- (g) *Social Reform* refers to the continuing process of addressing the basic inequities in Philippine society through a systematic, unified and coordinated delivery of socio-economic programs or packages.

SEC. 4. Recognition of Micro-enterprise Development Institutions (MICRODEVs). – MICRODEVs are hereby recognized as institutions mandated to implement a microenterprise development strategy. MICRODEVs shall be operated as nonstock and nonprofit corporations in accordance with the Securities and Exchange Commission (SEC) rules and regulations and provisions of Title XI (Non-Stock Corporations) of Batas Pambansa Blg. 68, otherwise known as "The Corporation Code of the Philippines". These shall be governed by a Board of Trustees whose members shall not receive compensation: *Provided*, That no part of the net income of MICRODEVs inure to the benefit of the members, trustees, directors or officers: *Provided, further*, That the administrative expenses shall in no case exceed thirty percent (30%) of the total expenses within a taxable year: *Provided, finally*, That the administrative expenses shall conform with the rules and regulations to be prescribed by the Department of Finance (DOF) upon the recommendation of the Bureau of Internal Revenue (BIR).

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

- (a) Provide the poor access to reasonable and affordable credit and related services including microfinance, microinsurance, health care and microhousing;
- (b) Provide business development opportunities such as leadership training and entrepreneurial skills training; and
- (c) Provide human development services to help the poor achieve a level of sustainability and empowerment and adopt measures to promote a spirit of generosity and selfless giving among individuals and institutions that would help support all programs directly involved in poverty eradication.

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

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

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

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

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

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

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

- (a) Institute and operate a system of accreditation for MICRODEVs;
- (b) Issue certificate of accreditation as a MICRODEV to a nonstock and nonprofit corporation applicant: Provided, That, the certificate of accreditation shall be valid only for such period as may be prescribed under the implementing rules and regulations of this Act: Provided, further, That no application shall be processed for accreditation as a MICRODEV unless the applicant enterprise secures a valid registration or license with the government agency that exercises regulatory function over such corporation;

- (c) Monitor the performance of MICRODEVs to ensure compliance with the provisions of this Act and its implementing rules and regulations;
- (d) Suspend or revoke any certificate of accreditation upon determination that a MICRODEV no longer meets the criteria for accreditation;
- (e) Require regular submission of reports by MICRODEVs;
- (f) Collect reasonable accreditation and monitoring fees from a MICRODEV which shall be used for the accrediting entity's operational requirements;
- (g) Submit an annual report to the President of the Philippines and the concerned committees of both Houses of Congress; and
- (h) Perform such other functions as may be necessary to accomplish the purposes and objectives of this Act.

SEC. 9. Power of the Regulatory Authorities to Examine MICRODEVs. – The BSP and the Insurance Commission, in coordination with the accrediting entities, shall have the power to examine the operations of MICRODEVs, solely for the purpose of determining that MICRODEVs are not engaged in unauthorized undertakings or activities which are subject to their respective regulations.

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

- (a) The MICRODEVs shall pay two percent (2%) of the gross income in lieu of all national and local taxes which shall be remitted to the National Government. The tax proceeds shall form part of the disburseable portion of the People's Development Trust Fund established under Republic Act No. 8425. The term "gross income" shall mean gross receipts less sales returns, allowances, discounts and other costs of services. The term "cost of services" shall mean all direct costs and expenses necessarily incurred to provide the services required by the customers and clients including salaries and employee benefits of personnel, consultants and specialists directly rendering the service and cost of facilities directly utilized in providing the service and cost of supplies. Interest expenses on borrowings for lending services of a MICRODEV shall be deductible from gross receipts as part of cost of services in arriving at gross income. The term gross income shall exclude donations;
- (b) Donations to the MICRODEV shall be fully deductible from the gross income of the donor subject to the conditions of Section 34(c) of Republic Act No. 8424, as amended, otherwise known as the "National Internal Revenue Code of 1997": *Provided, however,* That the accreditation of the MICRODEV by the accrediting entity under this Act shall be sufficient;
- (c) Donations to the MICRODEV shall be exempt from donor's tax subject to the qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise known as the "National Internal Revenue Code of 1997": *Provided,* That for purposes of utilization, accreditation granted under this Act shall be sufficient; and

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

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

SEC. 12. *Penalty Clause.* – If the BSP or the Insurance Commission finds, pursuant to its power under Section 9 of this Act, MICRODEVs engaging in unauthorized undertakings or activities, the BSP or the Insurance Commission may impose administrative sanctions including, but not limited to, issuance of an order requiring the MICRODEV and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such violation. The cease and desist order shall be immediately effective upon service of such order to the respondents. Further, MICRODEVs and/or its directors and/or officers found to be engaged in unauthorized undertakings and activities shall be subject to criminal and administrative fines as provided for in Sections 36 and 37 of Republic Act No. 7653 or the New Central Bank Act, and in case of unauthorized activities regulated by the Insurance Commission, be liable under the applicable insurance laws.

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

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

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

Approved,