

THIRTEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
First Regular Session)

04 OCT 26 P4:29

SENATE

1834

RECEIVED BY: _____

Senate Bill No. _____

Introduced by Senator Richard J. Gordon

EXPLANATORY NOTE

The Philippines is wealthy beyond imagining, in the richness of its history, culture and natural environment. But what have we done to fully utilize such capital in the development of our nation? Tourism is the only industry that can use such capital assets in a sustainable manner. Tourism is the fastest and most efficient way of generating foreign exchange, investments and employment. Tourism is an engine of growth that can empower our economy to alleviate the poverty of the Filipino people. Yet we have done too little to make tourism the centerpiece of the Philippine economy.

We have lagged far behind our neighbors in tourism. In 2001, Thailand and Malaysia had visitors in excess of 10 million, while Indonesia and Singapore had more than 5 million. Even Vietnam, a country ravaged by war and held back by a communist economy, surpassed the 2 million mark. Our nation, on the other hand, did not even break 2 million visitors that year. If one were to simply think of each tourist spending US\$1000 in our country, how much foreign exchange can be generated if we increase our tourist arrivals from 2 million to 10 million? How much cash will be generated, capital liberated, money invested and jobs created? How many Filipinos can be lifted up out of poverty? We do so much to encourage foreign investment in industry. But most if not all the money these investors make is sent back out to their countries. With tourism, however, we will be bringing the money in, and it will stay in.

Tourism is the largest industry in the world, with 700 million tourists a year, collectively spending hundreds of billions of dollars. We have been blessed by the accidents of fortune with resources to make us competitive in that market. For us to share and succeed in that market, all it takes for us is the will to do so.

Government must have the political will to devote its resources in pursuit of that goal, and must declare that tourism is an industry of national interest, and that it is our primary engine of growth and development. We must find our future in the Philippines.

This bill seeks to change the philosophy of government toward tourism, and to create the necessary political and legal structures to make tourism development happen. Tourism is not some mere token industry. Rather, tourism is the key to lifting our people out from their poverty, giving them jobs and opportunities, and allowing them to live in pride and dignity. No longer will we need to send our people abroad, expose them to the dangers of war and the oppressions of alien cultures, in order to put food on our tables. This bill, if quickly passed into law, will be a key step in attaining the President's goals of ten million jobs for Filipinos within the next six years.


RICHARD J. GORDON

THIRTEENTH CONGRESS)
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Senate Bill No. **1834**

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**AN ACT DECLARING AND IMPLEMENTING A NATIONAL
POLICY FOR TOURISM AS THE PRIMARY ENGINE OF
INVESTMENT, EMPLOYMENT, GROWTH AND
NATIONAL DEVELOPMENT, AND PROVIDING
NECESSARY INCENTIVES THEREFOR**

SECTION 1. Short Title. This act shall be known as the Tourism Act of 2004.

SECTION 2. Declaration of Policy. It is the policy of the State that tourism is an indispensable element of the national economy and an industry of national interest and importance, such that it must be harnessed as an engine of socio-economic and cultural growth to provide investment, foreign exchange and employment, and an enhanced sense of national pride, for all Filipinos. The Department of Tourism may call upon all government departments, agencies and offices to coordinate their efforts in the implementation of this policy. This can be achieved by providing the necessary infrastructure, creating an atmosphere of peace, order and security, and inculcating within the people a culture of sustainable tourism, whereby the benefits of tourism will spread to the greater population and significantly alleviate the poverty of Filipinos.

THE DEPARTMENT OF TOURISM

SECTION 3. Mandate. There shall be a Department of Tourism (the "Department") which shall be the primary government agency charged with the responsibility to determine tourism policy, develop, promote and regulate tourism, instill in the Filipino its fundamental importance in the generation of employment, investment and foreign exchange.

SECTION 4. Powers and Functions. The Department shall have the following powers and functions:

- a. Formulate policies, plans, programs, and projects for tourism as an engine of socio-economic and cultural growth.
- b. Oversee and coordinate the implementation of tourism policy, plans and projects.
- c. Delegate to regional offices in coordination with local governments specific powers and functions in the implementation of tourism policy, plans and projects.
- d. Call upon all agencies to properly carry out their programs in relation to and in coordination with the policies, plans and projects of the Department, and to assist in the implementation of tourism policy, plans and projects.
- e. Represent the government in all conferences and meetings concerning tourism and discharge such responsibilities of the government arising from treaties and international agreements to which it is signatory.
- f. Request the President for representation on all government agencies, offices, boards, commissions or committees that may, directly or indirectly, affect

- tourism, including but not limited to, transportation and travel, peace and order, national emergencies and disaster coordination, public utilities and other public infrastructure, foreign relations and immigration.*
- g. Protect, maintain and preserve historical, cultural and natural endowments with the cooperation of appropriate government agencies and the private sector.
 - h. Require relevant private or public entities to provide increased access to *Philippine airports and seaports for tourists, and adopt measures to attract and assure them of their safety.*
 - i. Call upon relevant government departments, agencies and offices to remove barriers to travel, facilitate the process of obtaining and extending visas, and integrate and simplify of travel regulations and immigration procedures.
 - j. Monitor conditions of any community in the Philippines and issue advisories on *the safety or viability of travel to such communities.*
 - k. Formulate and promulgate rules and regulations for tourism prescribing minimum levels of operating quality and efficiency to ensure that facilities, personnel and services are maintained in accordance with the highest local and international standards.
 - l. Regulate tourism establishments and services, issue licenses therefor, and prohibit the operation of establishments and services that fail to meet minimum operating standards;
 - m. Accredit tourism establishments and services that comply with prescribed standards, and create incentives for compliance.
 - n. Approve and enforce, through local government units, construction, safety and fire standards, among others, of accredited tourism industry establishments and services.
 - o. Approve tourism development plans of local government units.
 - p. Develop programs for training and education in standards and regulatory enforcement to support local government units in the performance of their accreditation, regulation, and enforcement functions.

SECTION 5. Structure of the Department. The Department shall consist of the Department Proper, Department Services, Bureaus and Offices and the Department's Regional Offices. The Department Proper shall consist of the Offices of the Secretary and Undersecretaries.

SECTION 6. Office of the Secretary. The Office of the Secretary shall consist of the Secretary and his immediate staff.

SECTION 7. Undersecretaries. The Secretary shall be assisted by three (3) Undersecretaries, namely:

- a. Undersecretary for Tourism Development, who shall be responsible for the Office of Tourism Development Planning, and Office of Tourism Coordination.
- b. Undersecretary for Tourism Regulation, who shall be responsible for the Office of Tourism Standards and Training, and all Regional Offices.
- c. Undersecretary for Internal Services.

SECTION 8. Office of Tourism Development Planning. The Office of Tourism Development Planning shall, in coordination with Tourism Philippines, have the following functions:

- a. Formulate policies, programs and plans for national tourism development, and approve local government tourism development plans;
- b. Monitor and evaluate the implementation of plans and programs of the Department;
- c. Analyze specific geographical areas with potential tourism value leading to the preparation of a national tourism development plan; and

- d. Formulate, in coordination with the Tourism Enterprise Zone Authority, other government agencies and local government units exercising political jurisdiction over the area, development plans for tourism enterprise zones integrating such plans with other sectoral plans for the area.

SECTION 9. Office of Tourism Coordination. The Office of Tourism Coordination shall have the following functions:

- a. Coordinate with government agencies, local government units, non-governmental organizations, and other private entities for the development and implementation of the national tourism plans and policies;
- b. Call upon the assistance and support of any or all of the government agencies in the implementation of the policies of the Department; and
- c. Support the private sector in all tourism activities requiring governmental assistance.

SECTION 10. Office of Tourism Standards and Training. The Office of Tourism Standards and Training shall have the following functions:

- a. Formulate and enforce standards for tourism establishments and services prescribing minimum levels of operating quality and efficiency in order to ensure that facilities, personnel and services are maintained in accordance with acceptable local and international standards;
- b. License and accredit tourism establishments and services that comply with prescribed standards, and create incentives for compliance;
- c. Coordinate with the Tourism Enterprise Zone Authority, government agencies, local government units, non-governmental organizations, and private entities in the formulation of rules and regulations for the preservation such historical, cultural or natural assets or relics giving the zone its tourism value and significance; and assure adherence to approved zone development plans; and
- d. Provide training and education programs to improve the quality of tourism services;

SECTION 11. Regional Offices. The Department shall establish, operate and maintain a *Regional Office in each of the administrative regions of the country.* A *Regional Office* shall be headed by a Regional Director and shall, within its administrative region, have the following functions:

- a. Implement laws, policies, plans, programs, rules and regulations of the Department, particularly those relating to compliance and accreditation of tourism establishments and services promulgated by the Department; and
- b. Coordinate with regional offices of other departments, bureaus, and agencies, local government units, non-governmental organizations, and the regional offices of the Department's attached agencies in the implementation of such laws, policies, plans programs and rules and regulations.

SECTION 12. Abolished Offices. The Bureaus for Domestic and International Tourism Promotion, and the Offices of Tourism Information and Product Development are hereby abolished. Resources for and personnel performing relevant functions within these bureaus and offices shall, insofar as possible, be integrated within the Tourism Enterprise Zone Authority and Tourism Philippines.

SECTION 13. Nature of Internal Services and their Heads. The Internal Services shall be essentially staff in character, each of which shall be headed by a Service Chief.

SECTION 14. Financial and Management Service. The Financial and Management Service shall provide the Department with staff advice and assistance on budgetary,

financial and management matters and shall perform such other related functions as may be assigned or delegated to it by the Secretary.

SECTION 15. Administrative Service. The Administrative Service shall provide the Department with staff advice and assistance on personnel information, records, communications, supplies, equipment, collection, disbursements, security, other custodial work and such other related duties and responsibilities as may be assigned or delegated to it by the Secretary.

SECTION 16. Legal Service. The Legal Service shall provide the Department with staff advice and assistance on all legal matters affecting the Department and perform such other related functions as may be assigned or delegated to it by the Secretary.

ATTACHED AGENCIES

Tourism Enterprise Zone Authority

SECTION 17. The Tourism Enterprise Zone Authority. Under the supervision of the Secretary shall be a body corporate known as the Tourism Enterprise Zone Authority (TEZA), which shall own, manage, or supervise the Tourism Enterprise Zones (TEZ) established under this Act, and its principal office shall be located in Metro Manila.

SECTION 18. Tourism Enterprise Zones. Every geographic area capable of being defined into one contiguous territory; with areas of historical and cultural significance, environmental beauty, or existing or potential integrated leisure facilities within its bounds, adjacent to it, or within reasonable distance from it; having, or potentially having, strategic access through highways, seaports or airports, and reasonable connection with power, water and sewage systems; while possessing sufficient area to be further utilized for the establishment of tourism enterprises, may be designated, or interested parties from the private sector or local government may apply for an area's designation as, a TEZ.

In connection with and in implementation of this Act, the areas under or covered by Intramuros Administration created under Presidential Decree No. 1616, the Taal Lake Trust Zone created under Republic Act No. 7623, and the Presidential Commission for the Restoration, Conservation and Preservation of The Vigan Heritage Village created under Executive Order No. 358 of 1996 are hereby reorganized as TEZs in accordance with this Act.

Any other area specifically defined as a tourism area or zone under any special or general law, decree, or presidential issuance shall, as soon as possible, be organized into a TEZ under the provisions of this Act.

The National Parks Development Committee created under Executive Order No. 30 of 1963, as amended, is hereby abolished, and TEZs shall then be created under the provisions of this Act for each and every national park whenever and wherever practicable.

The Tourism Enterprise Zone Authority shall coordinate with the Protected Areas and Wildlife Bureau for the development of policies, plans and programs for the conversion of certain areas or portions of national parks under the National Integrated Protected Areas System into TEZs.

The Tourism Enterprise Zone Authority shall coordinate with Tourism Philippines for the transfer of assets of the Philippine Tourism Authority that may be organized as TEZs.

SECTION 19. Development Strategy of TEZs. The strategy and priority of development of each TEZ established pursuant to this Act shall be formulated by the Department through TEZA.

TEZs may be established on the initiative of the national government, local government with the assistance of the national government, or private initiative with the approval of the national government.

It shall be the policy of the government to encourage and provide incentives and facilitate private sector participation in the construction and operation of the public utilities and infrastructure in TEZs, using any of the schemes allowed under the Build Operate and Transfer Law (Republic Act No. 6957, as amended).

Lands identified as part of a TEZ shall be exempt from the coverage of the Urban Development and Housing Program Act of 1992 (Republic Act No. 7279) and the Comprehensive Agrarian Reform Law (Republic Act No. 6657).

SECTION 20. Administration. The TEZA shall be governed by a Board of Directors (the "TEZA Board"), composed as follows:

- a. The Department Secretary, as chairperson
- b. The Undersecretary for Tourism Development
- c. The Administrator of the Tourism Enterprise Zone Authority
- d. A representative each from the Departments of Public Works and Highways, Transport and Communications, Interior and Local Governments, and Trade and Industry
- e. Four directors appointed by the President

The TEZA's powers, business and property shall be exercised, conducted and held by the TEZA Board. The TEZA Administrator shall implement the actions required by the TEZA Board.

SECTION 21. The TEZA Administrator. The TEZA shall have and Administrator who must be a Filipino, have a postgraduate degree in business, law, tourism, or public administration, and have demonstrated expertise in any of those fields. He must have been engaged in a managerial capacity for at least five (5) years prior to his appointment.

SECTION 22. Directors by Appointment of the President (Representative Directors). The Tourism Related Industries Congress shall recommend at least eight persons, from which the President shall appoint four to serve as Representative Directors to represent the tourism industry, specifically the following sectors: air, sea and land transportation; hotel and resort sectors; tour operators; and real estate development. A Representative Director must be a Filipino engaged in the management of business in the sectors they represent for at least ten (10) years, and have demonstrable expertise in their respective industries or sectors.

These directors shall serve terms of three years. The first three directors appointed under this provision shall serve three, two and one years respectively.

SECTION 23. Meetings of the Board. The TEZA Board shall meet at least once a month at the TEZA's principal office unless the TEZA Board had previously agreed in writing to meet at another location.

SECTION 24. General Powers and Functions of the TEZA. The TEZA Board shall have the general powers of a body corporate, which includes the power of succession, to sue and be sued in such corporate name, to acquire, hold and dispose of real and personal

property, to adopt, amend and repeal its bylaws, and to enter into contracts of every kind. In relation to its functions, it shall also specifically have the power to:

- a. Enter into, make, perform and carry out contracts of every class, kind and description which are necessary or incidental to the realization of its purposes with any person, firm or corporation, private or public, and with foreign government entities;
- b. Contract loans, indebtedness and credit, issue commercial papers and bonds, in any local or convertible foreign currency from any international financial institutions, foreign government entities, and local or foreign private commercial banks or similar institutions under terms and conditions prescribed by law, rules and regulations;
- c. Execute any deed of guarantee, mortgage, pledge, trust or assignment of any property for the purpose of financing the programs and projects deemed vital for the early attainment of its goals and objectives, subject to the provisions of Article VII, Section 20, and Article XII, Section 2, paragraphs (4) and (5) of the Constitution;
- d. Construct, own, lease, operate and maintain public utilities as well as infrastructure facilities;
- e. Reclaim or undertake reclamation projects as it may deem necessary in areas adjacent or contiguous to the TEZA's lands described in Section 7 of this Act either by itself or in collaboration with the Public Estates Authority (PEA) established under Presidential Decree No. 1084 as amended;
- f. Receive donations, grants, bequests and assistance of all kinds from local and foreign governments and private sectors and utilize the same;
- g. Exercise eminent domain;
- h. Develop policies, plans and programs in coordination with the Department for the development and operation of TEZs, recommending to the local government units or other appropriate authorities the location, incentives, basic services, utilities and infrastructure required or to be made available for said entities;
- i. Register, regulate and monitor enterprises in TEZs;
- j. Coordinate with local government units and exercise general supervision over the development, plans, activities and operations of the TEZs;
- k. Review proposals for the establishment of TEZs based on criteria provided hereunder as further defined by rules and regulations, and facilitate and assist in the organization of said entities.

The TEZA shall be deemed a government infrastructure corporation under the provisions of the Administrative Code of 1987 (Executive Order No. 292, Book IV, Chapter 13, Section 58).

SECTION 25. Powers and Functions of the TEZA Administrator. The TEZA Administrator shall coordinate the policies, plans and programs concerning TEZs. As such, he shall provide overall supervision over and general direction to the development of TEZs. He shall determine the structure and the staffing pattern and personnel complement of the TEZA and establish offices when necessary, all subject to the approval of the TEZA Board.

In addition, he shall have the following specific powers and responsibilities:

- a. Coordinate with the Philippine National Police in safeguarding all the lands, buildings, records, monies, credits and other properties and rights of investors within TEZs;
- b. Ensure that all revenues of the TEZs are collected and applied in accordance with law;
- c. Submit to the Board the ongoing and proposed projects, work and financial programs, annual budget of receipts, and expenditures of the TEZs;

- d. Acquire jurisdiction, as he may deem proper, over the protests, complaints, and claims of the residents and enterprises in a TEZ concerning administrative matters;
- e. Recommend to the Department Secretary the grant, approval, refusal, amendment or termination of the TEZ franchises, licenses, permits, contracts, and agreements in accordance with the policies set by the Department Secretary;
- f. Require owners of houses, buildings or other structures constructed without the necessary permit whether constructed on public or private lands, to remove or demolish such houses, buildings, structures within sixty (60) days after notice and upon failure of such owner to remove or demolish such house, building or structure within said period, the TEZA Administrator or his authorized representative may summarily cause its removal or demolition at the expense of the owner, any existing law, decree, executive order and other issuances or part thereof to the contrary notwithstanding;
- g. Take such emergency measures as may be necessary to avoid fires, floods and mitigate the effects of storms and other natural or public calamities; and
- h. Subject to the approval of the Department Secretary, issue rules and regulations to implement the provisions of this Act.

SECTION 26. Capitalization. The national government shall appropriate the sum of five hundred million pesos for the capitalization of TEZA.

SECTION 27. Survey of Resources. The TEZA shall, in coordination with appropriate authorities and neighboring cities and municipalities, conduct a survey of the physical, natural assets and potentialities of TEZ areas under their jurisdiction.

SECTION 28. Registration. Business enterprises within a TEZ shall register with the TEZA to avail of all incentives and benefits provided for in this Act.

SECTION 29. Civil Dispute Resolution. The TEZA shall establish a civil dispute mediation office to assist in the resolution of civil disputes within a TEZ where one of the parties to the dispute is a non-resident alien. No civil dispute in a TEZ involving a non-resident alien may be filed in court without having undergone mediation proceedings under this section. The TEZA shall charge reasonable fees for civil dispute mediation.

SECTION 30. Labor Dispute Resolution. To resolve disputes between workers and employers for any violation of the Labor Code (Presidential Decree No. 442, as amended), the TEZA shall establish a labor dispute resolution office to mediate between workers and employers. The TEZA shall charge reasonable fees for labor dispute resolution.

In order to promote a stable investment climate, and realizing the critical role tourism plays in the Philippine economy, employees operating enterprises operating within the Zone shall be prohibited from engaging in strikes or strike-related activity within five years from the establishment of the enterprise.

The Department of Labor and Employment and the National Labor Relations Commission shall not acquire jurisdiction over any complaints arising from a violation of the Labor Code or its rules and regulations from an enterprise located and operating within a TEZ unless such a complaint has undergone labor dispute resolution with the TEZA.

SECTION 31. Compensation of Employees. Recognizing the critical employment condition of the Philippines, employers operating establishments within a Zone are hereby authorized, subject to rules jointly promulgated by the TEZA and the DOLE, to comply with minimum wage laws and regulations by crediting the fair value of

supplements and facilities provided the worker, such as but not limited to housing, meals, transportation, health care and other benefits, in the computation of minimum wages paid.

SECTION 32. Investigation and Inquiries. Upon a written formal complaint made under oath, which on its face provides reasonable basis to believe that some anomaly or irregularity might have been committed within the TEZ, the TEZA Administrator shall have the power to inquire into the conduct of firms or employees in the TEZ and to conduct investigations. For that purpose, he may subpoena witnesses, administer oaths, and compel the production of books, papers, and other evidence. The TEZA Administrator may also grant immunity from prosecution to any person whose testimony or whose possessions of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by him or under his authority.

SECTION 33. One-stop Shop Processing. At the national TEZA office and within every TEZ, the TEZA shall establish an office where a TEZ investor or enterprise can obtain all necessary permits and licenses from all national and local government offices. All government agencies shall assign representatives to TEZs to coordinate with the TEZA for the issuance of such permits and licenses.

SECTION 34. Subsidiary Corporations. In the fulfillment of its mandate, TEZA is hereby authorized to create wholly or partially owned subsidiary corporations for the ownership, operation or management of enterprises within TEZs.

SECTION 35. Administration of TEZs. Each TEZ shall be administered by a zone administrator appointed by the TEZA Board on recommendation of the TEZA Administrator. No person shall be appointed zone administrator unless he is a Filipino, with a postgraduate degree in business, law, tourism, or public administration, and demonstrated expertise in any of those fields. He must have been engaged in a managerial capacity for at least five (5) years prior to his appointment.

SECTION 36. Consultative Committees. To assist the zone administrator in the performance of his functions, a consultative committee shall be formed of all the local government chief executives of the local government units whose territories overlap, are part of, or are included in the TEZ, as well as one representative each from the TEZ's investors and registered labor unions. The TEZA Board may, in view of specific relevant interests other groups or sectors may have in the operation of a TEZ, allow representation on the consultative committee from other concerned groups or sectors, such as but not limited to religious groups, indigenous cultural communities, and non-governmental organizations.

SECTION 37. Privately-owned TEZs. Privately owned TEZs shall operate autonomously and independently of the TEZA, but shall nevertheless be monitored by the TEZA for the implementation of incentives.

Tourism Philippines

SECTION 38. Tourism Philippines. The Philippine Tourism Authority (PTA) and the Philippine Convention and Visitors Corporation (PCVC) are hereby absorbed into a corporate entity known as Tourism Philippines. All the assets of the PTA and the PCVC are hereby transferred to Tourism Philippines. Tourism Philippines shall be under the supervision of the Secretary, and its principal office shall be located in Metro Manila.

SECTION 39. Mandate. Consistent with policies defined and provided by the Department, Tourism Philippines shall be a body corporate primarily responsible for marketing and promotion of the Philippines as a tourism destination and its tourism products, and secondarily, in the planning, research, and development of tourism

products, as well as the construction, operation and management of necessary infrastructure for tourism development.

SECTION 40. Administration. Tourism Philippines shall be governed by a Board of Directors (the Tourism Board), composed as follows:

- a. The Department Secretary, as chairperson
- b. The Tourism Philippines Chief Operating Officer
- c. Four directors appointed by the President
- d. Three directors appointed by the Department Secretary

The Tourism Board shall exercise all of Tourism Philippines's powers, conduct its business, and control and hold its property. The Chief Operating Officer, in coordination with the Executive Directors, shall implement the actions required by the Tourism Board.

SECTION 41. The Chief Operating Officer. The Chief Operating Officer shall be appointed by the Department Secretary. The Chief Operating Officer must be a Filipino, have a postgraduate degree in business, law, tourism, or public administration, and have demonstrated expertise in any of those fields. He must have been engaged in the managerial capacity for at least five (5) years prior to his appointment.

SECTION 42. Directors by Appointment of the President (Representative Directors). The Tourism Related Industries Congress shall recommend at least eight persons, from which the President shall appoint four to serve as Representative Directors to represent the tourism industry, specifically the following sectors: air, sea and land transportation; hotel and resort sectors; tour operators; and other leisure activity enterprises. A Representative Director must be a Filipino engaged in the management of business in the sectors they represent for at least ten (10) years, and have demonstrable expertise in their respective industries or sectors.

These directors shall serve terms of three years. The first three directors appointed under this provision shall serve three, two and one years respectively.

SECTION 43. Directors by Appointment of the Department Secretary (Executive Directors). The Secretary shall appoint three persons to serve as Executive Directors to manage the primary and secondary functions of Tourism Philippines. An Executive Director must be a Filipino, having a postgraduate degree in a field relevant to the function to which he has been assigned to perform, and must have been engaged in a managerial capacity for at least five (5) years prior to his appointment, performing functions relevant to the tasks of his office.

SECTION 44. Powers of the Tourism Philippines. The Tourism Philippines, as a body corporate, shall have a corporate name and a corporate seal, the power of succession, to sue and be sued in its own name.

It shall also have the power to enter into contracts in the performance of its functions, and to hold, possess, lease, own, dispose or alienate real and personal property as it deems necessary for the conduct of its business. In relation thereto, it may:

- a. Enter into contracts as provided under the Build-operate-transfer Law (Republic Act No. 6957, as amended);
- b. Contract loans, indebtedness, credit and issue commercial papers and bonds, in any local or convertible foreign currency from any international financial institutions, foreign government entities, and local or foreign private commercial banks or similar institutions under terms and conditions prescribed by law, rules and regulations;

- c. Execute any deed of guarantee, mortgage, pledge, trust or assignment of any property for the purpose of financing the programs and projects deemed vital for the early attainment of its goals and objectives, subject to the provisions of the Constitution (Article VII, Section 20, and Article XII, Section 2, paragraphs (4) and (5)); and
- d. Receive donations, grants, bequests and assistance of all kinds from local and foreign governments and private sectors and utilize the same.

SECTION 45. Meetings of the Board. The Tourism Board shall meet at least once a month at the Tourism Philippines's principal office unless the Board had previously agreed in writing to meet at another location.

A quorum for the holding of a meeting shall consist of four voting members, and two non-voting members. The voting members of the Board are the Chairman, the TEZA Administrator, the Chief Operating Officer and the Representative Directors. The Executive Directors shall be present at and participate in Tourism Board meetings, but shall not vote.

Section 46. Structure and Functions of the Tourism Philippines. The Tourism Board shall, upon the recommendation of the Chief Operating Officer, have the power to organize the Tourism Philippines in a manner most efficient and economical for the conduct of its business.

The Chief Operating Officer shall carry out administrative and financial functions, as well as oversee the operations of foreign and domestic offices.

The Executive Directors shall respectively be appointed to carry out the following functions:

- a. Primary function: Marketing and Promotions, which involves the promotion and advertising of tourism products, both domestically and internationally, public relations and advertising, and the coordinating with the private sector for the conduct of conventions and other tourism events;
- b. Secondary functions:
 - i. Planning and Development, which involves the development of tourism products, market research and statistics, and education and training;
 - ii. Business and Investments Management, which involves the assessment of the assets of the PTA and PCVC, determining how these assets may best be utilized, and maximizing the value of such assets by their disposition or operation. The operations of Duty Free Philippines shall be the responsibility of the Executive Director for Business and Investments Management. Tourism Philippines may also establish and operate tourism establishments or services when and where necessary.

The Tourism Board is hereby encouraged to enter into contractual arrangements to outsource the performance of Tourism Philippines's functions but under the full control and supervision of the Board through the responsible Executive Director, subject to the provisions of relevant laws, in order to minimize the cost of Tourism Philippines's operations.

SECTION 47. Capitalization. The capital of Tourism Philippines shall consist of the combined assets of the PTA and the PCVC. Immediately after the effectivity of this Act, an audit shall be conducted to determine the true extent and value of the assets of the PTA and PCVC.

The national government shall further appropriate an amount of two hundred million

pesos to capitalize the operations of Tourism Philippines.

SECTION 48. Funding. Tourism Philippines shall obtain the funds for its operations through the following:

- a. The National Government shall, for the first five years from the effectivity of this Act, appropriate an amount for the Tourism Philippines equivalent to at least the Department's 2004 allocation for marketing and promotions and product development, as well as any appropriations in 2004 for the PTA and the PCVC;
- b. The full amount collected from travel taxes;
- c. Income from the operations of Duty Free Philippines, Tourism Enterprise Zones as hereinafter provided, and Tourism Philippines investments and subsidiaries;
- d. A reasonable percentage to be determined by the President but not less than 25% of the revenues of the Philippine Amusements and Gaming Corporation; and
- e. A reasonable percentage to be determined by the President but not less than 25% of all collections on fees imposed upon the travel of persons by airports and seaports

The Department shall collect a fee of one to two percent (1% to 2%) of the gross receipts of tourism industry establishments and services not located within tourism enterprise zones, of which 40% shall be remitted to the Tourism Philippines, and 60% for the national government. The appropriate rate to be imposed shall be determined on the nature of the establishment's business, and the establishment's compliance with Department's prescribed standards for accreditation.

At least half of all Tourism Philippines funding shall be devoted to the marketing and promotions function of Tourism Philippines.

SECTION 49. Personnel and Compensation. The Chief Operating Officer shall, with the approval of the Board of Directors, create a reasonable system of employee compensation, position qualification and qualification standards.

The employees, Executive Directors, and Chief Operating Officer of the Tourism Philippines shall be exempt from the salary standardization law. Their compensation shall be determined by the financial condition of the Tourism Philippines, the need to maintain a fund for its operations, and prevailing market rates for employees in similar positions.

The Department Secretary and the Representative Directors shall not be entitled to compensation, but may receive reasonable per diems for attendance at regular and special Board meetings.

Within one year from the effectivity of this Act, Tourism Philippines shall rationalize its manpower and staffing requirements. Employees separated from the service as a result of such rationalization shall be entitled to benefits provided by law.

SECTION 50. Subsidiary Corporations. In the fulfillment of its mandate, Tourism Philippines is hereby authorized to create wholly or partially owned subsidiary corporations for the ownership, operation or management of tourism related enterprises.

TEZA INVESTMENT INCENTIVES

SECTION 51. Fiscal and Non-fiscal Incentives. Importations of capital goods into a TEZ for use by a TEZA registered enterprises within a TEZ shall be imported without duties. The Department in conjunction with the Bureau of Internal Revenue and the

Bureau of Customs shall promulgate rules and regulations for the implementation of this provision, provided that no importations of foreign capital goods shall be allowed where competitive products with significant Philippine component are available in the domestic market.

Purchases of local goods and services by TEZA registered enterprises for use within the TEZ shall be value-added tax zero-rated.

TEZA registered enterprises shall be entitled to an income tax holiday for five years from the start of its operations. Such an income tax holiday may be extended for up to an additional five years if the TEZA registered enterprise undertakes a major expansion or upgrade of its facilities. The additional period shall be computed in proportion of the cost of the expansion or upgrade in relation to the total assets of the enterprise.

After the expiration of the income tax holiday, TEZA registered enterprises shall also be entitled, in lieu of all national and local taxes, a tax on gross income at a rate of two percent to three percent (2 to 3%), depending on the amount of investment and the number of persons employed. The Department, together with the BIR, will promulgate the necessary rules for the implementation of this provision.

One-third of the proceeds of such a tax shall be remitted to the affected local governments, communities one-sixth to Tourism Philippines, one-sixth to TEZA, and one-sixth shall be remitted to the national government. The remaining one-sixth shall be placed in a special fund to be used specifically for the preservation of the local culture, heritage sites and the environment in or around the TEZ.

TEZ registered enterprises shall be entitled to avail of preferential rates for power, water and other public utilities for industrial consumers.

SECTION 52. Remittance of Foreign Exchange. Without prior Bangko Sentral approval, after tax profits and other earnings of foreign investments in enterprises in the Zone may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the Bangko Sentral ng Pilipinas in the TEZ provided such foreign investments in said enterprises have been previously registered with the Bangko Sentral.

SECTION 53. Lease of Land. Consistent with the provisions of the Investor's Lease Act (Republic Act No. 7652), lands and buildings in each TEZ may be leased to foreign investors for a period not exceeding fifty (50) years, renewable once for a period of not more than twenty-five (25) years. The leasehold right acquired under long-term contracts may be sold, transferred or assigned, subject to the conditions set forth under the Investor's Lease Act.

SECTION 54. Restoration of Cultural Heritage. The cost of restoring material cultural heritage within a TEZ in accordance with rules and regulations issued by the National Historical Institute shall be a fully deductible expense. Likewise, income derived by construction enterprises from such restoration activities shall be tax-exempt.

SECTION 55. Visa Privileges. Any investor within the a TEZ whose initial investment shall not be less than one hundred thousand dollars, and his/her spouse and dependent children under twenty-one years of age shall be granted permanent resident status.

The TEZA shall issue working visas renewable every two years to foreign executives and other aliens, possessing highly-technical skills which no Filipino within the TEZ possesses, as certified by the Department of Labor and Employment. The names of aliens granted permanent resident status and working visas by the TEZ shall be reported to the Bureau of Immigration within thirty days after issuance thereof.

MISCELLANEOUS PROVISIONS

SECTION 56. Tourism Coordinating Council. A council shall be formed consisting of the Department Secretary, as chairman, his undersecretaries, the TEZA Administrator, the Chief Operating Officer of Tourism Philippines, the Tourism Industries Congress representatives on the Boards of Tourism Philippines and TEZA, the heads of other attached agencies, the Secretaries of the Departments of Transportation and Communication (DOTC), Public Works and Highways (DPWH), Foreign Affairs (DFA), Environment and Natural Resources (DENR), Education (DepEd), Interior and Local Government (DILG), Labor and Employment (DOLE) and the heads of the Philippine National Police (PNP), Bureau of Immigration (BI), National Historical Institute (NHI), National Center for Culture and the Arts (NCCA), Philippine Sports Commission (PSC), Philippine Retirement Authority (PRA) and such other government agencies that the President may designate, that shall serve as a coordinating body for national tourism development efforts.

SECTION 57. The Tourism Industries Congress. Tourism related industries, and such other service providers as the Department Secretary may define and designate, shall form a Tourism Industries Congress (TRICON) under such terms and conditions as they may agree upon, that shall serve as the private sector consultative body to assist the government in the development, implementation and coordination of Philippine tourism policy.

Tourism related industries consist of, but are not limited to, the following establishments or service providers: tour operators, tourist transport operators, whether of land, sea or air transportation, tour guides, mountain/cave guides, professional convention organizers; hotels, resorts, apartelles, tourist inns, motels, pension houses, restaurants, shops & department stores, sports & recreational centers, spas, museums & galleries, foreign exchange dealers, homestay sites, theme parks, convention centers and zoos. The Department Secretary may designate other industries, establishments or service providers as part of the TRICON.

SECTION 58. Civil Aeronautics Board. Realizing the critical importance aviation plays in the tourism industry, the Department Secretary shall be designated as ex-officio vice-chairman of the Civil Aeronautics Board.

SECTION 59. Manila International Airport Authority. Realizing the critical importance international airports play in increasing fast and friendly access by international tourists, the Department Secretary shall be designated ex-officio vice-chairman of the Manila International Airport Authority.

SECTION 60. Incentives for Accredited Non-TEZ Tourism Industry Enterprises and Services. Accredited tourism industry enterprises and services not registered with the TEZA shall be entitled to avail of preferential rates for power, water and other public utilities for industrial consumers.

Accommodation establishments shall be entitled, for purposes of taxation, to fully deduct the cost of major expansions, renovations and upgrading of facilities.

SECTION 61. Education. The Department shall work closely with the DepEd for the development of educational programs for the primary and secondary educational levels that assist in the creation of a culture of tourism, specifically through the enhancement of education in languages, history and culture.

The Department shall also work closely with the Commission for Higher Education in the regulation of colleges and universities that grant undergraduate and postgraduate

degrees in tourism.

The Technology and Skills Manpower Development Administration is hereby mandated to develop programs, in conjunction with the Department, for the training of tourism entrepreneurs by providing programs for languages, history and cultural appreciation, and small business management.

SECTION 62. Government Banks and Financial Institutions. Insofar as allowed by applicable laws and their respective charters, government owned and controlled banks and financial institutions should provide microfinance schemes for the assistance and development of entrepreneurial enterprises in the tourism industry.

SECTION 63. Visa Privileges for Tourists. In view of the urgent need to make the Philippines a more tourist-friendly destination, the Department and the DFA are hereby directed to jointly promulgate rules creating a liberalized system for granting tourist visas within six months from the effectivity of this Act, taking into particular consideration the fees charged, the periods granted, and the procedures undertaken.

SECTION 64. No Injunctions Clause. No temporary restraining order or preliminary injunction shall be issued or be effective against the TEZA unless the same is issued by the Supreme Court of the Republic of the Philippines.

SECTION 65. Local Governments. In view of the urgent need to develop a national strategy for tourism development within a framework for decentralized governance, the Department and local governments shall work closely for tourism development.

The Department shall regulate and prescribe standards for the operation of tourism industry enterprises and services. No local government unit shall allow the operation of a tourism industry enterprise or service within its territory unless such operation is consistent with the local government's tourism development plans, and that such enterprise or service has obtained a certification from the Department that such enterprise or service is reasonably needed in the context of the national tourism developmental plans. The Department may require that every tourism industry enterprise or service post a bond for the performance of functions in accordance with prescribed standards.

Each and every province and city shall have a tourism officer who shall coordinate with the proper Department regional office for the preparation of strategic tourism development plans. Municipalities seeking to develop tourism in their areas may have a tourism officer who shall coordinate with the provincial tourism officer in the preparation of strategic tourism development plans. Local government tourism officers shall work closely with the Department regional office in the enforcement of tourism laws, rules and regulations.

The Department shall develop support and training programs to enhance the capacities and capabilities of local governments to monitor and administer tourism activities, and enforce tourism laws, rules and regulations in their respective jurisdictions.

Except as herein provided, local government units the territorial jurisdictions of which comprise, overlap, embrace or include a TEZ shall retain their basic autonomy and identity. The cities shall be governed by their respective charters and the municipalities shall operate and function in accordance with Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

SECTION 66. Relationship with Economic Zones. The Department and the DTI shall promulgate rules and regulations to govern the relationship between TEZs created under this Act, and economic zones created under Republic Acts No. 7227 or 7916, as

amended, where the area comprising a TEZ overlaps, falls within or encompasses that of an economic zone, provided, that such rules and regulations shall consider the special nature and requirements of tourism in relation to other industries, establishments and operations in economic zones.

SECTION 67. Other Investment Incentives. The investment incentives offered under this Act shall be without prejudice to the availment of other incentives provided under other laws, decrees, presidential issuances. However, where such other laws, decrees or issuances provide for similar or identical benefits, the beneficiary may only elect to avail of the benefit provided under one particular law, decree or issuance.

SECTION 68. Implementing Rules and Regulations. The Secretary of Tourism shall have the power to issue rules and regulations to implement this Act. He shall submit such Implementing Rules and Regulations to the Congressional Oversight Committee for its approval within thirty days from the effectivity of this Act.

SECTION 69. Congressional Oversight. An oversight committee consisting of five members each from both houses of Congress shall constitute a Joint Congressional Oversight Committee responsible for overseeing the implementation of this Act.

SECTION 70. Repealing Clause. Presidential Decree No. 189, as amended, creating the Philippine Tourism Authority, Presidential Decree No. 1448, as amended, creating the Philippine Convention and Visitors Corporation, and Presidential Decree No. 1616, as amended, creating the Intramuros Administration, are hereby repealed. The provisions of Executive Orders No. 292 (The Administrative Code of 1987, as amended), the Labor Code (Presidential Decree No. 442, as amended), the Local Government Code (Republic Act No. 7160), Executive Order No. 30 of 1963 and Executive Order No. 358 of 1996, and all other laws, presidential decrees, executive orders, proclamations and administrative regulations inconsistent with the provisions of this Act are hereby amended, modified, superseded or repealed accordingly.

SECTION 71. Separability Clause. In the event that any provision of this Act or parts thereof be declared unconstitutional, such declaration shall not affect the validity of the other provisions.

SECTION 72. Effectivity Clause. This Act shall take effect one month after the completion of its publication in a newspaper of general circulation.

Approved,