

TO BE KNOWN AS THE DECREE ON CREDIT FINANCING FOR LOCAL GOVERNMENTS

PRESIDENTIAL DECREE NO. 752, July 25, 1975

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WHEREAS, it is an essential feature of the overall development strategy to sustain socio-economic growth through, among others, the timely execution of select priority projects at the local government levels;

WHEREAS, the financial resources now available to the local governments although augmented by increased national allotments and broader taxing powers are deemed still insufficient to finance the immediate prosecution of physical infrastructure and other socio-economic projects that require massive capital investments;

WHEREAS, it has become necessary and opportune as a matter of fiscal policy to extend greater credit facilities to the local governments in order that through reasonable and moderate borrowings they may raise additional funds to meet the capital outlay requirements of priority developmental projects;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby adopt and promulgate as part of the law of the land, this Decree, the full text of which follows:

SECTION 1. Title and Scope.—This Decree shall be known as the Decree on Credit Financing for Local Governments, which shall govern the conduct and management of the credit transactions and borrowings of provinces, cities, and municipalities.

SEC. 2. Policy Pronouncements.—It shall be the basic policy that any local government may avail of credit facilities and resort to borrowings only if the local funds are not sufficient to finance the prosecution, completion, expansion, operation, and maintenance of local infrastructures and other socio-economic developmental projects.

In times of emergency or of an impending financial dislocation that may prejudice the dispensation of public services in the locality, provincial, city and municipal governments may likewise secure provisional advances in the manner prescribed herein or avail of credit lines that government banks and other national lending institutions may extend to them for the purpose of stabilizing local finances.

SEC. 3. Provincial Advances.—Upon recommendation of the Secretary of Finance, provincial, city and municipal governments may secure from the Central Bank of the Philippines and/or any other duly authorized government bank or depository provisional advances in amounts not exceeding, in their aggregate, fifteen per cent of the average annual income actually realized from regular sources by the borrowing local government unit for the last three fiscal years, the amount granted to be released to the provincial or city treasurer concerned. Provisional advances, including the interest accruals thereon, shall be payable within the first quarter of the fiscal year following the grant thereof.

Provincial advances shall not be taken up as revenue available for appropriation by the local government and shall be spent and disbursed solely to finance expenditures covered by duly authorized appropriations in the approved budgets of the borrowing entity for the current fiscal year.

In case of failure of the borrowing local government to settle in full said provisional advances within the prescribed time for payment, the Secretary of Finance is hereby authorized to order the withholding of the internal revenue allotments and/or specific tax allotments accruing to the local government concerned and the direct remittance of the amount involved to the lending bank or institution in settlement of the outstanding obligation.

SEC. 4. Domestic Loans, Credits, and Other Forms of Indebtedness.—(a) Provincial, city and municipal governments may upon recommendation of the Secretary of Finance contract loans, credits, and other forms of indebtedness with the Philippine National Bank, the Development Bank of the Philippines, the Government Service Insurance System, and/or any other national lending institution to finance the construction, installation, improvement, expansion, operation, or maintenance of electric light and power plants, public markets and slaughterhouse, waterworks and irrigation systems, telephone and radio communications systems, government housing projects, the purchase of rural and urban estates and other capital investment projects, subject to such terms and conditions as may be prescribed by law and the provisions of the respective charters of the aforesaid banks and lending institutions.

- Provincial, city and municipal governments may likewise secure from the Land Bank of the Philippines short, medium and long term loans and advances against security of real estate and/or other acceptable assets for the establishment, development or expansion of agricultural industrial, home building or home financing projects and other productive enterprises.

- The Philippine National Bank, the Development Bank of the Philippines, the Government Service Insurance System, the Land Bank of the Philippines and other national lending institutions are hereby authorized to grant to the local governments the loans, credits and other forms of indebtedness herein referred to for the purposes specified above out of their loanable and/or investible funds, subject to such terms and conditions as may be prescribed by law and the pertinent provisions of their respective charters and to such policies, rules and regulations that their governing Boards may promulgate for the purpose.

- The provincial, city and municipal governments shall provide in their respective budgets the necessary appropriations for the payment of the principal and interest on the loans or other forms of indebtedness contracted under this Section as they fall due and become payable until the total obligation shall have been paid in full.

SEC. 5. Deferred-Payment Financing Schemes.—Provincial, city and municipal governments may likewise acquire heavy equipment, plant machinery and such necessary accessories under a supplier's credit or deferred-payment plan, subject to the law on purchasing and such other rules and regulations that the Secretary of Finance may promulgate with the concurrence of the Chairman, Commission on Audit.

No local government entity shall enter into a purchase contract under a deferred-payment plan unless previous loans secured elsewhere shall have been paid in full or are being paid in accordance with approved amortization schedules.

SEC. 6. Bonds And Other Long Term Securities.—(a) Provinces and cities are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating and/or income-producing development projects pursuant to the priorities established in the development program as certified to by the National Economic and Development Authority, but in no case to exceed at any one time an aggregate amount equivalent to one-half of one per cent of the total assessed value of taxable real property within the territorial jurisdiction of the local government unit. Whenever any province or city deems it necessary to issue such bonds, debentures, securities, collaterals, notes and other obligations, the Provincial Board or Municipal Board/ City Council shall, by resolution, so declare and state the terms and condition of the bonds and the purpose for which the proposed indebtedness is to be incurred. For such resolution to be valid, it shall be passed by the affirmative

vote of majority of all the Members of the local Board/Council and approved by the President of the Philippines, upon recommendation of the Secretary of Finance after consultation with the Monetary Board of the Central Bank of the Philippines and the National Economic and Development Authority.

- Local government bonds shall be issued under the following conditions:

- They shall be in registered form and transferable at the Central Bank of the Philippines;
- They shall not be sold at less than face value;
- They shall be redeemable ten years or more from the date of issue as may be determined by the Secretary of Finance before their issuance, but may be redeemed earlier by the local government upon approval by a majority of all the members of the local board or council;
- Before issuance of the bonds, the Secretary of Finance upon consultation with the Monetary Board of the Central Bank of the Philippines shall fix the annual rate of interest payable on the bonds, as well as the mode of payment of the interest accruals thereon; and
- Both the principal and interest on the bonds shall be payable in legal tender of the Republic of the Philippines.

- Local government bonds issued under the authority of this Section shall be exempt from all taxes levied by the Republic of the Philippines, or by any authority, branch, division or political subdivision thereof, which facts shall be stated upon the face of the bonds.

- Local government bonds shall be acceptable and received as security in any transaction with the government where such security is required.

- The local board or council concerned shall establish a sinking fund for the purpose of redeeming at maturity the bonds issued under this Section.

- The annual contributions to the sinking fund shall cover in full the principal and interest due on the bonds issued and the local board or council shall set aside in the annual budgets of the local government the corresponding appropriations therefor. The Secretary of Finance may, upon request of the local board or council, determine and fix the amount of annual contributions herein referred to.

- Said sinking fund shall be under the custody of the Central Bank of the Philippines which may invest the same in such manner as the Monetary Board may approve. Said sinking fund shall be charged for all expenses incurred in investing the same or portions thereof and credited with the earnings and interest income arising from such investments.

- The Republic of the Philippines hereby guarantee the payment by the provincial or city government of both the principal and the interest of the bonds issued by said provincial or city government by virtue of this Section, and shall pay such principal and interest in case the provincial or city government fails to do so, and there are hereby appropriated, out of the general funds in the National Treasury not otherwise appropriated, the sums necessary to make the payments guaranteed under this Section: Provided, That the sums so paid by the Republic of the Philippines shall be refunded by the provincial or city government concerned through the sanctions provided for herein.

SEC. 7. Inter-Local Government Loans.—Provinces, cities and municipalities may extend loans to other provinces, cities and municipalities for such public purposes as the repair and rehabilitation of government property damaged by typhoons, floods, fire, or other natural calamity; the purchase of relief goods, foodstuff and medicine during emergencies; and the beautification of parks, plazas, monuments and shrines in amounts not exceeding, in their

aggregate, five per cent of the general fund income from regular sources of the lending entity actually realized during the next preceding fiscal year, as certified to by the local treasurer and attested by the auditor concerned, under such terms and conditions as may be agreed upon by the parties, payable within a period of not exceeding twenty-four months from the date of release of the full amount and at an interest rate of not exceeding twelve per cent per annum.

Failure of the borrowing local government to appropriate the annual amortizations and interest accruals of, the loans contracted under this Section shall constitute a ground for declaring in operative its budgets pursuant to the pertinent provisions of Presidential Decree No. 477.

SEC. 8. Loans from Funds Secured by the National Government from Foreign Sources.—(a) The President of the Philippines, or his duly authorized representative may negotiate and contract loans with foreign financial institutions or other international organizations belonging to countries with which the Philippines has diplomatic or trade relations, or from foreign governments which are members of the United Nations and, subject to such conditions as he may impose, extend therefrom, upon recommendation of the Secretary of Finance and the National Economic and Development Authority, one or several loans to any provincial or city government through the Development Bank of the Philippines or the Land Bank of the Philippines for the purpose of financing the acquisition, construction, installation, improvement and expansion of capital improvement projects, such as electric power plants, waterworks and irrigation systems, flood control systems, sewerage systems, composting plants, the telephone and radio communications systems.

- Loan amortizations or repayments, including accrued interest thereon, may be financed partly from the income of the projects or services funded and from the regular income of the borrowing local government unit, which must be provided for and appropriated regularly in its budgets until the loan and the interests thereon shall have been repaid in full.

- The pertinent provisions of Republic Act No. 4860, as amended by Presidential Decrees Nos. 81, 150 and 351, shall likewise be complied with in the re-lending to the local governments of proceeds of loans from foreign sources.

- Any two or more provinces, cities and/or municipalities may jointly and severally undertake capital improvement projects commonly beneficial to them and for the purpose may negotiate and contract for loans in accordance with the provisions of the foregoing paragraphs, subject to the provisions of Letter of Instruction No. 158.

SEC. 9. Financing Contracts with Private Persons.—(a) Any provincial, city or municipal government may enter into, and bind itself by, contract with any private person, natural or juridical, for financing such self-liquidating or income-producing projects as the construction of toll roads and bridges, the installation of telephone systems, the acquisition of land and water transport systems, as well as the operation and maintenance of such projects, subject to the approval of the National Economic and Development Authority, upon recommendation of the Secretary of Finance: Provided, That the aggregate amounts of financing contracts that a local government may enter into by virtue of this Section shall not exceed the legal borrowing capacity and said local government as certified to by the Commission on Audit.

- The construction and prosecution of projects under the authority of this Section shall be subject to the following terms and conditions:

- The provincial, city or municipal engineer, as the case may be, upon formal request in writing by the local chief executive, shall prepare the plans and specifications for the proposed projects, which shall be subject to the approval of the local board or council. In the absence of a municipal engineer, the plans and specifications

of the proposed project shall be prepared by the provincial engineer.

- Upon approval by the local board or council of the project plans and specifications, the provincial, city or municipal engineer concerned shall forthwith cause to be published once every week for three consecutive weeks in at least two newspapers of general circulation, a notice inviting all eligible contractors to participate in a public bidding or the projects so approved. The contract shall be awarded to the lowest qualified bidder: Provided, That the winning bid shall not exceed by fifteen per cent the estimated cost of the project as computed by the local engineer. The conduct of public bidding and award of contracts for local government projects under this Section shall be in accordance with existing laws and pertinent rules and regulations.

- Any contractor who shall undertake the prosecution of any project under this Section shall post bonds to project the interest of the province, city or municipality in such amounts as may be fixed by the local board or council and the provincial, city or municipal engineer of the locality shall not allow any contractor to initiate the prosecution of projects under this Section unless such contractor shall present proof or evidence that he has posted the required bond.

- The contractor shall be entitled to the contract price based on the winning bid plus interest on the unpaid balance thereof not exceeding twelve per cent per annum. The provincial municipal or city government concerned is authorized to charge and collect reasonable tolls or fees, in the presence of a duly authorized representative of the contractor, for the use of finished projects, which collections shall be turned over to the contractor at the end of every week for a period not exceeding twenty years. In the case of roads or bridges constructed pursuant to this Section, tolls shall be collected only on motor vehicles using the same and automatic traffic counters shall be installed in the entrance, terminal and intermediate toll gates.

- The tolls or fees that will be charged for the use of roads, bridges, telephone systems, land transport systems, ferries and watercraft constructed installed or acquired in accordance with this Section shall be levied in an appropriate local tax ordinance which shall be enacted by the local board or council, approved by the local chief executive and reviewed by the Secretary of Finance or the Provincial Treasurer pursuant to the pertinent provisions of the Local Tax Code, as amended. Any change in the schedule or rates of such tolls and fees shall likewise be made through the enactment of an appropriate local tax ordinance.

- Collections from the tolls or fee authorized to be collected under this Section shall first be applied to the interest and the remainder to the principal in the accounting of the receipts from such tolls or fees.

- The imposition and collection of tolls or fees shall be discontinued after the principal expended on the project, and the interest thereof, shall have been collected as certified to by the provincial, city and municipal treasurer concerned, and from that time the contract for such project shall be deemed extinguished

- The projects undertaken under this Section shall be prosecuted under the supervision of the provincial, city or municipal engineer of the province, city or municipality, as the case may be, or if there be no municipal engineer, by the provincial engineer of the province to which the municipality belongs, in accordance with the plans and specifications of the project as approved by the local board or council.

- The Provincial Attorney or City Legal Officer or Municipal Attorney, as the case may be, shall pass upon contracts executed pursuant to this Section to determine their legality and correctness of form. In the absence of the above-named officials, the responsibility shall devolve upon the provincial or city fiscal concerned.

- It shall be unlawful for any public official or employee in the provincial, city or municipal government, or their relatives within the fourth civil degree of consanguinity or affinity, to enter into, or be in any way interested in, the contract for the construction, prosecution, acquisition, operation or maintenance of any project awarded pursuant to the provisions of this Section or for the furnishing of any supplies, materials or equipment of any kind, to be used in the project. Any person who violates the provisions of this Section shall be removed from office, any provisions of law to the contrary notwithstanding, and suffer imprisonment not exceeding five years.

SEC. 10. Remedies, Sanctions and Penalties.—Provinces, cities and municipalities shall appropriate in their respective annual budgets such amounts as are sufficient and required to service loans and borrowings and/or redeem or retire bonds, debentures, securities, notes and other obligations issued by said local government units under this Decree, and their failure to provide the appropriations herein required shall be a ground to declare inoperative the corresponding budgets of the borrowing entity. Furthermore, the Secretary of Finance is hereby empowered to enforce payment of obligations incurred under this Decree which have become due and demandable by withholding the corresponding amounts from internal revenue allotments and/or specific tax allotments, or by drawing against the depository accounts of the defaulting local government unit.

The above remedies, notwithstanding, elective and appointive officials who shall refuse to pay, obstruct the payment, or cause unnecessary delay in the repayment of the above-stated loans, indebtedness and obligations shall be personally and jointly or severally, liable to pay a fine of not less than P10,000.00 but not more than P50,000.00 or suffer imprisonment from 2 years to 5 years, or both fine and imprisonment, at the discretion of the court.

SEC. 11. Administrative Authority of the Secretary of Finance.—The Secretary of Finance shall promulgate, from time to time, such rules and regulations as he may deem necessary for the proper and effective implementation of this Decree.

SEC. 12. Separability Clause.—If, for any reason, any section or provision of this Decree shall be held to be unconstitutional or invalid, no other section or provision hereof shall be affected thereby.

SEC. 13. Repealing Clause.—All laws and parts of law and pertinent portions of City Charters, contrary to or inconsistent with the provisions of this Decree, are hereby repealed and/or modified accordingly; Provided, That rights already acquired and existing at the time of the promulgation of this Decree shall not, in any way, be abridged, modified or affected; and Provided, Further, that nothing in this Decree shall be construed as depriving any province, city or municipality of any power presently enjoyed or already exercised by it or as diminishing its autonomy.

Vested rights existing at the time of the promulgation of this Decree arising out of a contract between the province, city or municipality, on one hand, and a third party, on the other, shall continue to be governed by the original terms and provisions thereof.

SEC. 14. Effectivity Clause.—This Decree shall take effect upon approval.

Done in the City of Manila, this 25th day of July, in the year of Our Lord, nineteen hundred and seventy-five.

(Sgd.)

FERDINAND E. MARCOS

President

Republic of the Philippines

By the President:

(Sgd.)

ALEJANDRO MELCHOR

Executive Secretary

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