

REPUBLIC ACT NO. 8289

AN ACT TO STRENGTHEN THE PROMOTION AND DEVELOPMENT OF, AND ASSISTANCE TO SMALL AND MEDIUM SCALE ENTERPRISES, AMENDING FOR THAT PURPOSE REPUBLIC ACT NO. 6977, 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 3 of Republic Act No. 6977 is hereby amended to read as follows:

"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	-	P1,500,001
small	:	P1,500,001	-	P15,000,000
medium	:	P15,000,001	-	P60,000,000

"The above definitions shall be subject to review and adjustment by the said Council *motu proprio* or upon recommendation of sectoral organization(s) taking into account inflation and other economic indicators. The Council may use as variables the number of employees, equity capital and assets size."

SEC. 2. Section 4 of Republic Act No. 6977 is hereby 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 and capitalized by Filipino citizens if single proprietorship or partnership. If the enterprise is a juridical entity, at least sixty percent (60%) of its capital or outstanding stocks must be owned by Filipino citizens.

"c) a business activity within the major sectors of the economy, namely: industry, 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, 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 medium, small, and micro-sized enterprises.

"Registered small enterprises 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: *Provided*, That prices and quality of goods offered by the registered small enterprises are competitive."

SEC. 3. Section 5 of Republic Act No. 6977 is hereby amended to read as follows:

"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 participating in government programs for small and medium enterprises strictly in accordance with the law, and consistent with the attainment of the purposes hereof. To encourage private sector participation, the Council, in consultation with the concerned sector, may recommend simplified procedure and localized incentives to small enterprises. 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 Communications, Public Works and Highways, Science and

Technology, Local Government and Tourism as well as the National Economic and Development Authority and the Bangko Sentral ng Pilipinas, 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 to 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. 4. Section 6 of Republic Act No. 6977 is hereby amended to read as follows:

"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 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 programs, as well as seeking ways to maximize the use of our labor resources."

SEC. 5. Section 7 of Republic Act No. 6977 is hereby amended to read, as follows:

"SEC. 7. *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) 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) Secretary of Tourism;

"g) The Chairman of the Monetary Board;

"h) Chairman of Small Business Guarantee and Finance Corporation;

"i) Chairman of the small and medium enterprises promotion body which the President shall undertake to establish under this Act; and

"j) Three (3) representatives from the private sector at large, all Filipino citizens, to represent Luzon, Visayas and Mindanao, and one representative from the small and medium enterprise sector to be appointed by the President; and

"k) 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).

"Cabinet-rank *ex officio* members of the Council shall designate an undersecretary or assistant secretary, and the chairman of the Monetary Board or his representative, 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) per meeting, for a maximum of twenty-four (24) meetings per year, which *per diem* may be adjusted by the Council: *Provided*, That any such adjustment shall take effect upon approval of the President.

"The Department of Trade and Industry shall allocate Five million pesos (P5,000,000) 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 of 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.

"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. 6. Section 9 of Republic Act No. 6977 is hereby amended to read as follows:

"SEC. 9. *Designation of the Bureau of Small and Medium Business Development as a Council Secretariat.* – The Bureau of

Small and Medium Business Development is hereby designated to act as the Council Secretariat and 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 of the progress and accomplishment of its work programs; and

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

SEC. 7. Section 10 of Republic Act No. 6977 is hereby amended to read as follows:

"SEC. 10. *Rationalization of Existing Small and Medium Enterprise Programs and Agencies.* – The Council shall conduct continuing review of government programs for small and medium enterprises and submit to Congress and the President a report thereon together with its policy recommendations.

"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. 8. Section 11 of Republic Act No. 6977 is hereby amended to read as follows:

"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 source and adopt development initiatives for globally competitive small and medium enterprises in terms of finance, technology, production, management and business linkages, and provide, promote, develop and widen in both scope and service reach various alternative modes of financing for small and medium 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 and medium 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., reinsurance) 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 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 in 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;

"d) have a board of directors upon which the powers of the Corporation shall be vested, to be composed of nine (9) 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 from each 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;

"e) notwithstanding the provisions of Republic Act No. 6758, and Compensation Circular No. 10, series of 1989 issued by the Department of Budget and Management, the Board of Directors of SBGFC shall have the authority to extend to the employees and personnel thereof the allowance and fringe benefits similar

to those extended to and currently enjoyed by the employees and personnel of other government financial institutions."

SEC. 9. Section 13 of Republic Act No. 6977 is hereby amended to read as follows:

"SEC. 13. *Mandatory Allocation of Credit Resources to Small and Medium Enterprises.* – For the period of ten (10) years from the date of the effectivity of this Act, all lending institutions as defined under Bangko Sentral ng Pilipinas rules, whether public or private, shall set aside at least six percent (6%) and at least two percent (2%) for small and medium enterprises, respectively, of their total loan portfolio based on their balance sheet as of the end of the previous quarter, and make it available for small and medium enterprises credit as herein contemplated.

"The Bangko Sentral ng Pilipinas, 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 may be offered by the SBGFC which do not pay market rates, shall not be deemed compliance with the foregoing provision: *Provided, further*, That the Bangko Sentral ng Pilipinas shall establish an incentive program to encourage lending to small and medium industries beyond the mandatory credit allocation to said enterprises, as such as possible reduction in bank's reserve requirement.

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

"The Bangko Sentral ng Pilipinas shall require lending institutions covered by this Act to furnish to the Small and Medium Development Council on a quarterly basis regular reports on their compliance with the above provisions on the mandatory credit allocation for small and medium enterprises and expeditiously act on the Council's reports of non-compliance therewith."

SEC. 10. Section 14 of Republic Act No. 6977 is hereby amended to read as follows:

"SEC. 14. *Penalty Clause.* – The Bangko Sentral ng Pilipinas shall impose administrative sanctions and other penalties on the lending institutions for non-compliance with provisions of this Act including a fine of not less than Five hundred thousand pesos (P500,000)."

SEC. 11. *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. 12. *Repealing Clause.* – All laws, executive orders, rules and regulations, or parts thereof, inconsistent herewith are hereby repealed or modified accordingly.

SEC. 13. *Effectivity.* – This Act shall take effect upon its approval.

Approved, May 6, 1997.