

[REPUBLIC ACT NO. 9501, May 23, 2008]

AN ACT TO PROMOTE ENTREPRENEURSHIP BY STRENGTHENING DEVELOPMENT AND ASSISTANCE PROGRAMS TO MICRO, SMALL AND MEDIUM SCALE ENTERPRISES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6977, AS AMENDED, OTHERWISE KNOWN AS THE "MAGNA CARTA FOR SMALL ENTERPRISES" AND FOR OTHER PURPOSES.

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

SECTION 1. Section 1 of Republic Act No. 6977, as amended, is hereby further amended to read as follows:

"SECTION 1. Title. - This Act shall be known as the "Magna Carta for Micro, Small and Medium Enterprises (MSMEs)".

SEC. 2. Section 2 of the same Act is hereby amended to read as follows:

"SEC. 2. *Declaration of Policy.* - Recognizing that MSMEs 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 MSMEs in all productive sectors of the economy particularly rural/agri-based enterprises. To this end, the State shall recognize the specific needs of the MSMEs and shall recognize the specific needs of the MSMEs and shall undertake to promote entrepreneurship, support entrepreneurs, encourage the establishments of MSMEs and ensure their continuing viability and growth and thereby attain countryside industrialization by:

"a) intensifying and expanding programs for training in entrepreneurship and for skills development for labor;

"b) facilitating their access to sources of funds;

"c) assuring to them access to a fair share of governments contracts and related incentives and preferences;

"d) complementing and supplementing financing programs for MSMEs and doing away with stringent and burdensome collateral requirements that small entrepreneurs invariably find extreme difficulty complying with;

"e) instituting safeguards for the protection and stability of the credit delivery system;

"f) raising government efficiency and effectiveness in providing assistance to MSMEs throughout the country, at the least cost;

"g) promoting linkages between large and small enterprises, and by encouraging the establishments of common service facilities;

"h) making the private sector a partner in the task of building up MSMEs through the promotion and participation of private voluntary organizations viable industry associations, and cooperatives; and

"i) assuring a balance 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 MSMEs."

SEC. 3. Section of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 3. *Micro, Small and Medium Enterprises (MSMEs) as Beneficiaries.*

- MSMEs 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: not more than P3,000,000

small: P3,000,001 - 15,000,000

medium: P15,000,001 - P1000,000,000

"The above definitions shall be subject to review and adjustments by the Micro, Small and Medium Enterprises Development (MSMED) Council under Section 6 of this Act or upon recommendation of sectoral organizations concerned, taking into account inflation and other economic indicators. The Council may use other variables such as number of employees, equity capital and assets size.

"The Council shall ensure that notwithstanding the plans and programs set for MSMEs as a whole, there shall be set and implemented other plans and programs varied and distinct from each other, according to the specific needs of each sector, encouraging MSMEs to graduate from one category to the next or even higher category."

SEC. 4. Section 4 of the same Act, as amended, is hereby further amended to read as follows:

"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, capitalized by Filipino citizens, whether single proprietorship or partnership. If the enterprise is a juridical entity, at least sixty percent (60%) of its capital or outstanding stock must be owned by Filipino citizens;

"c) a business activity within the major sectors of the economy, namely; industry, trade, services, including the practice of one's profession, the operation of tourism-related establishments, and agri-business, which for purposes of this Act refers to any business activity involving the manufacturing, processing, and/or production of agricultural produce; and

"d) it must not be a branch, subsidiary or division of a large scale enterprise.

"However, this requirement shall not preclude MSMEs from accepting subcontracts and entering into franchise partnership with large enterprises or from joining in cooperative activities with other MSMEs.

"Program of the Small Business Corporation (SB Corporation) as provided in subsequent provisions of this Act shall be exclusively delivered and directed to bonafide MSMEs.

"Any MSME, its directors, officers or agents, found to have committed fraud or misrepresentation for the purpose of availing the benefits under this Act shall be immediately disqualified as a beneficiary, without prejudice to any administrative, criminal or civil liability under existing laws.

"Eligible MSMEs shall be entitled to a share of at least ten percent (10%) of total procurement value of goods and services supplied to the Government, its bureaus, offices and agencies annually.

"The Department of Budget and Management shall monitor the compliance of government agencies on the required procurement for MSMEs and submit its report to the MSMED Council on a semestral basis and to the Congress of the Philippines, through its appropriate committees on a yearly basis."

SEC. 5. Section of the same Act, as amended, is hereby further amended to read as follows:

"SEC. 5. *Guiding Principles.* - To set the pace for MSME development, the State shall be guided by the following principles:

"x x x

"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 Communications, Public Works and Highways, Science and Technology, Interior and Local Government and Tourism as well as the National Economic and Development Authority, Philippine Information Agency and the Bangko Sentral ng Pilipinas, through their national, regional and provincial offices shall, to the best of their efforts and in coordination with local government units, provide the necessary support and assistance to MSMEs.

x x x."

SEC. 6. A new section, numbered Section 6 is hereby inserted after Section 5 of the same Act, to read as follows:

"SEC. 6. *Micro, Small and Medium Enterprises Development Plan (MSMEDP)*. - The President shall approve a six-year micro, small and medium enterprises development plan prepared by the Department of Trade and Industry (DTI) which shall form part of the Medium Term Philippine Development Plan (MTPDP). It shall be formulated in consultation with the private sector, validated and updated semestrally. Such plan shall include a component on a micro credit financing scheme."

SEC. 7. Section 6 of the same Act is hereby renumbered as Section 7 and further amended to read as follows:

"SEC. 7. *Micro, Small and Medium Enterprise Development (MSMED) Council*. - The existing Small and Medium Enterprise Development Council, which was created by Republic Act No. 6977, as amended by Republic Act No. 6977, as amended by Republic Act No. 8289, shall be strengthened to effectively spur the growth and development of MSMEs throughout the country, and to carry out the policy declared in this Act and shall now be known as the Micro, Small and Medium Enterprise development (MSMED) Council. The Council shall be attached to the Department of Trade and Industry and shall be constituted within sixty (60) days after the approval of this Act."

"x x x."

SEC. 8. Section 7 of the Act, as amended, is hereby renumbered as Section 7-A and further amended to read as follows:

"SEC. 7-A. *Composition*. - The Council shall be headed by the Secretary of Trade and Industry as Chairman, and may elect from among themselves a Vice-chairman to preside over the Council meetings in the absence of the Chairman. The members shall be the following:

"a) Secretary of Agriculture;

"b) Secretary of the Interior and Local Government;

"c) Secretary of Science and Technology;

"d) Secretary of Tourism;

"e) Chairman of Small Business Corporation;

"f) Three (3) representatives from the MSME sector to represent Luzon, Visayas and Mindanao;

"g) One representative from the labor sector, to be nominated by accredited labor groups; and

"h) A representative from the private banking sector; to serve alternately among the Chamber of Thrift Banks; the Rural Bankers' Association of the Philippines (RBAP); and the Bankers' Association of the Philippines (BAP).

"All members of the Council so appointed, except from the *ex officio* members, shall serve for a term of three (3) years. The person so appointed to replace a member who has resigned, died, or been removed for cause shall serve only for the unexpired portion of the term.

"The private sector members of the Council shall receive per diem of Two thousand pesos (P2,000) per meeting, for a maximum of twenty-four (24) meetings per year, which *per diem* may be adjusted by the MSMED Council as appropriate.

"The Council may call upon the participation of any national or local government agency, association of local government officials or private sector organization in its deliberations especially when such agency or private sector or organization in its deliberations especially when such agency or private sector organizations directly or indirectly concerned with and/or affecting the growth and development of MSMEs in any particular area or manner.

"The Council may create an Executive Committee of five (5) members elected by the Council from among themselves or their designated permanent representatives, with at least two (2) members representing the private sector, and with authority to act for and on behalf of the Council during intervals of council meetings, and within the specific authority granted by the Council."

SEC. 9. Section 8 of the same Act, as amended, is hereby renumbered as Section 7-B and further amended to read as follows:

"SEC. 7-B *Power and Functions*. - The MSMED 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 MSME sector;

"b) To recommend to the President and the Congress all policy matters affecting MSMEs;