

SENATE
S. No. 234



Introduced by **Senator Francis G. Escudero**

AN ACT
REINSTITUTING MANDATORY CREDIT ALLOCATION FOR MICRO, SMALL AND MEDIUM ENTERPRISES, IMPOSING FINES AND PENALTIES FOR NONCOMPLIANCE, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The enactment of Republic Act No. 6977, as amended by Republic Act Nos. 8289 and 9501 in 1997 and 2008, respectively, otherwise known as the Magna Carta for Micro, Small and Medium Enterprises (MSMEs), affirmed the responsibility of the State to promote, support, strengthen and encourage the growth and development of MSMEs in all productive sectors of the economy. One of the salient features of the MSME law is the mandate imposed on all lending institutions to set aside part of their loan portfolio and make it available for small enterprise credit for a period of ten (10) years. This mandatory credit allocation benefits MSMEs in two ways: first, through the provision of channels to source financing to expand or jumpstart their operations; and second, generation of funds through penalties to finance MSME interventions.

The pandemic and its impact on business operations and consumer demand have adversely impacted the MSME sector, causing temporary and permanent closures of MSME establishments and the displacement of thousands of employees. While the economy is on its way to recovery, MSMEs remain particularly vulnerable to pre-pandemic concerns such as the limited access of MSMEs to financing and markets. As noted in the 2023-2028 MSME Development Plan, MSMEs often hesitate to seek loans due to limited financial literacy, overreliance on personal funds, fear of high interest rates, and stringent collateral requirements.

Further, data from the Bangko Sentral ng Pilipinas (BSP) show that in the last quarter of 2023, banks only extended 0.6%, 1.0%, and 2.4% of their total loan portfolio to micro, small, and medium enterprises, respectively.

This restricted access to financing, among other challenges, needs to be addressed to ensure swift recovery not only of MSMEs but the entire economy. This bill seeks to reinstitute this mandatory credit allocation to provide a time-bound intervention to ease the MSMEs' financial burden and hasten its recovery from a global pandemic. Additionally, the proposed measure mandates the Department of Trade and Industry, in coordination with the Department of Finance and the BSP, to formulate and implement other interventions to improve MSMEs' access to formal sources of financing. With these twin provisions, it is hoped that providing better access to a wider range of financial services would help MSMEs realize their full potential in generating employment and boosting economic growth.

In view of the foregoing, the passage of the measure is earnestly sought.


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

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2 Sec. 1. *Reinstitution of Mandatory Credit Allocation for Micro, Small and Medium*
3 *Enterprises.* – For the period of ten (10) years from the effectivity of this Act, all
4 lending institutions as defined under Bangko Sentral ng Pilipinas (BSP) rules, whether
5 public or private, shall set aside at least eight percent (8%) for micro and small
6 enterprises and at least two percent (2%) for medium enterprises of their total loan
7 portfolio based on their balance sheet as of the end of the previous quarter, and make
8 it available for Micro, Small and Medium Enterprises (MSME) credit as contemplated
9 in this Act: *Provided,* That the Secretary of Finance may extend the effectivity period
10 of the mandatory MSME credit allocation as may be warranted by prevailing financial
11 and economic conditions as reflected in the number and growth rate of MSME-
12 classified establishments, MSME share in the Total Employment, MSME share in the
13 Gross Domestic Product, and other socioeconomic and financial indicators to be
14 identified by the Department of Trade and Industry (DTI) and Micro, Small and
15 Medium Enterprises Development (MSMED) Council.

16 Lending institutions may comply with the mandatory MSME credit allocation
17 through any of the following:

18 (a) Actual extension of loans to eligible MSMEs;

- 1 (b) Actual subscription of preferred shares of stock of the Small Business
2 Corporation (SBCorp);
3 (c) Wholesale lending to Participating Financial Institutions for on-lending to
4 MSMEs;
5 (d) Purchase/discount of MSME receivables;
6 (e) Extension of loans to export, import, and domestic traders; or
7 (f) Subscription/purchase of liability instruments as may be offered by the
8 SBCorp.

9 The BSP shall, in coordination with the Department of Finance (DOF) and the
10 DTI, formulate rules for the effective implementation of this provision: *Provided*, That
11 the purchase of government notes, securities and other negotiable instruments shall
12 not be deemed compliance with the foregoing provisions: *Provided, further*, That the
13 BSP shall establish an incentive program to encourage lending beyond the mandatory
14 MSME credit allocation.

15 The MSMED Council shall establish a mechanism to monitor all MSME loan
16 applications in order to account for the absorptive capacity of the MSME sector.

17 The BSP shall, on a quarterly basis, furnish to the MSMED Council a
18 comprehensive report on the banks' compliance, noncompliance and penalties of the
19 above provisions on the mandatory credit allocation for MSMEs.

20 Lending institutions which are not qualified to acquire or hold lands of the public
21 domain in the Philippines shall be permitted to bid and take part in sales of mortgaged
22 real property in case of judicial or extra-judicial foreclosure, as well as avail of
23 receivership, enforcement and other proceedings, solely upon default of a borrower,
24 and for a period not exceeding five (5) years from actual possession: *Provided*, That
25 in no event shall ownership and title to the property be transferred to such lending
26 institutions. If the said lending institution is the winning bidder, it may, during said
27 five (5) year period, transfer its rights to a qualified Philippine national, without
28 prejudice to a borrower's rights under applicable laws.

29 *Sec. 2. Penalties for Non-compliance.* – The BSP shall impose administrative
30 sanctions and other penalties on erring lending institutions for non-compliance with

1 the provisions of this Act. In addition, the president, members of boards of directors,
2 and other officers of the erring lending institutions shall be individually liable for
3 imprisonment of ranging from six (6) months to one (1) year, a fine ranging from Five
4 hundred thousand (P500,000.00) to Two million pesos (P2,000,000.00) each, or both,
5 at the discretion of the court.

6 Ninety percent (90%) of the penalties for noncompliance shall be remitted to
7 the MSME Development Council Fund and shall be used for the extension of low-
8 interest, no-collateral loans for MSMEs, while the remaining ten percent (10%) shall
9 be retained by the BSP to cover for administrative expenses.

10 *Sec. 3. Other Interventions to Improve MSMEs' Access to Financing.* – The DTI,
11 in coordination with the DOF and the BSP, shall formulate and implement other
12 interventions to improve MSMEs' access to formal sources of financing. These
13 interventions may include, but not be limited to, the establishment of a bonds and
14 equities market for MSMEs, development of credit enhancement mechanisms, and
15 making use of domestic savings and foreign exchange reserves.

16 *Sec. 4. Implementing Rules and Regulations (IRR).* – Within thirty (30) days
17 from the effectivity of this Act, the BSP, the DOF and the DTI shall promulgate the
18 rules and regulations to effectively implement the provisions of this Act.

19 *Sec. 5. Separability Clause.* – If any provision or part hereof is declared
20 unconstitutional, the remainder of this Act or any provision not affected thereby shall
21 remain in full force and effect.

22 *Sec. 6. Repealing Clause.* – All laws, acts, decrees, executive orders, issuances,
23 and rules and regulations or parts thereof which are contrary to and inconsistent with
24 this Act are hereby repealed, amended or modified accordingly.

25 *Sec. 7. Effectivity.* – This Act shall take effect fifteen (15) days following its
26 publication in the *Official Gazette* or in at least two (2) newspapers of general
27 circulation, and shall remain in full force and effect for ten (10) years unless otherwise
28 extended as provided under Section 1 of this Act.

29 Approved,