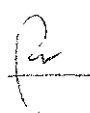


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SENATE

S.B. No. 2961

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### 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<sup>1</sup>.

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<sup>2</sup>.

In this era of globalization, generating economic growth in developing countries while reducing poverty is a fundamental development challenge. To ensure that the contribution of microenterprises to key subsectors and national economies 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<sup>3</sup>.

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. Thus, the passage of this Bill is earnestly sought.

  
MANNY VILLAR

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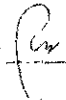
<sup>1</sup> <http://www.umlf.com/whatis/>

<sup>2</sup> Foreword by Kazi F. Jalal, Chief, Office of Environment and Social Development in "Microenterprise Development: Not by Credit Alone," ADB 1997

<sup>3</sup> [http://www.usaid.gov/our\\_work/economic\\_growth\\_and\\_trade/micro/index.html](http://www.usaid.gov/our_work/economic_growth_and_trade/micro/index.html)

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SENATE  
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**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:*

1           **SECTION 1. Title.** – This Act shall be known as the “Microenterprise Development  
2 Institutions Act of 2011”.

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

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

13           (a) *MICRODEV Accreditation Center* refers to the entity created under Section 7 of  
14 this Act.

15           (b) *Microenterprise Development Strategy* refers to a social reform program to  
16 empower the poor, manage risks and vulnerabilities and thereby improve their asset  
17 base and expand access to microfinance services, such as microcredit,  
18 microinsurance, microsavings, health care and microhousing through a broad  
19 package of financial, business and human development services and other  
20 nonfinancial services, including education to enable them to live productive lives.

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

1 (d) *Net Worth* refers to the difference between total assets and total liabilities of an  
2 entity.

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

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

11 (g) *Social Reform* refers to the continuing process of addressing the basic inequities  
12 in Philippine society through a systematic, unified and coordinated delivery of socio-  
13 economic programs or packages.

14  
15 **SEC. 4. Recognition of Micro-enterprise Development Institutions**  
16 **(MICRODEVs).** – MICRODEVs are hereby recognized as institutions mandated to  
17 implement a microenterprise development strategy. MICRODEVs shall be operated as  
18 nonstock and nonprofit corporations in accordance with the Securities and Exchange  
19 Commission (SEC) rules and regulations and provisions of Title XI (Non-Stock  
20 Corporations) of Batas Pambansa Blg. 68, otherwise known as "The Corporation Code of  
21 the Philippines". These shall be governed by a Board of Trustees whose members shall not  
22 receive compensation: *Provided*, That no part of the net income of MICRODEVs inure to the  
23 benefit of the members, trustees, directors or officers: *Provided, further*, That the  
24 administrative expenses shall in no case exceed thirty percent (30%) of the total expenses  
25 within a taxable year: *Provided, finally*, That the administrative expenses shall conform with  
26 the rules and regulations to be prescribed by the Department of Finance (DOF) upon the  
27 recommendation of the Bureau of Internal Revenue (BIR).

28  
29 **SEC. 5. Powers and Functions of a MICRODEV.** – A MICRODEV shall exercise  
30 such powers and functions and undertake such activities in accordance with the policies,  
31 programs and services provided in this Act. It shall:

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

34 (b) Provide business development opportunities such as leadership training and  
35 entrepreneurial skills training; and

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

1 Any accredited MICRODEV shall not undertake deposit-taking activities, engage in  
2 the insurance business and carry out fund management activities without the necessary  
3 licenses and authority from the relevant regulatory agencies.  
4

5 For the purpose of implementing this provision, deposit-taking does not include  
6 taking of funds from current or prospective borrowers for the purpose of equity build-up of  
7 an individual borrower's own loans. A MICRODEV shall be a net lender at all times, wherein  
8 net loans mean total loans minus total equity build-up.  
9

10 **SEC. 6. Capital Requirements.** – A MICRODEV shall have a net worth of Twenty  
11 million pesos (P20,000,000.00), or in the case of newly organized MICRODEVs, an initial  
12 net worth of Ten million pesos (P10,000,000.00).  
13

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

- 18 (a) The President of the NAPC or designated representative;  
19 (b) The Secretary of the DOF or designated representative;  
20 (c) The Secretary of the Department of Trade and Industry (DTI) or designated  
21 representative;  
22 (d) The Governor of the Bangko Sentral ng Pilipinas (BSP) or designated  
23 representative;  
24 (e) The Chairperson of the SEC or designated representative; and  
25 (f) The President of the Microfinance Council of the Philippines (MFCP) or  
26 designated representative.  
27

28 The MICRODEV Accreditation Center shall be assisted by a Secretariat in the  
29 performance of its functions. Funding for its operation shall be sourced from the two percent  
30 (2%) tax proceeds from MICRODEVs to be remitted to the People's Development Trust  
31 Fund established under Republic Act No. 8425, as provided for in subparagraph (a) of  
32 Section 10 of this Act.  
33

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

- 37 (a) Institute and operationalize a system of accreditation for MICRODEVs;  
38  
39 (b) Issue certificate of accreditation as a MICRODEV to a nonstock and nonprofit  
40 corporation applicant: *Provided, That, the certificate of accreditation shall be valid*

1 only for such period as may be prescribed under the implementing rules and  
2 regulations of this Act: *Provided, further,* That no application shall be processed for  
3 accreditation as a MICRODEV unless the applicant enterprise secures a valid  
4 registration or license with the government agency that exercises regulatory function  
5 over such corporation;

6  
7 (c) Monitor the performance of MICRODEVs to ensure compliance with the  
8 provisions of this Act and its implementing rules and regulations;

9  
10 (d) Suspend or revoke any certificate of accreditation upon determination that a  
11 MICRODEV no longer meets the criteria for accreditation;

12  
13 (e) Require regular submission of reports by MICRODEVs;

14  
15 (f) Collect reasonable accreditation and monitoring fees from a MICRODEV which  
16 shall be used for the accrediting entity's operational requirements;

17  
18 (g) Submit an annual report to the President of the Philippines and the concerned  
19 committees of both Houses of Congress; and

20 (h) Perform such other functions as may be necessary to accomplish the purposes  
21 and objectives of this Act.

22  
23 **SEC. 9. *Power of the Regulatory Authorities to Examine MICRODEVs.*** – The  
24 BSP and the Insurance Commission, in coordination with the accrediting entities, shall have  
25 the power to examine the operations of MICRODEVs, solely for the purpose of determining  
26 that MICRODEVs are not engaged in unauthorized undertakings or activities which are  
27 subject to their respective regulations.

28  
29 **SEC. 10. *Taxation of Accredited MICRODEVs.*** – The taxation of MICRODEVs  
30 shall be as follows:

31 (a) The MICRODEVs shall pay two percent (2%) of the gross income in lieu of all  
32 national and local taxes which shall be remitted to the National Government. The tax  
33 proceeds shall form part of the disburseable portion of the People's Development  
34 Trust Fund established under Republic Act No. 8425. The term "gross income" shall  
35 mean gross receipts less sales returns, allowances, discounts and other costs of  
36 services. The term "cost of services" shall mean all direct costs and expenses  
37 necessarily incurred to provide the services required by the customers and clients  
38 including salaries and employee benefits of personnel, consultants and specialists  
39 directly rendering the service and cost of facilities directly utilized in providing the  
40 service and cost of supplies. Interest expenses on borrowings for lending services of

1 a MICRODEV shall be deductible from gross receipts as part of cost of services in  
2 arriving at gross income. The term gross income shall exclude donations;

3  
4 (b) Donations to the MICRODEV shall be fully deductible from the gross income of  
5 the donor subject to the conditions of Section 34(c) of Republic Act No. 8424,  
6 as amended, otherwise known as the "National Internal Revenue Code of 1997":  
7 *Provided, however,* That the accreditation of the MICRODEV by the accrediting  
8 entity under this Act shall be sufficient;

9  
10 (c) Donations to the MICRODEV shall be exempt from donor's tax subject to the  
11 qualifications of Section 101 of Republic Act No. 8424, as amended, otherwise  
12 known as the "National Internal Revenue Code of 1997": *Provided,* That for  
13 purposes of utilization, accreditation granted under this Act shall be sufficient; and  
14

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

17  
18 **SEC. 11. *Implementing Rules and Regulations.*** – The NAPC, in coordination with  
19 the DOF, the BIR, the BSP, the DTI and the MFCP, shall formulate the implementing rules  
20 and regulations (IRR) of this Act within ninety (90) days after its approval. The IRR shall  
21 take effect fifteen (15) days after its publication in a newspaper of general circulation in the  
22 Philippines.

23  
24 **SEC. 12. *Penalty Clause.*** – If the BSP or the Insurance Commission finds, pursuant  
25 to its power under Section 9 of this Act, MICRODEVs engaging in unauthorized  
26 undertakings or activities, the BSP or the Insurance Commission may impose administrative  
27 sanctions including, but not limited to, issuance of an order requiring the MICRODEV and/or  
28 the directors and/or officers concerned to cease and desist from the indicated practice or  
29 violation, and may further order that immediate action be taken to correct the conditions  
30 resulting from such violation. The cease and desist order shall be immediately effective  
31 upon service of such order to the respondents. Further, MICRODEVs and/or its directors  
32 and/or officers found to be engaged in unauthorized undertakings and activities shall be  
33 subject to criminal and administrative fines as provided for in Sections 36 and 37 of  
34 Republic Act No. 7653 or the New Central Bank Act, and in case of unauthorized activities  
35 regulated by the Insurance Commission, be liable under the applicable insurance laws.

36  
37 **SEC. 13. *Separability Clause.*** – The provisions of this Act are hereby declared to  
38 be separable. If any provision of this Act shall be held unconstitutional, the remainder of the  
39 Act not otherwise affected shall remain in full force and effect.

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

4  
5           **SEC. 15. Effectivity Clause.** – This Act shall take effect after fifteen (15) days from  
6 its publication in at least two (2) national newspapers of general circulation.

7  
8           Approved,

9  
10  
11