COMMITTEE REPORT NO. 524
Submitted by the Defeat COVID-19 Ad Hoc Committee on SEP 2 4 2020.
Re: House Bill No. 7749.

Recommending its approval, in substitution of House Bill No. 6795.

Sponsors: Reps. Cayetano (A.P.), Romualdez (F.) and Cua

Mr. Speaker:

The Defeat COVID-19 Ad Hoc Committee to which was referred House Bill No. 6795 introduced by Rep. Cua, entitled:

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

has considered the same and recommends the approval of House Bill No. ______, entitled:

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

in substitution of House Bill No. 6795, with Reps. Cua, Tiangco, Lusotan, Panotes, Padiernos, Mendoza (R.), Lacson, Gonzales (A.), Maceda, Haresco, Campos and Romualdo as authors thereof.
Respectfully submitted.

FERDINAND MARTIN G. ROMUALDEZ
Co-Chairperson
Defeat COVID-19 Ad Hoc Committee

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
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. 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:

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(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 (P100.00) per share, which shall be fully subscribed by the National Government: [Upon the effectivity of this Charter, the National Government shall initially subscribe to 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
NEECESSARY 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 BSFs, 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. 11232. 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
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 time-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:

(i) subscription or acquisition of shares;
(ii) execution of convertible loans or purchase of convertible bonds;
(iii) investment in such other securities as may be issued by the investee corporations, acceptable to DBP and LandBank; and
(iv) 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.
AN ACT
PROVIDING FOR GOVERNMENT FINANCIAL INSTITUTIONS
UNIFIED INITIATIVES TO DISTRESSED ENTERPRISES FOR ECONOMIC RECOVERY
(GUIDE)

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Section 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:

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(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.

CHAPTER 1

Philippine Guarantee Corporation

Section 4. Loan Guarantee Expansion by the Philippine Guarantee Corporation. — The Philippine Guarantee Corporation (PGC) shall expand its guarantee program for MSMEs heavily affected by the corona virus disease-19 (COVID-19) pandemic by increasing the maximum loan guarantee coverage per borrower and reducing guarantee fees and other similar schemes.

The guarantee program of PGC should meet the applicable prudential standards and regulations of the Bangko Sentral ng Pilipinas (BSP).

Section 5. Additional Subscription by the National Government. — For the implementation of Section 4 of this Act, the National Government shall increase its subscription to PGC’s authorized capital stock by an additional Twenty billion pesos (PhP20,000,000,000,00): Provided, That Five billion pesos (PhP5,000,000,000,00) of this amount shall be paid for by the National Government upon the effectivity of this Act, with the balance to be paid from succeeding appropriations for this purpose.

CHAPTER 2

Development Bank of the Philippines

Section 6. 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: 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 should be engaged in infrastructure, service industry, and/or manufacturing business; and

(b) The loans to eligible MSMEs should meet 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.

Section 7. 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 6(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 (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.

Section 8. 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 Government: [Upon the effectivity of this Charter, the National Government shall initially subscribe to 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 IN ADDITION TO THE EXISTING PAID UP CAPITAL, AN ADDITIONAL FIFTEEN BILLION PESOS (PHP15,000,000,000.00) INCREASE IN CAPITALIZATION SHALL BE FULLY PAID FOR BY THE NATIONAL GOVERNMENT UPON THE EFFECTIVITY OF THIS ACT, THE BALANCE THEREOF TO BE PAID FROM SUCCEEDING APPROPRIATIONS FOR THIS PURPOSE.”

CHAPTER 3
Land Bank of the Philippines

Section 9. 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: 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 should be engaged in activities in the agribusiness value chain; and

(b) The loans to eligible MSMEs should meet the applicable prudential standards and regulations of the BSP.

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

Section 10. 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 4
Special Holding Company

Section 11. Creation of Investment Vehicle. — To ensure that strategically important companies 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, to be known as Accelerating Recovery to Intensify Solidarity and Equity, Inc. or ARISE, that is a stock corporation to be organized under Republic Act No. 11232, otherwise known as “The Revised Corporation Code of the Philippines.” The establishment, administration, and operation of the special holding company shall be governed by the following principles:
(a) The purpose of the special holding company is to rehabilitate strategically important companies affected by the COVID-19 pandemic which are experiencing solvency issues, such as those with considerable impact on the economy including those from the agriculture, infrastructure, service industry, and manufacturing industries and other industries to be identified in the implementing rules and regulations;

(b) Equity participation in the special holding company 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 special holding company 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 special holding company;

(c) The LandBank and the DBP shall dispose of their stockholdings in the special holding company to qualified private sector investors as they may determine. The LandBank and DBP shall provide equal opportunity for equity participation in the special holding company to all qualified investors, including multilateral companies and lending institutions. When private shareholdings in the special holding company reaches fifty percent (50%) of the total outstanding capital stock, the stockholders thereof shall cause the adoption and registration with the SEC of the company’s amended articles of incorporation within three (3) months from such transfer of ownership;

(d) The special holding company shall establish and adopt accounting and auditing systems and standards which are consistent with the appropriate and applicable guidelines of the Commission on Audit (COA) and which, in any case, shall be as uniform as possible and shall conform with law and with generally accepted accounting principles and sound auditing practices: Provided, That the audit of the special holding company by the COA shall not preclude said special holding company from engaging the services of private auditing firms: Provided, however, 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 government-owned or controlled corporations under applicable law;

(e) The special holding company 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.

Section 12. Powers of the Investment Vehicle. — The special holding company shall have the powers granted to a stock corporation under Republic Act No. 11232. In addition, the special holding company shall have the authority to create subsidiaries. Equity participation in the subsidiaries may also be offered to, and held by qualified private sector investors, including multilateral companies and lending institutions. For as long as the majority of the total outstanding capital stock of the subsidiaries is held by the Government directly or through its instrumentalities, said subsidiaries shall be subject to the provisions of this Act and shall enjoy all the incentives and exemption privileges of the special holding company under this Act.

Furthermore, the power of the special holding company and its subsidiaries to invest shall be subject to the following investment guidelines:

(a) To avoid undue risk concentration from excessive exposures, the investment of the special holding company 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 special holding company can only invest in corporations engaged in strategically important industries or sectors that are experiencing liquidity issues because of the COVID-19 pandemic, such as those with considerable impact on the economy, including those from the agriculture, infrastructure, services, manufacturing and other industries to be identified in the rules and regulations issued to implement this Act;

(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) 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 this Section and in Section 15 of this Act.

Section 13. Board of Directors of the Special Holding Company. — The powers and authority of the special holding company 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;
b. The President of the LandBank;
c. The President of DBP;
d. A director to be appointed by the Monetary Board of the BSP;
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 special holding company.

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

Once the private shareholdings in the special holding company reaches fifty percent (50%) of the total outstanding capital stock, subject to the proviso of Chapter 4, Section 11(b) of this Act, the company shall cease to be a government-owned and -controlled corporation, 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 special holding company and fix their remunerations and other emoluments. All positions in the special holding company 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 special holding companies’ productivity and profitability. The special holding company, being a government-owned-and-controlled corporation, shall therefore be exempt from existing laws and the rules and regulations on compensation, position classification and qualification standards in the government service.

Section 14. Responsibility of the Board and the Employees of the Special Holding Company and its Subsidiaries. — The Board shall set appropriate standards and corporate governance for the investee companies that the special holding company or its subsidiaries 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 special holding company. Unless the actions or omissions of the special holding company, members of the Board and its other personnel are finally adjudged to be in wilful 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.

Section 15. 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 special holding company.

The agreement between the special holding company 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 special holding company;
(b) The investee company shall not, without prior authority from the special holding company, 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 either the LandBank or DBP, or both, in the investee company shall not be diluted and a provision protecting the value of the shares of the LandBank or DBP or both 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 time-bound with a definite exit mechanism.

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

CHAPTER 5
Incentives and Exemption Privileges of the DBP, LandBank, and Special Holding Company

Section 16. Tax Exemptions and Fee Privileges. — Any existing law to the contrary notwithstanding and in order to ensure the effective implementation of the purposes of this Act, the following transactions of the DBP, LandBank and the special holding company, and its subsidiaries, 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 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 2 and 3 of this Act, respectively, including dation in payment (dación en pago) by the borrower or by a third party in favor of the DBP and the LandBank.

(b) Transactions of the special holding company and its subsidiaries as to its:

(i) subscription or acquisition of shares;
(ii) execution of convertible loans or purchase of convertible bonds;
(iii) such other securities as may be issued by the investee corporations, acceptable to DBP and LandBank; and
(iv) acquisitions of assets of an investee company.

The abovementioned transfers 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 the special holding company and its subsidiaries, 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.

All sales or transfers of rediscounted loans and other credit accommodations, including transfers by way of dation in payment by the borrower or by a third party to the DBP, LandBank and the transfer of assets to the special holding company and its subsidiaries, shall be entitled to the privileges enumerated herein for a period of not more than 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 Secretary of Finance may extend such period by a maximum of three (3) years.

Furthermore, subsequent transfers of the foregoing from the DBP, LandBank, and the special holding company and its subsidiaries to a third party shall enjoy the privileges enumerated herein for a period of not more than three (3) years from the date of acquisition by the DBP, LandBank, and the special holding company and its subsidiaries: Provided, That the Secretary of Finance may extend such three-year period by a maximum of three (3) years.

Section 17. 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 PGC, LandBank, or DBP, and the special holding company and their subsidiaries undertaken 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 6, Section 21 of this Act.
Section 18. Other Exemptions of the Special Holding Company — The special holding company and its subsidiaries shall be exempt from the provisions of Republic Act No. 10149, or the "GOCC Governance Act of 2011."

Further, transactions by the special holding company and its subsidiaries 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 special holding company and its subsidiaries pursuant to its powers under this Act.

CHAPTER 6
Miscellaneous Provisions

Section 19. Ratios, Ceilings, and Limitations. — For purposes of this Act, the Monetary Board may exempt PGC, 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 such conditions as may be prescribed by the Monetary Board.

Section 20. Appropriations. — The amounts necessary for the following purposes shall be deemed automatically appropriated and shall be sourced from the savings generated under Sec. 4 (v), (w), (x) and (y) of the Republic Act No. 11469 or the "Bayanihan to Heal as One Act" authorizing the President to direct the discontinuance of appropriated programs, projects or activities of any agency of the executive department, including government-owned-or-controlled corporations and special purpose funds, and the General Appropriations Acts (GAA) for fiscal years 2019 to 2020, whether released or unreleased, the allotments for which remain unobligated:

(a) The amount of Five Billion Pesos (PhP5,000,000,000.00) is hereby appropriated as additional paid-up capital of PGC: Provided, That this amount shall be used for the purposes of providing loan guarantees under Chapter 1 of this Act;

(b) The amount of Fifteen Billion Pesos (PhP15,000,000,000.00) is hereby appropriated for the implementation of Chapters 2 and 4: 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 rediscounitng and other programs, and the creation of the special holding company;

(c) The amount of Thirty-Five Billion Pesos (PhP35,000,000,000.00) is hereby appropriated for the implementation of Chapters 3 and 4: 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, rediscounitng and other programs of LandBank, and/or the creation of a special holding company.

Section 21. Implementing Rules and Regulations — Within thirty (30) days from the effectiveness 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 effectiveness of this Act, the DOF, upon recommendation of the BIR, shall promulgate the revenue regulations implementing the fiscal incentives under this Act.

Section 22. 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.

Section 23. **Separability Clause.** – If any provision of this Act is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

Section 24. **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.

Section 25. **Effectivity.** – This Act shall take effect immediately upon its publication in the Official Gazette or in a newspaper of general circulation.
FACT SHEET

House Bill No. 7749

Government Financial Institutions (GFIs) Unified Initiatives to Distressed Enterprises for Economic Recovery (GUIDE) Act


Committee Referral: Committee on Banks and Financial Intermediaries
Committee Chairperson: Representative Junie E. Cua

OBJECTIVES

- To provide financial assistance to distressed enterprises critical to economic recovery through programs and initiatives to be implemented by Philippine Guarantee Corporation (PGC), Land Bank of the Philippines (LBP) and Development Bank of the Philippines (DBP), for purposes of addressing liquidity or solvency problems of MSMEs and strategically important industries, encourage their continued operations, and maintain employment levels.

KEY PROVISIONS

- Strengthens the guarantee facility of PGC by increasing the maximum loan guarantee coverage per borrower, reducing guarantee fees, and other similar schemes to benefit MSMEs heavily affected by the COVID-19 pandemic.

- Expands the loan assistance programs, rediscouting and other credit accommodation facilities of LBP, DBP, Small Business Corporation (SBC) and Agriculture Credit Policy Council (DA-ACPC).

- Identifies the targeted sectors and intended beneficiaries, as follows: (1) for LBP, players in the agricultural supply chain including farmers, fisherfolk, traders, suppliers, processors and aggregators, and; (2) for DBP, eligible MSMEs engaged in infrastructure, services, service industry, and/or manufacturing business.

- Mandates LBP and DBP to create a special holding company to be known as Accelerate Recovery to Intensify Solidarity and Equity (ARISE) for the purpose
of reinvigorating strategically important industries experiencing liquidity issues due to the COVID-19 pandemic such as those from the agriculture, infrastructure, services, and manufacturing industries.

- Provides for the principles and rules governing the operation of ARISE, to wit: (1) qualified private investors such as multilateral companies and lending institutions may acquire equity participation in ARISE; (2) LBP and DBP shall maintain at least a majority ownership until recovery of their investment; (3) mechanisms designed to protect the government’s investment must be in place, i.e. issuing a special class or series of shares, and/or entering into shareholders’ or voting share agreements.

- Prescribes the standards and guidelines governing the investments of ARISE, to wit: (1) investment in a single investee company is subject to a ceiling in relation to the net income or capital of ARISE; (2) investee company must be engaged in strategically important industries experiencing solvency issues caused by the COVID-19 pandemic; (3) investment must be in the form of subscription or acquisition of shares, execution of convertible loans or purchase of convertible bonds, as well as other securities acceptable to LBP and DBP.

- Prescribes the eligibility requirements of an investee company, as follows: (1) has no pending tax-related cases in court for tax collection or tax evasion; (2) must not be a debtor in any bankruptcy proceeding prior to the enhanced community quarantine period, and; (3) must not be insolvent and is capable of rehabilitation.

- Provides that an investee company may not, during the term of investment, reduce the number of employees beyond a prescribed percentage, issue stock dividends/repurchases without prior authority from ARISE, issue cash dividends, increase salaries, benefits and other forms of remuneration of senior executive officers and directors, grant senior executives and directors separation pay or retirement pay, and incur irregular, unnecessary, excessive, extravagant or unconscionable expenditures.

- Mandates that the ownership of LBP and/or DBP in the investee company shall not be diluted, the value of LBP and DBP shares shall be duly protected from any form of reorganization or recapitalization, and such ownership shall be timebound with a definite exit mechanism.

- Grants incentives and exemption privileges to PGC, LBP and DBP, and to ARISE and its subsidiaries, including: (1) exemption from payment of documentary stamp tax, capital gains tax, creditable withholding income tax, value-added tax, gross receipts tax, and other taxes imposed under the
National Internal Revenue Code of 1997 (RA 8424, as amended); (2) exemption from the Government Procurement Reform Act for mandate-related procurements for a period of three (3) years, and; (3) exemption from the GOCC Governance Act of 2011 and Philippine Competition Act for a period of three (3) years for acquisitions of assets of an investee company.

- Provides for appropriation and funding for purposes of the law, as follows: (1) Php 5 billion for PGC, as paid-up capital for the increase in the subscription of the national government in PGC’s authorized capital stock, to be paid upon the effectivity of the GUIDE Act, with the balance payable from succeeding appropriations; (2) Php 35 billion to be allocated to LBP as additional paid-up capital of the government to be used for loans and other specified purposes, and; (3) Php 15 billion to be allocated to DBP to be likewise applied as additional paid up capital of the national government in the bank’s authorized capital stock, which shall be increased to Php 100 billion to absorb such capital infusion. These funds shall be deemed automatically appropriated pursuant to Section 4 (v), (w), (x) and (y) of R.A. 11469, or the Bayanihan to Heal as One Act.

RELATED LAWS

- Republic Act No. 11469 (Bayanihan To Heal As One Act)
- Republic Act No. 11232 (The Revised Corporation Code of the Philippines)
- Republic Act No. 8424, as amended (National Internal Revenue Code of 1997)
- Republic Act No. 9184 (Government Procurement Reform Act)
- Republic Act No. 10149 (GOCC Governance Act of 2011)
- Republic Act No. 10667 (Philippine Competition Act)
- Republic Act No. 6977, as amended (Magna Carta for MSMEs)
- Executive Order No.297, as amended (Revised Administrative Code of 1987)
- Executive Order No. 81, as amended (The 1986 Revised Charter of the Development Bank of the Philippines)