

21 February 2020

REPRESENTATIVE VIRGILIO S. LACSON

Chairperson

Committee on Micro, Small, and Medium Enterprise Development

House of Representatives

Batasan Complex, Batasan Hills

Quezon City

Dear **Representative Lacson**,

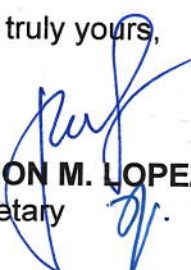
We are pleased to submit the Department's position on the House Bill No, 2757, entitled:

“An Act Establishing the Magna Carta for the *Kalakalan Pampamilya*, Providing Incentives and Benefits Therefor and for Other Purposes”

This is without prejudice to the Department's submission of additional inputs.

With my best regards.

Very truly yours,



RAMON M. LOPEZ
Secretary



DTI Position on

House Bill No. 2757

“An Act Establishing the Magna Carta for *Kalakalan Pampamilya*, Providing Incentives and Benefits Therefor and for Other Purposes”

The Department acknowledges the intent of the bill to build an entrepreneurial culture within Filipino families by encouraging them to venture into business enterprises that could address unemployment and provide livelihood to family members. It is a fact that the Philippines is dominated by family-owned firms and booming mom-and-pop stores. However, we express reservations on the proposed Magna Carta for *Kalakalan Pampamilya* as this may overlap with existing laws such as the Republic Act (RA) No. 9501 or the Magna Carta for Micro, Small, and Medium Enterprises (MSMEs)¹ and Republic Act (RA) No. 10644 or the Go Negosyo Act², given that the proposed beneficiaries of the bill fall under the umbrella of MSMEs.

Moreover, the *family enterprise* is not clearly defined in the bill as well as the term “*kalakalan*” which means trade in the local dialect. As such, using the phrase “*Kalakalan Pampamilya*” may be a misnomer as “*kalakalan*” connotes trading activities only.

Below are the Department’s specific comments and recommendations:

Stipulations under House Bill (HB) No. 2757	DTI Comments/Recommendations
<p>Sec 3. Kalakalan Pampamilya</p> <p>Any family business enterprise with employees of not more than twenty (20) and with assets of not more than Five Hundred Thousand Pesos (PhP500,000.00), at the time of registration, shall qualify for the incentives and benefits provided for under this Act.</p>	<p>The bill’s proposed definition of a family business enterprise may fall under the legislated definition of a micro and small enterprise based on asset size and number of employees.</p> <p>As defined under RA No. 9501, micro enterprises are those with asset size of up to PhP3,000,000 and with not more than 9 employees. Small enterprises, on the other hand, have asset size of PhP3,000,001 to PhP15,000,000 with 10 to 99 employees.</p> <p>The disparity between the legislated and operational categorization of enterprises with proposed beneficiaries of the bill may create confusion among agencies that will provide assistance. Moreover, there are family-owned businesses that are not within the bill’s proposed beneficiaries but may want to avail of the assistance.</p>

¹ Magna Carta for MSMEs aims to promote, support, strengthen and encourage the growth and development of MSMEs.

² Go Negosyo Act seeks to strengthen MSMEs to create more job opportunities in the Philippines.

<p>Sec 4. Kalakalan Pampamilya Office</p> <p>The <i>Kalakalan Pampamilya Office</i>, referred to as the Office, is hereby created under the Department of Trade and Industry to exercise the following functions...xxx</p>	<p>The proposed functions of the <i>Kalakalan Pampamilya Office</i> are already being undertaken by the Negosyo Centers established in different provinces nationwide as mandated by the Go Negosyo Act.</p> <p>The Centers are primarily responsible for promoting ease of doing business and facilitating access of MSMEs to services, such as: a) Business Registration; b) Business Advisory Services; c) Business Information and Advocacy; d) Monitoring and Evaluation; and e) Other functions that may be assigned by the MSMED Council as germane to RA No. 10644 and other related laws.³</p> <p>Therefore, creation of another office that will perform almost the same functions as the Negosyo Centers is deemed unnecessary.</p>
<p>Sec 5. Management Board</p> <p>The Office shall be governed by a Management Board which will be composed of the following...xxx</p>	<p>The MSME Development (MSMED) Council is already established and functions are defined under the Magna Carta for MSMEs. The bill's proposed composition of the Management Board is essentially similar with the members of the MSMED Council and the Advisory Unit to the Council.</p> <p>The establishment of a Management Board may result in redundancy of roles and responsibilities of MSMED Council.</p>
<p>Sec 7. Benefits and Incentives</p> <p>All <i>Kalakalan Pampamilya</i> business enterprise shall be exempted from all taxes, national, or local, building permit fees and other taxes on imported articles. In addition, any and all income, receipts and proceeds derived from the business operations of the <i>Kalakalan Pampamilya</i> business enterprise shall be excluded from the computation of gross income of the individual income tax of the business owner or members thereof.</p>	<p>Under RA No. 9178 or the Barangay Micro Business Enterprises (BMBEs) Act of 2002⁴, LGUs are encouraged to either reduce the amount of fees or exempt the BMBEs from other local taxes, fees and charges. Some of the proposed incentives mentioned in the bill are already being provided for by the law. Whether the organizational form of the BMBE is family business or not, as long as its asset size does not exceed PhP3,000,000, it is entitled to the following:</p>

³ <https://www.dti.gov.ph/programs-projects/negosyo-center/go-negosyo-act>

⁴ All BMBEs shall be exempt from tax for income arising from the operations of the enterprise. Moreover, 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.

<p>It shall be exempted from any and all government rules and regulations in respect to assets, income, and other activities indispensably and directly utilized in, proceeding from, or connected with the business enterprise...xxx</p>	<ul style="list-style-type: none"> • Exemption from the coverage of the Minimum Wage Law; • Technology transfer, production and management training, marketing assistance programs for BMBEs; and • Priority to a special credit window. <p>In addition, application for BMBE Certification is processed in all Negosyo Centers which effectively reduces the registration and licensing processes that a BMBE applicant has to go through.</p>
<p>Sec 7. Benefits and Incentives</p> <p>...In the event the family business enterprise uses a brand name on its products, such brand name shall first be registered with the Bureau of Trade and Regulation and Consumer Protection, through the Department of Trade and Industry (DTI) provincial office.</p>	<p>With the rationalization of DTI functions, registration of brand or trade name and the brand logo of family business enterprise is being undertaken by the Bureau of Trademarks of the Intellectual Property Office (IPOP HL).</p>

It is to this end that the Department expresses reservations on the passage of the bill and recommends further study of HB No. 2757 given the abovementioned comments and suggestions. It should be noted that laws are already existing and initiatives are currently being undertaken to strengthen and promote the development of MSMEs as recognized key growth drivers in the economy.

Bureau of Trade & Industrial Policy Research

21 February 2020

Ref: BTIPR-102019-144

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