

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City, Metro Manila

NINETEENTH CONGRESS  
1<sup>st</sup> Regular Session

House Bill No. 3460



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**Introduced by Representatives PAOLO Z. DUTERTE, ERIC G. YAP,  
EDVIC G. YAP, and JEFFREY SORIANO**

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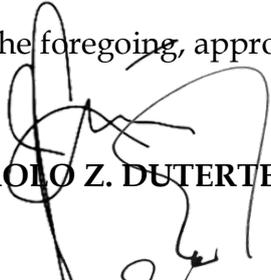
### EXPLANATORY NOTE

Years since the onset of the COVID-19 pandemic, many Filipinos are still yet to recover from the adversities brought upon by this global health emergency. Thousands of families lost their jobs and livelihoods, as they were subjected to constant lockdowns which limited their mobility and opportunities.

Among those who are still struggling to cope are the members of the Micro, Small, and Medium Enterprises (MSMEs). According to the United Nations (2020), MSMEs comprise 99.5% of business establishments in the Philippines and employ about 63% of the country's workforce. In previous years, they have contributed to the 40% of the National Gross Domestic Product (GDP).

This bill seeks to provide financial assistance to the distressed enterprises critical to economic recovery through programs and initiatives to be implemented by the Philippine Guarantee Corporation (PGC), Landbank of the Philippines (LBP) and Development Bank of the Philippines (DBP). This is for purposes of addressing liquidity or solvency problems of MSMEs and strategically important industries, encouraging their continued operations, and maintaining their employment levels.

In view of the foregoing, approval of this bill is earnestly sought.

  
PAOLO Z. DUTERTE  
  
EDVIC G. YAP

  
ERIC G. YAP  
  
JEFFREY SORIANO

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**AN ACT  
PROVIDING FOR GOVERNMENT FINANCIAL INSTITUTIONS UNIFIED  
INITIATIVES TO DISTRESSED ENTERPRISES FOR ECONOMIC RECOVERY  
(GUIDE)**

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

**SECTION 1. *Short Title.*** - This Act shall be known as the "Government Financial Institutions (GFIs) Unified Initiatives to Distressed Enterprises for Economic Recovery (GUIDE) Act."

**SEC. 2. *Declaration of Policy.*** - The substantial disruption of the economy due to the community quarantine measures restricted the operation of numerous businesses.

The State recognizes the role of these businesses composed of micro, small and medium enterprises (MSMEs) and strategically important companies in providing employment to the Filipino people and in supporting the Philippine economy. Thus, it is essential that these enterprises are given necessary access to credit and financial assistance. It is hereby declared the policy of the State to protect employment and assist distressed enterprises in order to reinvigorate the economy.

**SEC. 3. *Definition of Terms.*** - As used in this Act:

- a. *Agribusiness value chain* refers to a set of actors/players, such as farmers, fisherfolk, traders, suppliers, processors, and aggregators, who make up the linked sequence of value-adding activities undergone by an agricultural product when converted from raw material to the final form it is presented to the consumers;
- b. *Micro, Small and Medium Enterprise (MSME)* refers to any business activity or enterprise engaged in industry, agribusiness and/or services, whether single proprietorship, cooperative, partnership or corporation whose total

assets, inclusive of those arising from loans but exclusive of the land on which the particular business entity's office, plant and equipment are situated, must have value falling under the following categories:

Micro	:	not more than PhP3,000.000
Small	:	PhP3,000,001 - PhP15,000.000
Medium	:	PhP15,000,001 -PhP100,000,000

- c. *Senior executive officers* refer to top management officials exercising responsible and critical roles, as may be described further in the rules and regulations to be issued to implement this Act.
- d. *Strategically Important Companies or SICs* shall have the meaning ascribed in Section 9(b) of this Act.

## CHAPTER 1 DEVELOPMENT BANK OF THE PHILIPPINES

**SEC. 4. *Loan Assistance Program of the Development Bank of the Philippines (DBP).*** - The DBP shall expand its loan program for qualified MSMEs affected by the COVID-19 pandemic under this Act and MSMEs covered under Republic Act No. 11494 or "the Bayanihan to Recover as One Act": *Provided*, That such loans shall be granted in accordance with the rules and regulations to be issued to implement this Act and the following guidelines:

- a. Eligible MSMEs under this Act should be engaged in infrastructure, service industry, and/or manufacturing business; and
- b. The loans granted hereunder should comply with the applicable prudential standards and regulations of the BSP.

The DBP shall likewise extend loans to local government units (LGUs) subject to existing rules and regulations.

**SEC. 5. *DBP Rediscounting and other Programs.*** - Subject to applicable prudential standards and regulations of the Bangko Sentral ng Pilipinas (BSP), the DBP may rediscount loans and other credit accommodations to enterprises enumerated in Section 4(a) of this Act, granted by BSP-supervised financial institutions (BSFIs), the Small Business Corporation (SBC), and those granted pursuant to credit programs of the Department of Agriculture-Agricultural Credit Policy Council (DA-ACPC) to MSMEs affected by the COVID-19 pandemic engaged in infrastructure, service industry, and/or manufacturing business.

The DBP may undertake other similar activities as may be provided under the rules and regulations to be issued to implement this Act.

**SEC. 6. Increase in DBP's Authorized Capital Stock.** - Section 7 of Executive Order No. 81, as amended by Republic Act No. 8523, otherwise known as "*The 1986 Revised Charter of The Development Bank of The Philippines*", as amended, is hereby further amended to read as follows:

"Section 7. Authorized Capital Stock-Par Value. The capital stock of the Bank shall be ~~{Thirty five billion pesos (P35,000,000,000.00)}~~ **ONE HUNDRED BILLION PESOS (PHP100,000,000,000.00)** to be divided into ~~{Three hundred fifty million (350,000,000)}~~ **ONE BILLION (1,000,000,000)** common shares with par value of One hundred pesos (PhP100.00) per share, which shall be fully subscribed by the National Government: ~~{Upon the effectivity of this Charter, the National shall initially subscribe One hundred twenty five million (125,000,000) common shares of stock worth Twelve billion five hundred million pesos (P12,500,000,000.00), Five billion pesos (P5,000,000,000.00) of which shall be deemed paid for by the government and the balance shall be paid for by the government out of the stock dividends to be declared by the Bank from its unappropriated retained earnings: Provided, That the dividends due the national government pursuant to Republic Act No. 7656 shall first be paid.}~~ **PROVIDED, THAT THE PRESIDENT OF THE PHILIPPINES MAY APPROVE THE INCREASE IN THE CAPITALIZATION OF THE BANK, UPON THE RECOMMENDATION OF THE BOARD AND THE CONCURRENCE OF THE SECRETARY OF FINANCE, UP TO SUCH AN AMOUNT AS MAY BE NECESSARY TO ATTAIN THE OBJECTIVES OF THIS CHARTER."**

## CHAPTER 2 LAND BANK OF THE PHILIPPINES

**SEC. 7. Loan Assistance Program of the Land Bank of the Philippines (LandBank).** - The LandBank shall expand its loan program for qualified MSMEs affected by the COVID-19 pandemic under this Act and those covered under Republic Act No. 11494 or "the Bayanihan to Recover as One Act": *Provided*, That such loans shall be granted in accordance with the rules and regulations that shall be issued to implement this Act and the following guidelines:

- a. Eligible MSMEs under this Act should be engaged in activities in the agribusiness value chain; and
- b. The loans granted hereunder should comply with the applicable prudential standards and regulations of the BSP.

The LandBank shall likewise extend loans to LGUs subject to existing rules and regulations.

**SEC. 8. LandBank Rediscounting and other Programs.** - Subject to applicable prudential standards and regulations of the BSP, the LandBank may rediscount loans to eligible MSMEs engaged in activities in the agribusiness value chain granted by BSFIs, the SBC, and those granted pursuant to credit programs of the DA-ACPC to MSMEs affected by the COVID-19 pandemic.

The LandBank may undertake other similar activities for purposes of this Act as may be provided under the implementing rules and regulations to be issued.

### **CHAPTER 3 SPECIAL HOLDING COMPANY**

**SEC. 9. Creation of Investment Vehicle.** - To ensure that Strategically Important Companies (SICs) remain solvent, the LandBank and DBP are hereby authorized to invest in, or enter into a joint venture agreement to incorporate a special holding company (the "SHC") that is a stock corporation to be organized under Republic Act No. 11232, otherwise known as "The Revised Corporation Code of the Philippines," within six (6) months beginning from the date of effectivity of the rules and regulations of this Act, or effectivity of applicable revenue regulations, whichever comes later. The establishment, administration, and operation of the SHC shall be governed by the following principles:

- a. The purpose of the SHC is to rehabilitate SIC affected by the COVID-19 pandemic which are experiencing temporary solvency issues;
- b. SICs are investee companies that are nationally significant, or those with high economic returns or high employment potential, and which are engaged in any of the following "strategically important industries or sectors," such as, but not limited to, agriculture, construction, education, food industry, healthcare, infrastructure, low-cost and socialized housing, manufacturing, power and energy, product distributor/retailer, services, tourism and hospitality, transportation and logistics, water and sanitation, and other industries to be identified in the rules and regulations issued to implement this Act: *Provided*, That a SIC must be able to demonstrate upstream and downstream linkages to other firms and/or industries, substantial employment to the community, and exhibit high degree of process efficiency, cost efficiency, product quality, and environmental soundness: *Provided, further*, That a SIC can show proof of temporary solvency problems due to the pandemic, financial soundness prior to the pandemic, and credible and sound financial rehabilitation plan.
- c. Equity participation in the SHC may be offered to, and held by, qualified private sector investors, including multilateral companies and lending institutions, as may be determined by the LandBank and DBP: *Provided*, That majority ownership of the total outstanding capital stock in the SHC shall be held by the LandBank and DBP until such time that they have recovered or will be able to recover their investment in the SHC;

- d. The LandBank and the DBP shall dispose of their stockholdings in the SHC to qualified private sector investors as they may determine. The LandBank and DBP shall provide equal opportunity for equity participation in the SHC to all qualified investors, including multilateral companies and lending institutions. When private shareholdings in the SHC reaches fifty percent (50%) of the total outstanding capital stock, the stockholders thereof shall cause the adoption and registration with the Securities and Exchange Commission (SEC) of the company's amended articles of incorporation within three (3) months from such transfer of ownership;
- e. The SHC, as a government-owned or controlled corporation (GOCC), and the investments of DBP and LandBank therein, shall be subject to the power of the Commission on Audit (COA) to audit and examine GOCCs and the investments of government in corporations: *Provided*, That the audit of the SHC by the COA shall not preclude the SHC from engaging the services of a private auditing firm when equity participation in the SHC is offered to qualified private investors: *Provided, further*, That even if the services of the latter are availed of, the audit report of the COA shall serve as the report for purposes of compliance with audit requirements as required of a GOCC under applicable law;
- f. The SHC shall devise mechanisms that shall protect the government's investment, such as issuing a special class or series of shares, or entering into shareholders' or voting share agreements for the purpose as provided in the rules and regulations issued to implement this Act.

**SEC. 10. Powers of the Investment Vehicle.** - The SHC shall have the powers granted to a stock corporation under Republic Act No. 1 1232. Furthermore, the power of the SHC to invest shall be subject to the following investment guidelines:

- a. To avoid undue risk concentration from excessive exposures, the investment of the SHC in an investee company and the total investment in companies belonging to the same industry or sector shall be subject to a ceiling in relation to its net income or capital as prescribed under the implementing rules and regulations;
- b. The SHC can only invest in corporations engaged in strategically important industries or sectors that are experiencing temporary solvency issues because of the COVID-19 pandemic, such as those with considerable impact on the economy;
- c. Such investment shall be in the form of (i) limited equity participation by subscription or acquisition of shares, (ii) execution of convertible loans or purchase of convertible bonds; and/or (iii) investment in such other securities as may be issued by the investee corporations, acceptable to the DBP and LandBank; and

- d. The investee company is eligible based on the requirements in(d) The investee company is eligible based on the requirements in this Section and in Section 13 of this Act.

**SEC. 11. *Board of Directors of the SHC*** - The powers and authority of the SHC shall be vested in, and exercised by a Board of Directors, hereinafter referred to as the "Board," composed of nine (9) members, as follows:

- a. The Secretary of Finance, as ex-officio Chairperson;
- b. The President of the LandBank;
- c. The President of DBP;
- d. The President or Chief Executive Officer of the SHC;
- e. Two (2) independent Directors;
- f. Three (3) directors who shall be appointed by the LandBank, DBP, and the private equity investor(s), if any, in proportion to the voting shares held in the SHC

The members of the Board shall elect from among themselves the Vice Chairperson. The ex-officio members of the Board may designate their respective representatives who shall exercise the powers of a director.

Once the private shareholdings in the SHC reaches fifty percent (50%) of the total outstanding capital stock, subject to the proviso of Chapter 3, Section 9(c) of this Act, the company shall cease to be a GOCC, the *ex-officio* directors will cease to be members of the Board, and the membership of the Board shall be based on the election of the directors by the voting shares held by the shareholders, pursuant to the provisions of Republic Act No. 11232.

The Board shall provide for an organization and staff of officers and employees of the SHC and fix their remunerations and other emoluments. All positions in the SHC shall be governed by the compensation, position classification system, and qualification standards approved by the Board based on a job analysis of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans in the private sector and shall be subject to periodic reviews once every two (2) years, without prejudice to early merit or increases based on the SHC's productivity and profitability. The SHC, being a GOCC, shall therefore be exempt from existing laws and the rules and regulations on compensation, position classification, and qualification standards in the government service.

**SEC. 12. *Responsibility of the Board and the Employees of the SHC*** - The Board shall set appropriate standards and corporate governance for the investee companies that the SHC will invest in. The Board shall likewise institute mechanisms to oversee that such standards are followed by the investee company.

The general rule and the exception therefrom on the liability of public officers as provided in Sections 38 and 39 of Chapter 9, Book 1 of the Revised Administrative Code of 1987 shall apply to the members of the Board and other personnel of the SHC. Unless the actions or omissions of the SHC, members of the Board and its other personnel are finally adjudged to be in willful violation of this Act, performed in evident bad faith or with gross negligence, they shall be held free and harmless to the fullest extent permitted by law from any liability, and they shall be indemnified for any and all liabilities, losses, claims, demands, damages, deficiencies, costs and expenses of whatsoever kind and nature that may arise in connection with the exercise of their powers and performance of their duties and functions.

**SEC. 13. Requirements for the Investee Company.** - To be eligible, the investee company must not be a party to any pending tax-related cases in court for tax collection or tax evasion. must not be a debtor in any bankruptcy proceeding prior to the enhanced community quarantine period, and must not be insolvent and is capable of being rehabilitated as determined by the SHC.

The agreement between the SHC and the investee company must contain the following minimum conditions:

- a. The investee company must not reduce the number of employees beyond the percentage prescribed by the SHC;
- b. The investee company shall not, without prior authority from the SHC, be allowed to issue stock dividends and repurchases during the term of the investment;
- c. The investee company shall not issue cash dividends during the term of the investment;
- d. The investee company must not increase the salaries, benefits and other forms of remuneration of its senior executive officers and members of its board;
- e. The investee company shall not provide or grant senior executive officers and members of its Board separation pay or retirement pay: Provided, That any amount received by the senior executive officers and members of the board which is in violation of the foregoing shall be returned;
- f. The investee company shall not incur irregular, unnecessary, excessive, extravagant or unconscionable expenditures such as entertainment, events, office/facility renovations aviation/transportation services and other activities;
- g. The ownership of the SHC in the investee company shall not be diluted and a provision protecting the value of the shares of the SHC from market

transactions such as stock splits, mergers and other forms of reorganization and recapitalization shall be included in the agreement; and

- h. The investment in the investee company shall be tie-bound with a definite exit mechanism.

*Provided, further,* That additional conditions and provisions may be imposed by the SHC to ensure that the investment will be properly utilized and ensure the successful rehabilitation of the investee company.

#### **CHAPTER 4 INCENTIVES AND EXEMPTION PRIVILEGES OF THE DBP, LANDBANK, AND THE SHC**

**SEC. 14. *Tax Exemptions and Fee Privileges.*** - Any existing law to the contrary notwithstanding, the following shall be exempt from documentary stamp tax, capital gains tax, creditable withholding income tax, value-added tax, gross receipts tax, and such other taxes that may be imposed under Republic Act No. 8424, or the "National Internal Revenue Code of 1997," as amended, whichever is applicable pursuant to the regulations to be issued by the Department of Finance (DOF), upon the recommendation of the Bureau of Internal Revenue (BIR):

- a. Loan assistance program, rediscounting and other programs of the DBP and LandBank under Chapters 1 and 2 of this Act, respectively, including dation in payment (*dacion en pago*) by the borrower or by a third party in favor of the DBP and the LandBank; and
- b. Transactions of the SHC as to its:
  - 1. subscription or acquisition of shares;
  - 2. execution of convertible loans or purchase of convertible bonds;
  - 3. investment in such other securities as may be issued by the investee corporations, acceptable to DBP and LandBank; and
  - 4. acquisitions of assets of an investee company.

Transfer of properties in the abovementioned transactions shall also be subject to the following, in lieu of the applicable fees:

- a. Fifty percent (50%) of the applicable mortgage registration and transfer fees on the transfer of real estate mortgage and security interest to and from DBP, LandBank, or the SHC, as imposed in accordance with the existing circulars of the Land Registration Authority (LRA);
- b. Fifty percent (50%) of the filing fees for any foreclosure initiated by the DBP and LandBank in relation to loan assistance and rediscounting programs as prescribed by the Rules of Court; and

- c. Fifty percent (50%) of the land registration fees prescribed under the existing circulars of the LRA.

The tax exemptions and fee privileges in this Section cannot be enjoyed by any person not a party to the above transactions except in cases of subsequent transfers by the DBP, LandBank, or the SHC to a third party of rediscounted loans and other credit accommodations, properties, shares and other assets, acquired pursuant to the said transactions.

The incentives enumerated herein may be availed of for a period of three (3) years from the date of effectivity of the applicable implementing rules and regulations or of the applicable revenue regulations, whichever comes later: *Provided*, That the tax exemption and fee privileges of subsequent transfers may be availed of for a period of three (3) years from the date of acquisition by the DBP, LandBank, or the SHC; *Provided, further*, That the Secretary of Finance may extend such period by a maximum of three (3) years: *Provided, finally*, That once the SHC ceases to be a GOCC, its tax exemptions and fee privileges under this clause shall be automatically revoked.

**SEC. 15. *Emergency Procurement under the Government Procurement Reform Act.*** - In order to ensure the expeditious implementation of their mandates under this Act, procurement activities undertaken by the LandBank, DBP, and the SHC in light of the COVID-19 pandemic and pursuant to their mandate and functions as defined in this Act, shall adopt the rules under Negotiated Procurement under Emergency Cases under Section 53(b) of Republic Act No. 9184, or the "Government Procurement Reform Act" for a period of three (3) years from the effectivity of the implementing rules and regulations to be issued under Chapter 5, Section 20 of this Act.

**SEC. 16. *Other Exemptions of the SHC*** - The SHC shall be exempt from the provisions of Republic Act No. 10149, or the "GOCC Governance Act of 2011."

Further, transactions by the SHC shall be exempt from the provisions of Republic Act No. 10667, or the "Philippine Competition Act" for a period of three (3) years from its incorporation: *Provided*, That this exemption shall only apply to acquisitions of assets of an investee company by the SHC pursuant to its powers under this Act.

Any provision of law to the contrary notwithstanding, the disposal of assets of an investee company by the SHC pursuant to their mandate and functions, as well as the disposal of shares, assets, or investments by LandBank or DBP, or both, in the SHC, shall be exempt from the provisions of laws and regulations on government disposal of assets.

**SEC. 17. *Prohibition Against Injunction.*** - No court, other than the Court of Appeals and the Supreme Court, shall issue any temporary restraining order, preliminary injunction, preliminary mandatory injunction, status quo order, stay order, commencement order, or any other issuance of injunctive relief against the sale or acquisitions of assets of an investee company by the SHC, or the disposal of assets

of an investee company by the SHC, including judicial or extrajudicial foreclosure sales or execution sales.

## CHAPTER 5 MISCELLANEOUS PROVISIONS

**SEC. 18. Ratios, Ceilings, and Limitations.** - For purposes of this Act, the Monetary Board may exempt DBP and LandBank from such ratios, ceilings and limitations, provided under Republic Act No. 8791 or the "The General Banking Law of 2000," for a period as may be determined by the Monetary Board, subject to conditions as may be prescribed by the Monetary Board such as, but not limited to, the adoption of appropriate risk management measures to mitigate risks that may arise from the implementation of this law.

**SEC. 19. Appropriations.** - The amount of Ten Billion Pesos (PhP10,000,000,000.00) is hereby appropriated out of any funds actually available in the National Treasury of the Philippines not otherwise appropriated, as certified by the National Treasurer, to fund the following:

- a. The amount of Two Billion Five Hundred Million Pesos (PhP2,500,000,000.00) for the implementation of Chapters 1 and 3 of this Act: *Provided*, That this amount shall be applied as additional paid-up capital of the DBP, for the purposes of lending under the loan assistance program to qualified MSMEs, its rediscounting and other programs, and the creation of the SHC: *Provided, further*, That DBP can also utilize funds appropriated under Section 10 of Republic Act No. 11494 or "the Bayanihan to Recover as One Act" for the implementation of Chapter 1 of this Act; *Provided, finally*, That the total amount of PhP2,500,000,000.00 can be fully utilized, if required, for the equity infusion in the SHC; and
- b. The amount of Seven Billion Five Hundred Million Pesos (PhP7,500,000,000.00) for the implementation of Chapters 2 and 3 of this Act: *Provided*, That this amount shall be applied as additional paid-up capital of LandBank, for the purposes of lending under the loan assistance program to qualified MSMEs, rediscounting and other programs of LandBank, and the creation of the SHC: *Provided further*, That LBP can also utilize funds appropriated under Section 10 of Republic Act No. 11494 or "the Bayanihan to Recover as One Act" for the implementation of Chapter 2 of this Act; *Provided, finally*, That the total amount of PhP7,500,000,000.00 can be fully utilized, if required, for the equity infusion in the SHC;

**SEC. 20. Implementing Rules and Regulations** - Within thirty (30) days from the effectivity of this Act, the DOF, together with the BIR, the BSP, the SEC, the DBP, and the LandBank shall jointly promulgate the necessary rules and regulations for the effective implementation of this Act: *Provided*, That the DOF may call upon any agency to provide information or assistance in the drafting of the rules and regulations: *Provided, further*, That within thirty (30) days from the effectivity of this Act, the DOF,

upon recommendation of the BIR, shall promulgate the revenue regulations implementing the fiscal incentives under this Act.

**SEC. 21. Oversight Committee.** - There is hereby created a Joint Congressional Oversight Committee (JCOC) to oversee, monitor, and evaluate the implementation of this Act. The JCOC shall be composed of five (5) members each from the House of Representatives and from the Senate. The JCOC shall be co-chaired by the Chairpersons of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institutions and Currencies.

The Speaker and the Senate President shall designate the other four members of the JCOC of the House and the Senate from among the members of the House Committee on Banks and Financial Intermediaries and the Senate Committee on Banks, Financial Institutions, and Currencies, at least one member of which shall be from the minority.

**SEC. 22. Separability Clause.** - If any provision of this Act is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

**SEC. 23. Repealing Clause.** - All laws, decrees, executive orders, rules and regulations or parts thereof, which are inconsistent with this Act, are hereby repealed, amended or modified accordingly.

**SEC. 24. Effectivity.** - This Act shall take effect immediately upon its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,