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TITLE : AN ACT TO PROMOTE, DEVELOP AND ASSIST SMALL AND MEDIUM SCALE ENTERPRISES THROUGH THE CREATION OF A SMALL AND MEDIUM ENTERPRISE DEVELOPMENT (SMED) COUNCIL, AND THE RATIONALIZATION OF GOVERNMENT ASSISTANCE PROGRAMS AND AGENCIES CONCERNED WITH THE DEVELOPMENT OF SMALL AND MEDIUM ENTERPRISES, AND FOR OTHER PURPOSES

TEXT :

S. No. 1258

H. No. 30723

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fourth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July,
nineteen hundred and ninety.

[REPUBLIC ACT No. 06977]

AN ACT TO PROMOTE, DEVELOP AND ASSIST SMALL AND MEDIUM SCALE ENTERPRISES THROUGH THE CREATION OF A SMALL AND MEDIUM ENTERPRISE DEVELOPMENT (SMED) COUNCIL, AND THE RATIONALIZATION OF GOVERNMENT ASSISTANCE PROGRAMS AND AGENCIES CONCERNED WITH THE DEVELOPMENT OF SMALL AND MEDIUM ENTERPRISES, AND FOR OTHER PURPOSES

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

CHAPTER I

SECTION 1. Title. - This Act shall be known as the "Magna Carta for Small Enterprises."

SEC. 2. Declaration of Policy. - Recognizing that small and medium scale enterprises have the potential for more employment generation and economic growth and therefore can help provide a self-sufficient industrial foundation for the country, it is hereby declared the policy of the State to promote, support,

strengthen and encourage the growth and development of small and medium enterprises in all productive sectors of the economy particularly rural/ agri-based enterprises. To this end, the State shall undertake to spur the growth and development of small and medium enterprises throughout the country and thereby attain countryside industrialization:

a) by assuring, through the establishment of adequate support structure, and the creation and promotion of an environment conducive to the viability of these enterprises, establishment of mechanisms, the access and transfer of appropriate technology needed by small and medium enterprises;

b) by intensifying and expanding programs for training in entrepreneurship and for skills development for labor;

c) by facilitating their access to sources of funds;

d) by assuring to them access to a fair share of government contracts and related incentives and preferences;

e) by complementing and supplementing financing programs for small and medium enterprises and doing away with stringent and burdensome collateral requirements that small entrepreneurs invariably find extreme difficulty complying with;

f) by instituting safeguards for the protection and stability of the credit delivery system;

g) by raising government efficiency and effectiveness in providing assistance to small and medium enterprises throughout the country, at the least cost;

j) by promoting linkages between large and small enterprises, and by encouraging the establishment of common service facilities;

k) by making the private sector a partner in the task of building up small and medium enterprises through the promotion and participation of private voluntary organizations, viable industry associations, and cooperatives; and

l) by assuring a balanced and sustainable development through the establishment of a feedback and evaluation mechanism that will monitor the economic contributions as well as bottlenecks and environmental effects of the development of small and medium scale enterprises.

SEC. 3. Small and Medium Enterprises as Beneficiaries.- "Small and medium enterprise" shall be defined as any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value

falling under the following categories:

micro	: less than	P50,000
cottage	: P50,001 -	P500,000
small	: P500,001 -	P5,000,000
medium	: P5,000,001 -	P20,000,000

In a generic sense, all enterprises with total assets of Five million pesos (P5,000,000) and below shall be called small enterprises.

The above definitions shall be subject to review and adjustment by the said Council as deemed necessary, taking into account inflation and other economic factors.

SEC. 4. Eligibility for Government Assistance. - To qualify for assistance, counseling, incentives and promotion under this Act, businesses falling under the above definition must be:

a) duly registered with the appropriate agencies as presently provided by law: Provided, That, in the case of micro enterprises as defined herein, registration with the office of the municipal or city treasurer shall be deemed sufficient compliance with this requirement;

b) one hundred percent (100%) owned and capitalized by Filipino citizens if single proprietorship or partnership. If the enterprise is a juridical entity at least 60% of its capital or outstanding stocks must be owned by Filipino citizens;

c) primarily engaged in manufacturing, processing, and/or production excluding farm level agricultural/crop production; and

d) it must not be a branch, subsidiary or division of a large scale enterprise nor may its policies be determined by a large scale enterprise or by persons who are not owners or employees of the enterprise.

However, this requirement shall not preclude a small and medium enterprise from accepting subcontracts from large enterprises or firms joining in cooperative activities with other small and medium enterprises.

Programs of the financing corporation as provided in subsequent Sections of this Act shall be exclusively targeted to small, cottage and micro-sized enterprises. Financing from the Philippine National Bank, Development Bank of the Philippines, Land Bank of the Philippines and other financial institutions shall be made available to medium enterprises.

Medium enterprises, however, shall be entitled to avail of the other incentives, programs and services as provided for in this

Act.

SEC. 5. Guiding Principles. - To set the pace for small and medium enterprise development, the State shall be guided by the following principles:

a) Minimal set of rules and simplification of procedures and requirements. All government agencies having to do with small enterprises shall pursue the principles of minimum regulation to ensure stability of rules and to encourage entrepreneurial spirit among the citizenry. The agencies shall see to it that procedural rules and requirements, within their respective offices and in coordination with other agencies, are minimized in the act of registration, availment of financing and accessing other government services and assistance.

b) Role of the private sector. In order to hasten growth and expansion of small and medium enterprises, the private sector throughout the country shall be encouraged to assist in the effective implementation of this Act by constantly policing their ranks; and by participating in government programs for small and medium enterprises strictly in accordance with law, and consistent with the attainment of the purposes hereof. The government shall encourage the organization and establishment of small and medium enterprise industry associations at the local and regional levels preferably unified under a national federation/association.

c) Coordination of government efforts. Government efforts shall be coordinated to achieve coherence in objectives. All appropriate offices, particularly those under the Departments of Trade and Industry, Finance, Budget and Management, Agriculture, Agrarian Reform, Environment and Natural Resources, Labor and Employment, Transportation and Communication, Public Works and Highways, Science and Technology, and Local Government as well as the National Economic and Development Authority and the Central Bank of the Philippines, through their national, regional and provincial offices, shall to the best of their effort and in coordination with local government units, provide the necessary support and assistance to small and medium enterprises.

d) Decentralization. The State shall accelerate the decentralization process by establishing regional and provincial offices in order to enhance and attain greater efficiency in the provision of services to the countryside and the implementation of this Act, in coordination with local government units. To this end, the Government Agencies shall effect a substantial delegation of authority their regional and provincial offices to make decisions, particularly in the registration of beneficiaries of this law, qualification for availment of benefits, accreditation of private voluntary organizations, industry associations and cooperatives, and to resolve complaints for violation of applicable laws.

SEC. 6. Creation of a Small and Medium Enterprise Development Council. - To effectively spur the growth and development of small and medium enterprises throughout the country, and to carry out the policy declared in this Act, a Small and Medium Enterprise Development (SMED) Council is hereby created. The Council shall be attached to the Department of Trade and Industry and shall be duly constituted within sixty (60) days after the approval of this Act.

The Council shall be the primary agency responsible for the promotion, growth and development of small and medium enterprises in the country by way of facilitating and closely coordinating national efforts to promote the viability and growth of small and medium enterprises, including assisting relevant agencies in the tapping of local and foreign funds for small and medium enterprise development, as well as promoting the use of existing guarantee programs.

SEC. 7. Composition. - The Council shall be headed by the Secretary of Trade and Industry as Chairman. The members shall be the following:

- a) Director General of the National Economic and Development Authority;
- b) Secretary of Agriculture;
- c) Secretary of Labor and Employment;
- d) Secretary of Environment and Natural Resources;
- e) Secretary of Science and Technology;
- f) Chairman of Small Business Finance and Guarantee Corporation;
- g) Chairman of the small and medium enterprises promotion body which the President shall undertake to establish under this Act; and
- h) Three (3) representatives from the private sector, all Filipino citizens, to represent Luzon, Visayas and Mindanao to be appointed by the President, one of whom shall come from the banking industry.

Cabinet-rank ex officio members of the Council shall designate an undersecretary or assistant secretary as their permanent representative in case they fail to attend meetings of the Council.

The private sector members of the Council shall initially receive per diem of One thousand pesos (P1,000.00) per meeting.

The Department of Trade and Industry shall allocate Five million pesos (P5,000,000.00) out of its savings for the initial operating

expenses of the Council, after which the Council's budget shall be included in the annual appropriation of the Department of Trade and Industry.

The Council may, from time to time, call upon the participation any government agency or association of local government officials in its deliberations especially when such agency is directly or indirectly concerned with and/or affecting the growth and development of small and medium enterprises in any particular area or manner.

SEC. 8. Powers and Functions. - The Small and Medium Enterprise Development (SMED) Council shall have the following powers, duties and functions:

a) to help establish the needed environment and opportunities conducive to the growth and development of the small and medium enterprise sector;

b) to recommend to the President and the Congress all policy matters affecting small and medium scale enterprises;

c) to formulate a comprehensive small and medium enterprise development plan to be integrated into the National Economic and Development Authority Development Plans;

d) to coordinate and integrate various government and private sector activities relating to small and medium enterprise development;

e) to review existing policies of government agencies that would affect the growth and development of small and medium enterprises and recommend changes to the President and/or to the Congress whenever deemed necessary. This shall include efforts to simplify rules and regulations as well as procedural and documentary requirements in the registration, financing, and other activities relevant to small and medium enterprises;

f) to monitor and determine the progress of various agencies geared towards the development of the sector. This shall include overseeing, in coordination with local government units and the Department of Local Government as well as private sector groups/ associations, the developments among small and medium enterprises, particularly the cottage and micro-sized firms;

g) to promulgate implementing guidelines, programs, and operating principles as may be deemed proper and necessary in the light of government policies and objectives of this Act;

h) to provide the appropriate policy and coordinative framework in assisting relevant government agencies, in coordination with the National Economic and Development Authority and the Coordinating Council for the Philippine Assistance Program, as may be necessary, in the tapping of local and foreign funds for small

and medium enterprise development;

i) to promote the productivity and viability of small and medium enterprises by way of directing and/or assisting relevant government agencies and institutions at the national, regional and provincial levels towards the:

1) provision of business training courses, technical training for technicians and skilled laborers and continuing skills upgrading programs;

2) provision of labor-management guidance, assistance and improvement of the working conditions of employees in small and medium-sized firms;

3) provision of guidance and assistance regarding product quality/product development and product diversification;

4) provision of guidance and assistance for the adoption of improved production techniques and commercialization of appropriate technologies for the product development and for increased utilization of indigenous raw materials;

5) provision of assistance in marketing and distribution of products of small and medium scale enterprises through local supply-demand information, industry and provincial profiles, overseas marketing promotion, domestic market linkaging and the establishment of common service facilities such as common and/or cooperative bonded warehouse, grains storage, agro-processing and drying facilities, ice plants, refrigerated storage, cooperative trucking facilities, etc.;

5) intensification of assistance and guidance to enable greater access to credit through a simplified multi-agency financing program; to encourage development of other modes of financing such as leasing and venture capital activities; to provide effective credit guarantee systems, and encourage the formation of credit guarantee associations, including setting up of credit records and information systems and to decentralize loan approval mechanisms;

7) provision of concessional interest rates, lower financing fees, which may include incentives for prompt credit payments, arrangements tying amortizations to business cash flows, effective substitution of government guarantee cover on loans for the borrower's lack of collateral;

8) provision of bankruptcy preventive measures through the setting up of a mutual relief system for distressed enterprises, and the establishment of measures such as insurance against extraordinary disasters;

9) intensification of information dissemination campaigns and entrepreneurship education activities;

10) easier access to and availment of tax credits and other tax and duty incentives as provided by the Omnibus investment Code and other laws;

11) provision of support for product experimentation and research and development activities as well as access to information on commercialized technologies; and

12) provision of more infrastructure facilities and public utilities to support operations of small and medium enterprises;

j) to submit to the President and the Congress a yearly report on the status of small and medium enterprises in the country, including the progress and impact of all relevant government policies, programs and legislation as well as private sector activities;

k) to assist in the establishment of modern industrial estates outside urban centers; and

l) generally, to exercise all powers and functions necessary for the objectives and purposes of this Act.

SEC. 9. Designation of the Bureau of Small and Medium Business Development as Council Secretariat. - The Bureau of Small and Medium Business Development of the Department of Trade and Industry, in addition to its current activities and functions, is hereby designated to act as the Council Secretariat. The Secretariat shall have the following duties and functions:

1) to prepare, in coordination with local government units and/ or associations of local government officials, and recommend annual as well as medium-term small and medium enterprise development plans for approval of the Council;

2) to coordinate the preparation of position papers and background materials for discussion or approval during Council meetings;

3) to assist the Council in coordinating and monitoring small and medium enterprise policies and programs and activities of all government agencies with respect to small and medium enterprises;

4) to prepare, collate and integrate all inputs to the Council's yearly report on the status of small and medium enterprises in the country.

5) to submit periodic reports to the Council on the progress and accomplishment of its work programs; and

6) to perform ad hoc functions as authorized by the Council.

CHAPTER III

SEC. 10. Rationalization of Existing Small and Medium Enterprise Programs and Agencies. - The Small and Medium Enterprise Development Council shall within one hundred eighty (180) days from its establishment, recommend to the President, measure/s to rationalize and integrate under a unified institutional framework all government programs for the promotion and development of small and medium enterprises.

The President is hereby also empowered to establish a small and medium enterprise promotion body which shall be the principal government agency that will formulate, implement, coordinate and monitor all non-financing government programs, including fee-based services, to support and promote micro, small and medium enterprises. It shall be attached to the Department of Trade and Industry and shall be under the policy, program and administrative supervision of the SMED Council. The said office shall receive no less than fifty percent (50%) of the assets, and budgetary allocations of the agencies for promotion, development and financing of small and medium enterprises that may be henceforth dissolved and/or abolished and absorbed, incorporated and integrated into the SMED Council.

SEC. 11. Creation of Small Business Guarantee and Finance Corporation. - There is hereby created a body corporate to be known as the Small Business Guarantee and Finance Corporation, hereinafter referred to as SBGFC, which shall provide, promote, develop and widen in both scope and service reach various alternative modes of financing for small enterprises, including, but not limited to, direct and indirect project lending, venture capital, financial leasing, secondary mortgage and/or rediscounting of loan papers to small businesses, secondary/regional stock markets: Provided, That crop production financing shall not be serviced by the Corporation.

The Corporation shall guarantee loans obtained by qualified small enterprises, local and/or regional associations small enterprises and industries, private voluntary organizations and/or cooperatives, under such terms and conditions adopted by its Board. It may guarantee loans up to one hundred percent (100%). It may also provide second level guarantee (i.e., re-insurance) on the credit and/or investment guarantees made by credit guarantee associations and other institutions in support of small entrepreneurs.

The Corporation shall become liable under its guarantees upon proof that the loan has become past due under such terms and guidelines adopted by its Board and printed on the contract of guarantee.

The Small Business Guarantee and Finance Corporation shall:

a) be attached to the Department of Trade and Industry and shall be under the policy, program and administrative supervision of the SMED Council;

b) have its principal place of business in Metro Manila and endeavor to have one or more branch offices in every province of the country;

c) exercise all the general powers conferred by law upon corporations under the Corporation Code as are incidental or conducive to the attainment of the objectives of this Act; and

d) have a board of directors upon which the powers of the Corporation shall be vested, to be composed of five (5) members including :

1) three (3) members from the private sector appointed by the President upon recommendation of the SMED Council and from among whom the Chairman of the Board shall be appointed by the President to serve on a full-time basis;

2) the Secretary of Trade and Industry or his Undersecretary; and

3) a representative of the five (5) government financial institutions mandated in this Act to provide the initial capital of the Corporation, who shall be designated, under guidelines agreed upon by the Board Chairmen of said institutions.

SEC. 12. Capitalization and Funding. - The Small Business Guarantee and Finance Corporation shall have an authorized capital stock of Five billion pesos (P5,000,000,000.00). The initial capital of One billion pesos (P1,000,000,000.00) shall be established from a pool of funds to be contributed in the form of equity investments in common stocks by the Land Bank of the Philippines (LBP), the Philippine National Bank (PNB), the Development Bank of the Philippines (DBP) in the amount of Two hundred million pesos (P200,000,000.00) each. The Social Security System (SSS) and the Government Service Insurance System (GSIS) shall also set aside Two hundred million pesos (P200,000,000.00) each to be placed in preferred stocks of the SBGFC. Additional funding shall come from trust placements of excess and unused funds of existing government agencies, bilateral and multilateral official development assistance funds, subscriptions from government-owned or controlled corporations, and investments of private financial institutions and corporations.

SEC. 13. Mandatory Allocation of Credit Resources to Small Enterprises. - All lending institutions as defined under Central Bank rules, whether public or private, shall, set aside a portion of their total loan portfolio based on their balance sheets as of the end of the previous quarter, and make it available for small enterprise credit as herein contemplated. The portion mandated to be so set aside shall at least be five (5%) by the end of the first year of the effectivity of this Act, ten percent (10%) by the end of the second year through the end of the fifth year, and five percent (5%) by the end of sixth year and may come down to

zero by the end of the seventh year.

The Central Bank in consultation with the Council, shall formulate rules for the effective implementation of this provision: Provided, That the purchase of government notes, securities, and other negotiable instruments, with the exception of such instruments as maybe offered by the SBGFC, shall not be deemed compliance with the foregoing provision.

The SMED Council shall set up the appropriate systems to monitor all loan applications of small enterprises in order to account for the absorptive capacity of the small enterprise sector.

The Central Bank shall furnish to the Small and Medium Development Council on a semestral basis regular reports on the lending institutions' compliance with the above provisions on the mandatory credit allocation for small enterprises.

SEC. 14. Penal Clause. The Central Bank shall impose administrative sanctions and other penalties on the lending institutions for non-compliance with provisions of this Act. In addition, the president, members of boards of directors, and other officers of the erring lending institutions shall be individually liable for imprisonment of not less than six (6) months and a fine of not less than Five hundred thousand pesos (P500,000.00) each.

CHAPTER IV

SEC. 15. 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.16. Repealing Clause. - An laws, executive orders, rules and regulations, or parts thereof, inconsistent herewith are hereby repealed or modified accordingly.

SEC.17. Effectivity. - This Act shall take effect upon its approval.

Approved,

RAMON V. MITRA
Speaker of the House
of Representatives

JOVITO R. SALONGA
President of the Senate

This Act which was a consolidation of S. No. 1258 and H. No. 30723, was finally passed by the Senate and House of Representatives on December 5, 1990 and December 11, 1990, respectively.

QUIRINO D. ABAD SANTOS, JR.
Secretary of the House

EDWIN P. ACOBA
Secretary of the Senate

of Representatives

Approved: January 24, 1991

CORAZON C. AQUINO
President of the Philippines