

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

5 AUG 23 P4:12

SENATE
S. No. 2098

RECEIVED BY: 

Introduced by **Senator Richard J. Gordon**

EXPLANATORY NOTE

The recent pronouncement of the Supreme Court in *Coconut Oil Refiners, Inc., et al. vs. Torres, et al.*, G.R. No. 132527, 29 July 2005, and *John Hay Peoples Alternative Coalition, et al. vs. Lim, et al.*, G.R. No. 119775, 24 October 2003, on the lack of an express legislative grant of incentives to investors in Clark Special Economic Zone and other Special Economic Zones created pursuant to Republic Act No. 7227, as amended, except Subic Special Economic and Freeport Zone, has caused uncertainty among many investors in these special economic zones.

Because this unexpected development has been perceived as suddenly changing the rules in the middle of the game, some investors have threatened to shut down operations and layoff workers, with some already contemplating to leave the country. If this matter is not addressed soon, then development in these special economic zones will come to a halt as investors will be inclined to locate elsewhere.

As a curative legislative measure, this bill seeks to amend Republic Act No. 7227, as amended, otherwise known as the Bases Conversion and Development Act of 1992, to clearly provide for incentives to investors in Clark Special Economic Zone and other Special Economic Zones created or to be created under this law. It intends to extend the incentives provided for in Republic Act No. 7916, as amended, or The Special Economic Zone Act of 1995, to zones covered by Republic Act No. 7227, as amended, including Subic Special Economic and Freeport Zone, to provide uniformity of incentives to investors as well. This bill also includes the express grant of the Freeport status to the Poro Point Special Economic and Freeport Zone, ensuring the free flow or movement of goods and capital within, into and exported out of the Poro Point Special Economic and Freeport Zone, with the same incentives as the Subic Special Economic and Freeport Zone.


To assuage the fear of investors brought about by the recent Supreme Court decisions and to ensure the continued development in these zones, the passage of this bill is earnestly sought.


RICHARD J. GORDON
Senator

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**AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN
AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992**

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

1 SECTION 1. Sec. 12 (c) of Republic Act No. 7227, as amended, otherwise known as
2 the Bases Conversion and Development Act of 1992, is hereby amended to read as follows:

3 "Sec. 12 *Subic Special Economic Zone.* – . . .

4 . . .

5 (c) The provisions of existing laws, rules and regulations to the
6 contrary notwithstanding, no taxes, local and national, shall be imposed within
7 the Subic Special Economic Zone. In lieu of paying taxes, three percent (3%)
8 of the gross income earned by all businesses and enterprises within the Subic
9 Special Economic Zone shall be remitted to the National Government, one
10 percent (1%) each to the local government units affected by the declaration of
11 the zone in proportion to their population area, and other factors. In addition,
12 there is hereby established a development fund of one percent (1%) of the
13 gross income earned by all businesses and enterprises within the Subic
14 Special Economic Zone to be utilized for the development of municipalities
15 outside the City of Olongapo and the Municipality of Subic, and other
16 municipalities contiguous to the base areas.

17 BUSINESSES AND ENTERPRISES WITHIN THE SUBIC SPECIAL
18 ECONOMIC ZONE MAY ALSO AVAIL OF THE INCENTIVES AS PROVIDED
19 FOR UNDER REPUBLIC ACT NO. 7916, AS AMENDED, OR THE SPECIAL
20 ECONOMIC ZONE ACT OF 1995.

1 In case of conflict between national and local laws with respect to tax
2 exemption privileges in the Subic Special Economic Zone, the same shall be
3 resolved in favor of the latter;

4 . . .”

5 Sec. 2. Sec. 15 of Republic Act No. 7227, as amended, otherwise known as the
6 Bases Conversion and Development Act of 1992, is hereby amended to read as follows:

7 “Sec. 15. *Clark and other Special Economic Zones.* – . . .

8 . . .

9 BUSINESS ESTABLISHMENTS OPERATING WITHIN CLARK
10 SPECIAL ECONOMIC ZONE AND OTHER SPECIAL ECONOMIC ZONES
11 CREATED OR TO BE CREATED UNDER THIS SECTION SHALL BE
12 ENTITLED TO THE INCENTIVES AS PROVIDED FOR UNDER REPUBLIC
13 ACT NO. 7916, AS AMENDED, OR THE SPECIAL ECONOMIC ZONE ACT
14 OF 1995.”

15 Sec. 3. Section 15-A of Republic Act No. 7227, as amended, otherwise
16 known as the Bases Conversion and Development Act of 1992, is hereby inserted to
17 read as follows:

18 “SEC. 15-A. *PORO POINT SPECIAL ECONOMIC ZONE.* – THE
19 PORO POINT SPECIAL ECONOMIC AND FREEPORT ZONE CREATED
20 UNDER PROCLAMATION NO. 216, HEREINAFTER REFERRED TO AS
21 THE PORO POINT SPECIAL ECONOMIC ZONE, SHALL BE SUBJECT TO
22 THE SAME POLICIES AS THE SUBIC SPECIAL ECONOMIC ZONE UNDER
23 SECTION 12. THE PORO POINT SPECIAL ECONOMIC ZONE SHALL
24 HAVE THE SAME FREEPORT STATUS AND ENJOY THE SAME
25 INCENTIVES AS THE SUBIC SPECIAL ECONOMIC ZONE.”

26 Sec. 4. *Transitory Provision.* – The enjoyment of incentives and privileges in relation
27 to Republic Act No. 7227, as amended, otherwise known as the Bases Conversion and
28 Development Act of 1992, pursuant to executive issuances, including Executive Order No.
29 80, BCDA Board Resolution No. 93-05-034, Executive Order No. 97-A, and Presidential
30 Proclamation No. 420, prior to their declaration of invalidity by the Supreme Court shall be
31 recognized as an operative fact. From that time forward, this Act shall have limited
32 retroactive effect on the non-imposition of additional tax burden that may be imposed on
33 investors on account of the invalidity of such executive issuances.

1 *Sec. 5. Repealing Clause.* – All laws, decrees, orders, rules and regulations or other
2 issuances or parts thereof inconsistent with the provisions of this Act, including Section 50
3 of Republic Act No. 7916, as amended, otherwise known as The Special Economic Zone
4 Act of 1995, are hereby repealed or modified accordingly.

5 *Sec. 6. Separability Clause.* – If any portion or provision of this Act is declared
6 unconstitutional, the remainder of this Act or any provision not affected thereby shall remain
7 in force and effect.

8 *Sec. 7. Effectivity.* – This Act shall take effect after fifteen (15) days following the
9 completion of its publication either in the Official Gazette or in a newspaper of general
10 circulation in the Philippines.

11 Approved,