

FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Second Regular Session)



SENATE
Office of the Secretary

12 MAY -7 P2:23

SENATE

S. B. No. 3178

RECEIVED BY: Per

Introduced by Senator Ralph G. Recto

EXPLANATORY NOTE

This bill seeks to separate PAGCOR's regulatory function from its role as operator of gaming activities. These distinct functions should not be placed under one agency in order to maintain a separation of powers and uphold a system of checks and balances.

There should be a clear separation between the regulatory and proprietary activities of PAGCOR in order to achieve a level playing field with other private gaming corporations. The government also has no business running gambling facilities. Instead, the government should adopt the policy that its role should only be *steering* and not *rowing*. This means government should deal with coordination and control of gaming entities but should not get involved in direct gaming operation.

The delineation of functions will also allow the regulatory agency to focus on the supervision and monitoring of gaming operators to see to it that they comply with the established rules and regulations including compliance to the required remittance of government share to the National Treasury.

Under the bill, the present PAGCOR is abolished while a Philippine Amusement and Gaming Commission (PAGCOM) is created which will discharge the function of regulating the gaming operations in the country.

The existing PAGCOR casinos shall be privatized by the Privatization Management Office (PMO) and proceeds from such privatization shall be remitted to the National Treasury and shall form part of the General Fund to be available for expenditure upon authorization of Congress through the annual General Appropriations Act (GAA).

The gaming facilities shall focus on foreign tourists. A license shall be issued to gaming operators only in Local Government Units (LGUs) where the tourist arrivals as certified by the Department of Tourism are 100,000 foreign tourists per annum or more. Furthermore, in order to discourage locals from patronizing the casino, a minimum of Php 1,000 entrance fee shall be charged local players while entrance will be free for foreign players.

The PAGCOM shall collect from casino operators five (5%) percent as gross revenue tax. Further, after such deduction, PAGCOM shall collect additional fifty percent (50%) from the aggregate gross earnings, 37.5% of which shall be earmarked for the Basic Education Program of the Department of Education (DepEd) and shall be in addition to the amounts appropriated in the General Appropriations Act; 2.5% for priority projects of the LGU hosting the gaming facility; and 5 % for the creation of a Trust Fund in the Department of Social Welfare and Development (DSWD) intended for the establishment and operation of rehabilitation centers for the treatment of addictions including compulsive gambling, drug dependency and alcoholism,

among others, and 5% for PAGCOM's administrative cost. The 50% share of the National Government shall be reflected in the GAA as a Special Purpose Fund.

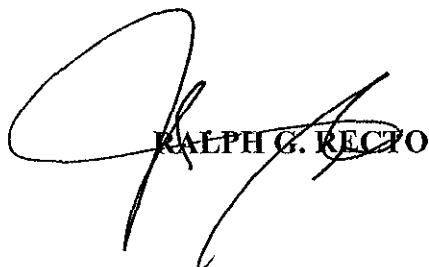
In order to ease the impact of the separation from government service, PAGCOR officials and employees who will opt not to be absorbed by the new PAGCOM, will receive a Severance Mitigation Package (SMP) at the following rates:

- a. 2 x basic monthly pay for every year of service up to 20 years; and
- b. 3 x basic monthly pay for every year of service in excess of 20 years.

The SMP benefits shall be on top of whatever separation and retirement benefits those officials and employees of the abolished PAGCOR may be entitled to. However, once the SMP is availed of, they shall not be eligible for employment in the PAGCOM for the next five (5) years from separation/retirement.

On the other hand, those officials and employees who will opt to stay with PAGCOM and will be able to get a regular plantilla position shall enjoy a compensation package that is not subject to the Salary Standardization Law and should approximate if not exceed what they have been receiving from the abolished PAGCOR.

This bill will ensure the effective operation of gaming corporations in order to provide the government with more funds for the implementation of priority programs. Hence, approval of this bill is earnestly sought.




RALPH G. RECTO



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SENATE

S. B. No. 3178

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Introduced by Senator Ralph G. Recto

AN ACT
CREATING THE PHILIPPINE AMUSEMENT AND GAMING COMMISSION
(PAGCOM), AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND
FOR OTHER PURPOSES

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

Chapter I

GENERAL PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Philippine Amusement and
Gaming Commission (PAGCOM) Act of 2012.”

SEC. 2. *Declaration of Policy.* – It is hereby declared policy of the State to integrate a
centralized and efficient regulatory services in the Philippines in the conduct of operation for all
games of chance and other similar forms of amusement and recreation by providing for the
creation of a Commission, in such a manner as to promote transparency, efficiency and business
viability within its jurisdiction. In the pursuit of this policy, this Act shall have following
objectives:

- (a) To clearly delineate the operation of gaming activities, on one hand, and regulation,
on the other;
- (b) To centralize and consolidate all forms of regulatory power, including licensing and
enforcement, of gaming activities in one governmental entity in order to promote
efficiency, transparency and good governance;
- (c) To place the operation of gaming activities in the hands of the private sector by
privatizing PAGCOR’s current gaming operations;
- (d) To establish, regulate and issue a license to operate business activities of all games of
chance and such other similar forms of amusement and recreation, within the
territorial jurisdiction of the Philippines;
- (e) To ensure that such businesses will generate sources of additional revenue for the
national government;

- 1 (f) To eradicate the evils, malpractices and incidence of corruption that are prevalent in
2 the conduct and operation of gaming clubs and casinos which operate in the absence
3 of governmental supervision;
- 4 (g) To expand and improve the tourism industry;
- 5 (h) To introduce additional safeguards in the regulation and operation of gaming
6 activities; and,
- 7 (i) To professionalize the gaming industry by instituting a rigid system of screening and
8 selection of gaming officials and employees and promoting their career development.

9 **SEC. 3. *Definition of Terms.*** – For purposes of this Act, the terms:

- 10 (a) “Commission” shall refer to the Philippine Amusement and Gaming Commission
11 created under Section 4 of this Act.
- 12 (b) “President” shall refer to the President of the Republic of the Philippines.
- 13 (c) “PAGCOR” shall refer to the Philippine Amusement and Gaming Corporation
14 created under Presidential Decree No. 1869, as amended by Republic Act No. 9487.
- 15 (d) “PMO” shall refer to the Privatization and Management Office organized under
16 Chapter 4 of Executive Order No. 323 (S. 2001).

17 Chapter II

18 PHILIPPINE AMUSEMENT AND GAMING COMMISSION

19 THE COMMISSION

20 **SEC. 4. *Creation.*** - There is hereby created and established an independent, quasi-
21 judicial regulatory body to be named the Philippine Amusement and Gaming Commission
22 (PAGCOM), hereinafter referred to as the Commission. For this purpose, the Commission shall
23 be attached to the Office of the President for supervision and control.

24 **SEC. 5. *Powers and Functions.*** - The Commission shall have the following powers and
25 functions:

- 26 (a) To provide comprehensive policy guidance for the promotion and development of
27 the Commission, as provided in this Act;
- 28 (b) To ensure that the Commission performs its functions in a proper, efficient and
29 effective manner;
- 30 (c) To determine the organizational structure and staffing pattern of the Commission in
31 accordance with the provisions of this Act, subject to existing Department of Budget
32 and Management (DBM) and Civil Service Commission (CSC) rules and regulations:
33 *Provided, That the PAGCOM compensation plan including a performance incentive*
34 *scheme for officials and employees shall be exempted from the Salary*
35 *Standardization Law but subject to the recommendation of the Department of Budget*
36 *and Management and approval of the President of the Philippines;*
- 37 (d) To decide on all matters relating to licenses, certificates, and permits for the operation
38 of gaming activities and prescribe the appropriate terms and conditions thereof;

- 1 (e) To establish and maintain linkages with international gaming commissions,
2 associations or organizations of other countries, and international non-governmental
3 organizations whose main objective is regulation and supervision of games of chance
4 and other similar recreation and amusement activities;
- 5 (f) To coordinate and cooperate with other government agencies and entities concerned
6 with any aspect involving the provisions of this Act;
- 7 (g) To prescribe rules governing proceedings before it;
- 8 (h) To issue provisional remedies and interlocutory orders, including preliminary
9 injunction, whether prohibitory or mandatory, in all cases in which it has jurisdiction,
10 and in which cases the pertinent provisions of the Rules of Court shall apply;
- 11 (i) To punish for contempt in accordance with the pertinent provisions of the Rules of
12 Court;
- 13 (j) To issue *subpoena duces tecum* and *ad testificandum* and summon witnesses to
14 appear in any proceedings of the Commission;
- 15 (k) To administer oaths and affirmations in the transaction and performance of their
16 official duties;
- 17 (l) To conduct investigations and hearings of complaints for violation of gaming laws
18 and of the Commission's rules and regulations, orders, decisions and/or rulings and to
19 impose fines and/or penalties for such violations;
- 20 (m) To determine, prescribe, approve and periodically review and adjust the manner and
21 method of payment of fees, costs, and penalties to be paid to or collected by the
22 Commission;
- 23 (n) To formulate policies, directives, programs and projects, as well as the rules and
24 regulations and guidelines to implement the provisions of this Act; and
- 25 (o) To exercise such other acts as are incidental to or are appropriate and necessary in
26 connection with the creation of the Commission.

27 **SEC. 6. Composition, Qualification and Tenure.** – The Commission shall be headed by
28 a Commissioner as Chairman and four (4) Deputy Commissioners as members, all of whom shall
29 be appointed by the President. They must be citizens of the Philippines, of good moral character,
30 at least thirty-five (35) years of age, holder of a college degree and with at least five (5) years
31 actual and distinguished experience in their respective fields.

32 The President upon recommendation of the Commission shall appoint an Executive
33 Director. He must be a citizen of the Philippines, at least thirty (30) years of age and of good
34 moral character. The Executive Director shall have the following powers and functions:

- 35 (a) Advise and assist the Commission in the formulation and implementation of the
36 objectives, policies, plans and programs of the Commission;
- 37 (b) Direct and supervise officials and employees of the Commission;
- 38 (c) Prepare an annual report on the activities of the Commission at the close of

- 1 each fiscal year and to submit a copy thereof to the President and Congress;
- 2 (d) Keep and maintain official records and reports of the proceedings of the
- 3 Commission;
- 4 (e) Oversee all the operational activities of the Commission;
- 5 (f) Coordinate the programs and projects of the Commission and be responsible for
- 6 its economical, efficient and effective administration;
- 7 (g) Administer oaths in connection with all matters relating to the business of the
- 8 Commission; and
- 9 (h) Perform such other duties as may be assigned by the Commissioner.

10 Any appointment to fill the vacancy in the foregoing provision arising from death,

11 removal, retirement or resignation shall be made only for the unexpired term.

12 **SEC. 7. Meetings and Quorum.** - In all cases, the Commission shall convene and act as

13 a collegial body in all matters referred to in Section 5 of this Act. The Commission shall meet at

14 least once a month, or as determined by the Commission. The presence of at least three (3)

15 members shall constitute a quorum.

16 **SEC. 8. Decision and Appeal.** - In all cases or proceedings before the Commission, the

17 decision of the majority shall prevail. Decisions of the Commission shall become final and

18 executory fifteen (15) days from receipt thereof. Only one (1) motion for reconsideration shall be

19 filed with the Commission.

20 The decision, order or resolution of the Commission shall be appealable to the Office of

21 the President within thirty (30) days from receipt. The decision of the Office of the President

22 shall be final and executory unless stayed by an order of the Court of Appeals.

23 CHAPTER III

24 LICENSING REGULATIONS

25 **SEC. 9. Registration and Licensing of Gaming Operators.**— The Commission shall

26 register and issue license, authority, privilege or permit to gaming operators, subject to such

27 rules, guidelines, procedures and other issuances as the Commission may promulgate:

28 *Provided*, That licenses shall be issued to gaming operators only in municipalities and cities

29 with tourist arrivals of 100,000 or more foreign tourists annually as certified by the Department

30 of Tourism (DOT) unless the gaming facility will be located in a new entertainment resort

31 facility and the DOT certifies as to the potential tourist arrivals equivalent to or more than the

32 required number: *Provided, further*, That the PAGCOM shall require gaming operators to

33 collect an entrance fee of not less than P1,000 for local players while no fees may be collected

34 from foreign players.

35 The Commission shall also ensure that the granting and revocation of licenses,

36 authority, privilege or permits are carried out fairly, transparently, and without discrimination.

37 **SEC. 10. Special Condition on License-Holders.** - After deducting the five percent

38 (5%) gross revenue tax, the Commission shall collect fifty percent (50%) of the aggregate gross

1 earnings of License-Holders, which shall be remitted to the National Treasury: *Provided*, That
2 the equivalent amount shall be included in the General Appropriations Act (GAA) as a Special
3 Purpose Fund with the following breakdown: five percent (5%) for the administrative cost of
4 PAGCOM; two and a half percent (2.5%) for the Local Government Unit (LGU) hosting the
5 gaming facilities; five percent (5%) for the Department of Social Welfare and Development
6 (DSWD) intended for the establishment and operation of rehabilitation centers; and thirty-seven
7 and a half percent (37.5%) for the Basic Education Program (BEP) of the Department of
8 Education (DepEd): *Provided*, That a Trust Fund is hereby created in the DSWD for the
9 operation of rehabilitation centers for all forms of addiction including compulsive gambling,
10 drug dependency and alcoholism: *Provided, further*, That the 37.5% allocation for the BEP of
11 the DepEd shall be in addition to the amounts appropriated in the GAA.

12 CHAPTER IV

13 ABOLITION OF PAGCOR

14 **SEC. 11. *Abolition of the Philippine Amusement and Gaming Corporation***
15 **(PAGCOR).** – The PAGCOR, created under Presidential Decree No. 1869, as amended by
16 Republic Act No. 9847, is hereby abolished.

17 All powers, duties and rights vested by law and exercised by PAGCOR in the
18 performance of its regulatory powers, is hereby transferred to the Commission.

19 All assets, real and personal properties, except those that may be privatized under
20 Chapter V of this Act, including funds and revenues owned by or vested in the different offices
21 of PAGCOR are transferred to the Commission.

22 All contracts, records and documents relating to the powers and functions of the
23 abolished agency, its offices and branches are likewise transferred to the Commission.

24 CHAPTER V

25 PRIVATIZATION OF THE PHILIPPINE AMUSEMENT AND GAMING 26 CORPORATION (PAGCOR)

27 **SEC. 12. *Privatization of PAGCOR's Operations.*** — All assets pertaining to the
28 operations of gaming activities of PAGCOR shall be privatized and disposed of in accordance
29 with this Act, and, as soon as practicable, the Commission on Audit (COA), in coordination with
30 PAGCOR, the Commission and the PMO shall conduct a complete accounting and inventory of
31 such assets to determine and ascertain their nature, description, amount and value, as well as
32 other rights and obligations pertaining thereto, if any.

33 Nothing herein shall be construed as preventing the PMO from causing the appraisal by a
34 third party of any of the assets prior to or in the course of preparing the privatization or
35 disposition plans for the said assets.

36 **SEC. 13. *Additional Mandate of the Privatization and Management Office (PMO).*** - In
37 addition to its powers, duties and functions under Executive Order No. 323 (s. 2001), as
38 amended, the PMO shall, for and in behalf of the National Government, take possession of,

1 conserve, provisionally manage, and dispose of the assets which have been identified for
2 privatization and disposition by the Commission.

3 In the discharge of its mandate under Executive Order No. 323 (s. 2001) and this Section,
4 the PMO is hereby empowered to implement a specific marketing and disposition program for
5 privatization and disposition; to execute and deliver, on behalf of the National Government,
6 deeds of sale, contracts, trust instruments, and other legally operative documents as may be
7 necessary or appropriate to convey title to, take possession of, and conserve, such assets; to
8 engage external expertise as may be necessary in the fulfillment of its tasks under this Act; to
9 adopt internal rules and regulations in relation to the marketing and disposition of the assets; and
10 to submit periodic reports to the Commission on the status of the disposition program.

11 Any and all sales and other modes of privatization or disposition or any form of
12 divestment or transmission of rights over these assets shall not be considered final unless
13 approved or ratified by the Commission.

14 **SEC. 14. Powers of the Privatization and Management Office.**—The PMO is hereby
15 accorded discretionary powers with regard to the preparation of the privatization plans and
16 policies of the assets transferred to it. The PMO is empowered to enter into sales through public
17 bidding, negotiated sale, lease, or any form of divestment or transmission of rights over the
18 assets, including a partnership with the private sector in the management or operation of these
19 assets prior to actual sale or disposition.

20 **SEC. 15. Commission to Determine Transfer Value.**—The Commission is hereby vested
21 with full and complete powers and prerogatives to determine the indicative sale or transfer
22 valuations of the assets identified for privatization or disposition by the PMO, which valuations
23 shall be based on COA's audit report or listing as adverted to or those made by a reputable third-
24 party appraisal firm: *Provided*, That any valuations approved by the Commission shall not be
25 deemed a condonation, waiver, or extinguishment of any obligation by any third party to such
26 assets.

27 **SEC. 16. Reimbursement and Retention.**—In order to fulfil its additional mandate under
28 this section, the PMO shall be reimbursed for reasonable expenses incurred in the management
29 and disposition of these assets, subject to pertinent laws, rules and regulations.

30 **SEC. 17. Remittance of Proceeds of Privatization.**—All proceeds or receipts from the
31 privatization, sale or disposition of the assets, except portions thereof for operational expenses of
32 the Commission, or such amount approved by the Commission to be refunded to the PMO under
33 the preceding section, shall be remitted to the Bureau of Treasury (BTr).

34 **SEC. 18. Reporting Requirements.**—The Commission shall, on a semi-annual basis,
35 submit to the President and to Congress a report on the status of disposition of the assets, which
36 shall include, among others, a description of the individual assets privatized and disposed of,
37 their purchasers, the consideration received, and the terms of payment as agreed upon.

1 **SEC. 26. Repealing Clause. –**

2 (a) Presidential Degree No. 1869, otherwise known as the PAGCOR Charter, as
3 amended by Republic Act No. 9847 is hereby repealed;

4 (b) All laws, executive issuances, orders and rules and regulations contrary to or
5 inconsistent with the provisions of this Act or any part thereof are hereby repealed,
6 amended and/or modified accordingly.

7 Notwithstanding the foregoing, nothing in this Act shall diminish the powers and
8 functions of agencies, relative to the operation and regulation of gaming activities, provided
9 under Republic Act Nos. 7922, 9490, 1169, as amended, and Presidential Decree Nos. 420 and
10 810.

11 **SEC. 27. Effectivity.** - This Act shall take effect fifteen (15) days after its complete
12 publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,