

Republic of the Philippines
Film Development Council of the Philippines
Metro Manila

IMPLEMENTING RULES AND REGULATIONS OF R.A. No. 9167

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

Pursuant to the authority of the Film Development Council of the Philippines (FDCP) under Section 19 of R.A. 9167, otherwise known as the "Law Creating the Film Development Council," the following Rules and Regulations are hereby promulgated:

Article 1 - General Provision

Section 1. *Statement of Policy and Objectives.* - The State guarantees freedom of expression. Towards this end, the State shall promote and support the development and growth of the domestic film industry, recognizing its role as an effective medium to uplift aesthetic, historical, cultural and social values and better understand and appreciate the Filipino identity.

Article 2 - Definition of Terms

Section 2. *Definition of Terms.* – As used in these Rules, the following terms are defined as follows:

- (a) THE ACT - An Act Creating the Film Development Council of the Philippines, Defining its Powers and Functions, Appropriating Funds Therefor, and for Other Purposes (Republic Act No. 9167)
- (b) COUNCIL - The Film Development Council of the Philippines (FDCP) created by Republic Act 9167
- (c) BOARD - The Cinema Evaluation Board (CEB), which shall evaluate and grade films submitted to the Council.
- (d) FEATURE FILM - The principal motion picture shown on a program with other pictures
- (e) highly urbanized cities - Cities with a minimum population of two hundred thousand (200,000) inhabitants, as certified by the National Statistics Office, and with the latest annual income of at least Fifty Million Pesos (P50,000,000.00) based on 1991 constant prices, as certified by the city treasurer, and as defined in the Local Government Code of 1991
- (f) INDEPENDENT COMPONENT CITIES - Those component cities whose charters prohibit their voters from voting for provincial elective officials, as defined in the Local Government Code of 1991
- (g) AMUSEMENT TAX - Tax collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.
- (h) THEATER OR CINEMA - An establishment devoted exclusively to the exhibition of motion pictures

(i) PRODUCER - A business executive engaged in the production of motion pictures, usually exercising final authority over all activities entailed in the making thereof.

Article 3 - The Film Development Council

Section 3. 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. In the absence of the Chairperson, the members present constituting a quorum may choose a presiding officer from among themselves. A majority of the members of the Council shall constitute a quorum to do business and to carry out its functions.

Section 4. Voting. - The Council shall act as a collegial body. In the conduct of meetings, the Chairperson shall not vote except to break a tie.

Section 5. Specific Powers and Functions.

- (a) To establish and implement a Cinema Evaluation System applying the criteria under Section 11 of the Act;
- (b) To develop and implement an incentive and reward system for producers based on merit to encourage the production of quality film;
- (c) To establish, organize, operate and maintain domestic and international film festivals, exhibitions and similar activities.
- (d) To encourage and undertake activities that will promote the growth and development of the domestic film industry and promote its participation in both domestic and foreign markets;
- (e) To develop and promote programs to enhance the skills and expertise of Filipino talents necessary for quality film production;
- (f) To prescribe procedures for the exercise of its powers and functions as well as the performance of its duties and responsibilities;
- (g) To determine the Council's organizational structure and staffing pattern and appoint officers and employees consistent with existing laws;
- (h) To acquire, manage and hold such real and personal property as may be necessary to carry out the purposes and objectives of the Act;
- (i) To invest funds and other assets in activities designed to promote the development of the film industry and the production of films;
- (j) To ensure the establishment of a film archive for the preservation of film negatives and/or prints; and,
- (k) To perform such other functions as may be necessary to carry out the provisions of this Act.

Section 6. Composition of the Council.

(a) Chairperson - The Chairperson, with the rank and salary of an Undersecretary, shall be the Chief Executive Officer of the Council. He/she shall exercise administrative supervision to ensure the implementation of the policies of the Council and execute the

functions provided under Section 9 of the Act. The Chairperson is appointed by the President for a term of three (3) years unless sooner removed by the President. He/she shall be eligible for reappointment but shall not serve for more than two (2) consecutive terms.

(b) Regular Members (3) - There shall be three (3) regular members each representing respectively (i) legally constituted filmmakers association; (ii) legally constituted theater owners association; and, (iii) academe. They shall be appointed by the President for a term of three (3) years unless sooner removed by the President. They shall be eligible for reappointment but shall not serve for more than two (2) consecutive terms.

(c) Ex - Officio Members (7) - There shall be seven (7) members sitting in an ex-officio capacity composed of the following: (i) Secretary of the Department of Trade and Industry or his/her duly designated representative; (ii) Secretary of the Department of Education or his/her duly designated representative; (iii) Chairperson of the Film Academy of the Philippines; (iv) President of the Cultural Center of the Philippines; (v) Commissioner/Head of the Committee on Cinema of the National Commission on Culture and the Arts; (vi) President of the League of City Mayors or his/her duly designated representative; and, (vii) Chairperson of the Metro-Manila Development authority or his/her duly designated representative.

Section 7. Succession to Vacant Position. - any person who succeeds to a position left vacant by a member shall serve only for the unexpired portion of the vacated term. Service of the unexpired portion shall not be counted as a term.

Section 8. Honoraria. - Each member of the Council or his / her duly designated representative shall receive an honorarium for each meeting actually attended, the amount of which will be determined by the Council based on government rules and regulations.

Article 4 - Secretariat

Section 9. Executive Director. - The Chairperson shall be assisted by an Executive Director to be appointed by the Council upon recommendation of the Chairperson. His/her term of office shall be co-terminus with the Chairperson unless sooner removed for cause. He/She shall receive a salary comparable to that of equivalent rank under the Revised Compensation and Position Classification System.

Section 10. Functions of the Executive Director. - The Executive Director shall head the Secretariat of the Council and exercise such duties and responsibilities as may be assigned by the Chairperson.

Section 11. Support Staff. - The Secretariat shall have such operating units and personnel as the Council may find necessary for the proper performance of its functions.

Section 13. Functions of the Secretariat. - The functions of the Secretariat shall include the following:

- (a) To manage and administer the day-to-day operations of the Council under the supervision of the chairperson;
- (b) To facilitate communications and linkages with the Cinema Evaluation Board and the different government offices, non-governmental agencies and the public, as well as with domestic and international film festivals and markets;
- (c) To provide secretariat and record-keeping services to the Council; and

(d) To perform such other duties as may be assigned by the Council.

Article 5 - Cinema Evaluation Board (CEB)

Section 14. Composition of the Board.

(a) *Chairperson* - The Board shall have a Chairperson who shall serve for a term of two (2) years and shall be eligible for reappointment for a second term.

(b) *Film Industry Members (20)* - There shall be twenty (20) members of the Board who shall come from the film industry. These members shall serve for two (2) years and shall be eligible for reappointment for a second term.

(c) *Arts, Academe, Business and other Sectors (10)* - There shall be ten (10) members of the Board who shall come from the field of arts, the academe, business and such other sectors as the Council may choose or identify. These members shall serve for two (2) years and shall be eligible for reappointment for a second term.

Section 15. Initial Appointments to the Board. - 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. The President shall appoint the members of the Board from among forty (40) nominees submitted by the Council.

Section 16. Succession to Vacant Position. - Any person who succeeds to a position left vacant by a member shall serve only for the unexpired portion of the term, unless re-appointed. Service of the unexpired portion shall not be counted as a term. A successor shall be appointed from among the list of nominees recommended by the Council.

Section 17. Vice-Chairperson. - The Council, upon recommendation of the Board Chairperson, shall designate a Board Vice-Chairperson from among the members of the Board.

Section 18. Meetings. - The Board shall determine its own rules and procedures, including the regular date, time and venue of their meetings subject to the approval of the Council; provided, that the presence of the Chairperson or his/her duly designated representative who is also a Board member, and at least eleven (11) members, will suffice to constitute a quorum for the purpose of transacting business; Provided further, that the Board Chairperson will not vote unless to break a tie.

Section 19. Specific Powers and Functions. - The Board shall undertake the following tasks:

- (a) Evaluate and grade films submitted to the Council subject to Section 12 of the Act;
- (b) Formulate and establish a set of standards and criteria and procedures for the Cinema Evaluation System primarily based on the categories enumerated in Section 11(a)-(h) of the Act, subject to the approval of the Council; and,
- (c) Such other functions which the Council may assign from time to time.

Section 20. Cinema Evaluation System. - The Cinema Evaluation System, subject to the approval of the Council, shall be based on but not limited to the following:

1. DIRECTION - effective, focused and insightful integration of the different cinematic arts and crafts involved in a production, utilizing the unique strengths of the medium to dynamically depict the film's meaning and intent.

2. SCREENPLAY - a detailed scenario containing dialogue, actions, and general atmosphere to be incorporated into the finished motion picture. A superior screenplay contains a blueprint in words of an intense and imaginative vision of the world.
3. CINEMATOGRAPHY - creative use of key elements of the film medium's visual language - lighting, composition, movement, camera techniques - to dynamically depict conflict, theme, story and character as they relate to the production's significant intent.
4. EDITING - the creative use of tempo, transitions, tonal changes and other editing techniques to provide the movie with the unique visual energy and style it needs to develop its plot and theme in cinematic terms.
5. PRODUCTION DESIGN - the effective, appropriate and imaginative representation of locale, period, atmosphere, costumes, make-up, hairstyles and props as they relate to character, story and style to actualize the film's significant objective.
6. MUSIC SCORE - the creative and appropriate use of music to enhance emotion, mood and atmosphere, help define character, and establish rhythm and pacing, in furtherance of the film's creative intent.
7. SOUND - the effective and creative interplay of dialogue, music, natural sound and recorded sound effects to give the film the aural values to generate audience empathy.
8. PERFORMANCE - the clear, honest and stylistically consistent depiction of character, emotion, motivation, and personal and societal relationships, resulting in the creation onscreen of people whom viewers can understand and empathize with.

Section 21. *Honoraria.* - Each Board member shall receive an honorarium for each film actually evaluated, the amount of which shall be approved by the Council based on government rules and regulations.

Section 22. *Prohibition and Disqualification.* - Every member of the Board shall conduct himself/herself with utmost honesty and integrity at all times. No member of the Board shall participate in the grading of a film in which he/she or any member of his/her family or any relative within the fourth degree of consanguinity or affinity shall have financial or any other interest in the subject film. Such member has the duty to disclose fully in writing, at the time of his/her inhibition, the nature of his/her interest, including actual or potential conflict of interest and the reasons for his/her inhibition, the nature of his/her interest, including actual or potential conflict of interest and the reasons for his/her inhibition. Failure to do so shall be subject to formal investigation without prejudice to sanction.

Article 6 - Application for Grading of Films

Section 23. *Pre-qualification Requirements for Feature Films.* - Any feature film subject to grading must comply with the following:

- (a) The film must be intended for theatrical and other forms of exhibition in the Philippines that will charge admission fees and are subject to amusement tax;
- (b) The film must have a total running time of at least eighty (80) minutes;
- (c) The premiere commercial screening of the film must be held in the Philippines;
- (d) The film should not have had any previous commercial theatrical release, free television broadcast, cable broadcast or video release in any commercial medium

anywhere in the world; provided, that films shown publicly in venues and theaters outside post-production laboratories, and whose premiere nights or advanced screenings like sneak previews / midnight screenings in commercial theaters are charging admission fees, shall not be qualified for application and grading; Provided, further, that notwithstanding any previous release, the following films shall not be disqualified for application and grading: (i) those shown privately in venues and theaters extended for free use; (ii) special technical previews for investors and production people whose work is germane to the films, wherein admission is by invitation; and, (iii) screenings which have academic discussions or open for a.

Section 24. Procedures for Grading.

- (a) The applicant producer or his/her duly authorized representative should fill-up an application form available at the Secretariat;
- (b) The properly filled-up application form together with the required screening fee determined by the Council should be submitted to the CEB-FDCP at least seven (7) calendar days before its scheduled playdate;
- (c) The film will be reviewed, evaluated and graded by the Board within five (5) working days after submission of the application and shall transmit its decision to the Council within twenty-four (24) hours from the rendering of the decision. The grading submitted by the Board en banc to the Council shall be final;
- (d) The film subject of review should be submitted in its entirety by 10:00 a.m. on the day of the scheduled viewing;
- (e) In the event the producer or his/her duly authorized representative fails to deliver the film on time for the scheduled review, the producer shall be liable for the expenses incurred related to the scheduled review, including the costs of food, venue and honoraria of authorized viewers;
- (f) No producer and/or his/her duly authorized representative nor any member of the cast, staff or crew shall be allowed to stay inside the preview room/venue(s) during the screening and deliberations;
- (g) No gifts from any party involved in the production will be accommodated or received;
- (h) If any applicant producer or his/her duly authorized representative fails to submit a scheduled film for review for three (3) consecutive times, the Board will not entertain his/her future application for that particular film;
- (i) The Council shall inform the applicant producer of the Board's decision not later than twenty-four (24) hours upon receipt thereof;
- (j) The applicant producer will be furnished with the Board's decision and reviews, including a list of members present and the date, time and place of screening/grading;
- (k) The Board and the Council shall not 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 film-makers and pre-requisites for earning the Board grading;
- (l) The CEB-quality graded film, which is submitted to the Movie and Television Review and Classification Board (MTRCB) for audience classification after the film has been

graded by the CEB, and for which changes are done on the film (i.e. re-editing to shorten scenes, re-mixing, etc.) may require a resubmission of said film to the Board to ensure that the film maintains its "A" or "B" grading; Provided, that the resubmission only seeks to maintain its first grading subject to a fee determined by the Council. Provided, further, that members of the Board who will review the resubmitted film will be composed of members who voted and graded the film in its first review. Tampering with graded film will result in cancellation of tax rebate; and,

(m) Any 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 majority of the members of the Board; Provided, that an action for reconsideration shall be limited only to upgrading from "B" to "A", subject to a fee determined by the Council.

Article 7 - Privileges of Graded Films

Section 25. *Privileges.* - Films which have obtained an "A" or "B" grading from the Council pursuant to Sections 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 - One hundred percent (100%) of the amusement tax collected on such films; and,
2. For grade "B" films - Sixty-five percent (65%) of the amusement tax collected on such films. The remaining thirty-five (35%) shall accrue to the funds of the Council.

Article 8 - Amusement Tax Deductions and Remittances

Section 26. *Memorandum of Agreement.* - The Council shall execute a Memorandum of Agreement with proprietors, operators and lessees of theaters or cinemas in Metropolitan Manila and highly urbanized and independent component cities in the provinces as well as with movie producers on the system and procedures to follow in the collection, remittance and monitoring of the amusement tax collected on CEB-graded films. The Council will have the option to determine whether a general procedure/process shall be adopted by all proprietors, operators and lessees of theaters or cinemas or an individualized system.

The Memorandum of Agreement shall also include arrangements on information sharing between and among the Council, the proprietors, operators and lessees of theaters or cinemas and the movie producers on matters related to the CEB-graded film.

The mode of remitting the deducted amusement tax to the Council shall be specified in the Memorandum of Agreement. Such mode of payment may be through electronic transfer, fund-to-fund, or check payment.

The amusement tax collection, remittances and monitoring system shall be reviewed annually to improve the system.

Section 27. *Obligation to deduct and withhold.*

(a) All proprietors, operators and lessees of theaters or cinemas where graded films are exhibited are hereby mandated to deduct and withhold the amusement tax on such graded film, which would otherwise accrue to the cities and municipalities within Metro Manila, and highly urbanized and independent component cities outside Metro Manila pursuant to Section 140 of the Local Government Code during the period the graded film is exhibited.

(b) All proprietors, operators and lessees of theaters or cinemas where graded films will be exhibited shall notify in writing, by fax or e-mail, the concerned city or municipality of the scheduled exhibition of graded films and duration of the same. They shall likewise inform in writing the city or municipality concerned of the fact that the corresponding amount of amusement tax has been withheld and forwarded to the Council.

(c) Proprietors, operators and lessees of theaters or cinemas who fail to notify the city or municipality concerned shall be required to pay the amusement tax in accordance with the local revenue ordinance of the local government unit concerned.

(d) *Remittance to Council.* - The proprietors, operators or lessees shall remit the amusement tax so deducted and withheld to the Council within thirty (30) days from the termination of the exhibition.

(e) *Remittance to Producers.* - Within fifteen (15) days from receipt thereof, the Council shall remit the corresponding amusement tax to the producers of the graded film, in accordance with Section 13(a) (1) and Section 13 (a) (2) of R.A. 9167 and Article 7 thereof.

(f) *Effects of Failure to Remit* - Proprietors, operators and lessees of theaters or cinemas who fail to remit the amusement tax proceeds within the prescribed period shall pay to the Council a surcharge equivalent to five percent (5%) of the amount due for each month of delinquency.

Article 9 - Enforcement Measures

Section 28. *Plenary Powers of the Council.* - For purposes of implementing the provisions of Article 8 above and Section 14 of the Act, the Council may:

(1) Impose administrative fines and penalties of not more than One Hundred Thousand (P100,000.00) Pesos for the violation of any provision of the Act and/or these Implementing Rules and Regulations;

(2) Cause or initiate the criminal or administrative prosecution of violators thereof;

(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 such period, the closure order shall automatically be 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, Section 15 of the Act and the rules implementing the same;

(4) Call upon representatives of the different governmental agencies and other various associations in the movie industry to help ensure compliance with the Act and these Rules;

(5) Deputize any law enforcement agency and instrumentality of the government for assistance in the implementation and enforcement of its functions and orders.

(6) To effectively cause or initiate criminal and/or administrative prosecution as above stipulated, the Council is hereby empowered to issue subpoena duces tecum and enlist the assistance of the Department of Justice or the Office of the Solicitor General, especially inter alia, for the issuance of subpoena ad testificandum and conducting the proper investigation of the violation and the subsequent prosecution therefor.

(7) For purposes of all the forgoing, the Council may constitute Local Regulatory Council or Councils in the cities and municipalities throughout the country. The local council or councils shall be composed of representatives from the government and from the private sector, who shall all serve without compensation and only for such period as the Chairperson of the Council shall determine.

Article 10 - Budget and Utilization of Funds

Section 29. *Fund Utilization.* - The Council shall first deposit the collected amusement taxes and other fees and charges with the Bureau of the Treasury as Special Account in the General Fund (SAGF), which shall be treated as automatically appropriated. Availment of these collections from amusement taxes and other fees and charges shall be in accordance with existing budgeting, accounting and auditing rules and regulations.

Article 11 - Authority to Accept Donations

Section 30. *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 domestic movie producers and distributors, for purposes relevant to its functions.

Section 31. *Use of Cash Donations.* - Cash donations shall not be used to fund the personal services requirements of the Council. However, cash donations may be used for project hires, which include such expenses as honoraria and other fees.

Article 12 - Annual Report

Section 32. *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 these Rules, together with its plans and recommendations to improve and develop its capability to enforce the provisions of these Rules, and a complete accounting of transactions with respect to any funds received under these Rules.

Article 13 - Final Provisions

Section 33. *Separability Clause.* - If, for any reason, any provision of these Rules, or any part thereof, is declared invalid or unconstitutional, all other sections or provisions not affected thereby shall remain in force and effect.

Section 34. *Effectivity.* - These Rules shall take effect fifteen (15) days after their publication in two (2) newspapers of general circulation, except those, which pertain to self-executing provisions of these Rules.

Approved by the Film Development Council of the Philippines on September 05, 2003.

CERTIFIED BY:

MARIA FINA C. YUSON
Board Secretary

NOTED BY:

LAURICE GUILLEN-FELLEO
Chairperson/Chief Executive Office

APPROVED during the Board of Trustees meeting on September 5, 2003 at the FDCP office, 3F, Production Design Center Building, CCP Complex, Roxas Blvd., Pasay City.

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