



Analysis of Business Registration and Licensing in the Philippines

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List of Acronyms

BAI	Bureau of Animal Industry
BFAD	Bureau of Food and Drugs
BFAR	Bureau of Fisheries and Aquatic Resources
BFD	Bureau of Forest Development
BIR	Bureau of Internal Revenue
BPI)	Bureau of Plant Industry
BOI	Board of Investments
BOSS	Business One-Stop Shop
BPL	Business Permits and Licensing
BSP	Bangko Sentral ng Pilipinas
BTPC	Business Tax Payment Certificate
CA	City Administrator
CDA	Cooperative Development Authority
CFD	City Fire Department
CHD	City Health Department
CMO	City Mayor's Office
CPDO	City Planning and Development Office
CTO	City Treasurer's Office
DOLE	Department of Labor and Employment
DTI	Department of Trade and Industry
ECA	Environmentally Critical Area
ECC	Environmental Compliance Certificate
ECP	Environmentally Critical Project
GTEB	Garments and Textile Export Board
GTZ	German Technical Cooperation
EIS	Environmental Impact System
IEE	Initial Environmental Examination
FIDA	Fiber Industry Development Authority
IRR	Implementing Rules and Regulations
LCP	League of Cities of the Philippines
LGU	Local Government Unit
LMP	League of Municipalities of the Philippines
LPP	League of Provinces of the Philippines
NFA	National Food Authority
MSME/SME	Micro, Small and Medium-sized Enterprise
NTA	National Tobacco Administration
OSS	One-Stop-Shop
PEZA	Philippine Economic Zone Authority
SEC	Securities Exchange Commission
SSS	Social Security System

Introduction

The Small and Medium Enterprise Development for the Sustainable Employment Program (SMEDSEP) of the German Technical Cooperation (GTZ), in partnership with the Department of Trade and Industry (DTI) and the Technical Education and Skills Development Authority (TESDA) of the Philippines, aims to establish favorable business conditions in the Philippines. Enabling the Business Environment, a major component of the program, intends to propose and implement policy recommendations in cooperation with the private sector for the improvement of the business climate at the national, regional and local levels.

Since 2004, the program has undertaken several efforts to assist businesses and local government units (LGUs) in building a business-friendly climate, particularly in the area of improving business registration and licensing procedures. Through the program the following were conducted: seminar-workshops, research studies and assessments of the business licensing procedures of selected cities so as to identify problems and determine/recommend solutions to improve the policy environment. The national and local level permits and licensing systems and procedures were similarly studied. Recently, the program also provided technical assistance to selected cities in the Visayas in an effort to streamline and improve the business licensing system and procedures in order to achieve business client satisfaction.

In its work toward the improvement of the business climate, the GTZ recognizes that national and local laws, rules and regulations shape the business registration, permits and licensing systems and procedures. It appears that several national and local level laws and procedures on the registration of businesses are sometimes inconsistent with each other and may impede efforts of these businesses to flourish and formalize their establishments. Realizing that policy reforms may be necessary to the achievement of its program goal, the GTZ commissioned this study in order to review and assess the current laws and procedures in terms of how they are interpreted and applied by the national and local government units.

This paper presents the results of the study as well as an assessment of selected laws, rules and studies. Through these findings, it is hoped that the GTZ, through the SMEDSEP, would be able to determine possible areas of assistance that would address the concerns and needs attendant to reforming the business licensing and permits procedures and processes. Furthermore, it hopes to contribute towards policy reforms and the adjustment of the existing practice of business permitting and licensing.

Objective

This study aims to conduct an inventory of the laws, rules and regulations that govern business and licensing procedures in the Philippines on the national and local levels. The study will also describe and analyze their impact on the actual process of securing business permits.

Methodology

The study involved the review of literature, particularly of available documents and studies on the laws, rules and policies of pertinent government agencies. It similarly tackled the business experiences on Business Permits and Licensing (BPL) at the national and local levels, as well as published and unpublished studies from the academe and the public sector, etc. pertaining to business permits and licensing of SMEs. The presentation of the list of pertinent laws and regulations and the full text of some of these selected laws are shown in the annexes.

A significant aspect of the study is a description of the current BPL practices of selected LGUs in the last three years. These are summarized in a flowchart indicating the procedures and steps in securing a business license/permit.

Description of Business Registration, Permits and Procedures

The first step for businesses to be able to operate in the country is for them to submit three major requirements: (1) business registration, (2) business license, and (3) a local business permit.

Business registration

- is a document which gives the business a “juridical personality.” Regardless of where the SMEs are located, all of them need to undergo these registration processes.

Business license

- is a document issued by duly authorized government agencies or representatives at the national and/or local level to regulate the business operation of a person, partnership or corporation. It is in the nature of a special privilege, of permission or authority to do what is within its terms. Any license granted by the state is always revocable.

Local business permit

- is a document issued by the LGU through the Mayor, who has jurisdiction over the intended place of the business. It authorizes the business to operate in the locality.

The three requirements involve the payment of fees and charges. License or permit fees, which are different from taxes, are charges imposed under the police power of the state for purposes of regulation. A license fee is the legal compensation for special services, while a tax is an enforced contribution assessed by sovereign authority to defray public expenses. Imposed for regulation purposes, a license involves the exercise of police power while a tax involves the exercise of taxing power. The amount of the license fee should not exceed the amount of the expenses incurred in the course of the inspection and regulation. Meanwhile there is no limit to the amount of taxes that may be imposed. Whereas license fees are imposed on the right to exercise a privilege, a tax is imposed also on persons and property. Moreover, while failure to pay a license fee makes the business illegal, failure to pay a tax does not necessarily make the business illegal. It is important to distinguish the two because the power to regulate does not include the power to impose fees for regulatory purposes.¹

Table 1 shows a summary of the agencies involved in the following processes: business registration, business licensing from the respective national agencies and business permitting at the local level. The steps and time required in obtaining these authorizations and requirements are also indicated in the table below.

Table 1 - Agencies Involved in Business Registration, Permits and Licensing

National Agencies	Registration requirements for a business firm			Licensing required for a specific type of business to get a business permit			Business Permit Process that is done at the LGU level to get a business permit		
	Processing Time	No. of Steps	# of Doc Req	Processing Time	No. of Steps	# of Doc Req	Processing Time	No. of Steps	# of Doc Req
DTI	30 min	5	2						
SEC	1 week	7	7						
CDA	2 hours	3	4						
SSS	1 day	2	2						
BIR	1 day	3	7						
DOLE	1 day	5	2						
BOI	20 days	3	6						

¹ Hector de Leon and Hector de Leon, Jr., The Fundamentals of Taxation, 2004.

National Agencies	Registration requirements for a business firm			Licensing required for a specific type of business to get a business permit			Business Permit Process that is done at the LGU level to get a business permit		
	Processing Time	No. of Steps	# of Doc Req	Processing Time	No. of Steps	# of Doc Req	Processing Time	No. of Steps	# of Doc Req
PEZA		26	23						
PhilHealth									
BFAD				1 month	10	13			
BFAR				4.42 hrs	5	5			
BPI				3-5 days	10	7			
BPS				3 months	8	8			
DENR				105 days	3	8			
ECC				1 month	6	3			
FIDA				36.5 hrs	5	8			
IPO				32 months	9	4			
NFA				1 hour	4	5			
NTA				30 minutes	4	5			
BAI									
GTEB									
PCA									
LTO									
LTFRB									
LGU							5min- 720 mins	4-10	3-8

Source: DTI files

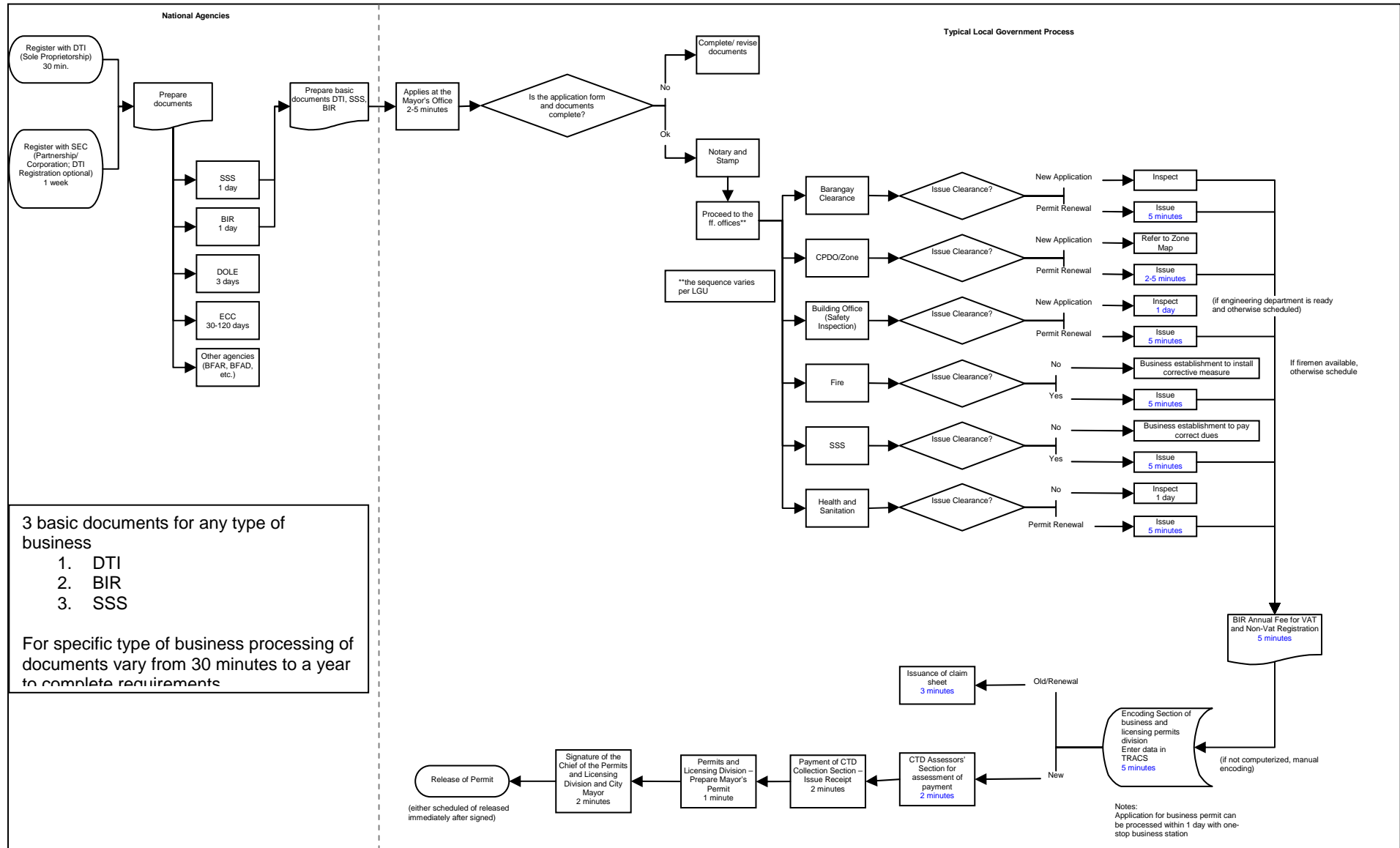
Major Steps in Business Registration, Permits and Licensing

The summary of the process of securing a business permit is shown in Figure 1. Flow Chart of BPL Requirements. At least 18 steps are usually involved, although there have been cases where the process took only 15 steps (Bacolod)² to 25 steps (Malaybalay).³

² Deanna Lijauco and Aurma Manlangit, Business Permits and Licensing Study of Bacolod and Ormoc, GTZ-SMEDSEP, 2006.

³ Ateneo School of Government, Making Cities Work, 2006.

Figure 1 - Flow Chart of BPL Requirements



At the national level, there are nine business registration agencies. Of these nine agencies, only three grant the business name and juridical personality of a business—DTI for a sole proprietorship, the Securities and Exchange Commission (SEC) for partnership or corporation, and the Cooperatives Development Authority (CDA) for cooperatives. To register a business name, only one of the three need be approached, with DTI offering the fastest service and the cheapest rates. The Department of Labor and Employment (DOLE), Board of Investments (BOI), and PEZA registrations are meant for businesses that wish to avail of certain business incentives, like tax exemptions. The DOLE registration is also intended for the protection of workers.

Where business licenses are concerned, a regular business has to obtain the same from one or two of the 13 national regulatory agencies. In contrast, a business permit is equivalent to a mayor's permit signed by the mayor and by the business permits and licensing officer (BPLO). Before a business obtains a mayor's permit, however, business should have obtained local licenses from several local agencies.

Stepwise Process

- I. **Registering the business name of a firm. R.A. 3883 requires an enterprise to register its business name so as to guarantee its exclusive use and the goodwill and patronage that it represents.** This entails registering the business with the DTI. Having the business registered at DTI is quite quick: roughly about 30 minutes, especially if done at the national level or at the regional offices of DTI. Registering at the Securities and Exchange Commission, on the other hand, normally takes about a week. While the CDA registration takes only two hours, this can only be secured by cooperatives. Thus, the registration of the business with the DTI or the SEC constitutes the first step towards securing the other prerequisites for a business permit.

- II. **Regulatory licensing for a business to be able to operate legally is determined by the type of product or service offered by the business.** Annex 1B 2 contains a list of the national regulatory agencies for specific business types. For example, a firm that will engage in the export of animals and animal by-products needs a license to operate one from the Bureau of Animal Industry (BAI).

Getting the needed regulatory requirement involves substantial processing time, considering the documentation involved from the office concerned. The process may take from 30 minutes to 105 days, depending on the nature of the business or its product.

- III. **Securing other regulatory licenses for the business firm as prerequisites to getting a business permit.** Registration with the following three government offices—the Bureau of Internal Revenue (BIR), Philhealth and the Social Security System (SSS)—may be done simultaneously. The total processing cycle may take a day and a half to three days maximum.

Annex 1A details the various requirements for the business registration, particularly the amount of the fees, the time and processes involved. It should be noted that there are specific requirements and other documentations from these national agencies that must be met before a business firm may formally apply for a business permit/license at the local level.

- IV. **Getting a business permit at the LGU level.** The securing and granting of a business permit are processes/procedures enshrined in RA 7160 or the Local Government Code and the Local Revenue Code. The implementing rules and guidelines for the same are provided for by the local ordinances passed by the LGUs. The business permit, more popularly referred to as the mayor's permit (a

piece of document) and granted at the local level, provides legitimacy to the operation of the business firm. For the firm to be issued this document, it is imperative that business registration and licensing processes and procedures for both renewing and new business should have been observed. The processes involved in getting a business license/permit, in addition to the various requirements of the national government, vary across LGUs.

In most of the LGUs in the Philippines, the issuance of a new business permit may be done any time of the year but has to be renewed every year. However, the renewal of the business permit of an existing business may only be done in January of each year, from the first working day of the year to the 20th of the said month.⁴ Moreover, requisite to renewing a business permit is paying the corresponding business taxes.

The procedure for securing a business permit at the local government level is as follows:

- a. Whether it is for a new or renewing business, the process starts with the business owner who should secure an application for a business permit from the office of the mayor to operate. This process should be undertaken annually.

Some LGUs, however, offer business owners the option to pay beyond the registration period, that is, up to the end of the month of January, without having to pay a penalty.

- b. The next procedure entails securing the necessary local level clearances. This holds true for both renewing and new businesses. The process flow for getting a business permit is shown in Figure 1. The clearances required and the respective offices involved are as follows:
 - i. Barangay clearance from the barangay government where the business is located; clearance fee has to be paid.
 - ii. Building permit from the engineering office to construct the facility or building; contract of lease (if business place is rented) or proof of ownership if owned. In putting up the building itself for the business activity, certain permits to legitimize the construction of the building are requisite: electrical, plumbing or sanitary, excavation, and mechanical, based on the building plan.
 - iii. Occupational permit of employees from the Office of Business Permit License
 - iv. Locational clearance to indicate whether the business' location is within the approved zone area (as specified in the land-use plan of the LGU, issued by the Planning and Development Office)
 - v. Certificate of electrical inspection from the Engineering Office of the LGU
 - vi. Fire Safety inspection certificate from the Fire Station Department of the DILG
 - vii. Health certificate for all employees of the establishment and
 - viii. A sanitary permit for the business place.

Aside from complying with the abovementioned certificate requirements, the place for business has to be inspected by representatives of the Office of the Engineer, the Fire Station Department, and the Health Office. This is done to ensure that the business establishment has complied with all the sanitation and safety standards and requirements imposed by the said offices, based on the national codes passed, the Sanitation Code, the Building Code and the Fire Safety Code.

⁴ Perla E. Legaspi, *Reforms and Practices in Local Regulatory Governance: The Case of the Philippines*.

For both renewing and new business firms, there are post-compliance activities mandated by the LGU in line with its regulatory or police powers. The LGU conducts ocular inspections of all business establishments, even after they have been granted the permit to operate. This mandate is provided for in the respective National Codes of existing laws to ensure the promotion of the health, peace, good order and safety, and general welfare of the people. It constitutes part of the local authority's post-licensing monitoring functions to determine whether or not the license conditions are being complied with.

It is interesting to note that most local governments do not institute a monitoring scheme or feedback mechanism for the reactions or complaints of the consumers or clients, but do so more in terms of compliance with the fees charged.

Pertinent Laws

Some of the more important laws that provide impetus for the growth of SMEs which specifically affect business registration, permits and licensing at the national and local levels are the following:

1. Republic Act No. 7160 or the Local Government Code (Date Approved: October 1991)
2. Republic Act No. 6977 (as Amended by RA No. 8289). Magna Carta for Small Enterprises. (Date Approved: January 24, 1991)
3. Republic Act No. 9178 or the Barangay Micro Business Enterprise Act (Date Approved: November 13, 2002)
4. Executive Order No. 226 or the Omnibus Investment Code. (Date Approved: 1987)

Among the abovementioned laws and regulations, **the Local Government Code is the most comprehensive in terms of promoting local economic development.** The code provides LGUs with more powers, authority, responsibilities, and resources through a decentralized system. These powers are mandated in the following sections of the code:

1. Section 147 - Municipalities may impose and collect reasonable fees and charges on businesses and occupations commensurate to the cost of regulation, inspection and licensing before a person may engage in any business or occupation, or practice such profession or calling.
2. Section 151 - Cities may impose and collect fees and charges that provinces and municipalities may impose.
3. Section 152 - Fees and charges may be imposed by barangays and which shall accrue exclusively to them. No city or municipality may issue any license or permit unless a clearance has first been obtained from the barangay where such a business is located. For such clearance, the Sangguniang Bayan may impose a reasonable fee. The application for clearance may be acted upon within seven days from filing.
4. Section 444 and 455 3(iv-v). Mayors have the power to issue licenses and permits, and to suspend or revoke the same upon violation of any of the conditions upon which said licenses or permits have been issued, pursuant to a law or ordinance.
5. Section 447 and 458 – The local legislative councils have regulatory powers, such as those contained in Sec 447 and 58, to enact ordinances authorizing the issuances of permits and licenses and to regulate activities relative to the use of land, buildings and structures within the town or city, among their powers, duties and functions, to promote the general welfare of their constituents.

Thus, under the LGC 1991, the LGUs have the power to create their own sources of revenues and to levy taxes, fees and charges that will accrue exclusively to the LGU. The only limitation to the LGUs' power to impose and collect reasonable fees and charges are, as contained in LGC Section 186:

. . . that the taxes, fees and charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy. In addition, ordinances levying such taxes, fees and charges shall not be enacted without any prior public hearing conducted for the purpose.

Cities have a broader revenue base and taxing powers than provinces and municipalities; and are thus able to better absorb the additional functions brought about by the devolution of functions. The LGUs' share in the national taxes has been increased (from 20 percent in 1991 to 40 percent in 1994) and fixed; and its release should be automatic. Despite their expanded powers and the increase in their internal revenue allotment (IRA) share, however, LGUs, especially the smaller ones, have not managed to perform their functions more efficiently due to tight budget constraints. Increasing expenditures on social services and the rising costs of public services likewise seriously threaten the local revenue base. Amidst these prevailing conditions, more funds must flow into the LGUs and service delivery must be made more cost-efficient. To be able to do this, LGUs have to address major fiscal problems such as a high dependency on the IRA, outdated local tax codes, the underutilization of real property tax bases, the underassessment of local business taxes, the poor operation of economic enterprises, insufficient utilization of financial resources, and poor planning and budgeting.⁵

Hence, in the desire of the LGUs to attain local autonomy and increase revenues, most LGUs have opened opportunities for increased tax earnings, mainly from real property and local business taxes. Studies also reveal that in the LGUs goal to earn more revenues, that they have begun to address the businesses' complaints on the cumbersome permits and licensing procedures.⁶

Many LGUs, especially cities, have adopted positive measures to streamline the business permits and licensing procedures. They have simplified internal regulatory system, installed One-Stop Shops; and installed Customer Service Complaint Desk in an effort to improve compliance and tax collection efficiency. This initiative is supported by the Department of Interior and Local Government's (DILG's) Anti-Red Tape memorandum order (see Tables 2-3). As of May 2004, all cities, capital towns, and LGUs with growth centers have implemented the three recommendations of DILG (see Table 4).⁷

⁵ Lydia Oriol, Local Government Finance and Bond Markets-Philippines, Asian Development Bank, 2003.

⁶ A Look at Past Studies and Efforts on Business Permits and Licenses and Local Economic Development, Making Cities Work, Ateneo School of Government- the Asia Foundation, 2005.

⁷ Ibid

Table 2 - Recommendations of the Anti-Red Tape Project

	<i>Simplification of Internal Regulatory System</i>	<i>Installation of One-Stop Shops</i>	<i>Installation of Customer Service Complaint Desk</i>
Objectives/Targets	<ul style="list-style-type: none"> Reduce the issuance of a business permit to less than one hour Reduce the issuance of a building permit or certificate of occupancy to not more than two days 	<ul style="list-style-type: none"> Complement the simplification of the internal regulatory system 	<ul style="list-style-type: none"> Institutionalize an administrative mechanism to address red tape related complaints
Functions	<ul style="list-style-type: none"> Simplify and rationalize local rules and procedures Work for the eventual computerization of internal regulatory systems Display step-by-step application procedures in the form of flow chart in public accessible and conspicuous places Develop primers or flyers on the simplified rules and procedures for distribution to the public 	<ul style="list-style-type: none"> Facilitate the processing and issuances of business permits, licenses, and other relevant documents Act on problems related to the deliver of basic services or to refer such problems to competent local authorities for resolution Recommend measures to the Local Chief Executive to improve the workings of the One-Stop Shop 	<ul style="list-style-type: none"> Act on red tape-related queries and complaints that are within the authority or competence of the Complaints Desk Officer to address Refer to the Local Chief Executive all red tape-related complaints against any local government personnel for appropriate action

Source: Department of Interior and Local Government

Table 3 - Proposed Standards in the Simplification of Internal Regulatory Systems

<i>Civil Application System</i>	<i>Processing Time</i>	<i>Number of Documentary Requirements</i>	<i>Number of Steps</i>	<i>Number of Signatories</i>
Business Permit	30 mins.	8	6	2
Building Permit	8 hours	5	5	3
Certificate of Occupancy	8 hours	3	2	2
Real Property Documents	30 mins.	4	2	2

Source: Department of Interior and Local Government

Table 4 - Compliance of LGUs – As of May 2004

LGU Type / Classification	Number	With One-Stop Shops	With Customer Service Complaint Desk	With Simplified Procedures
Cities	115	115	115	115
Capital Towns	42	42	42	42
LGUs with other Growth Centers	28	28	28	28
1st to 6th Class Municipalities	1,406	332	298	385
TOTAL		517	483	570

Source: Department of Interior and Local Government

Despite these innovative additions, however, LGUs remain constrained by the Code's regulation that business establishments may only renew their business permit applications in January of every year instead of year round. As a result, the BPL applications pile up during this period, putting pressure to LGUs to process voluminous number of BPL applications in less than a month. Muntinlupa City established its Business Center that offers BPL services year round.

The other laws focus on the establishment of a framework which will foster the development of micro, small, and medium-scale enterprises. Among them are the following:

- a. Magna Carta for Small Business and the Barangay Micro Business Enterprise, which provide for the rationalization of government regulations on small-scale enterprises in order to provide the necessary impetus for growth in the countryside.
- b. The Omnibus Investment Code which provides for the development of an Investment Priorities Plan that lists down the industry and investment areas which can avail of both fiscal and non-fiscal incentives from the national government. These fiscal incentives include, among others, income tax holidays, net operating loss carryover, the duty-free importation of capital equipment, and access to bond warehouses.

While these laws intend to promote the growth of SMEs, the procedural application based on the implementing rules and regulations hinders the SMEs' formal registration and operation. National government agencies issue various department orders and circulars, whereas local government units issue ordinances and revenue codes, which are, at times, in conflict with the very objectives of these laws. For instance, the study entitled "Review of Existing Policies Affecting Micro, Small and Medium Enterprises (MSMEs)" reveals that different government agencies issue different guidelines in the implementation of RA 9178, as shown in the table below.

Table 5 - Summary of Different Guidelines in the Implementation of RA 9178

Government Agency	Regulation	Date of issuance	Guidelines
Dept. of Trade and Industry (DTI)	DAO No. 01, Series of 2003	7 February 2003	Implementing Rules and Regulations of R.A. 9178
Dept. of Finance (DOF)	DO No. 17-04	20 April, 2004	Guidelines to Implement the Registration of BMBEs (Spell out) and the Availment of Tax Incentives under RA 9178
Dept. of Interior and Local Government (DILG)	Memo Circular No. 2003-69	8 April, 2003	Implementation of RA 9178 providing Incentives and Benefits therefore and for Other Purposes
	Memo No. 2003-172	23 August, 2003	Clarification on the Implementation of Section 7 of the Rules and Regulations Implementing RA 9178

Government Agency	Regulation	Date of issuance	Guidelines
Dept. of Labor and Employment (DOLE)	DO No. 45-03, Series of 2003	15 May, 2003	Guidelines for the Implementation of Section 8 of RA No. 9178
National Wages and Productivity Commission (NWPC)	NWPC Guidelines No.01, Series 2003	11 March, 2003	Guidelines on the Issuance of Wage Advisories for Barangay Micro Business Enterprises
Bangko Sentral ng Pilipinas(BSP)	Circular No. 374, Series of 2003	11 March, 2003	Guidelines on the Implementation of Section 9 and second Paragraph of Section 13 of RA 9178

Source: BSMED files.

These issuances, particularly that of the DOF, have:

- a. made it difficult for micro-enterprises to register as they require all sorts of documents and several signatures.
- b. drove certain government agencies (e.g., the BIR, the DOF, DOLE) and local government units to 'lose' (in terms of tax revenues foregone or the mitigation of labor laws) and not implement the BMBE law
- c. encouraged the local government units to take advantage of the non-compliance of SMEs "to earn revenues" through the imposition of fines and other charges.
- d. simplified the documentation requirements for the registration of BMBEs with assets of Php300,000 and less.(DOF Department Order No. 31-05 ion Dec. 16, 2006)

Overall Analysis

1. Conflict between the intent of the laws and imposed procedural guidelines.

Business registration, permits and licensing procedures are dictated by the implementing rules and regulations issued by national and local agencies in support of the laws of the land. There exists a conflict between the objectives of the national laws with those of the procedural guidelines imposed by the national agencies and the local government units. The conflict between the BMBE Law and the DOF issuances mentioned earlier exemplifies this point. Such may be due to the conflicting interests of business and government. Generally, businesses seek to lower the cost of business taxes paid to government, while the government agencies' (especially the LGUs) seek to regulate, control and generate more revenues through business taxes.

2. Inclusion of regulatory requirements to secure permits lengthens BPL processes

The national government agencies' regulatory processes and the LGUs' regulations contribute to the long and cumbersome process of securing a business permit. Some LGUs, for instance subscribe to the idea that the more the steps involved in BPL process, the more revenue they can generate. In addition, the practice of national agencies like the BIR, SSS, Philhealth, etc. to enforce their own regulatory requirements increases the number of steps involved and the amount of fees to be paid at the local level.

In order for the national agencies to implement their laws, the national government agencies' strategy is to "ride on" the LGUs' business permitting procedures to ensure that businesses will comply with their regulations. Thus, particularly where renewing businesses are concerned, there is a need to review whether the collection of revenues should be a pre-requirement to the securing of permits and licenses or not. The SSS law, for example, was passed after the LGC made it illegal for local governments to issue business permits unless the applicant can show an SSS clearance. The SSS law

is thus just one of the most visible examples of the fact that regulatory agencies are becoming more dependent on local governments, specifically on the business permit, in this case, for the enforcement of their mandates.

3. Lack of standard or minimum requirements to follow in securing BPL

The lack of a standard in terms of processes and procedures in securing business permits at the local level is evident. Depending on the ordinances approved at the said level, the process of securing a business permit can become very cumbersome and complex. For instance, studies made by the GTZ on the Bacolod and Ormoc BPL in 2005 showed that the steps involved in getting a business permit in these cities numbered 21 and 14, respectively. In 2006, the replication studies on the Bacolod and Ormoc BPL processes reflected a change in the number of steps. For Bacolod, the recorded steps were 15; and for Ormoc 5. Both cases illustrated the extremely varying steps and procedures that a business owner goes through to obtain a business permit to legitimately operate a business.

4. Not year round BPL period

The abovementioned studies also revealed that business firms renewing their business permits have the tendency to register towards the end of the registration period in January. This practice creates long queues and translates to considerable time wasted during registration. In addition, renewing businesses have to contend with the presence of new business firms securing their business permits around this period.

5. Lack of political will to streamline BPL processes.

One-Stop-Shop has not been maximized in many LGUs in the country despite many successful implementations of the practice in Muntinlupa, Marikina, Cebu, and Iligan. Most of the LGUs in the country continue to operate piecemeal and perform BPL processes and procedures manually. The lack of political will on the part of many LGUs in the course of implementing changes or even adopting an OSS, coupled by the lack of technical know-how in implementing such a system, prolongs the BPL process and renders it cumbersome.

Recommendations

Reforms in the BPL laws and their application at the national and local levels are apparently necessary. Among the proposed reforms are the following:

Provide clear guidelines for coordination among and between national agencies and LGUs involved in business permits, especially for renewing business

1. Coordination between and among national agencies and critical offices which have a stake in the business permit renewal, namely the DTI, BIR, SSS, has to be instituted. The DILG, the appropriate national government agency, should initiate guidelines and even amendments to existing regulatory requirements for securing business permits. In this regard, it is necessary for instance, that the DILG spearhead the process of dialogue among concerned national and local agencies and the DTI to spearhead dialogues between government and the business sector regarding regulatory processes both at the national and local levels, so as to streamline the process and procedural requirements.
2. Identification of a national agency (for instance the Presidential Adviser on Good Governance) to continue to work with concerned stakeholders, (e.g., the various leagues, namely League of Municipalities (LMP), League of Provinces of the Philippines (LPP), League of Cities of the Philippines (LCP), industry partners, etc.) in installing effective monitoring, the evaluation of how laws are applied and adjustments to these, as necessary, to ensure improved BPL practice. It might help that a best practice and rewards system be set up in order to encourage the LGUs to ensure the good practice of the BPL process.

Establish standard processes and procedures in securing business permits at the local level.

3. Encourage LGUs, through the various Leagues and the DILG, to have standardize procedures and requirements that will redesign the current process flow of BPL transactions and procedures at the local level. At this juncture, there is a need for a government body (the DILG in consultation with the DTI to spearhead this) to provide the minimum procedures and requirements that shall be followed by the local governments in the BPL practice.
4. Encourage LGUs to reduce the number of required clearances prior to the securing of business permits, particularly where the renewal of business permits for SMEs at the local level are concerned. Many LGUs still combine their objectives of enabling SMEs to legitimately register, vis-à-vis the orientation of generating revenues. Clearances referred to here are those secured from the SSS, Philhealth, BIR, etc.

Enact laws and revise specific provisions in RA 7160

5. Advocate the amendment of the LGC to make the Business-One-Stop-Shop BOSS year-round rather than during the first month of the year only. The BOSS can effectively reduce the number of steps in securing a business permit.
6. Revise the provision found in **Republic Act (RA) 7160 - Local Government Code: Year-Round Renewal** with the representation of either the DTI or a lobby group from the industry sector. RA 7160 *mandates that business permits can only be renewed in the month of January*. This restriction adds much burden to the LGUs; the period is simply too short to accommodate all renewing enterprises, particularly since it is not

uncommon for establishments to renew only towards the last two weeks of the month. It is highly recommended that RA 7160 be revised in order to allow year-round business permit renewal. *If this is allowed, then LGUs will not be overburdened by the processing of renewals only for a month, and enterprises—especially those that wait till the last minute to renew—will not have to waste time standing in long queues. Should the specific business registration provision in RA 7160 be successfully amended, SMEDSEP could help in its implementation by:*⁸

- Drafting the Implementing Rules and Regulations (IRR)
- Disseminating information on the revised RA, for example, through the various leagues during the general assemblies of city and municipal mayors from all over the country. SMEDSEP could participate and present these changes.

Develop and strengthen the capabilities of service providers in BPL

7. Invest on the upgrading of personnel involved in BPL. Continuous performance improvement measurement should be initiated by the LGUs to improve transactions in the course of the BPL. Moreover, investments should be made by LGUs to be able to obtain the necessary state-of-the-art IT know-how for BPL processing and documentation purposes.

⁸ Carisa Aleta, Manuela Kropp and Mary Jean Roxas. A Survey of Business Regulatory Processes in Select Visayan Cities: Small and Medium Enterprise Development for Sustainable Employment Program (SMEDSEP), Philippines. Manila, Philippines, October 2004

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BSMED Files-Department of Trade and Industry

Local Government Code, 1991

Review of Existing Policies affecting Micro, Small, and Medium Enterprises (MSMEs) in the Philippines, December 2004, German Technical Cooperation, Federal Republic of Germany Republic of the Philippines

Unpublished materials on Improving Business Permit and Licensing, Muntinlupa, 2004.

Magna Carta for Small Enterprises, Republic Act No. 6977 (as Amended by RA No. 8289)

The Omnibus Investment Code of 1987 (Executive Order No. 226)

Republic Act No. 8282. An Act Further Strengthening the Social Security System thereby amending for the purpose Republic Act no. 1161, as amended, otherwise known as the Social Security System Law

Annexes

Annex 1 - List of References

<i>Reference Title</i>	<i>Content</i>
<p>Review of Existing Policies Affecting Micro, Small and Medium Enterprises in the Philippines by Gwendolyn R. Tecson</p> <p>GTZ-SMEDSEP, December 2004</p>	<p>The present study evaluated the existing laws and regulations that are relevant to the workings of MSMEs. An analysis of the intent/content of national laws and local ordinances that affect the different areas of activity of MSMEs was undertaken. The effects of these laws and regulations on MSMEs were determined through the use of focused group discussions (FGDs) involving a number of micro, small and medium enterprise owners undertaken in two cities in the Visayas.</p> <p>In relation to BPLS, the study analyzed two laws the BMBE Act of 2002 and the Magna Carta for Small Enterprises. It also discussed the implementing rules and regulations of national government agencies pertaining to these laws.</p>
<p>Survey of Business Registration and Licensing in Mindanao from Private Sector Perspective, July-August 2004, Transparency and Accountable Governance Project (TAG) of The Asia Foundation</p>	<p>This study seeks to review the processes of business registration and of the acquisition of permits/clearances from offices in charge of processing these documents. This includes seven cities in Mindanao: Bislig, Dipolog, Koronadal, Malaybalay, Tacurong, Ozamis and Zamboanga to gather the needed information.</p>
<p>A Survey of Business Regulatory Processes in Select Visayan Cities, October 2004, by Carisa Aleta, Manuela Kropp and Mary Jean Roxas, GTZ-SMEDSEP</p>	<p>This survey describes and analyzes the most crucial processes an SME must undergo in selected cities in order to become a legal 'formal' business establishment. The report identified not just areas of improvement for LGUs, but also 'best practices' which LGUs can emulate.</p> <p>The study only covers the processes of paying business taxes and obtaining the mayor's permit. The descriptions and analyses focused on new or first-time applicants seeking business permits, as opposed to renewing applicants.</p>
<p>A Look at Past Studies and Efforts on Business Permits and Licenses and Local Economic Development, 2005, Ateneo School of Government and The Asia Foundation, Making Cities Work Project</p>	<p>The report seeks to assess and summarize related studies, laws and regulations, and programs that delve on local economic development. The study discusses the relevant laws and regulations, particularly those that concern the growth of micro, small-, and medium-scale enterprises. Further, it analyzes the various indicators the business sector looks at in assessing the LGU's competitiveness. It reviews past studies in the area of streamlining business registration and licensing procedures. It also describes the success stories of five LGUs in Luzon by rationalizing business registration and licensing procedures through One-Stop Shops.</p>

<i>Reference Title</i>	<i>Content</i>
City of Oroquieta, Business Permits and Licensing System Assessment Workshop, September 6-7, 2005 by Mr. Cesar Cuyugan, Jr.	Proceedings of workshop, containing a description of BPLS of the city, the needed areas of improvement, and the formulated systems plan improvement
City of Ozamis, Business Permits and Licensing System Assessment Workshop, September 8-9, 2005 by Mr. Cesar Cuyugan, Jr.	Proceedings of workshop, containing a description of BPLS of the city, the needed areas of improvement, and the formulated systems plan improvement
Muntinlupa City: Business with a Heart, 2003, by Deanna Lijauco, Ateneo School of Government and World Bank	<p>This is a teaching case on how Muntinlupa City Mayor Jaime Fresnedi employed three strategies for more transparent and red-tape free transactions in the local government. These were as follows:</p> <ol style="list-style-type: none"> 1. System-wide computerization for efficiency and transparency 2. Business process review 3. Confidence-building initiatives in the business sector <p>The case also presented the streamline business permit and license procedures of the city.</p>
Reforms And Practices In Local Regulatory Governance: The Case Of The Philippines by Ms. Perla E. Legaspi	<p>The study showcases two urban local authorities in the Philippines: Quezon City and Dagupan City. The paper examines closely their regulatory systems, focusing on their business licensing systems. It also looks into the issues, problems and concerns in regulating the operations of business establishments and enterprises in the two cities. The actual practices, changes and reforms in the licensing system are documented by the paper as well as the effects of the regulatory system on the promotion of business or economic activities in the cities.</p> <p>The paper discusses constitutional and the Local Government Code provisions relevant to the regulation and promotion of economic development, the national regulatory systems, the roles and functions of the national government agencies, which influence or affect the operations of local governments. It dwells on the structural or economic and legal or administrative systems at the local level. Special discussion is given to the business licensing system of the local governments of Quezon City and Dagupan City.</p>
Recommendations For Philippine Anti-Trust Policy And Regulation Anthony Amunategui Abad	This paper is on the legal and regulatory aspects of competition policy, particularly the framework for effective enforcement of competition in all sectors of the Philippine economy.

Annex 1A - National Requirements for the Business Registration

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
Department Of Trade And Industry (DTI) – Business Name Registration (BNR)	<p>R.A. 3883 & R.A. 7042 (FIA'91) as amended by RA 8179.</p> <p>For single proprietor using a name other than his/her own name, that business name should be registered. Business name registration with the DTI is optional for partnerships and corporations. By registering the business name with the DTI, the entrepreneur is assured that no other entity may legally use his/her business name anywhere in the Philippines.</p>	<ol style="list-style-type: none"> 1. pay registration processing fee 2. Complete application form (4 copies) 3. Filing of form with DTI Office where business is located. The registration shall be valid for five (5) years. 4. Wait for the approval of the registration certificate 	30 minutes to 1 hour, depending on the national or local DTI.	<p>Registration fee=P300 A surcharge of P5.50 is imposed on a renewal if filed beyond the three (3) months grace period counted from the date of expiration of the certificate previously issued.</p>	<p>For Single Proprietorship:</p> <ol style="list-style-type: none"> a. The applicant must be of majority age (18 years or over) b. He must submit two (2) passport size pictures taken not more than one year preceding the filing of such application. c. If an alien, he must submit the following documents. <ol style="list-style-type: none"> 1. Alien Certificate of Registration if any: 2. Accomplished DTI Form No. 17 under Republic Act No. 7042 3. A written appointment of Filipino Resident Agent 4. Authority to verify bank accounts/bank certificate of deposit 5. Proof of inward remittance of foreign currency for non-resident alien and Bank Certificate of Deposit <p>For resident alien:</p> <ol style="list-style-type: none"> a. Copy of valuation report from the Central Bank if investment includes assets

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
					<p>other than foreign exchange</p> <p>b. Clearance from other involved agencies as Department of Science and Technology, Philippine National Police, etc.</p> <p>In case of alien retailer:</p> <p>a. Latest permit to engage in retail business per R.A. 1180 without the need to submit the requirements under letter c except Alien Certificate of Registration.</p> <p>b. If the applicant has acquired Filipino citizenship by naturalization, election, or by any other means provided by law, he must submit proof of his Filipino citizenship.</p> <p>c. Filipinos whose name are suggestive of alien nationality must submit proof of Filipino citizenship (e.g. birth certificate, voter's identification card, PRIC).</p> <p>For Corporation & Partnership: Registration of business name is optional for corporation/partnership using their corporate/partnership name. However, corporations/partnership name</p>

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
					<p>must register such business name.</p> <ol style="list-style-type: none"> a. A certified true copy or photocopies of the Articles of Incorporation or Partnership, by laws, respectively, and the Registration Certificate duly approved by the Securities and Exchange Commission (SEC) must be submitted. b. If the corporation or partnership is fully owned by an alien or the capital of which is more than 40% owned by aliens, the SEC certificate must specify that it is in accordance with the Foreign Investment Act of 1991. c. In case there is an increase of capital, submit certificate issued by the SEC. <p>An applicant who maintains a business with branches must register the main business and each and every branch separately.</p>
Cooperative Development Authority	R.A. 6938	Submit 4 copies of : Economic Survey, Articles of Cooperation, By-laws, Affidavit of Non-Relationship, Bond of Accountable Officers	one (1) month	Minimum of P250.00 for registration. Registration fee depends on amount of paid-up capital	<ol style="list-style-type: none"> a. group of at least 15 b. 25% of authorized capital is subscribed minimum paid-up capital must be P2,000.00

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
Securities and Exchange Commission (SEC)	Batasang Pambansa Blg. 68	Submit 7 copies of the following: Articles of Incorporation, By-Laws, Treasurer's Affidavit, Bank Certificate of Deposit, Authority to verify Bank Account, TIN of Incorporators, Registration Data Sheet	One (1) week if using Express Lane	Non-stock Corp. P470.00 Stock depends on the capital : 1/10 of 1% of paid-up capital	<ul style="list-style-type: none"> a. Group of at least 5 but not more than 15 incorporators/stockholders; majority should be residents of the Philippines b. Paid-up Capital must not be less than P5,000.00, however other types of activities may require higher paid-up capital
Philippine Export Processing Zone (PEZA)	P.D.66 As Amended & R.A.7916	<ol style="list-style-type: none"> 1. Submit initial requirements in 3 Copies : 2. Application For Registration - Project Feasibility Study 3. Approval of application. Additional Documents Shall Be Required Upon Approval. 	Thirty (30) Working Days	<p>Application Fee: New Non-Pioneer – P 3,000.00; New Pioneer : P5,000.00 Registration Fee : P 5,000.00</p> <p>Incentives/ Advantages</p> <ul style="list-style-type: none"> - Exemption From Taxes. In Lieu, A Payment Of 5% Tax Of Total Gross Income - Value Added Tax Zero Rating - Other Special Privileges: - Ownership Of Equity - Employment Of Aliens - Simplified 	Labor Intensive Enterprises - If Not Labor Intensive, Enterprise Must Involve Techno-Transfer – Must Be Export-Oriented

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
				Import & Export Procedures	
Board Of Investments (BOI)	E.O. No. 226	Submit 3 Copies Of The Following: BOI Form 501 (Duly Notarized), Sec Registration, Articles Of Incorporation & By-Laws, Project Feasibility Study, Audited Financial Statement, ITR of Major Stockholders, Board Res. For Signing Officer	Twenty (20) Working Days	<ul style="list-style-type: none"> - Filing fee of P1,000.00 to P4,000.00 for project cost below P4m To Above P50m - Reg. Fee : Not Less Than P2,000 But Not More Than P 10,000.00 - Incentive Fee: P1,000.00/ Application 	<ul style="list-style-type: none"> a. Projects Should Be IPP listed b. If Not Listed: 50% Of Production Should Be Exported If Company Is 60% Filipino-Owned & 70% Exported c. If Company Is More Than 40%Foreign-Owned products for export should be Non-Traditional Products
Bureau Of Internal Revenue (BIR)		<ol style="list-style-type: none"> 1. Secure a permanent record file number of tax identification number (tin) from the nearest BIR district office where the business is located. 2. Pay the registration fee of php500. A set of forms will be given: <p>for sole proprietorship –BIR form 1901 and 1925 for partnership and corporation –BIR form</p>	One day	Registration fee of php500.	<ul style="list-style-type: none"> - Mayor's permit - Certificate of Business Name Registration from the DTI - Articles of Partnership or Corporation - Residence Certificate

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
		1925 and 1903 3. Fill up the forms and submit it to the registering BIR officer. If the documents are found to be in order, the officer will announce when the permit and documents can be claimed. 4. Register the business/trade name at the nearest BIR office. 5. Secure and file an application form, together with supporting papers. 6. Secure authority to print books of account, invoices, receipts, and other accounting records by filling up four copies of an application form. Attach four draft copies of the material to be printed as well as a copy of the job order. 7. Register book of			

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
		accounts, invoices, receipts, etc.			
Department Of Labor And Employment (DOLE)		<p>For: Establishments (stores, shops, offices, malls)</p> <ol style="list-style-type: none"> 1. Secure and fill up registration forms completely (typewritten) 2. Layout plan showing the place of work, storage, aisles, emergency, exits, fire extinguishers (2 copies) Size, type and number of fire extinguishers: Name and address of firm on the layout plan Area dimension Building material used. Location or vicinity plan where the establishment is located (2 copies). 3. Registration forms and layout plans must be signed by owner/manager for sole proprietorship and any partners or incorporator in case of partnership 	Three days		<p>Business establishments with five or more employees are encouraged to register with DOLE. Registration is mandatory for firms which employ 50 or more workers.</p> <p>The Bureau of Local Employment administers the registration of establishments. To register, secure and fill up a registration form. Corporations are required to attach a photocopy of the SEC Certificate of Registration.</p> <p>Registration shall include submission of 2 sets of layout plans of the place of work floor by floor in scale of 1:000 meters white or blue prints showing the following: machinery layout indicating machines descriptions and ratings, storage, clinic, aisles and exits, emergency devices (fire hydrant/extinguishers including size and type), location or vicinity plan, building material used</p> <p>Registration forms and layout plans must be signed by owner/manager for sole proprietorship and any partner or incorporator in case of partnership or corporation respectively.</p>

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
		<p>or corporation respectively.</p> <p>Industrial establishments, multi-level buildings, theaters, hotels, restaurants, hospitals</p> <p>4. Secure and fill-up registration forms completely (typewritten)</p>			
Environmental Compliance Certificate (ECC)	Section 4 of Presidential Decree 1586	<ol style="list-style-type: none"> 1. Application Form and project description 2. Study and inspection 3. Approval and release 	<ol style="list-style-type: none"> 1. Activities not covered by the EIS system have the option to secure Certificate of Non-Coverage. Requirements include duly accomplished application form and project description. Timeframe: 15 days to include site inspection if necessary. 2. ECC Application for business included in the 	ECC application fees ranges from Php3,000 to 10,000.	<p>Category A: Environmentally Critical Projects (ECPs) with significant potential to cause negative environmental impacts</p> <p>Category B: projects that are not categorized as ECPs, but which may cause negative environmental impacts because they are located in Environmentally Critical Areas (ECAs)</p> <p>Category C: projects intended to directly enhance environmental quality or address existing environmental problems not falling under Category A or B.</p> <p>Category D: Projects unlikely to cause adverse environmental</p>

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
			<p>Initial Environmental Examination (IEE) The processing time is for 30 days.</p> <p>3. ECC Application for businesses requiring IEE Report, Processing time is 60 working days.</p> <p>4. ECC Application for Environmentally Critical Projects</p>		<p>impacts.</p> <p>Checklist requires: accomplished IEE Checklist and specific requirements to be provided by DENR Regional Office for specific type of project, favorable endorsement from the LGU (barangay or city/municipality) as proof of social acceptability, proof of ownership or right over the applied area, zoning certification, and project plans.</p> <p>Requirements are the same as in the Checklist plus other documents from, e.g. mines and geosciences offices. For businesses located within the Industrial Estate/Parks/Special Ecozone, requirements on social acceptability and zoning are not necessary, of which a certification from the administrators shall be submitted that the proposed project is within the development plan as deemed necessary.</p> <p>Require the following: Environmental Impact Statement Report, accountability Statement from EIS consultant and project proponent, DA certificate of viability for conversion, land title/proof of land</p>

<i>Agency</i>	<i>Legal Basis</i>	<i>Steps</i>	<i>Processing Time</i>	<i>Fees</i>	<i>Requirements/Actors involved</i>
					jurisdiction/ownership, endorsement from government office responsible for protected area (if within protected area) SEC registration, water use permit/certificate of water availability, review fund, electronic file of the Environment Impact Statement, environmental track record (for expansion projects), photocopy of land title, zoning/certificate of locational viability, barangay/municipal/city council resolution/proof of consultation with communities

Annex 1B - Regulatory Bodies per Nature of Product

<i>Type of Business</i>	<i>National Regulatory Body</i>
Retailer/wholesaler/manufacturing of veterinary, feeds and veterinary clinics	Bureau of Animal Products Industry
Retailer/wholesaler/manufacturing of pharmaceutical food products (including importation)	Bureau of Food and Administration
Business corporations with foreign investors having big shares of stocks, 100 % foreign investors	Board of Investment
Custom broker, real estate broker, insurance broker	Broker's license
Foreign exchange dealer, lending investor, money changer/shop	Central Bank Accreditation or License
Drug test center	Dangerous Drug Board
Auto repair shop, electronic repair shop, telecommunication repair shop, and other repair shops except shoe repair shop and upholstery and furniture shop	Department of Trade and
Private schools (elementary and secondary) and, Preparatory schools (nursery to kindergarten)	Industry Certificate of Accreditation Department of Education
Hospitals, clinical, dental, and x-ray laboratory and drug rehabilitation centers	Department of Health
Local employment agency	Department of Labor and Employment
Gasoline station	Energy Regulatory Board
Pest control services; importers/retailers/wholesalers of fertilizers and pesticides	Fertilizer and Pesticide Authority license
Insurance agency, insurance broker	Insurance Commission license
Retailer of liquor; wholesaler/importer of local and imported wines and liquor	Liquor Licensing Regulatory Board
Franchise for taxi/jeepney/bus operators	Land Transportation Franchise Regulatory Board Smoke emission test centers
Driving school	Land Transportation Office
Movie theaters, movie producers, radio and T.V. stations	Movie and Television Review and Classification Board
Retailer and wholesaler of rice	National Food Authority
Telecommunication site repair of telecommunication equipment; internet provider	National Telecommunication

<i>Type of Business</i>	<i>National Regulatory Body</i>
Commission Retailer/wholesaler/contractor in the repair of firearms and ammunition	Philippine National Police
retailer/wholesaler of firecrackers	Firearms and Explosives Office
Overseas recruitment agency; shipping manning	Phil. Overseas agency Employment Agency
Manufacturers of plastic, chemical; industrial	Department of Environment
Unified Technical Vocational Education Training Program Registration and Accreditation System Pharmaceutical and food (meat and fish products)	Department of Environment Natural Resources
Fabrication of glass, steel and aluminum products	Environment Compliance Certificate
Training centers for: caregivers, dancers/singers, and skilled workers	Technical Education Skills Development Authority
Retailer/wholesaler of video, CD,DVD, and cassette tape	Videogram Regulatory Board
Bingo games in shopping malls	Games and Amusement Board
Security agency, security guard and training school Philippine National Police	Supervisory Office for Security Investigation Agency
Vocational school	Unified Technical Vocational Education Training Program Registration and Accreditation System

Annex 2 - Laws and Regulations on Business Registration, Permits and Licensing

1. Magna Carta For Small Enterprises

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
<p>RA 6977 - Approved January 22, 1991</p> <p>RA 8289 - Approved May 6, 1997</p>	<p>The law sets the pace for small and medium enterprise development, by upholding the following principles under Sec 5.</p> <ol style="list-style-type: none"> 1. 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. 2. 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 encourage 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 a national federation / association. 3. Coordination of government efforts. Government efforts shall be coordinated to achieve coherence in objectives. All appropriate offices, particularly those under the Department 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 Central 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. 4. Decentralization. The State shall accelerated 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."

2. Cooperative Code

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
R.A. 6938- The Cooperative Code of the Philippines	<ul style="list-style-type: none"> • foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing peoples power towards the attainment of economic development and social justice • Encourage the private sector to undertake the actual formation and organization of cooperatives • Create an atmosphere that is conducive to the growth and development of cooperatives
Memorandum Circular No. 2004-03 February 9, 2004	<p>Guidelines For Express Lane Registration for a better, more efficient and effective method of the registration of cooperatives</p> <p>Documents Required:</p> <ol style="list-style-type: none"> 1. One (1) copy of the Name Verification Slip; 2. Four (4) copies of each of the following Express Lane Registration Forms (pro-forma): <ol style="list-style-type: none"> a. Form 1 – Articles of Cooperation; b. Form 2 – By-laws; c. Form 3 – Treasurer’s Affidavit; d. Form 4 – Undertaking to Change Name; e. Form 5 – Undertaking to Submit Reportorial Requirements; f. Form 6 – Notes to the Articles of Cooperation; and g. Form 7 – Economic Survey <p>People Involved:</p> <ol style="list-style-type: none"> 1. Officer-in-Charge of registration in the Extension Office (check if documents are complete and in order); 2. Registration Unit (issue the corresponding Certificate of Registration). <p>Processing time: 2 hours upon receipt of complete documentation and payment</p> <p>Fees:</p> <ol style="list-style-type: none"> 1. Name Verification/ Thirty Pesos (PhP 30.00) per Reservation Fee allowed name with a validity of thirty (30) days. 2. Registration Fee One-tenth (1/10) of one per cent (1%) of the authorized share capital but not lower than One Thousand Pesos (PhP1, 000)
Memorandum Circular No. 2004-08 August 10, 2004	<p>Amendments to Board Resolution No. 41 dated January 19, 2004</p> <p>Additional requirement: Bonds of Accountable Officers Par value share must be fixed at Php100 in the Articles of Incorporation Processor examiners guide: Pink- provincial file Yellow-central office</p>
Memorandum Circular No. 2004-09 September 8, 2004	<p>Additional Guidelines for the Registration of Cooperatives for the Regular Lane</p> <p>Additional document required: Bonds of Accountable Officers Certificate of Pre education membership Training Seminar</p>

3. Business Name Registration

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
R.A. 3883	Requires an enterprise to register its business name to guarantee exclusive use of it and the goodwill and patronage that it represents

RA 7042 - Foreign Investments Act of 1991	promote foreign investments, prescribe the procedures for registering enterprises doing business in the Philippines, and for other purposes
RA 8179 -	act to further liberalize foreign investment, amending for the purpose republic act no. 7042, and for other purposes

4. Securities Exchange Commission

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
The Philippine Constitution	Under the Constitution, the State is mandated to regulate or prohibit monopolies, combinations in restraint of trade and other unfair competition practices, for the sake of public interest. The Constitution does not prohibit monopolies per se. Monopolies are not illegal in themselves, as opposed to combinations in restraint of trade and other unfair competition practices. The latter are to be prohibited without exception. Since the Constitution does not define what would constitute unlawful monopolies, or combinations in restraint of trade or unfair competition practices, separate legislation and/or case laws are the bases for making such definitions.
Batas Pambansa Blg. 68	The Corporation Code of the Philippines provides for the rules regarding mergers and consolidations ¹¹ and the acquisition of all or substantially all the assets or shares of stock of corporations
Batas Pambansa Blg. 178	Revised Securities Act complements the Corporation Code. It prohibits and penalizes the manipulation of security prices and insider trading ¹³ .
RA No. 3815	Civil Code as amended, otherwise known as the Revised Penal Code, punishes anti-competitive behavior that is criminal in nature. Article 186 and penalizes monopolies and combinations in restraint of trade while Article 187 provides penalties.
RA 8799	SEC Registration Code establish a socially conscious, free market that regulates itself, encourage the widest participation of ownership in enterprises, enhance the democratization of wealth, promote the development of the capital market, protect investors, ensure full and fair disclosure about securities, minimize if not totally eliminate insider trading and other fraudulent or manipulative devices and practices which create distortions in the free market
PD 902-A	<p>R.A. No. 386 (1949) as amended, otherwise known as the Civil Code of the Philippines and which took effect in August 1950, allows the collection of damages arising from unfair competition in agricultural, commercial, or industrial enterprises or in labor⁶ It also allows the collection of damages arising from abuse in the exercise of rights and in the performance of duties⁷, e.g., abuse of a dominant market position by a monopolist.</p> <p>Peculiarly enough, the Civil Code does not define unfair competition and merely lists the means by which unfair competition can be committed: force, intimidation, deceit, machination, or any other unjust, oppressive or highhanded method.</p> <p>Treble damages for civil liability arising from anti-competitive behavior is allowed under R.A. No. 165, otherwise known as An Act to Prohibit Monopolies and Combinations in Restraint of Trade.</p>

5. Philippine Export Processing Zone (PEZA) P.D.66 AS AMENDED & R.A.7916

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
PD 66 - Export Processing Zone Authority	encourage and promote foreign commerce as a means of making the Philippines a center of international trade, of strengthening our export trade and foreign exchange position, of hastening industrialization, of reducing domestic unemployment, and of accelerating the development of the country, by establishing export processing zones in strategic locations in the Philippines

6. Board of Investment (BOI)

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
E.O. 226 – Omnibus Investment Code of 1987	<ul style="list-style-type: none"> • encourage private Filipino and foreign investments in industry, agriculture, forestry, mining, tourism and other sectors of the economy which shall: provide significant employment opportunities relative to the amount of the capital being invested; increase productivity of the land, minerals, forestry, aquatic and other resources of the country, and improve utilization of the products thereof improve technical skills of the people employed in the enterprise; provide a foundation for the future development of the economy; meet the tests of international competitiveness; accelerate development of less developed regions of the country; and result in increased volume and value of exports for the economy • ensure holistic development by safeguarding the well-being of the social, cultural and ecological life of the people. For this purpose, consultation with affected communities will be conducted whenever necessary • extend to projects which will significantly contribute to the attainment of these objectives, fiscal incentives without which said projects may not be established in the locales, number and/or pace required for optimum national economic development. Fiscal incentive systems shall be devised to compensate for market imperfections, to reward performance contributing to economic development, be cost-efficient and be simple to administer • considers the private sector as the prime mover for economic growth. In this regard, private initiative is to be encouraged, with deregulation and self-regulation of business activities to be generally adopted where dictated by urgent social concerns • principally play a supportive role, rather than a competitive one, providing the framework, the climate and the incentives within which business activity is to take place • recognizes that there are appropriate roles for local and foreign capital to play in the development of the Philippine economy and that it is the responsibility of Government to define these roles and provide the climate for their entry and growth • recognizes that industrial peace is an essential element of economic growth • Fiscal incentives shall be extended to stimulate the establishment and assist initial operations of the enterprise

7. Bureau of Internal Revenue

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
Republic Act No. 8424	<ul style="list-style-type: none"> • promote sustainable economic growth through the rationalization of the Philippine internal revenue tax system, including tax administration

Tax Reform Act Of 1997	<ul style="list-style-type: none"> to provide, as much as possible, an equitable relief to a greater number of taxpayers in order to improve levels of disposable income and increase economic activity create a robust environment for business to enable firms to compete better in the regional as well as the global market
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8. Department of Labor and Employment

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
DO No. 75-07 Series of 2006	revises rules on the issuance of employment permits to foreign nationals

9. Local Government

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
RA 7160 - Local Government Code	provides LGUs with more power and authority to accelerate local economic development and improve the quality of life in their respective localities.

10. Social Security System

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
RA 8282 – Social Security Law	<ul style="list-style-type: none"> "SEC. 4. Powers and Duties of the Commission and SSS. (5) To authorize cooperatives registered with the cooperative development authority or associations registered with the appropriate government agency to act as collecting agents of the SSS with respect to their members: Provided, That the SSS shall accredit the cooperative or association: Provided, further, That the persons authorized to collect are bonded "SEC. 24-A. Report and Registration of the Self-employed Member. - Each covered self-employed member shall, within thirty (30) days from the first day he started the practice of his profession or business operations register and report to the SSS his name, age, civil status, occupation, average monthly net income and his dependents
SSS Circular No 9-V	Procedure on Registration and Correction of Member Data

11. Department of Agriculture

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
Republic Act No. 8550 - The Philippine Fisheries Code Of 1998	provides for the development, management and conservation of the fisheries and aquatic resources, integrating all laws pertinent thereto, and for other purposes
Fisheries Administrative Order No. 197 Series Of 2000	Rules and regulations governing the lease of public lands for fishpond development.

12. Department of Environment and Natural Resources

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
Republic Act No. 1239, series of 1955 and FAO 26, series of 1956	Rules on issuance of certificate/ to a dealer of lumber,logs, poles or piles upon registration with the DENR
FAO 8-3, as amended	Requirements on issuance of Special Land Use Permit/Agreement that is a privilege granted by the State to a person to occupy, possess and manage in consideration of specified return, any public forest lands for a specific use or purpose
(DENR Administrative Order No. 2000-29)	Rules and regulation on issuance of resource use permit which is issued to holders of tenurial instruments under CBFM program of DENR who intend to harvest/utilize naturally grown and/or planted forest resources within the production forest for commercial use, provided that they have affirmed CRMF, AWP and RUP by the concerned CENRO and the Environmental Certificate Compliance from RED through the EMB
DENR Administrative Order No. 2000-21)	Rules and requirements on issuance of private land timber permit that is issued to a landowner for the cutting, gathering and utilization of naturally grown trees in private lands.
(DENR Administrative Order No. 96-24)	Rules and regulations on issuance of Socialized Industrial Forest Management Agreement entered into by and between a natural or juridical person and the DENR wherein the latter grants to the former the right to develop, utilize and manage a small tract of forestland consistent with the principle of sustainable development
MAO 50, series of 1986 as amended by DENR Administrative Order No. 2003-41)	Rules on Wood processing plant permit to operate sawmill, mini-sawmill, re-saw permit, plywood/veneer plants, blockboards/fiberboard/particle board and other wood based panel plants and wood treating plants. It is issued to the holders of existing timber license agreements or permits and for those non-timber holders but with approved Equity Participation Agreement maybe granted a permit not exceeding two years. Permits that maybe issued to operators other that the above shall have a duration of not more than one year

13. Department of Health

<i>Law/Regulation Title</i>	<i>Key Provisions</i>
Republic Act No. 3720 Food, Drug	Food Drug and Cosmetic Act - to ensure the safety and purity of foods, drugs, and cosmetics being made available to the public by creating the food and drug administration which shall administer and enforce the laws pertaining thereto

Annex 3 - Full Text of Pertinent Laws on BPLS

1. Republic Act No. 9178

AN ACT TO PROMOTE THE ESTABLISHMENT OF BARANGAY MICRO BUSINESS ENTERPRISES (BMBEs), PROVIDING INCENTIVES AND BENEFITS THEREFOR, AND FOR OTHER PURPOSES.

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

PRELIMINARY PROVISIONS

SEC. 1. Short Title - This Act shall be known as the "Barangay Micro Business Enterprises (BMBEs) Act of 2002."

SEC. 2. Declaration of Policy - It is hereby declared to be the policy of the State to hasten the country's economic development by encouraging the formation and growth of barangay micro business enterprises which effectively serve as seedbeds of Filipino entrepreneurial talents, and integrating those in the informal sector with the mainstream economy, through the rationalization of bureaucratic restrictions, the active intervention of the government specially in the local level, and the granting of incentives and benefits to generate much-needed employment and alleviate poverty.

SEC. 3. Definition of Terms - As used in this Act, the following terms shall mean:

- a. "Barangay Micro Business Enterprise," hereinafter referred to as BMBE, refers to any business entity or enterprise engaged in the production, processing or manufacturing of products or commodities, including agro-processing, trading and services, whose total assets including those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, shall not be more than Three Million Pesos (P3,000,000.00). The above definition shall be subject to review and upward adjustment by the SMED Council, as mandated under Republic Act No. 6977, as amended by Republic Act No. 8289.

For the purpose of this Act, "services" shall exclude those rendered by any one, who is duly licensed by the government after having passed a government licensure examination, in connection with the exercise of one's profession.

- b. "Certificate of Authority" is the certificate issued granting the authority to the registered BMBE to operate and be entitled to the benefits and privileges accorded thereto.
- c. "Assets" refers to all kinds of properties, real or personal, owned by the BMBE and used for the conduct of its business as defined by the SMED Council: Provided, That for the purpose of exemption from taxes and fees under this Act, this term shall mean all kinds of properties, real or personal, owned and/or used by the BMBE for the conduct of its business as defined by the SMED Council.
- d. "Registration" refers to the inclusion of BMBE in the BMBE Registry of a city or municipality.
- e. "Financing" refers to all borrowings of the BMBE from all sources after registration.

REGISTRATION AND OPERATION OF BMBEs

SEC. 4. Registration and Fees. - The Office of the Treasurer of each city or municipality shall register the BMBEs and issue a Certificate of Authority to enable the BMBE to avail of the benefits under this Act. Any such application shall be processed within fifteen (15) working days upon submission of complete documents. Otherwise, the BMBEs shall be deemed registered. The Municipal or City Mayor may appoint a BMBE Registration Officer who shall be under the Office of the Treasurer. Local government units (LGUs) are encouraged to establish a One-Stop-Business Registration Center to handle the efficient registration and processing of permits/licenses of BMBEs. Likewise, LGUs shall make a periodic evaluation of the BMBEs' financial status for monitoring and reporting purposes.

The LGUs shall issue the Certificate of Authority promptly and free of charge. However, to defray the administrative costs of registering and monitoring the BMBEs, the LGUs may charge a fee not exceeding One Thousand Pesos (P1,000.00).

The Certificate of Authority shall be effective for a period of two (2) years, renewable for a period of two (2) years for every renewal. As much as possible, BMBEs shall be subject to minimal bureaucratic requirements and reasonable fees and charges.

SEC. 5. Who are Eligible to Register. - Any person, natural or juridical, or cooperative, or association, having the qualifications as defined in Section 3(a) hereof may apply for registration as BMBE.

SEC. 6. Transfer of Ownership. - The BMBE shall report to the city or municipality of any change in the status of its ownership structure, and shall surrender the original copy of the BMBE Certificate of Authority for notation of the transfer.

INCENTIVES AND BENEFITS

SEC. 7. Exemption from Taxes and Fees. - All BMBEs shall be exempt from income tax for income arising from the operations of the enterprise.

The LGUs are encouraged either to reduce the amount of local taxes, fees and charges imposed or to exempt the BMBEs from local taxes, fees and charges.

SEC. 8. Exemption from the Coverage of the Minimum Wage Law. The BMBEs shall be exempt from the coverage of the Minimum Wage Law. Provided, That all employees covered under this Act shall be entitled to the same benefits given to any regular employee such as social security and healthcare benefits.

SEC. 9. Credit Delivery. - Upon the approval of this Act, the Land Bank of the Philippines (LBP), the Development Bank of the Philippines (DBP), the Small Business Guarantee and Finance Corporation (SBGFC), and the People's Credit and Finance Corporation (PCFC) shall set up a special credit window that will service the financing needs of BMBEs registered under this Act consistent with the Bangko Sentral ng Pilipinas (BSP) policies, rules and regulations. The Government Service Insurance System (GSIS) shall likewise set up a special credit window that will serve the financial needs of their respective members who wish to establish a BMBE. The concerned financial institutions (FIs) are encouraged to wholesale the funds to accredited private financial institutions including community-based organizations such as credit, cooperatives, non-government organizations (NGOs) and people's organizations, which will in turn, directly provide credit support to BMBEs.

All loans from whatever resources granted to BMBEs under this Act shall be considered as part of alternative compliance to Presidential Decree No. 717, otherwise known as the Agri-Agra Law, or to Republic Act No. 6977, known as the Magna Carta for Small and Medium Enterprises, as amended. For purposes of compliance with Presidential Decree No. 717 and

Republic Act No. 6977, as amended, loans granted to BMBEs under this Act shall be computed at twice the amount of the face value of the loans.

Any existing laws to the contrary notwithstanding, interests, commissions and discounts derived from the loans by the LBP, DBP, PCFC and SBGFC granted to BMBEs as well as loans extended by the GSIS and SSS to their respective member-employees under this Act shall be exempt from gross receipts tax (GRT).

To minimize the risk in lending to the BMBEs, the SBGFC and the Quedan and Rural Credit Guarantee Corporation (QUEDANCOR) under the Department of Agriculture, in case of agribusiness activities, shall set up a special guarantee window to provide the necessary credit guarantee to BMBEs under their respective guarantee programs.

The LBP, DBP, PCFC, SBGFC, SSS, GSIS, and QUEDANCOR shall annually report to the appropriate Committees of both Houses of Congress on the status of the implementation of this provision.

The BSP shall formulate the rules for the implementation of this provision and shall likewise establish the incentive programs to encourage and improve credit delivery to the BMBEs.

SEC. 10. Technology Transfer, Production and Management Training, and Marketing Assistance. - A BMBE Development Fund shall be set up with an endowment of Three Hundred Million Pesos (P300,000,00) from the Philippine Amusement and Gaming Corporation (PAGCOR) and shall be administered by the SMED Council.

The Department of Trade and Industry (DTI), the Department of Science and Technology (DOST), the University of the Philippines Institute for Small Scale Industries (UP ISSI), Cooperative Development Authority (CDA), Technical Education and Skills Development Authority (TESDA), and Technology and Livelihood Resource Center (TLRC) may avail of the said Fund for technology transfer, production and management training and marketing assistance to BMBEs.

The DTI, in coordination with the private sector and non-government organizations (NGOs), shall explore the possibilities of linking or matching-up BMBEs with small, medium and large enterprises, and likewise establish incentives therefor.

The DTI, in behalf of the DOST, UP ISSI, CDA, TESDA and TLRC shall be required to furnish the appropriate Committees of both Houses of Congress a yearly report on the development and accomplishments of their projects and programs in relation to technology transfer, production and management training and marketing assistance extended to BMBEs.

SEC. 11. Trade and Investment Promotion. - The data gathered from business registration shall be made accessible to and shall be utilized by private sector organizations and non-government organizations for purposes of business matching, trade and investment promotion.

INFORMATION DISSEMINATION

SEC. 12. Information Dissemination. - The Philippine Information Agency (PIA), in coordination with the Department of Labor and Employment (DOLE), the DILG and the DTI, shall ensure the proper and adequate information dissemination of the contents and benefits of this Act to the general public especially to its intended beneficiaries specifically in the barangay level.

PENALTY

SEC. 13. Penalty. - Any person who shall willfully violate any provision of this Act or who shall in any manner commit any act to defeat any provision of this Act shall, upon conviction, be punished by a fine of not less than Twenty-five Thousand Pesos (P25,000.00) but not more than Fifty Thousand Pesos (P50,000.00) and suffer imprisonment of not less than six (6) months but not more than two (2) years.

In case of non-compliance with the provisions of Section 9 of this Act, the BSP shall impose administrative sanctions and other penalties on the concerned government financial institutions, including a fine not less than Five Hundred Thousand Pesos (P500,000.00).

MISCELLANEOUS PROVISIONS

SEC. 14 Annual Report. - The DILG, DTI, and BSP shall submit an annual report to the Congress on the status of the implementation of this Act.

SEC. 15. Implementing Rules and Regulations. - The Secretary of the Department of Trade and Industry, in consultation with the Secretaries of the DILG, DOF, and the BSP Governor shall formulate the necessary rules and regulations to implement the provisions of this Act within ninety (90) days after its approval. The rules and regulations issued pursuant to this section shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

SEC. 16. Separability Clause. - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 17. Repealing Clause. - Existing laws, presidential decrees, executive orders, proclamations or administrative regulations that are inconsistent with the provisions of this Act are hereby amended, modified, superseded or repealed accordingly.

SEC. 18. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,

(Sgd.) JOSE DE VENECIA, JR.
(Sgd.) FRANKLIN M. DRILON
Speaker of the House of Representatives
President of the Senate

This Act, which is a consolidation of Senate Bill No. 1855 and House Bill No. 4871 was finally passed by the Senate and the House of Representatives on October 24, 2002 and October 23, 2002, respectively.

(Sgd.) ROBERTO P. NAZARENO
(Sgd.) OSCAR G. YABES
Secretary General
Secretary of the Senate
House of Representatives

Approved: November 13, 2002

(Sgd.) GLORIA MACAPAGAL-ARROYO
President of the Philippines

2. Republic Act No. 6977

Republic Act No. 6977

"Magna Carta for Small Enterprises"

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.

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 Senate shall undertake the 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;
- (h) by promoting linkages between large and small enterprises, and by encouraging the establishment of common service facilities;
- (i) 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
- (j) 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, agri-business 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 promotions under this Act, business 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 Department 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.

CHAPTER II

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 ad 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 of any government agency or association of local government officials in its deliberation 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 sector;
- b) to recommend to the President and the Congress all policy matters affecting small and medium sale 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;
- j) provision of business training courses, technical training for technicians and skilled laborers and continuing skills upgrading programs;
- k) provision of labor-management guidance, assistance and improvement of the working conditions of employees in small and medium-sized firms; *chan robes virtual law library*
- l) provision of guidance and assistance regarding product quality/product development and product diversification;
- m) 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;
- n) 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.;
- o) intensification of assistance and guidance to enable greater access to credit through a simplified multiagency financing program; to encourage development of other models of financing such as leasing and venture capital activities; to provide effective credit guarantee systems, and encourage for formation of credit guarantee associations, including setting up of credit records and information systems and to decentralize loan approval mechanisms;
 - p) 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;
 - q) 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 disaster;
 - r) intensification of information dissemination campaigns and entrepreneurship education activities;
 - s) easier access to and availment of tax credits and other tax and duty incentives as provided by the Omnibus investment Code and other laws;
 - t) provision of support for product experimentation and research and development activities as well as access to information on commercialized technologies; and
 - u) provision of more infrastructure facilities and public utilities to support operations of small and medium enterprises;
 - v) 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 sectors activities;
 - w) to assist in the establishment of modern industrial estates outside urban centers; and
 - x) 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:

- a. 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;
- b. to coordinate the preparation of position papers and background materials for discussion or approval during Council meetings;
- c. 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;
- d. to repair, collate and integrate all inputs to the Council's yearly report on the status of small and medium enterprises in the country;
- e. to submit periodic reports to the Council on the progress and accomplishment of its work programs; and
- f. 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 frameworks 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 offices 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 provided 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:

- (j) be attached to the Department of Trade and Industry and shall be under the policy, program and administrative supervision of the SMED Council;
- (k) have its principal place of business in Metro Manila and endeavor to have one or more branch offices in every province of the country;
- (l) 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
- (m) 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 Chairman 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 stock by the Land Bank of the Philippines (LBP), the Philippines 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 (200,000,000.00) 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, subscription 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 sheet 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 per cent (5%) by the end of the 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 may be 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 institution for non-compliance with provisions of 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 (P500,000) each.

CHAPTER IV

Sec. 15. Separability Clause. — The provisions of this Act are hereby declared to be separable. If any provisions 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. — All 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: January 24, 1991

3. Executive Order No. 226

THE OMNIBUS INVESTMENTS CODE OF 1987

CHAPTER 1 TITLE AND DECLARATION OF POLICY

ARTICLE 1. *Short Title.* - This Order shall be known as the "*Omnibus Investments Code of 1987.*"

ART. 2. *Declaration of Investment Policies.* - To accelerate the sound development of the national economy in consonance with the principles and objectives of economic nationalism and in pursuance of a planned economically feasible and practical dispersal of industries and the promotion of small and medium scale industries, under conditions which will encourage competition and discourage monopolies, the following are declared policies of the State:

1. The State shall encourage private Filipino and foreign investments in industry, agriculture, forestry, mining, tourism and other sectors of the economy which shall: provide significant employment opportunities relative to the amount of the capital being invested; increase productivity of the land, minerals, forestry, aquatic and other resources of the country, and improve utilization of the products thereof improve technical skills of the people employed in the enterprise; provide a foundation for the future development of the economy; meet the tests of international competitiveness; accelerate development of less developed regions of the country; and result in increased volume and value of exports for the economy.
2. The State shall ensure holistic development by safeguarding the well-being of the social, cultural and ecological life of the people. For this purpose, consultation with affected communities will be conducted whenever necessary.
3. The State shall extend to projects which will significantly contribute to the attainment of these objectives, fiscal incentives without which said projects may not be established in the locales, number and/or pace required for optimum national economic development. Fiscal incentive systems shall be devised to compensate for market imperfections, to reward performance contributing to economic development, be cost-efficient and be simple to administer.
4. The State considers the private sector as the prime mover for economic growth. In this regard, private initiative is to be encouraged, with deregulation and self-regulation of business activities to be generally adopted where dictated by urgent social concerns.
5. The State shall principally play a supportive role, rather than a competitive one, providing the framework, the climate and the incentives within which business activity is to take place.
6. The State recognizes that there are appropriate roles for local and foreign capital to play in the development of the Philippine economy and that it is the responsibility of Government to define these roles and provide the climate for their entry and growth.
7. The State recognizes that industrial peace is an essential element of economic growth and that it is a principal responsibility of the State to ensure that such a condition prevails.

8. Fiscal incentives shall be extended to stimulate the establishment and assist initial operations of the enterprise, and shall terminate after a period of not more than 10 years from registration or start-up of operation unless a specific period is otherwise stated.

The foregoing declaration of investment policies shall apply to all investment incentive schemes.

CHAPTER II BOARD OF INVESTMENTS

ART. 3. *The Board of Investments.* - The Board of Investments shall implement the provisions of Books One to Five of this Code.

ART. 4. *Composition of the Board.* - The Board of Investments shall be composed of seven (7) governors: The Secretary of Trade and Industry, three (3) Undersecretaries of Trade and Industry to be chosen by the President; and three (3) representatives from other government agencies and the private sector. The Secretary of Trade and Industry shall be concurrently Chairman of the Board and the Undersecretary of the Department of Trade and Industry for Industry and Investments shall be concurrently the Vice-Chairman of the Board and its Managing Head. The three (3) representatives from the other government agencies and the private sector shall be appointed by the President for a term of four (4) years: *Provided*, That upon the expiration of his term, a governor shall serve as such until his successor shall have been appointed and qualified: *Provided, further*, That no vacancy shall be filled except for the unexpired portion of any term, and that no one may be designated to be a governor of the Board in an acting capacity but all appointments shall be ad interim or permanent.

ART 5. *Qualifications of Governors of the Board.* - The governors of the Board shall be citizens of the Philippines, at least thirty (30) years old, of good moral character and of recognized competence in the fields of economics, finance, banking, commerce, industry, agriculture, engineering, law, management or labor.

ART. 6. *Appointment of Board Personnel.* - The Board shall appoint its technical staff and other personnel subject to Civil Service Law, rules and regulations.

ART 7. *Powers and Duties of the Board.* - The Board shall be responsible for the regulation and promotion of investments in the Philippines. It shall meet as often as may be necessary generally once a week on such day as it may fix. Notice of regular and special meetings shall be given all members of the Board. The presence of four (4) governors shall constitute a quorum and the affirmative vote of four (4) governors in a meeting validly held shall be necessary to exercise its powers and perform its duties, which shall be as follows:

(1) Prepare annually the Investment Priorities Plan as defined in Article 26, which shall contain a listing of specific activities that can qualify for incentives under Book 1 of this Code, duly supported by the studies of existing and prospective demands for such products and services in the light of the level and structure of income, production, trade, prices and relevant economic and technical factors of the regions as well as existing facilities;

(2) Promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Code relevant to the Board;

(3) Process and approve applications for registration with the Board, imposing such terms and conditions as it may deem necessary to promote the objectives of this Code, including refund of incentives when appropriate, restricting availment of certain incentives not needed by the project in the determination of the Board, requiring performance bonds and other guarantees, and payment of application, registration, publication and other necessary fees and when warranted, may limit the availment of the tax holiday incentive to the extent that the investor's country law or treaties with the Philippines allows a credit for taxes paid in the Philippines;

- (4) After due hearing, decide controversies concerning the implementation of the relevant books of this Code that may arise between registered enterprises or investors therein and government agencies, within thirty (30) days after the controversy has been submitted for decision: *Provided*, That the investor or the registered enterprise may appeal the decision of the Board within thirty (30) days from receipt thereof to the President;
- (5) Recommend to the Commissioner of Immigration and Deportation the entry into the Philippines for employment of foreign nationals under this Code;
- (6) Periodically check and verify, either by inspection of the books or by requiring regular reports, the proportion of the participation of Philippine nationals in a registered enterprise to ascertain compliance with its qualification to retain registration under this Code;
- (7) Periodically check and verify the compliance by registered enterprises with the relevant provisions of this Code, with the rules and regulations promulgated under this Code and with the terms and conditions of registration;
- (8) After due notice, cancel the registration or suspend the enjoyment of incentives benefits of any registered enterprise and/or require refund of incentives enjoyed by such enterprise including interests and monetary penalties, for (a) failure to maintain the qualifications required by this Code for registration with the Board or (b) for violation of any provisions of this Code, of the rules and regulations issued under this Code, of the terms and conditions of registration, or of laws for the protection of labor or of the consuming public: *Provided*, That the registration of an enterprise whose project timetable, as set by the Board is delayed by one year, shall be considered automatically cancelled unless otherwise reinstated as a registered enterprise by the Board;
- (9) Determine the organizational structure taking into account Article 6 of this Code; appoint, discipline and remove its personnel consistent with the provisions of the Civil Service Law and Rules;
- (10) Prepare or contract for the preparation of feasibility and other pre-investment studies for pioneer areas either upon its own initiative; or upon the request of Philippine nationals who commit themselves to invest therein and show the capability of doing so: *Provided*, That if the venture is implemented, then the amount advanced by the Board shall be repaid within five (5) years from the date the commercial operation of said enterprise starts;
- (11) When feasible and considered desirable by the Board, require registered enterprises to list their shares of stock in any accredited stock exchange or directly offer a portion of their capital stock to the public and/or their employees;
- (12) Formulate and implement rationalization programs for certain industries whose operation may result in dislocation, overcrowding or inefficient use of resources, thus impeding economic growth. For this purpose, the Board may formulate guidelines for progressive manufacturing programs, local content programs, mandatory sourcing requirements and dispersal of industries. In appropriate cases and upon approval of the President, the Board may restrict, either totally or partially, the importation of any equipment or raw materials or finished products involved in the rationalization program;
- (13) In appropriate cases, and subject to the conditions which the Board deems necessary, suspend the nationality requirement provided for in this Code or any other nationalization statute in cases of ASEAN projects or investments by ASEAN nationals in preferred projects, and with the approval of the President, extend said suspension to other international complementation arrangements for the manufacture of a particular product on a regional basis to take advantage of economies of scale;

(14) Extend the period of availment of incentives by any registered enterprise; Provided, That the total period of availment shall not exceed ten (10) years, subject to any of the following criteria:

- (a) The registered enterprise has suffered operational force majeure that has impaired its viability;
- (b) The registered enterprise has not fully enjoyed the incentives granted to it for reasons beyond its control;
- (c) The project of the registered enterprise has a gestation period which goes beyond the period of availment of needed incentives; and
- (d) The operation of the registered enterprise has been subjected to unforeseen changes in government policies, particularly, protectionism policies of importing countries, and such other supervening factors which would affect the competitiveness of the registered firm;

(15) Regulate the making of investments and the doing of business within the Philippines by foreigners or business organizations owned in whole or in part by foreigners;

(16) Prepare or contract for the preparation of industry and sectoral development programs and gather and compile statistical, technical, marketing, financial and other data required for the effective implementation of this Code;

(17) Within four (4) months after the close of the fiscal year, submit annual reports to the President which shall cover its activities in the administration of this Code, including recommendations on investment policies;

(18) Provide, directly or through Philippine diplomatic missions, such information as may be of interest to prospective foreign investors:

(19) Collate, analyze and compile pertinent information and studies concerning areas that have been or may be declared preferred areas of investments; and

(20) Enter into agreements with other agencies of government for the simplification and facilitation of systems and procedures involved in the promotion of investments, operation of registered enterprises and other activities necessary for the effective implementation of this Code;

(21) Generally, exercise all the powers necessary or incidental to attain the purposes of this Code and other laws vesting additional functions on the Board.

ART. 8. *Powers and Duties of the Chairman.* - The Chairman shall have the following powers and duties:

- (1) To preside over the meetings of the Board;
- (2) To render annual reports to the President and such special reports as may be requested;
- (3) To act as liaison between investors seeking joint venture arrangements in particular areas of investment;
- (4) Recommend to the Board such policies and measures he may deem necessary to carry out the objectives of this Code; and
- (5) Generally, to exercise such other powers and perform such other duties as may be directed by the Board of Governors from time to time.

ART. 9. *Powers and Duties of the Vice-Chairman.* - The Vice-Chairman shall have the following powers and duties:

- (1) To act as Managing Head of the Board;
- (2) To preside over the meetings of the Board in the absence of the Chairman;

- (3) Prepare the Agenda for the meetings of the Board and submit for its consideration and approval the policies and measures which the Chairman deems necessary and proper to carry out the provisions of this Code;
- (4) Assist registered enterprises and prospective investors to have their papers processed with dispatch by all government offices, agencies, instrumentalities and financial institutions; and
- (5) Perform the other duties of the Chairman in the absence of the latter, and such other duties as may be assigned to him by the Board of Governors.

INVESTMENTS WITH INCENTIVES

TITLE I PREFERRED AREAS OF INVESTMENTS

CHAPTER I DEFINITION OF TERMS

ART. 10. Board shall mean the Board of Investments created under this Code.

ART. 11. Registered Enterprise shall mean any individual, partnership, cooperative, corporation or other entity incorporated and/or organized and existing under Philippine laws; and registered with the Board in accordance with this Book; *Provided, however,* That the term registered enterprise shall not include commercial banks, savings and mortgage banks, rural banks, savings and loan associations, building and loan associations, development banks, trust companies, investment banks, finance companies, brokers and dealers in securities, consumers' cooperatives and credit unions, and other business organizations whose principal purpose or principal source of income is to receive deposits, lend or borrow money, buy and sell or otherwise deal, trade or invest in common or preferred stocks, debentures, bonds or other marketable instruments generally recognized as securities, or discharge other similar intermediary, trust or fiduciary functions.

ART. 12. Technological assistance contracts shall mean contracts for: (1) the transfer, by license or otherwise, of patents, processes, formulas or other technological rights of foreign origin; and/or (2) foreign assistance concerning technical and factory management, design, planning, construction, operation and similar matters.

ART. 13. Foreign loans shall mean any credit facility or financial assistance other than equity investment denominated and payable in foreign currency or where the creditor has the option to demand payment in foreign exchange and registered with the Central Bank and the Board.

ART. 14. Foreign Investments shall mean equity investments owned by a non-Philippine national made in the form of foreign exchange or other assets actually transferred to the Philippines and registered with the Central Bank and the Board, which shall assess and appraise the value of such assets other than foreign exchange.

ART. 15. Philippine national shall mean a citizen of the Philippines or a domestic partnership or association wholly-owned by citizens of the Philippines; or a corporation organized under the laws of the Philippines of which at least sixty per cent (60%) of the capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines; or a trustee of funds for pension or other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty per cent (60%) of the fund will accrue to the benefit of Philippine nationals: *Provided,* That where a corporation and its non-Filipino stockholders own stock in a registered enterprise, at least sixty per cent (60%) of the capital stock outstanding and entitled to vote of both corporations must be owned and held by the citizens of the Philippines and at least sixty percent (60%) of the members of the Board of Directors of both corporations must be citizens of the Philippines in order that the corporation shall be considered a Philippine national.

ART. 16. Preferred areas of investments shall mean the economic activities that the Board shall have declared as such in accordance with Article 28 which shall be either non-pioneer or pioneer.

ART. 17. Pioneer enterprise shall mean a registered enterprise (1) engaged in the manufacture, processing or production, and not merely in the assembly or packaging of goods, products, commodities or raw materials that have not been or are not being produced in the Philippines on a commercial scale of (2) which uses a design, formula, scheme, method, process or system of production or transformation of any element, substance or raw materials into another raw material or finished goods which is new and untried in the Philippines or (3) engaged in the pursuit of agricultural, forestry and mining activities and/or services including the industrial aspects of food processing whenever appropriate, pre-determined by the Board, in consultation with the appropriate Department, to be feasible and highly essential to the attainment of the national goal in relation to a declared specific national food and agricultural program for self sufficiency and other social benefits of the project or (4) which produces non-conventional fuels or manufactures equipment which utilize non-conventional sources of energy or uses or converts to coal or other non-conventional fuels or sources of energy in its production, manufacturing or processing operations: *Provided*, That the final product in any of the foregoing instances, involves or will involve substantial use and processing of domestic raw materials, whenever available; taking into account the risks and magnitude of investment; *Provided, further*, That the foregoing definitions shall not in any way limit the rights and incentives granted to less-developed-area enterprises provided under Title V, Book 1 hereof.

ART. 18. Non-pioneer enterprise shall include all registered producer enterprises other than pioneer enterprises.

ART. 19. Expansion shall include modernization and rehabilitation and shall mean increase of existing volume or value of production or upgrading the quality of the registered product or utilization of inefficient or idle equipment under such guidelines as the Board may adopt.

ART. 20. Measured capacity shall mean the estimated additional volume of production or service which the Board determines to be desirable in each preferred area of investment in order to supply the needs of the economy at reasonable prices, taking into account the export potential of the product, including economies of scale which would render such product competitive in the world market. Measured capacity shall not be less than the amount by which the measurable domestic and country's potential export market demand exceeds the existing productive capacity in said preferred areas. For export market industries, when warranted, the Board shall base measured capacity on the availability of domestic raw materials after deducting the needs of the domestic market therefore.

ART. 21. Tax Credit shall mean any of the credits against taxes and/or duties equal to those actually paid or would have been paid to evidence which a tax credit certificate shall be issued by the Secretary of Finance or his representative, or the Board, if so delegated by the Secretary of Finance. The tax credit certificates including those issued by the Board pursuant to laws repealed by this Code but without in any way diminishing the scope of negotiability under their laws of issue are transferable under such conditions as may be determined by the Board after consultation with the Department of Finance. The tax credit certificate shall be used to pay taxes, duties, charges and fees due to the National Government: *Provided*, That the tax credits issued under this Code shall not form part of the gross income of the grantee/transferee for income tax purposes under Section 29 of the National Internal Revenue Code and are therefore not taxable: *Provided, further*, That such tax credits shall be valid only for a period of ten (10) years from date of issuance.

ART. 22. Export products shall mean manufactured or processed products the total F.O.B. Philippine port value of the exports of which did not exceed five million dollars in the United States currency in the calendar year 1968 and which meet the local content requirement, if any, set by the Board, and standards of quality set by the Bureau of Product Standards, or, in default of such standards, by the Board or by such public or private organization, chamber,

group or body as the Board may designate. The above definition notwithstanding, the Investment Priorities Plan may include other products for exports subject to such conditions and limited incentives as may be determined by the Board.

ART. 23. Export sales shall mean the Philippine port F.O. B. value, determined from invoices, bills of lading, inward letters of credit, landing certificates, and other commercial documents, of export products exported directly by a registered export producer or the net selling price of export products sold by a registered export producer to another export producer, or to an export trader that subsequently exports the same: *Provided*, That sales of export products to another producer or to an export trader shall only be deemed export sales when actually exported by the latter, as evidenced by landing certificates or similar commercial documents: *Provided, further*, That without actual exportation the following shall be considered constructively exported for purposes of this provision:

- (1) sales to bonded manufacturing warehouses of export-oriented manufacturers;
- (2) sales to export processing zones;
- (3) sales to registered export traders operating bonded trading warehouses supplying raw materials used in the manufacture of export products under guidelines to be set by the Board in consultation with the Bureau of Internal Revenue and the Bureau of Customs;
- (4) sales to foreign military bases, diplomatic missions and other agencies and/or instrumentalities granted tax immunities, of locally manufactured, assembled or repacked products whether paid for in foreign currency or not: *Provided, further*, That export sales of registered export traders may include commission income: and *Provided, finally*, That exportation of goods on consignment shall not be deemed export sales until the export products consigned are in fact sold by the consignee.

Sales of locally manufactured or assembled goods for household and personal use to Filipinos abroad and other non-residents of the Philippines as well as returning Overseas Filipinos under the Internal Export Program of the government and paid for in convertible foreign currency inwardly remitted through the Philippine banking systems shall also be considered export sales.

ART. 24. Production cost shall mean the total of the cost of direct labor, raw materials, and manufacturing overhead, determined in accordance with generally accepted accounting principles, which are incurred in manufacturing or processing the products of a registered enterprise.

ART. 25. Processing shall mean converting of raw materials into marketable form through physical, mechanical, chemical, electrical, biochemical, biological or other means or by a special treatment or a series of actions, such as slaughtering, milling, pasteurizing, drying or desiccating quick freezing, that results in a change in the nature or state of the products. Merely packing or packaging shall not constitute processing.

ART. 26. Investment Priorities Plan shall mean the overall plan prepared by the Board which includes and contains:

- (a) The specific activities and generic categories of economic activity wherein investments are to be encouraged and the corresponding products and commodities to be grown, processed or manufactured pursuant thereto for the domestic or export market;
- (b) Specific public utilities which can qualify for incentives under this Code and which shall be supported by studies of existing and prospective regional demands for the services of such public utilities in the light of the level and structure of income,

production, trade, prices and relevant economic and technical factors of the regions as well as the existing facilities to produce such services;

(c) Specific activities where the potential for utilization of indigenous non-petroleum based fuels or sources of energy can be best promoted; and

(d) Such other information, analyses, data, guidelines or criteria as the Board may deem appropriate.

The specific and generic activities to be included in the Investment Priorities Plan with their status as pioneer or non-pioneer shall be determined by the Board in accordance with the criteria set forth in this Book.

CHAPTER II INVESTMENT PRIORITIES PLAN

ART. 27. *Investment Priorities Plan.* - Not later than the end of March of every year, the Board of Investments, after consultation with the appropriate government agencies and the private sector, shall submit to the President an Investment Priorities Plan: *Provided, however,* That the deadline for submission may be extended by the President.

ART. 28. *Criteria in Investment Priority Determination.* - No economic activity shall be included in the Investment Priorities Plan unless it is shown to be economically, technically and financially sound after thorough investigation and analysis by the Board.

The determination of preferred areas of investment to be listed in the Investment Priorities Plan shall be based on long-run comparative advantage, taking into account the value of social objectives and employing economic criteria along with market, technical; and financial analyses.

The Board shall take into account the following:

- (a) Primarily, the economic soundness of the specific activity as shown by its economic internal rate of return;
- (b) The extent of contribution of an activity to a specific development goal;
- (c) Other indicators of comparative advantage;
- (d) Measured capacity as defined in Article 20; and
- (e) The market and technical aspects and considerations of the activity proposed to be included.

In any of the declared preferred areas of investment, the Board may designate as pioneer areas the specific products and commodities that meet the requirements of Article 17 of this Code and review yearly whether such activity, as determined by the Board, shall continue as pioneer, otherwise, it shall be considered as non-pioneer and accordingly listed as such in the Investment Priorities Plan or removed from the Investment Priorities Plan.

ART. 29. *Approval of the Investment Priorities Plan.* - The President shall proclaim the whole or part of such plan as in effect; or alternatively return the whole or part of the plan to the Board of Investments for revision.

Upon the effectivity of the plan or portions thereof, the President shall issue all necessary directives to all departments, bureaus, agencies or instrumentalities of the government to ensure the implementation of the plan by the agencies concerned in a synchronized and integrated manner. No government body shall adopt any policy or take any course of action contrary to or inconsistent with the plan.

ART. 30. *Amendments.* - Subject to publication requirements and the criteria for investment priority determination, the Board of Investments may, at any time, add additional areas in the

plan, alter any of the terms of the declaration of an investment area or the designation of measured capacities, or terminate the status of preference. In no case, however, shall any amendment of the plan impair whatever rights may have already been legally vested in qualified enterprises which shall continue to enjoy such rights to the full extent allowed under this Code. The Board shall not accept applications in an area of investment prior to the approval of the same as a preferred area nor after approval of its deletion as a preferred area of investment.

ART. 31. *Publication.* - Upon approval of the plan, in whole or in part or upon approval of an amendment thereof, the plan or the amendment, specifying and declaring the preferred areas of investment and their corresponding measured capacity shall be published in at least one (1) newspaper of general circulation and all such areas shall be open for application until publication of an amendment or deletion thereof, or until the Board approves registration of enterprises which fill the measured capacity.

CHAPTER III REGISTRATION OF ENTERPRISES

ART. 32. *Qualifications of a Registered Enterprise.* - To be entitled to registration under the Investment Priorities Plan, an applicant must satisfy the Board that:

(1) He is a citizen of the Philippines, in case the applicant is a natural person, or in case of a partnership or any other association, it is organized under Philippine laws and that at least sixty percent (60%) of its capital is owned and controlled by citizens of the Philippines; or in case of a corporation or a cooperative, it is organized under Philippine laws and that at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by Philippine nationals as defined under Article 15 of this Code, and at least sixty percent (60%) of the members of the Board of Directors are citizens of the Philippines. If it does not possess the required degree of ownership as mentioned above by Philippine nationals, the following circumstances must be satisfactorily established:

(a) That it proposes to engage in a pioneer project as defined in Article 17 of this Code, which, considering the nature and extent of capital requirements, processes, technical skills and relative business risks involved, is in the opinion of the Board of such a nature that the available measured capacity thereof cannot be readily and adequately filled by Philippine nationals; or, if the applicant is exporting at least seventy percent (70%) of its total production, the export requirement herein provided may be reduced in meritorious cases under such conditions and/or limited incentives as the Board may determine;

(b) That it obligates itself to attain the status of a Philippine national, as defined in Article 15, within thirty (30) years from the date of registration or within such longer period as the Board may require taking into account the export potential of the project: *Provided*, That a registered enterprise which exports one hundred percent (100%) of its total production need not comply with this requirement;

(c) That the pioneer area it will engage in is one that is not within the activities reserved by the Constitution or other laws of the Philippines to Philippine citizens or corporations owned and controlled by Philippine citizens;

(2) The applicant is proposing to engage in a preferred project listed or authorized in the current Investment Priorities Plan within a reasonable time to be fixed by the Board or, if not so listed, at least fifty percent (50%) of its total production is for export or it is an existing producer which will export part of production under such conditions and/or limited incentives as the Board may determine; or that the enterprise is engaged or proposing to engage in the sale abroad of export products bought by it from one or more export producers; or the enterprise is engaged or proposing to engage in rendering technical, professional or other

services or in exporting television and motion pictures and musical recordings made or produced in the Philippines, either directly or through a registered trader.

(3) The applicant is capable of operating on a sound and efficient basis and of contributing to the national development of the preferred area in particular and of the national economy in general; and

(4) If the applicant is engaged or proposes to engage in under takings or activities other than preferred projects, it has installed or undertakes to install an accounting system adequate to identify the investments, revenues, costs, and profits or losses of each preferred project undertaken by the enterprise separately from the aggregate investment, revenues, costs and profits or losses of the whole enterprise or to establish a separate corporation for each preferred project if the Board should so require to facilitate proper implementation of this Code.

ART. 33. *Application.* - Applications shall be filed with the Board, recorded in a registration book and the date appearing therein and stamped on the application shall be considered the date of official acceptance.

Whenever necessary, the Board, through the People's Economic Councils, shall consult the communities affected on the acceptability of locating the registered enterprise within their community.

ART. 34. *Approval and Registration Procedures.* - The Board is authorized to adopt rules and regulations to facilitate action on applications filed with it, prescribe criteria for the evaluation of several applications filed in one preferred area; devise standard forms for use of applicants and delegate to the regional offices of the Department of Trade and Industry the authority to receive and process applications for enterprises to be located in their respective regions.

Applications filed shall be considered automatically approved if not acted upon by the Board within twenty (20) working days from official acceptance thereof.

ART. 35. *Criteria for Evaluation of Applications.* - The following criteria will be considered in the evaluation of applications for registration under a preferred area:

- (a) The extent of ownership and control by Philippine citizens of the enterprises;
- (b) The economic rates of return;
- (c) The measured capacity: *Provided*, That estimates of measured capacities shall be regularly reviewed and updated to reflect changes in market supply and demand conditions: *Provided, further*, That measured capacity shall not result in a monopoly in any preferred area of investment which would unduly restrict trade and fair competition nor shall it be used to deny the entry of any enterprise in any field of endeavor or activity;
- (d) The amount of foreign exchange earned, used or saved in their operations;
- (e) The extent to which labor, materials and other resources obtained from indigenous sources are utilized;
- (f) The extent to which technological advances are applied and adopted to local conditions;
- (g) The amount of equity and degree to which the ownership of such equity is spread out and diversified; and
- (h) Such other criteria as the Board may determine.

ART. 36. *Appeal from Board's Decision.* - Any order or decision of the Board shall be final and executory after thirty (30) days from its promulgation. Within the said period of thirty (30) days, said order or decision may be appealed. to the Office of the President. Where an appeal has been filed, said order or decision shall be final and executory ninety (90) days after the perfection of the appeal, unless reversed.

ART. 37. *Certificate of Registration.* - A registered enterprise under this Code shall be issued a certificate of registration under the seal of the Board of Investments and the signature of its Chairman and/or such other officer or employee of the Board as it may empower and designate for the purpose. The certificate shall be in such form and style as the Board may determine and shall state, among other matters:

- (a) The name of the registered enterprise;
- (b) The preferred area of investment in which the registered enterprise is proposing to engage;
- (c) The nature of the activity it is undertaking or proposing to undertake, whether pioneer or non-pioneer, and the registered capacity of the enterprise; and
- (d) The other terms and conditions to be observed by the registered enterprise by virtue of the registration.

TITLE II BASIC RIGHTS AND GUARANTEES

ART. 38. *Protection of Investment.* - All investors and registered enterprises are entitled to the basic rights and guarantees provided in the Constitution. Among other rights recognized by the Government of the Philippines are the following:

(a) *Repatriation of Investments.* - In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation, subject to the provisions of Section 74 of Republic Act No. 265, as amended. For investments made pursuant to Executive Order No. 32 and its implementing rules and regulations, remittability shall be as provided therein.

(b) *Remittance of Earnings.* - In the case of foreign investments, the right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265 as amended;

(c) *Foreign Loans and Contracts.* - The right to remit at the exchange rate prevailing at the time of remittance such sums as may be necessary to meet the payments of interest and principal on foreign loans and foreign obligations arising from technological assistance contracts, subject to the provisions of Section 74 of Republic Act. No. 265 as amended;

(d) *Freedom from Expropriation.* - There shall be no expropriation by the government of the property represented by investments or of the property of the enterprise except for public use or in the interest of national welfare or defense and upon payment of just compensation. In such cases, foreign investors or enterprises shall have the right to remit sums received as compensation for the expropriated property in the currency in which the investment was originally made and at the exchange rate at the time of remittance, subject to the provisions of Section 74 of Republic Act. No. 265 as amended;

(e) *Requisition of Investment.* - There shall be no requisition of the property represented by the investment or of the property of enterprises, except in the event of war or national emergency and only for the duration thereof. Just compensation shall be determined and paid either at the time of requisition or immediately after cessation of the state of war or national emergency. Payments received as compensation for the requisitioned property may be remitted in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance, subject to the provisions of Section 74 of Republic Act No. 265, as amended.

TITLE III
INCENTIVES TO REGISTERED ENTERPRISES

ART. 39. *Incentives to Registered Enterprises.* - All registered enterprises shall be granted the following incentives to the extent engaged in a preferred area of investment:

(a) *Income Tax Holiday.* -

(1) For six (6) years from commercial operation for pioneer firms and four (4) years for non-pioneer firms, new registered firms shall be fully exempt from income taxes levied by the National Government. Subject to such guidelines as may be prescribed by the Board, the income tax exemption will be extended for another year in each of the following cases:

- i. the project meets the prescribed ratio of capital equipment to number of workers set by the Board;
- ii. utilization of indigenous raw materials at rates set by the Board;
- iii. the net foreign exchange savings or earnings amount to at least US\$500,000.00 annually during the first three(3) years of operation.

The preceding paragraph notwithstanding, no registered pioneer firm may avail of this incentive for a period exceeding eight (8) years.

(2) For a period of three (3) years from commercial operation, registered expanding firms shall be entitled to an exemption from income taxes levied by the National Government proportionate to their expansion under such terms and conditions as the Board may determine; *Provided, however,* That during the period within which this incentive is availed of by the expanding firm it shall not be entitled to additional deduction for incremental labor expense.

(3) The Provision of Article 7 (14) notwithstanding, registered firms shall not be entitled to any extension of this incentive. (b) Additional Deduction for Labor Expense. - For the first five (5) years from registration a registered enterprise shall be allowed an additional deduction from the taxable income of fifty percent (50%) of the wages corresponding to the increment in the number of direct labor for skilled and unskilled workers if the project meets the prescribed ration of capital equipment to number of workers set by the Board: *Provided,* That this additional deduction shall be doubled if the activity is located in less developed areas as defined in Art. 40. (c) Tax and Duty Exemption on Imported Capital Equipment. - Within five (5) years from the effectivity of this Code, importations of machinery and equipment and accompanying spare parts of new and expanding registered enterprises shall be exempt to the extent of one hundred per cent (100%) of the customs duties and national internal revenue tax payable thereon; *Provided,* That the importation of machinery and equipment and accompanying spare parts shall comply with the following conditions:

- (1) They are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices;
- (2) They are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof or the proportionate taxes and duties are paid on the specific equipment and machinery being permanently used for non-registered activities; and
- (3) The approval of the Board was obtained by the registered enterprise for the importation of such machinery, equipment and spare parts.

In granting the approval of the importations under this paragraph, the Board may require international canvassing but if the total cost of the capital equipment or industrial plant exceeds US\$5,000,000, the Board shall apply or adopt the provisions of Presidential Decree Numbered 1764 on International Competitive Bidding.

If the registered enterprise sells, transfers or disposes of these machinery, equipment and spare parts without prior approval of the Board within five (5) years from date of acquisition, the registered enterprise and the vendee, transferee, or assignee shall be solidarily liable to pay twice the amount of the tax exemption given it.

The Board shall allow and approve the sale, transfer or disposition of the said items within the said period of five (5) years if made:

- (aa) to another registered enterprise or registered domestic producer enjoying similar incentives;
- (bb) for reasons of proven technical obsolescence; or
- (cc) for purposes of replacement to improve and/or expand the operations of the registered enterprise.

(d) *Tax Credit on Domestic Capital Equipment.* - A tax credit equivalent to one hundred percent (100%) of the value of the national internal revenue taxes and customs duties that would have been waived on the machinery, equipment and spare parts, had these items been imported shall be given to the new and expanding registered enterprise which purchases machinery, equipment and spare parts from a domestic manufacturer: *Provided*, That (1) That the said equipment, machinery and spare parts are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof; (2) that the equipment would have qualified for tax and duty-free importation under paragraph (c) hereof; (c) that the approval of the Board was obtained by the registered enterprise; and (4) that the purchase is made within five (5) years from the date of effectivity of the Code. If the registered enterprise sells, transfers or disposes of these machinery, equipment and spare parts, the provisions in the preceding paragraph for such disposition shall apply.

(e) *Exemption from Contractor's Tax.* - The registered enterprise shall be exempt from the payment of contractor's tax, whether national or local.

(f) *Simplification of Customs Procedures.* - Customs procedures for the importation of equipment, spare parts, raw materials and supplies, and exports of processed products by registered enterprises shall be simplified by the Bureau of Customs.

(g) *Unrestricted Use of Consigned Equipment.* - Provisions of existing laws notwithstanding, machinery, equipment and spare parts consigned to any registered enterprise shall not be subject to restrictions as to period of use of such machinery, equipment and spare parts: *Provided*, That the appropriate re-export bond is posted unless importation is otherwise covered under subsections (c) and (m) of this Article: *Provided, further*, That such consigned equipment shall be for the exclusive use of the registered enterprise.

If such equipment is sold, transferred or otherwise disposed of by the registered enterprise the related provision of Article 39 (c) (3) shall apply. Outward remittance of foreign exchange covering the proceeds of such sale, transfer or disposition shall be allowed only upon prior Central Bank approval.

(h) *Employment of Foreign Nationals.* - Subject to the provisions of Section 29 of Commonwealth Act Number 613, as amended a registered enterprise may employ foreign nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years from its registration, extendible for limited periods at the discretion of the Board: *Provided, however*, That when the majority of the capital stock of a registered enterprise is

owned by foreign investors, the positions of president, treasurer and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein.

Foreign nationals under employment contract within the purview of this incentive, their spouses and unmarried children under twenty-one (21) years of age, who are not excluded by Section 29 of Commonwealth Act Numbered 613, as amended, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals. A registered enterprise shall train Filipinos as understudies of foreign nationals in administrative, supervisory and technical skills and shall submit annual reports on such training to the Board.

(i) *Exemption on Breeding Stocks and Genetic Materials.* - The importation of breeding stocks and genetic materials within ten (10) years from the date of registration or commercial operation of the enterprise shall be exempt from all taxes and duties: *Provided*, That such breeding stocks and genetic materials are (1) not locally available and/or obtainable locally in comparable quality and at reasonable prices; (2) reasonably needed in the registered activity; and (3) approved by the Board.

(j) *Tax Credit on Domestic Breeding Stocks and Genetic Materials.* - A tax credit equivalent to one hundred percent (100%) of the value of national internal revenue taxes and customs duties that would have been waived on the breeding stocks and genetic materials had these items been imported shall be given to the registered enterprise which purchases breeding stock and genetic materials from a domestic producer: *Provided*, (1) That said breeding stocks and genetic materials would have qualified for tax and duty free importation under the preceding paragraph; (2) that the breeding stocks and genetic materials are reasonably needed in the registered activity; (3) that approval of the Board has been obtained by the registered enterprise; and (4) that the purchase is made within ten (10) years from date of registration or commercial operation of the registered enterprise.

(k) *Tax Credit for Taxes and Duties on Raw Materials.* - Every registered enterprise shall enjoy a tax credit equivalent to the National Internal Revenue taxes and Customs duties paid on the supplies, raw materials and semi-manufactured products used in the manufacture, processing or production of its export products and forming part thereof, exported directly or indirectly by the registered enterprise: *Provided, however*, That the taxes on the supplies, raw materials and semi-manufactured products domestically purchased are indicated as a separate item in the sales invoice.

Nothing herein shall be construed as to preclude the Board from setting a fixed percentage of export sales as the approximate tax credit for taxes and duties of raw materials based on an average or standard usage for such materials in the industry.

(l) *Access to Bonded Manufacturing/Trading Warehouse System.* - Registered export oriented enterprises shall have access to the utilization of the bonded warehousing system in all areas required by the project subject to such guidelines as may be issued by the Board upon prior consultation with the Bureau of Customs.

(m) *Exemption from Taxes and Duties on Imported Spare Parts.* - Importation of required supplies and spare parts for consigned equipment or those imported tax and duty free by a registered enterprise with a bonded manufacturing warehouse shall be exempt from customs duties and national internal revenue taxes payable thereon: *Provided, however*, That at least seventy percent (70%) of production is exported; *Provided, further*, That such spare parts and supplies are not locally available at reasonable prices, sufficient quantity and comparable quality; *Provided, finally*, That all such spare parts and supplies shall be used only in the bonded manufacturing warehouse of the registered enterprise under such requirements as the Bureau of Customs may impose.

(n) *Exemption from Wharfage Dues and any Export Tax, Duty, Impost and Fee.* - The provisions of law to the contrary notwithstanding, exports by a registered enterprise of its non-traditional export products shall be exempted from any wharfage dues, and any export tax,

duty, impost and fee.

TITLE IV INCENTIVES TO LESS-DEVELOPED-AREA REGISTERED ENTERPRISE

ART. 40. A registered enterprise regardless of nationality located in a less-developed-area included in the list prepared by the Board of Investments after consultation with the National Economic and Development Authority and other appropriate government agencies, taking into consideration the following criteria: low per capita gross domestic product; low level of investments; high rate of unemployment and/or underemployment; and low level of infrastructure development including its accessibility to developed urban centers, shall be entitled to the following incentives in addition to those provided in the preceding article:

(a) *Pioneer Incentives.* - An enterprise in a less-developed-area registered with the Board under Book 1 of this Code, whether proposed, or an expansion of an existing venture, shall be entitled to the incentives provided for a pioneer registered enterprise under its law registration.

(b) *Incentives for Necessary and Major Infrastructure and Public Facilities.* - Registered enterprises establishing their production, processing or manufacturing plants in an area that the Board designates as necessary for the proper dispersal of industry or in an area which the Board finds deficient in infrastructure, public utilities, and other facilities, such as irrigation, drainage or other similar waterworks infrastructure may deduct from taxable income an amount equivalent to one hundred percent (100%) of necessary and major infrastructure works it may have undertaken with the prior approval of the Board in consultation with other government agencies concerned; *Provided,* That the title to all such infrastructure works shall upon completion, be transferred to the Philippine Government; *Provided, further,* That any amount not deducted for a particular year may be carried over for deduction for subsequent years not exceeding ten (10) years from commercial operation.

TITLE V GENERAL PROVISIONS

ART. 41. *Power of the President to Rationalize Incentives.* - The President may, upon recommendation of the Board and in the interest of national development, rationalize the incentives scheme herein provided; extend the period of availment of incentives or increase rates of tax exemption of any project whose viability or profitability require such modification.

ART. 42. *Refund and Penalties.* - In case of cancellation of the certificate granted under this Code, the Board may, in appropriate cases, require the refund of incentives availed of the impose corresponding fines and penalties.

ART. 43. *Benefits of Multiple Area Enterprises.* - When a registered enterprise engages in activities or endeavors that have not been declared preferred areas of investments, the benefits and incentives accruing under this Code to registered enterprises and investors therein shall be limited to the portion of the activities of such registered enterprise as is a preferred area of investment.

4. Republic Act No. 8282

Social Security System Law

AN ACT FURTHER STRENGTHENING THE SOCIAL SECURITY SYSTEM THEREBY AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY LAW

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

SECTION 1. Republic Act No. 1161, otherwise known as the "Social Security Law," is hereby further amended to read as follows:

"SEC. 1. Short Title. - This Act shall be known as the 'Social Security Act of 1997'.

"SEC. 2. Declaration of Policy. - It is the policy of the State to establish, develop, promote and perfect a sound and viable tax-exempt social security system suitable to the needs of the people throughout the Philippines which shall promote social justice and provide meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden. Towards this end, the State shall endeavor to extend social security protection to workers and their beneficiaries.

"SEC. 3. Social Security System. - (a) To carry out the purposes of this Act, the Social Security System, hereinafter referred to as "SSS", a corporate body, with principal place of business in Metro Manila, Philippines, is hereby created. The SSS shall be directed and controlled by a Social Security Commission, hereinafter referred to as "Commission", composed of the Secretary of Labor and Employment or his duly designated undersecretary, the SSS president and seven (7) appointive members, three (3) of whom shall represent the workers' group, at least one (1) of whom shall be a woman; three (3), the employers' group, at least one (1) of whom shall be a woman; and one (1), the general public whose representative shall have adequate knowledge and experience regarding social security, to be appointed by the President of the Philippines. The six (6) members representing workers and employers shall be chosen from among the nominees of workers' and employers' organizations, respectively. The Chairman of the Commission shall be designated by the President of the Philippines from among its members. The term of the appointive members shall be three (3) years: *Provided*, That the terms of the first six (6) appointive members shall be one (1), two (2) and three (3) years for every two (2) members, respectively: *Provided, further*, That they shall continue to hold office until their successors shall have been appointed and duly qualified. All vacancies, prior to the expiration of the term, shall be filled for the unexpired term only. The appointive members of the Commission shall receive at least Two thousand five hundred pesos (P2,500.00) per diem for each meeting actually attended by them, but not to exceed Ten thousand pesos (P10,000.00) a month: *Provided*, That members of the Commission who hear and evaluate cases pending before the Commission shall also receive a per diem of at least Two thousand five hundred pesos (P2,500.00), but not to exceed Fifteen thousand pesos (P15,000.00) a month: *Provided, further*, That said members of the Commission shall also receive reasonable transportation and representation allowances as may be fixed by the Commission, but not to exceed Ten thousand pesos (P10,000.00) a month.

" (b) The general conduct of the operations and management functions of the SSS shall be vested in the SSS President who shall serve as the chief executive officer immediately responsible for carrying out the program of the SSS and the policies of the Commission. The SSS President shall be a person who has had previous experience in technical and administrative fields related to the purposes of this Act. He shall be appointed by the President of the Philippines and shall receive a salary to be fixed by the Commission with the approval of the President of the Philippines, payable from the funds of the SSS.

" (c) The Commission, upon the recommendation of the SSS President, shall appoint an actuary and such other personnel as may be deemed necessary; fix their reasonable compensation, allowances and other benefits; prescribe their duties and establish such methods and procedures as may be necessary to insure the efficient, honest and economical administration of the provisions and purposes of this Act: *Provided, however,* That the personnel of the SSS below the rank of Vice-President shall be appointed by the SSS President: *Provided, further,* That the personnel appointed by the SSS President, except those below the rank of assistant manager, shall be subject to the confirmation by the Commission: *Provided, further,* That the personnel of the SSS shall be selected only from civil service eligibles and be subject to civil service rules and regulations: *Provided, finally,* That the SSS shall be exempt from the provisions of Republic Act No. 6758 and Republic Act No. 7430.

5. Republic Act No. 9241

Republic of the Philippines
Congress of the Philippines
Metro Manila

Twelfth Congress

Third Regular Session Begun and held in Metro Manila, on Monday, the twenty-eighth day of July, two thousand and three.

Republic Act No. 9241 February 10 2004

AN ACT AMENDING REPUBLIC ACT NO. 7875, OTHERWISE KNOWN AS "AN ACT INSTITUTING A NATIONAL HEALTH INSURANCE PROGRAM FOR ALL FILIPINOS AND ESTABLISHING THE PHILIPPINE HEALTH INSURANCE CORPORATION FOR THE PURPOSE"

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

Section 1. Section 4 of Republic Act No. 7875 is hereby amended to read as follows:

"SEC. 4. *Definition of Terms.*-For the purpose of this Act, the following terms shall be defined as follows:

- a) *Beneficiary* - Any person entitled to health care benefits under this Act.
- b) *Benefit Package* - Services that the Program offers to its members.
- c) *Capitation* - A payment mechanism where a fixed rate, whether per person, family, household or group, is negotiated with a health care provider who shall be responsible in delivering or arranging for the delivery of health services required by the covered person under the conditions of a health care provider contract.
- d) *Contribution* - The amount paid by or in behalf of a member to the Program for coverage, based on salaries or wages in the case of formal sector employees, and on household earnings and assets, in the case of self-employed, or on other criteria as may be defined by the Corporation in accordance with the guiding principles set forth in Article 1 of this Act.
- e) *Coverage* - The entitlement of an individual, as a member or as a dependent, to the benefits of the program.
- f) *Dependent* - The legal dependents of a member are: 1) the legitimate spouse who is not a member; 2) the unmarried and unemployed legitimate, legitimated, illegitimate, acknowledged children as appearing in the birth certificate; legally adopted or step-children below twenty-one (21) years of age; 3) children who are twenty-one (21) years old and above but suffering from congenital disability, either physical or mental, or any disability acquired that renders them totally dependent on the member of our support; 4) the parents who are sixty (60) years old or above whose monthly income is below an amount to be determined by the Corporation in accordance with the guiding principles set forth in Article I of this Act.

g) *Diagnostic Procedure* - Any procedure to identify a disease or condition through analysis and examination.

h) *Emergency* - An unforeseen combination of circumstances which calls for immediate action to preserve the life of a person or to preserve the sight of one or both eyes; the hearing of one or both ears; or one or two limbs at or above the ankle or wrist.

i) *Employee* - Any person who performs services for an employer in which either or both mental and physical efforts are used and who receives compensation for such services, where there is an employer-employee relationship.

j) *Employer* - A natural or juridical person who employs the services of an employee.

k) *Enrollment* - The process to be determined by the Corporation in order to enlist individuals as members or dependents covered by the Program.

l) *Fee for Service* - A reasonable and equitable health care payment system under which physicians and other health care providers receive a payment that does not exceed their billed charge for each unit of service provided.

m) *Global Budget* - An approach to the purchase of medical services by which health care provider negotiations concerning the costs of providing a specific package of medical benefits is based solely on a predetermined and fixed budget. Purchase of medical services by which health care provider negotiations concerning the costs of providing a specific package of medical benefits is based solely on a predetermined and fixed budget.

n) *Government Service Insurance System* - The Government Service Insurance System created under Commonwealth Act No. 186, as amended.

o) *Health Care Provider* - Refers to:

(1) a health care institution, which is duly licensed and accredited devoted primarily to the maintenance and operation of facilities for health promotion, prevention, diagnosis, injury, disability, or deformity, drug addiction or in need of obstetrical or other medical and nursing care. It shall also be construed as any institution, building, or place where there are installed beds, cribs, or bassinets for twenty-four hour use or longer by patients in the treatment of diseases, injuries, deformities, or abnormal physical and mental states, maternity cases or sanitarial care; or infirmaries, nurseries, dispensaries, rehabilitation centers and such other similar names by which they may be designated; or

(2) a health care professional, who is any doctor of medicine, nurse, midwife, dentist, or other health care professional or practitioner duly licensed to practice in the Philippines and accredited by the Corporation; or

(3) a health maintenance organization, which is entity that provides, offers, or arranges for coverage of designated health services needed by plan members for a fixed prepaid premium; or

(4) a community-based health organization, which is an association of indigenous members of the community organized for the purpose of improving the health status of that community through preventive, promotive and curative health services.

- p) *Health Insurance Identification (ID) Card* - The document issued by the Corporation to members and dependents upon their enrollment to serve as the instrument for proper identification, eligibility verification, and utilization recording.
- q) *Indigent* - A person who has no visible means of income, or whose income is insufficient for the subsistence of his family, as identified by the Local Health Insurance Office and based on specific criteria set by the Corporation in accordance with the guiding principles set forth in Article I of this Act.
- r) *Inpatient Education Package* - A set of informational services made available to an individual who is confined in a hospital to afford him with knowledge about his illness and its treatment, and of the means available, particularly lifestyle changes, to prevent the recurrence or aggravation of such illness and to promote his health in general.
- s) *Member* - Any person whose premiums have been regularly paid to the National Health Insurance Program. He may be a paying member, or a pensioner/retiree member.
- t) *Means Test* - A protocol administered at the barangay level to determine the ability of individuals or households to pay varying levels of contributions to the Program, ranging from the indigent in the community whose contributions should be totally subsidized by the government, to those who can afford to subsidize part but not all the required contributions for the Program.
- u) *Medicare* - The health insurance program currently being implemented by the Philippine Medical Care Commission. It consists of:
- (1) Program I, which covers members of the SSS and GSIS including their legal dependents; and
 - (2) Program II, which is intended for those not covered under Program I.
- v) *National Health Insurance Program* - The compulsory health insurance program of the government as established in this Act, which shall provide universal health insurance coverage and ensure affordable, acceptable, available and accessible health care services for all citizens of the Philippines.
- w) *Pensioner* - An SSS or GSIS member who receives pensions therefrom.
- x) *Personal Health Services* - Health Services in which benefits accrue to the individual person. These are categorized into inpatient and outpatient services.
- y) *Philippine Medical Care Commission* - The Philippine Medical Care Commission created under Republic Act No. 6111, as amended.
- z) *Philippine National Drug Formulary* - The essential drugs list for the Philippines which is prepared by the National Drug Committee of the Department of Health in Consultation with experts and specialists from organized profession medical societies, medical academe and the pharmaceutical industry, and which is updated every year.
- aa) *Portability* - The enablement of a member to avail of Program benefits in an area outside the jurisdiction of his Local Health Insurance Office.

bb) *Prescription Drug* - A drug which has been approved by the Bureau of Food and Drug and which can be dispensed only pursuant to a prescription order from a physician who is duly licensed to do so.

cc) *Public Health Services* - Services that strengthen preventive and promotive health care through improving conditions in partnership with the community at large. These include control of communicable and non-communicable diseases, health promotion, public information and education, water and sanitation, environmental protection, and health-related data collection, surveillance, and outcome monitoring.

dd) *Quality Assurance* - A formal set of activities to review and ensure the quality of services provided. Quality assurance includes quality assessment and corrective actions to remedy any deficiencies identified in the quality of direct patient, administrative, and support services.

ee) *Residence* - The place where the member actually lives.

ff) *Retiree* - A member of the Program who has reached the age of retirement or who was retired on account of disability.

gg) *Self-employed* - A person who works for himself and is therefore both employee and employer at the same time.

hh) *Social Security System* - The Social Security System created under Republic Act No. 1161, as amended.

ii) *Treatment Procedure* - Any method used to remove the symptoms and cause of a disease.

jj) *Utilization Review* - A formal review of a patient utilization or of the appropriateness of health care services, on a prospective, concurrent or retrospective basis.

kk) *Rehabilitation Center* - Refers to a facility, which undertakes rehabilitation of drug dependents. It includes institutions, agencies and the like which have for their purpose, the development of skills, or which provides counseling, or which seeks to inculcate, social and moral values to clientele who have a drug problem with the pain of weaning them from drugs and making them drug-free, adapted to their families and peers, and readjusted into the community as law-abiding, useful and productive citizens.

ll) *Home Care and Medical Rehabilitation Services* - Refer to skilled nursing care, which members get in their homes/clinics for the treatment of an illness or injury that severely affects their activities or daily living. Home care and medical rehabilitation services include hospice or palliative care for people who are terminally ill but does not include custodial and non-skilled personal care."

Section 2. Section 11 of the same Act shall now read as follows:

"SEC. 11. *Excluded Personal Health Services.*- The benefits granted under this Act shall not cover expenses for the services enumerated hereunder except when the Corporation, after actuarial studies, recommends their inclusion subject to the approval of the Board:

(a) non-prescription drugs and devices;

- (b) alcohol abuse or dependency treatment;
- (c) cosmetic surgery;
- (d) optometric services;
- (e) fifth and subsequent normal obstetrical deliveries; and
- (f) cost-ineffective procedures, which shall be defined by the Corporation.

Provided, That, such actuarial studies must be done within a period of three (3) years, and then periodically reviewed, to determine the financial sustainability of including the foregoing personal health services in the benefit package provided for under Section 10 of this Act."

Section 3. Section 18 of the Law shall be amended to read as follows:

"SEC. 18. *The Board of Directors.* —

a) *Composition* - The Corporation shall be governed by a Board of Directors hereinafter referred to as the Board, composed of the following members:

- The Secretary of Health;
 - The Secretary of Labor and Employment or his representative;
 - The Secretary of the Interior and Local Government or his Representative;
 - The Secretary of Social Welfare and Development or his Representative;
 - The President of the Corporation;
 - A representative of the labor sector;
 - A representative of employers;
 - The SSS Administrator or his representative;
 - The GSIS General Manager or his representative;
 - The Vice chairperson for the basic sector of the National Anti-Poverty Commission or his representative;
 - A representative of Filipino overseas workers;
 - A representative of the self-employed sector; and
 - A representative of health care providers to be endorsed by the national associations of health care institutions and medical health professionals.
- The Secretary of Health shall be the *ex officio* Chairperson while the President of the Corporation shall be the Vice Chairperson of the Board.

b) *Appointment and Tenure* - The President of the Philippines shall appoint the Members of the Board upon the recommendation of the Chairman of the Board and in consultation with the sectors concerned. Members of the Boards shall have a term of four (4) years each, renewable for a maximum of two (2) years, except for members whose terms shall be co-terminous with their respective positions in government. Any vacancy in the Board shall be filled in the manner in which the original appointment was made and the appointee shall serve only the unexpired term of his predecessor.

c) *Meetings and Quorum*. - The Board shall hold regular meetings at least once a month. Special meetings may be convened at the call of the Chairperson or by a majority of the members of the Board. The presence of a majority of all the members shall constitute a quorum. In the absence of the Chairperson and Vice Chairperson, a temporary presiding officer shall be designated by the majority of the quorum.

d) *Allowances and Per Diems* - The members of the Board shall receive a per diem for every meeting actually attended subject to the pertinent budgetary laws, rules and regulations on compensation, honoraria and allowances."

Section 4. Section 29 of the Law shall now read as follows:

"SEC. 29. *Payment of Indigent Contributions*.- Contributions for indigent members shall be subsidized partially by the local government unit where the member resides. The Corporation shall provide counterpart financing equal to the LGU's subsidy for indigents: *Provided*, That in the case of the fourth, fifth and sixth class municipalities, the National Government shall provide up to ninety percent (90%) of the subsidy for indigents until such time that they shall have been upgraded to first, second or third class municipalities. The share of the LGUs shall be progressively increased until such time that its share becomes equal to that of the National Government."

Section 5. Section 32 of the same Act shall now read as follows:

"SEC. 32. *Accreditation Eligibility* - All health care providers, as enumerated in Section 4(o) hereof and operating for at least three (3) years may apply for accreditation: *Provided*, That a health care provider which has not operated for at least three (3) years may likewise apply and qualify for accreditation if it complies with all the other accreditation of and further meets any of the following conditions:

- a) Its managing health care professional has had a working experience in another accredited health care institution for at least three (3) years;
- b) It operates as a tertiary facility or its equivalent;
- c) It operates in a local government unit where the accredited health care provider cannot adequately or fully service its population; and
- d) Other conditions as may be determined by the Corporation."

Section 6. The third paragraph of Section 44 (penal Provisions) of the same Act shall amend to read as follows:

"Where the violations consist of failure or refusal to deduct contributions from the employee's compensation or to remit the same to the Corporation, the penalty shall be a fine of not less than Five hundred pesos (P500) but not more than One thousand pesos (P1,000) multiplied by the total number of employees employed by the firm and imprisonment of not less than six (6) months but not more than one (1) year."

Section 7. Section 54 of the Law shall be amended to read as follows:

"SEC. 54. Oversight Provision.- Congress shall conduct regular review of the National Health Insurance Program, which shall entail a systematic evaluation of the Program's performance, impact or accomplishments with respect to its objectives or goals. Such review shall be undertaken by the Committees of the Senate and the House of Representatives, which have legislative jurisdiction over the Program.

The National Economic and Development Authority, in coordination with the National Statistics Office and the National Institutes of Health of the University of the Philippines shall undertake studies to validate the accomplishments of the Program. The Budget required to undertake such study shall come from the income of the PhilHealth."

Section 8. Separability Clause. - If any part or provision of this Act shall be held unconstitutional or invalid, other provisions, which are not affected thereby, shall continue to be in full force and effect.

Section 9. Repealing Clause. - All laws, presidential decrees, executive orders, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 10. Effectivity. - This Act shall take effect fifteen (15) days after its publication in at least (3) national newspapers of general circulation.

Approved,

FRANKLIN DRILON
President of the Senate

JOSE DE VENECIA JR.
Speaker of the House of
Representatives

This Act which is a consolidation of House Bill No. 5547 and Senate Bill No. 2630 was finally passed by the House of Representatives and the Senate on October 15, 2003 and October 14, 2003, respectively.

OSCAR G. YABES
Secretary of Senate

ROBERTO P. NAZARENO
Secretary General
House of Representatives

Approved: February 10 2004

GLORIA MACAPAGAL-ARROYO
President of the Philippines



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