

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
First Regular Session

HOUSE BILL NO. 6621



Introduced by Rep. Bernadette Herrera-Dy

**AN ACT MANDATING A MORATORIUM OF FINANCIAL OBLIGATIONS
UNDER STATE OF CALAMITY**

Explanatory Note

On 11 March 2020, the World Health Organization declared a global pandemic over a new strain of coronavirus, or COVID-19 as it continues to spread to numerous countries and territories at an alarming rate, including the Philippines. Since then, the State has responded to the growing public health threat in several ways. On 16 March 2020, Proclamation No. 929 was signed, declaring a ‘State of Calamity’ throughout the country for a period of six months. An ‘Enhanced Community Quarantine’ in the entirety of Luzon was also imposed from 17 March 2020 until 13 April 2020 to slow the spread of the virus by requiring the population to practice social distancing. The ECQ implemented strict quarantine measures in barangays and households, the suspension of mass public transportation, the temporary closure of “Non-Essential” businesses, the exception of a skeletal work force, and the establishment of alternative working arrangements. Meanwhile, essential businesses such as hospitals, pharmacies, groceries, food manufacturers and services, select transportation, banks, utilities, telecommunications, and media are permitted to continue operations. The said impositions of ECQ may be lifted or extended as circumstances may warrant. As of 7 April 2020, ECQ was extended until 30 April 2020 to further contain the transmission of the virus.

On 23 March 2020, Congress passed Republic Act No. 11469, otherwise known as the Bayanihan to Heal as One Act. This law provides additional powers to the President, allowing budgetary adjustments and reallocations to support operations and response measures to fight COVID-19 and provide social amelioration for those deeply affected by ECQ. Section 4 (z) mandates moving “statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, fees, and other charges required by law, and the grant of any benefit, in order to ease the burden on individuals under community quarantine”. Section 4 (aa) and Section 4 (bb) specifically directs all lenders, both public and private, along with residential landlords respectively, to grant a thirty (30)-day grace period for the payment of all loans and fees falling due within the period of ECQ, without incurring penalties.

While the country’s largest and most populous island is placed under lockdown, 57 million people are significantly affected and expected to put their lives on hold for an

underdetermined period of time¹. On a day-to-day basis, movements outside of one's home is restricted to purchasing food, medicine, and other essential items necessary for survival.

As more territories around the world undergo quarantine, the IMF described this “Great Lockdown” as the worst economic turndown since the Great Depression. While public health measures intend to prevent the spread of the virus, financial fear has inevitably become more pronounced. The Asian Development Bank reported that the outbreak could result in the Philippine economy losing between 87,000 to 252,000 jobs, in addition to losing up to \$1.9 billion in gross domestic products (GDP)².

Given these circumstances, Non-Essential businesses have continued to pay for the salaries of their employees during ECQ, despite having little to no revenues. According to the LFS, businesses with payroll costs and little sales employ about 17.48 million workers. Of this data, 5.12 million, or almost 30 percent, are workers with paid salaries. Furthermore, the total payroll costs for these salaried workers amount to approximately 3 billion pesos per day, or 63.038 billion pesos for an average 21-day work month. Overall, firms considered as a non-essential business, comprise 60 percent of all payroll costs shouldered during the ECQ. Based on the Annual Survey of Philippine Business and Industry, many of these businesses are highly leverage, and the total annual interest payments of these businesses are estimated to amount to 90 billion pesos.

Other businesses that are heavily impacted by the lockdown are the 998,342 micro, small, and medium enterprises (MSMEs) in the Philippines. These establishments make up **99.52% of all businesses in the country** as of 2018, according to the latest List of Establishments from the Philippine Statistics Authority. MSMEs employ **63.3% of the total labor force** and contribute about **35.7% to the GDP**. Moreover, they comprise **60% of all exporters**. These data essentially depict that MSMEs are critical in helping the Philippine economy keep afloat and flourishing. For many of these enterprises, the most profitable period are the summer months from March to May. Due to the recent developments of the pandemic and ECQ impositions, many MSMEs now struggle to manage their operations with no income, causing businesses to lay off their employees or officially close down altogether. On the other hand, the seemingly fortunate few MSME owners resort to tapping into their emergency funds to cover payroll costs, rent, utility, and supplies. However, these funds do not offer the long-term sustainability needed should the pandemic persist and the lockdown further extend.

Unfortunately, for some workers, alternative work arrangements are not feasible. For many, no work translates into no income for the foreseeable future. Along with these circumstances, workers especially those reliant on day jobs and wages, struggle to settle rent, loan payments, utility bills, social agency contributions, and other financial obligations on time, while trying to make ends meet for their families. Consequently, this plunges low-income families even deeper into poverty. As of 11 April 2020, data from the DOLE showed that 1,049,649 workers across the country are affected, and the highest displacement recorded is in Metro Manila with 246,810 people. Thus, the next course of action to take is to address concerns that limit sectors from achieving their full potential and keep businesses and workers afloat during trying times.

¹ <https://www.rappler.com/newsbreak/in-depth/257179-heavy-impact-coronavirus-lockdown-micro-small-medium-enterprises>

² <https://business.inquirer.net/291954/adb-on-coronavirus-likely-cost-to-ph-up-to-225000-jobs-lost-1-9b-in-gdp-decline>

In addition to the social amelioration program under the Bayanihan to Heal as One Act and the monetary aid for MSMEs to be provided by the Department of Finance, a moratorium on all financial obligations is needed to help lessen the impact of the pandemic to millions of livelihoods. Although health and safety have been the forefront of our concern, it is greatly intertwined, if not, dependent on the growth of the economy and security of the population and its industries. Just as the State is prepared to implement public health measures, it too must take into account the socio-economic impact of the COVID-19 outbreak.

If there is anything we learned by the calamity and crisis situation gripping the country as a result of the COVID-19 outbreak, **it is that there is a need to protect the MSMEs**. Far too often, the Philippines suffers situations of rebellion, conflict, floods, earthquakes, and eruptions, among others. **It is high time to establish policy measures to protect our economy in the event of such calamities.**

Therefore, this Bill seeks to mandate a moratorium on all financial obligations declared by the President as suffering under a state of calamity, martial law, insurgency, or other emergency situation, in order to help alleviate the burden of our affected industries and fellow countrymen and women. Deferring payments would help avoid heavy economic losses and business closures, reestablish business confidence, and protect sustained operations during and post-ECQ period. This measure also provides relief to poverty-stricken communities and vulnerable families most affected by ECQ by keeping their roofs over their heads without eviction, and enabling them to prioritize their funds for basic necessities.

It is the responsibility of the State to protect its citizens, and most especially in challenging times, their welfare as well. Unprecedented times call for unprecedented solutions. With millions of livelihoods at stake, our solutions must be calibrated at hand.

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



BERNADETTE HERERRA-DY

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SECTION 1. *Short Title.* This Act shall be known as the “MSME Calamity Protection Act of 2020”.

SECTION 2. *Declaration of Policy.*

Section 5, Article II of the 1987 Constitution provides that “The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of general welfare are essential for the enjoyment by all people of the blessings of democracy.”

Section 17, Article II of the same Constitution further provides that “The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their general welfare.”

Furthermore, Section 1, Article XIII of the same Constitution mandates Congress to “...give highest priority to the enactment of measures that protect and enhance the right of all people to human dignity, reduce social, economic, and political inequalities by diffusing wealth and political power for the common good.”

Relief of those suffering the ravages of calamities constitutes a prime concern of the Government. In order to sustain and spur economic growth, opportunities shall be afforded to Non-Essential Businesses, MSMEs, and other debtors to alleviate themselves and enable them to pay their financial obligations under circumstances beneficial to them. It is hereby declared as the policy of the State to mandate a moratorium on all financial obligations under state of calamity.

SECTION 3. *Definition of Terms.* – For purposes of this Act, the following terms are hereby defined:

“Debtors” – refers to individuals, firms, organizations, or other entities that owe money or unable to make a payment to a bank, lender, creditor, landlord, mortgagee, or other financial institution or entity at a particular time.

“Enhanced Community Quarantine (ECQ)” – refers to the implementation of strict home quarantine in all households, suspension of transpiration, provision for food and regulated essential health services, and heightened presence of uniformed personnel to enforce

quarantine procedures in order to prevent the spread of COVID-19, as imposed on all of Luzon under Presidential Proclamation No. 929 dated 17 March 2020.

“Financial Institution” – refers to all lenders, whether public or private, including: (1) banks, quasi-banks, non-stock savings and loan associations, credit card issuers, pawnshops and other credit granting institutions under the supervision of Bangko Sentral ng Pilipinas, Securities and Exchange Commission, and Cooperative Development Authority; (2) Government Service Insurance System; (3) Social Security System; and (4) Home Mutual Fund or Pag-Ibig Fund.

“Financial Obligation” – refers to the responsibility to meet scheduled payments owed to an individual (i.e. landlord), corporation, or financial institution at a particular time.

“Moratorium” – refers to the authorized temporary suspension of activities or payment due in a particular time in order to respond to financial hardship during emergencies that disrupt normal activities until the related issues are resolved or future events warrant the lifting of the suspension.

“Micro, small, and medium-scale enterprise (MSME)” – refers to any business activity or enterprise engaged in industry, agribusiness and/or services, regardless of the type of ownership - sole proprietorship, cooperative, partnership or corporation, and whose total assets, have a value falling under the following categories:

	At least	Not more than	Employees
Micro	-	P 3,000,000	1-9 employees
Small	P 3,000,001	P15,000,000	10-99 employees
Medium	P 15,000,001	P 100,000,000	100-199 employees

“Non-Essential Businesses” – refers to private establishments not in the business of providing basic necessities and not engaged in rendering activities related to food and medicine production, such as public markets, supermarkets, groceries, convenience stores, hospitals, medical clinics, pharmacies, and drug stores, food preparation and delivery services, water-refilling stations, manufacturing and processing plants of basic food products and medicines, banks, money transfer services, power, energy, water and telecommunications supplies and facilities, compliant with the Memorandum of the Executive Secretary dated 13 March 2020.

“Social Agency Contributions” – refers to compulsory payments made to Government-Owned and Controlled Corporations that provide entitlement to receive a future social benefit such as SSS, GSIS, HDMF, and the Philippine Health Insurance Corporation (PhilHealth).

“State of Calamity” – refers to the condition involving environmental catastrophe, threats to public health and/or safety, mass casualty, and/or major damages to property, and other analogous situations resulting with the disruption of means of livelihoods, roads, and normal way of life of people in the affected areas as a result of the occurrence of natural or

human-induced hazard, as declared by the President of the Philippines to take effect in a locality or for the entirety of the country for a set period of time.

SECTION 4. *Moratorium of Financial Obligations under State of Calamity.* Enforcement of payment of all debts or other financial obligations payable within the Philippines for the duration of the State of Calamity as declared by the President, to apply in a particular locality or throughout the entire country, as the case may be.

A moratorium on the payment of all financial obligations shall be mandated for the purpose of easing the burden of Non-Essential Businesses, MSMEs, and other debtors affected and disrupted by the calamity.

SECTION 5. *Scope of Moratorium.* This Act mandates all financial institutions whether public or private, to defer payments of financial obligations owed to them.

The beneficiaries of this Act are applicable to all of Non-Essential Businesses, MSMEs, and other debtors that have financial obligations with financial institutions, landlords, or other entities due within the ECQ period.

The financial obligations to be temporarily suspended under the scope of moratorium include:

- (i) payroll costs,
- (ii) social agency contributions,
- (iii) materials and supplies,
- (iv) utilities,
- (v) mortgage payments,
- (vi) insurance payments,
- (vii) commercial and residential rent,
- (viii) creation of new businesses and renewal of existing business,
- (ix) repurposing existing capital, and
- (x) any other financial obligations that were incurred before the covered period.

Provided, however, that in the event that any of the aforementioned financial obligations be required to be paid by a Presidential decree or order, for purposes of ensuring the continuity of the economy, emergency measures shall be applied in order to protect the payor MSME, including but not limited to economic and social amelioration, tax payment credit for future payments, economic bailout, and other analogous situations.

SECTION 6. *Duties of Financial Institutions.* Financial institutions are mandated to grant a moratorium on the payment of financial obligations of Non-Essential Businesses, MSMEs, and other debtors.

They are likewise directed to continue rendering their respective services and activities from the time prior to the calamity until six (6) months after the lifting of the ECQ of 2020, without incurring interests, penalties, fees, evictions, and other charges.

SECTION 7. *General Principles in Relieving Non-Essential Businesses and MSMEs.*

- a. Sustainability: businesses shall be temporarily relieved of pending financial obligations for the purpose of avoiding laid off or displaced workers and business closure, and ensuring continued operations;

- b. Security: deferral of financial obligations enables businesses and workers to save, prioritize and allocate their funds for any losses or damages incurred during the COVID-19 outbreak;
- c. Self-sufficiency or resiliency: businesses that have adopted new arrangements and operations to adjust and adapt to the COVID-19 outbreak and ECQ impositions shall be more prepared and protected from future economic shocks.

SECTION 8. *Establishment of Crisis or Calamity Inter-Agency Taskforce.* To set a conducive environment for moratorium, the participation of Government agencies is needed, and the Inter-Agency Task Force is hereby established, comprising of the Departments of Trade and Industry (DTI), Finance (DOF), Budget and Management (DBM), Labor and Employment (DOLE), National Economic and Development Authority (NEDA), and the Bangko Sentral ng Pilipinas. Their national, regional, and provincial offices shall, to their best efforts, provide grants, necessary support and assistance to financial institutions mandated to grant moratorium under this Act.

The IATF shall create a centralized database, in which all IATF members can access with ease for the purpose of monitoring the compliance of financial institutions in implementing moratorium within the prescribed period of this Act, and ensuring that the total amount of assistance received by the financial institutions are rational and appropriate to the response needed to continue their operations and rendered services and activities, retain workforces, and maintain payroll costs.

SECTION 9. *Oversight Body for MSMEs.* To specifically protect the growth and development of MSMEs, the Micro Small and Medium Enterprises Development (MSMED) Council shall help establish the necessary environment and opportunities conducive to the MSME sector including the monitoring the compliance of financial institutions in implementing moratorium for MSMEs and recommending policies to Congress on concerns affecting MSMEs.

SECTION 10. *Recompense.* The IATF shall repay/grant financial institutions the total amount to carry out and sustain moratorium measures, with the schedule and period of repayment to be determined.

Not later than fifteen (15) days after the date of enactment of this Act, the IATF shall issue guidelines and regulations implementing this section, including the target beneficiaries and the estimated total amount of grants to be provided for repayment.

SECTION 11. *Monitoring the Economic Impact of Moratorium.* NEDA shall continue to monitor and analyze the impact of COVID-19 on the economy in order to ensure the proper use of funds, and submit a monthly report to Congress. Upon the recommendation of NEDA, the IATF may adjust the allocation of the funds provided. Should any adjustment be made, the report and pronouncement must be published.

NEDA shall submit to Congress its summarized findings of the economy during the COVID-19 outbreak and the impact of moratorium on different sectors and industries, along with a recommended

long-term plan for building economic preparedness and resilience, not later than six (6) months after the lifting of the ECQ. The recommendation plan shall serve as a strategy for measuring economic preparedness and resilience and as a means to address structural reforms needed to strengthen the ability of the economy to withstand disruptions such as the COVID-19 outbreak.

SECTION 12. *Release and Use of Funds.* – The amount to be allocated shall be released by the DBM to the relevant agencies of the IATF-EMI in compliance with pre-existing accounting, auditing, and budgeting laws, rules and regulations. The DBM and NEDA, in coordination with the IATF, shall issue the guidelines necessary for the appropriate expenditure of this budget.

SECTION 13. *Fund Sources.* - The amounts necessary to implement this Act shall be included in the annual General Appropriations Act.

SECTION 14. *Existing Industrial Policies* – Industrial policies that obstruct the responses of Non-Essential Business and MSMEs in coping with the economic effects of COVID-19 shall be revised accordingly.

The DTI, in consultation with the Anti-Red Tape Authority (ARTA), shall review existing industrial policies and will recommend the removal or revision of rules and regulations that hinder the goals of business security sustainability during and post-ECQ period.

SECTION 15. *Penal Provisions.* – Anyone found to be in violation of Section 6 shall be penalized with a fine of not less than one hundred thousand pesos (Php 100,000.00) but not more than one million pesos (Php 1,000,000.00) and imprisonments from two (2) months to six (6) months, or both.

Provided, however, That if the offender is a corporation, association, partnership or juridical person, the penalty shall be imposed upon the executive(s), directors, managers, or managing partners who participated in the offense, or who have knowingly permitted or failed to prevent the offense of the same.

Provided, further, That if the offender is a public official or employee, he shall, in addition to the penalties prescribed herein, suffer perpetual or temporary absolute disqualification from office, as the case may be.

SECTION 16. *Separability Clause.* If, for any reason or reasons, any part of the provision of this Act shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 17. *Repealing Clause.* All laws, decrees, orders, rules, and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SECTION 18. *Effectivity Clause.* This Act shall take effect after fifteen (15) days following its publication in the Official Gazette and at least two (2) newspapers of general circulation.

Approved,