

The Film Development Council Act and the Film Development Council Implementing Rules and Regulations

Plaridel devotes one section of every issue to the reproduction and dissemination of documents or texts which have a bearing on practitioners and consumers of media. Such a document is Republic Act No. 9167, which abolishes the Film Development Foundation of the Philippines and the Film Ratings Board and in their stead creates the Film Development Council of the Philippines. The latter has powers and functions which cover many initial concerns of the film industry, including the development of incentives and programs to encourage the production of quality films, the organization of local and international film festivals and the establishment and management of a Cinema Evaluation Board. The document is followed by the Council's Implementing Rules and Regulations.

Republic of the Philippines
Congress of the Philippines
Metro Manila

Twelfth Congress

First Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand and one.

REPUBLIC ACT NO. 9167

AN ACT CREATING THE FILM DEVELOPMENT COUNCIL OF THE PHILIPPINES, DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. State Policy - Pursuant to the constitutional guarantee on freedom of expression, the State shall promote and support the development and growth of the local film industry as a medium of the upliftment aesthetic, cultural and social values or the better understanding and appreciation of the Filipino identity.

To achieve this end, the State shall formulate and implement policies and programs to upgrade the art and craft of filmmaking and encourage the production of films for commercial purposes, intended for public entertainment, that seek to enhance the quality of life, examine the human and social conditions and contribute to the dignity and nobility of the human spirit.

SEC. 2. - Creation of the Film Development Council of the Philippines - To carry out the provisions of this Act, there is hereby created a Film Development Council of the Philippines, hereinafter referred to as the Council, under the Office of the President. The Film Development Foundation of the Philippines, Inc. (FDFPI) and the Film Ratings Board (FRB), created under Executive Order No. 811, are hereby abolished.

SEC.3. Powers and Functions - The Council shall have the following powers and functions:

1. To establish and implement a Cinema Evaluation System in accordance with the criteria set forth in this Act;
2. To develop and implement an incentive and award system for the producers based on merit to encourage the production of quality films;
3. To establish, organize, operate and maintain local and international film festivals, exhibitions and similar activities;
4. To encourage and undertake activities that will promote the growth and development of the local film industry and promote its participation in both domestic and foreign markets;
5. To develop and promote programs to enhance the skills and expertise of Filipino talents necessary for quality film production;
6. To prescribe the procedures for the exercise of its powers and functions as well as the performance of its duties and responsibilities;
7. To determine the Council's organizational structure and staffing pattern and appoint officers and employees of the Council in accordance with Civil Service laws, rules and regulations;
8. To acquire, manage and hold such real and personal property as may be necessary to carry out the purposes and objectives of this Act;

9. To invest funds and other assets in such activities or undertakings that shall directly and indirectly promote development of the film industry, including the production of films, and other terms and conditions as it may deem wise and desirable;
10. To ensure the establishment of a film archive in order to conserve and protect film negatives and/or prints as part of the nation's historical, cultural and artistic heritage; and
11. To perform such other functions as may be necessary to carry out the provisions of this Act.

SEC. 4. Composition of the Council - The Council shall be composed of a Chairperson and ten (10) members; three (3) of whom shall be regular members, while the other seven (7) members shall be in an *ex-officio* capacity. *Provided*, That the Chairperson shall be a person of proven administrative proficiency, independence, knowledgeable of the technical and artistic aspects of the film production and fully committed to the promotion and development of Philippine Cinema as art; *Provided, further*, That the Chairperson and the regular members shall be appointed by the President of the Philippines.

The seven (7) members who shall be *ex-officio* members of the Council are the following:

1. The Secretary of the Department of Trade and Industry or his/her duly designated representative;
2. The Secretary of the Department of Education or his/her duly designated representative;
3. The Chairperson of the Film Academy of the Philippines;
4. The President of the Cultural Center of the Philippines;
5. The Commissioner of the Committee on Cinema of the National Commission on Culture and Arts;
6. The President of the League of City Mayors or his/her duly designated representative; and
7. The Chairperson of the Metro Manila Development Authority or his/her duly designated representative.

The three (3) regular members shall be as follows:

1. A representative from the legally constituted filmmakers association;
2. A representative from the legally constituted theater owners association; and
3. A representative from the academe.

SEC. 5. Term of Office - The Chairperson and the three (3) regular members shall hold office for a term of three (3) years unless sooner removed by the President; *Provided*, That they shall be eligible for reappointment after the expiration of their respective terms; *Provided, further*, That no Chairperson or member shall serve for more than two (2) consecutive terms. If the Chairperson or a member fails to complete his/her term, the person appointed to fill the vacancy shall serve only for the unexpired portion of the vacated term whom he/she succeeds; *Provided, finally*, That such service of the unexpired portion shall not be counted as a term.

SEC. 6. Meetings - The Council shall meet regularly at least once a month or as often as necessary at the call of the Chairperson or a majority of the members. A majority of the members of the Board shall constitute a quorum to do business. The members of the Council shall be entitled to honoraria based on existing government accounting and auditing rules and regulations.

SEC. 7. The Chairperson - The Chairperson shall be the Chief Executive Officer and shall exercise overall administrative supervision to ensure the effective and efficient implementation of the policies laid down by the Council. The Chairperson shall have the same rank and salary of an Undersecretary of a Department as provided or in the Salary Standardization Law.

SEC. 8. The Executive Director - The Chairperson shall be assisted by an Executive Director to be appointed by the Council upon the recommendation of the Chairperson. The Executive Director shall have a salary comparable to that of equivalent rank under the Revised Compensation and Position Classification System and shall be co-terminus with the Chairperson unless sooner removed for cause.

SEC. 9. Functions of the Chairperson - The Chairperson shall have the following functions:

1. Execute and administer the policies, plans and programs approved by the Council;
2. Direct and supervise the operations and internal affairs of the Council;
3. Establish the internal organization and administrative procedures of the Council;
4. Recommend to the Council the appointment, transfer or detail, suspension, dismissal for cause of its subordinate officials and employees; and
5. Such other functions which the Council may assign from time to time.

SEC. 10. Cinema Evaluation Board - There is hereby created a Cinema Evaluation Board hereinafter referred to as the "Board" which shall evaluate and grade films submitted to the Council, subject to the following:

- a. **Composition, Qualifications and Appointment** - The Board shall be composed of a Board Chairperson and thirty (30) members, twenty (20) of whom shall come from the film industry, and the other ten (10) from the arts, academe, business and other sectors. The President shall appoint the members of the Board from among forty (40) nominees submitted by the Council; *Provided*, That the persons appointed to the Board should be knowledgeable of the artistic and technical aspects of filmmaking and fully committed to the promotion and development of cinematographic art along world class standards and global marketability.
- b. **Term of Office** - The Board Chairperson and members shall serve for a term of two (2) years and shall be eligible for reappointment for a second term; *Provided*, That no member shall serve for more than two (2) consecutive terms; *Provided, further*, That if any member fails to complete a term, the person appointed to fill the vacancy shall serve only for the unexpired portion of the term of the member who he/she succeeds, unless re-appointed; *Provided, finally*, That such service of the unexpired portion shall not be counted as a term. In the initial appointments, the Board Chairperson and the first fifteen (15) members shall hold office for two (2) years and the next fifteen (15) for one (1) year.

- c. Quorum - The Chairperson or his/her duly-designated representative who is also a Board member, and at least eleven (11) members are needed for the Board to transact business.
- d. Honorarium - A Board member shall receive reasonable honorarium for each film actually evaluated, to be determined by the Council subject to government accounting and auditing rules and regulations.
- e. Participation - No member of the Board shall participate in the grading of a film in which he or she or any member of his or her family or any relative within the fourth degree of consanguinity or affinity shall have financial or any other interest; *Provided, further,* That such member shall disclose fully, at the time of his or her inhibition, the nature of his or her interest including actual or potential conflict of interest and the reasons for his or her inhibition.

SEC. 11. Cinema Evaluation System - The Board shall formulate and establish a set of standards and criteria and procedures for the Cinema Evaluation System, subject to the approval of the Council, primarily based on but not limited to the following:

- a. Direction - which shall be deemed effective when the film's intentions are made clear and realized through the effective orchestration of all the film's elements;
- b. Screenplay - which shall be deemed effective when the film's intentions are made clear by the characterization, dialogue, plot and narrative structure of the material on hand;
- c. Cinematography - which shall be deemed effective if it creatively visualizes content through the lighting, composition, camera movement and related camera techniques in the manner appropriate for the film's intentions;
- d. Editing - which shall be deemed effective if it creatively compresses or expands time, space and movement and arranges images in a manner appropriate to the film's intentions;
- e. Production Design - which shall be deemed effective if it successfully creates the time, period, locale, atmosphere and look of the film, and contributes to characterization through the use of sets, costumes, props and make-up in a manner that suits the film's intentions;

- f. Music Scoring - which shall be deemed effective if the music is used to heighten mood and emotion, help define character and reinforce rhythm pace in a manner appropriate to the film's intentions;
- g. Sound - which shall be deemed effective if dialogue, music, sound effects and silence are reproduced, orchestrated and mixed in proper proportion to suit the film's intentions; and
- h. Acting Performances - which shall be deemed effective if the performers play their characters truthfully and honestly in performance style to suit the film's intentions; *Provided*, That in evaluating and grading a film, the Board shall look for excellence in the art and craft of filmmaking in its totality, take into consideration scenes of the film in context, its manner of presentation and culture.

SEC. 12. Grading of Films - The grading of films by the Cinema Evaluation Board shall be subject to the following provisions:

- (a) Prequalification procedures and requirements - The Council shall prescribe prequalification procedures and requirements for application for grading; *Provided*, That only films whose premiere screening shall be held in the Philippines, and those which have not had any previous theatrical release, free television broadcast, cable broadcast or video release in any commercial medium anywhere in the world shall be qualified for grading by the Board; *Provided, further*, That the Board shall evaluate and grade only feature films that are intended for theatrical and other forms or exhibition that will charge admission fees and which are at least eight (80) minutes in length and that the producer shall submit his/her film for grading at least seven (7) calendar days before its scheduled playdate.
- (b) Evaluation Period - A film shall be reviewed, evaluated and graded by the Board within five (5) working days after submission of the application. The Board shall transmit its decision to the Council twenty-four (24) hours from the rendering of the decision. The Council shall inform the producer of the Board's decision not later than twenty-four (24) hours upon receipt thereof.

- (c) Grading of Films - The Board shall review and grade a film submitted for grading. The Board and the Council shall, at any time, neither be allowed to cut, delete, shorten or modify in any manner films being graded by the Board, nor shall they be allowed to suggest cuts or deletions or any other form of modification to the filmmakers and prerequisites for earning a board grading. Such grading shall be given due weight and consideration by the Movie and Television Review and Classification Board (MTRCB), the Videogram Regulatory Board (VRB), the Department of Trade and Industry (DTI) and other government agencies for the graded film's viewing, reproduction, exportation and other purposes.
- (d) Reconsideration to the Board *En Banc* - The action taken by the Board on the film submitted for evaluation and grading may be reconsidered upon motion to the Board *en banc* within twenty-four (24) hours from receipt of notice of said action, and the Board *en banc* shall render its decision within forty-eight (48) hours from its receipt of the motion for reconsideration. The Board *en banc* must be composed of at least the majority of the members of the Board.
- (e) Finality of grading - The grading submitted by the Board *en banc* to the Council shall be final.

SEC. 13. Privileges of Graded Films - Films which have obtained an "A" or "B" grading from the Council pursuant to Sanctions 11 and 12 of this Act shall be entitled to the following privileges:

- (a) Amusement tax reward - A grade "A" or "B" film shall entitle its producer to an incentive equivalent to the amusement tax imposed and collected on the graded films by cities and municipalities in Metro Manila and other highly urbanized and independent component cities in the Philippines pursuant to Sections 140 and 151 of Republic Act No. 7160 at the following rates:
 1. For grade "A" films - 100% of the amusement tax collected on such films; and
 2. For grade "B" films - 65% of the amusement tax collected on such films. The remaining thirty-five (35%) shall accrue to the funds of the Council.

SEC. 14. Amusement Tax Deduction and Remittances - All revenue from the amusement tax on the graded film which may otherwise accrue to the cities and municipalities in Metropolitan Manila and highly urbanized and independent component cities in the Philippines pursuant to Section 140 of Republic Act No. 7160 during the period the graded film is exhibited, shall be deducted and withheld by the proprietors, operators or lessees of theatres or cinemas and remitted within thirty (30) days from the termination of the exhibition to the Council which shall reward the corresponding amusement tax to the producers of the graded film within fifteen (15) days from receipt thereof.

Proprietors, operators and lessees of theaters or cinemas who fail to remit the amusement tax proceeds within the prescribed period shall be liable to a surcharge equivalent to five percent (5%) of the amount due for each month of delinquency which shall be paid to the Council.

SEC. 15. Enforcement - For purposes of implementing the previous Section, the Council may:

1. Impose administrative fines and penalties of not more than One hundred thousand pesos (P100,000.00) for the violation of any provision of this Act and/or its implementing rules and regulations issued by the Council;
2. Cause or initiate the criminal or administrative prosecution of violators of this Act and its implementing rules and regulations. For this purpose, the Council is hereby given the power to issue *subpoena duces tecum* and enlist the assistance or services of the Department of Justice or the Office of the Solicitor General;
3. Cause the closure of any theater or cinema that fails or unreasonably refuses to remit the tax collected on a graded film for a period not exceeding fifteen (15) days after which such period shall be automatically lifted without prejudice to the right of the Council to cause or initiate criminal or administrative prosecution against the erring theater or cinema owners pursuant to paragraph 2 of this section;
4. Call upon representatives of the different government agencies and other various associations in the movie industry to help ensure compliance with the provisions of this Act and its implementing rules and regulations.

For this purpose, the Council may constitute Local Regulatory Council or Councils in the cities and

municipalities throughout the country composed of representatives from the government and from the private sector as may be appropriate to implement the purposes and objectives of this Act and its implementing rules and regulations and they shall serve without compensation and only for such period of time as the Chairperson shall determine;

5. To deputize any law enforcement agency and instrumentality of the government for assistance in the implementation and enforcement of its functions and orders.

SEC. 16. Funding - The Executive Secretary shall immediately include in the Office of the President's program the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act.

To augment the operational expenses of the Council, the Council may:

- a. Utilize the remaining thirty-five (35%) percent of the amusement tax collected during the period a grade "B" film is exhibited, as provided under Sections 13 and 14 hereof; and
- b. Impose reasonable fees and charges for services rendered; *Provided*, That the amount actually collected shall be deposited in the National Treasury as a special account in the General Fund and may be used to augment its maintenance and other operating expenses, and capital outlays except the purchase of motor vehicles, subject to existing accounting and budgeting rules and regulations.

SEC. 17. Authority to Accept Donations - The Council may accept donations, contributions, grants, bequests or gifts, in cash or in kind, from various sources, domestic or foreign, except from movie producers and distributors for purposes relevant to its functions. Said donations shall be deemed automatically appropriated for purposes specified by the donor or in the absence thereof for the programs and projects as may be approved by the Council subject to the usual government accounting and auditing rules and regulations; *Provided*, That cash donations shall not be used to fund the personal services requirements of the Council. Any donation, contribution, subsidy or

financial aid which may be made to the Council shall be exempt from taxes of any kind and shall constitute allowable deductions in full from the income of the donors, contributors or givers for income tax purposes.

SEC. 18. Assistance from Other Government Agencies - The Council may request any department, bureau, office, agency or instrumentality of the government for such assistance as may be needed in performance of its functions.

SEC. 19. Implementing Rules and Regulations - The Film Development Council shall, within ninety (90) days after the approval of this Act, issue the necessary rules and regulations to implement the provisions hereof.

SEC. 20. Transitory Provision - To provide continuity in the operations of the Council, the incumbent officials and employees of the FDFPI and the FRB shall, in a holdover capacity, continue to perform their respective duties and responsibilities and shall receive their corresponding salaries and benefits until such time that the organization of the Council shall have been completed. The transition period shall not exceed six (6) months after the effectivity of this Act.

All officials and employees of the FDFPI and FRB shall be deemed resigned from services upon the organization of the Council; *Provided*, That the officials and employees who shall be laid off shall be given preferential treatment in appointments to new positions to which they may qualify under the new staffing pattern; *Provided, finally*, That those who shall not be given new appointments shall be entitled to all compensation and benefits due them under existing laws.

All books, assets, rights, privileges, records, obligations and liabilities of the FDFPI and the FRB are hereby transferred to the Council.

SEC. 21. Annual Report - The Council, shall, within ninety (90) days after the end of every fiscal year, submit to the President and to Congress an annual report on its compliance with, or accomplishments under this Act, together with its plans and recommendations to improve and develop its capability to enforce the provisions of this Act, and a complete accounting of transactions with respect to any funds received under this Act.

SEC. 22. Repealing Clause - Executive Order No. 811 is hereby repealed. Executive Order 1051 and Section 140 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, are hereby amended accordingly.

All other laws, decrees, orders, issuances, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 23. Separability Clause - If, for any reason, any provision of this Act, or any part thereof, is declared invalid or unconstitutional, all other sections or provisions not affected thereby shall remain in force and effect.

SEC. 24. Effectivity - This Act shall take effect fifteen (15) days after publication in the *Official Gazette* and two (2) newspapers of national circulation.

Approved,

JOSE DE VENECIA (sgd.)
Speaker of the House
of Representatives

FRANKLIN M. DRILON (sgd.)
President of the Senate

This Act, which is a consolidation of Senate Bill No. 2049 and House Bill No. 4644, was finally passed by the Senate and the House of Representatives on May 27, 2002 and May 29, 2002, respectively.

ROBERTO P. NAZARENO (sgd.)
Secretary General House
of Representatives

OSCAR G. YABES (sgd.)
Secretary of the Senate

Approved: June 7, 2002

GLORIA MACAPAGAL ARROYO (sgd.)
President of the Philippines