

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

5 SEP 22 P 4:42

SENATE

RECEIVED BY: dlu

S. BILL NO. 2133

Introduced by Senator Ralph G. Recto

EXPLANATORY NOTE

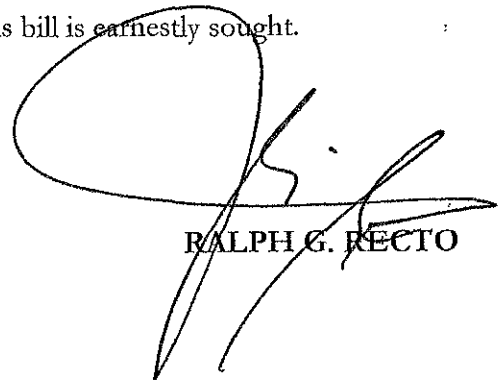
This bill seeks the establishment of a special economic zone and free port in the Island Garden City of Samal, Province of Davao del Norte.

Poverty of majority of Filipinos is an issue of national concern, which the government should immediately address. If government wants to minimize, if not eradicate poverty and hasten economic recovery of the country, it should enact measures to encourage the infusion of foreign investments to generate employment for our people thereby improving their quality of life.

The establishment of an economic zone in the Island Garden City of Samal is proffered as a vehicle that would contribute to the urgent national effort of curbing poverty. As proposed, the zone will be a self-sustaining industrial, commercial, tourist/recreational, banking, investment and financial center, introducing attractive features of free port commerce similar to Hongkong, Singapore and Labuan, Malaysia. Customs duty and tariff-free trade of imported goods, preferential tax treatment for operators, lenient immigration laws and other forms of incentives characterize the business climate within the economic zone to encourage potential foreign investors.

Likewise, the Samal Island Special Economic Zone and Free Port Authority (SISEZFA) is also created to oversee the operation and management of the economic zone. The proposed measure once enacted into law will bolster the realization of the country's dream of becoming the "Economic Miracle of Asia."

Hence, the early approval of this bill is earnestly sought.

  
RALPH G. RECTO

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AN ACT  
 ESTABLISHING A SPECIAL ECONOMIC ZONE AND FREE PORT IN THE  
 ISLAND GARDEN CITY OF SAMAL, PROVINCE OF DAVAO DEL NORTE,  
 CREATING FOR THIS PURPOSE THE SAMAL ISLAND SPECIAL ECONOMIC  
 ZONE AND FREE PORT AUTHORITY, APPROPRIATING FUNDS  
 THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the “Samal Island Special Economic Zone and Free Port Act of 2005.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to actively encourage, promote, induce and accelerate a sound and balanced industrial, economic and social development of the country in order to provide jobs to the people especially those in the rural areas, increase productivity and individual family income, and thereby improve the level and quality of living condition through the establishment, among others, of special economic zones in suitable and strategic locations in the country and through measures that will attract legitimate and productive foreign investments.

SEC. 3. *Creation of the Samal Island Special Economic Zone and Free Port.* – In accordance with the foregoing declared policy, there is hereby established a Special Economic Zone and Free Port in the Island Garden City of Samal in the Province of Davao del Norte to be known as the Samal Island Special Economic Zone and Free Port, hereinafter referred to as Samal Island ECOZONE. The specific metes and bounds of the Samal Island Special Economic Zone and Free Port shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

SEC. 4. *Governing Principles.* – The Samal Island Special Economic Zone and Free Port shall be managed and operated by the Samal Island Special Economic Zone and Free Port Authority, herein referred to as the SISEZFA, to be created under Section 6 of this Act, under the following principles:

- a. Within the framework and limitations of the Constitution and applicable provisions of the Local Government Code, the Samal Island ECOZONE shall be developed into and operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with suitable residential areas.
- b. The Samal Island ECOZONE shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment

opportunities for the people of the Island Garden City of Samal and its neighboring towns and cities.

- c. The Samal Island ECOZONE may establish a mutually beneficial economic relation with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.
- d. Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the Samal Island ECOZONE, either by themselves or in a joint venture with Filipinos in any sector of industry, international trade and commerce within the Samal Island ECOZONE.
- e. The Samal Island ECOZONE shall be managed and operated as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out of Samal Island ECOZONE, as well as provide incentives such as tax and duty-free importations of raw materials, capital and equipment. However, exportation or removal of goods from the territory of the Samal Island ECOZONE to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines.
- f. The areas comprising the Samal Island ECOZONE may be expanded or reduced when necessary. For this purpose, the SISEZFA, in consultation with the local government units, shall have the power to acquire either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the Samal Island ECOZONE for the following purposes: (1) consolidation of lands for zone development; (2) acquisition of right of way to the Samal Island ECOZONE; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Samal Island ECOZONE.
- g. Goods manufactured by a Samal Island ECOZONE enterprise shall be made available for immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that may be formulated by the SISEZFA together with the PEZA, the Bureau of Customs and the DTI. However, in order to protect the domestic industry, there shall be a negative list of industries that will be drawn up and regularly updated by PEZA. Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally.
- h. The defense of the Samal Island ECOZONE and the security of its perimeter fence shall be the responsibility of the national government in coordination with the Samal Island ECOZONE and the local government units.

SEC. 5. *Incentives.* – The investors and business enterprises within the Samal Island Special Economic Zone and Free Port shall be entitled to the following incentives.

- a. *Resident Status and Visa.* Any foreign investor who establishes a business enterprise within the Samal Island ECOZONE and who maintains a capital investment of not less than one hundred fifty thousand United States dollars (\$150,000.00) shall be granted, along with his or her spouse, dependents, and unmarried children below twenty-one (21) years of age, permanent resident status within the Samal Island ECOZONE and freedom of ingress and egress to and from the Samal Island ECOZONE without any need of any special

authorization from the Bureau of Immigration. Working visas renewable every two (2) years shall be issued to foreign executives and foreign technicians with highly specialized skills, which no Filipino possesses, as certified by the Department of Labor and Employment (DOLE).

The foregoing is without prejudice to a foreigner acquiring permanent resident status in the Philippines in accordance with the applicable immigration, retirement and other related laws.

b. *Fiscal Incentives.* Business establishments within the Samal Island ECOZONE shall be entitled to the existing fiscal incentives as provided for under Republic Act No. 7916, otherwise known as the "Special Economic Zone Act of 1995," as amended by RA 8747.

c. *Taxation.* Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the Samal Island ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the Samal Island ECOZONE shall be paid and remitted as follows:

- (i) Three percent (3%) to the National Government;
- (ii) Two percent (2%), which shall be directly remitted by the business establishments to the treasurer's office of the City.

All persons and service establishments in the Samal Island ECOZONE shall be subject to national and local taxes under the National Internal Revenue Code, as amended by RA 8424, and the Local Government Code.

d. *Banking Rules and Regulations.* Existing banking laws and rules/regulations of the *Bangko Sentral ng Pilipinas* (BSP) shall apply to banks and financial institutions to be established in the Samal Island ECOZONE. Among other pertinent regulations, these include those governing foreign exchange and other current account transactions (trade and non-trade), local and foreign borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP.

e. *Profit Remittance.* Without prior BSP approval, after tax profits and other earnings of foreign investments in enterprises in the Samal Island ECOZONE may be remitted outward in the equivalent foreign exchange through any of the banks licensed by the BSP in the Samal Island ECOZONE: *Provided, however,* That such foreign investments in said enterprises have been previously registered with the BSP.

SEC. 6. *Creation of the Samal Island Special Economic Zone and Free Port Authority.* – There is hereby created a body corporate to be known as the "Samal Island Special Economic Zone and Free Port Authority" hereinafter referred to as the SISEZFA, which shall manage and operate the Samal Island ECOZONE, in accordance with the provision of this Act. This corporate franchise shall expire in fifty (50) years counted from the first year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SEC. 7. *Principal Office* – The Samal Island Special Economic Zone and Free Port Authority shall maintain its principal office in Samal district but it may establish branches and agencies within the Philippines and abroad as may be necessary for the proper conduct of its business.

SEC. 8. *Powers and Functions of the Samal Island Special Economic Zone and Free Port Authority.* – The Samal Island Special Economic Zone and Free Port Authority shall have the following functions:

- a) To operate, administer, manage and develop the Samal Island ECOZONE according to the principles and provisions set forth in this Act;
- b) To recommend to the President the issuance of a proclamation to fix and delimit the site of the Samal Island ECOZONE;
- c) To register, regulate and supervise the enterprises in the Samal Island ECOZONE in an efficient and decentralized manner, subject to existing laws;
- d) To coordinate with local government units and exercise general supervision over the development plans, activities and operation of ecozones;
- e) To regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the Samal Island ECOZONE such as but not limited to heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc. and to fix just, reasonable and competitive rates, fares, charges and prices thereof;
- f) To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchise, licenses, bulk purchase from the private sector or permits under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law, as amended by RA 7718), or joint venture, adequate facilities and infrastructure required or needed for the operation and development of the Samal Island ECOZONE, in coordination with the appropriate national and local government authorities and in conformity with applicable laws thereon;
- g) To operate on its own, either directly or indirectly or through a subsidiary entity, or license to other tourism-related activities, including games, amusements, recreational and sport facilities;
- h) Subject to the approval of the President and the Monetary Board of the Bangko Sentral ng Pilipinas, upon the recommendation of the Department of Finance (DOF), to raise or borrow adequate and necessary funds from local or foreign sources to finance its projects and programs under this Act and for that purpose, to issue bonds, promissory notes and other forms or securities, and to secure the same by a guarantee, pledge, mortgage, deed of trust or an assignment of all or part of its property or assets;
- i) To provide security for the Samal Island ECOZONE in coordination with the national and local governments. Military forces sent by the national government for the purpose of defense shall not interfere in the internal affairs of the ecozone and expenditures for these military forces shall be borne by the national government. For this purpose, the SISEZFA may

establish and maintain its security forces and firefighting capability or hire others to provide the same;

- j.) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral reefs and maintain ecological balance within the Samal Island ECOZONE;
- k.) To create, operate and/or contract to operate such agencies and functional units or offices of the SISEZFA as it may deem necessary;
- l.) To adopt, alter and use a corporate seal; make contracts, leases, own, or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its functions and duties as provided for in this Act;
- m.) To issue certificates of origin for products manufactured or processed in the Samal Island ECOZONE in accordance with the prevailing rules of origin, and the pertinent regulations of the PEZA, DTI and/or the Department of Finance (DOF).
- n.) To issue working visas renewable every two (2) years for foreign executives and foreign technicians with highly specialized skills which no Filipinos possesses, as certified by the Department of Labor and Employment (DOLE);
- o.) To report to the Bureau of Immigration the names of the foreigners who have been granted permanent resident status and working visas within thirty (30) days after issuance of such grant;
- p.) To exercise such powers as maybe essential, necessary or incidental to the powers granted to it hereunder, as well as those that shall enable it to carry out, implement and accomplish the purposes, objectives and policies of this Act; and
- q.) To issue rules and regulations consistent with the provisions of this Act as maybe necessary to accomplish and implement the purpose, objectives and policies provided herein.

*SEC. 9. Non-Profit Charter of the Samal Island Special Economic Zone and Free Port Authority.*

– The SISEZFA shall be a non-profit institution and shall devote the use of its returns from capital investments as well as excess revenues from its operations for the development, improvement, maintenance and other related expenditures of the SISEZFA to pay its indebtedness and obligations and in furtherance and effective implementation of the policy provided for in this Act. In consonance with this, the SISEZFA is hereby declared exempt from the payment of all taxes, duties, fees, imposts, charges, costs and service fees in any court or administrative proceedings in which it may be a party.

The foregoing exemptions may, however, be entirely or partially lifted by the President of the Philippines upon the recommendation of the Secretary of Finance, not earlier than five (5) years from the effectivity of this Act, if the President shall find the SISEZFA to be self-sustaining and financially capable by then to pay such taxes, custom duties, fees and other charges after providing for debt service requirements of the SISEZFA and of its projected capital and operating expenditures.

*SEC. 10. Board of Directors of the Samal Island Special Economic Zone and Free Port Authority.*

– The powers of the SISEZFA shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of the following:

- a) The Chairman, who shall at the same time be the administrator of the SISEZFA;
- b) A Vice-Chairman, who shall come from among the members of the Board;
- c) Members consisting of:
  - (1) The Congressional Representative of the district covering the site of the Samal Island ECOZONE;
  - (2) The Mayor of the Island Garden City of Samal;
  - (3) One (1) representative from the domestic investors;
  - (4) One (1) representative from the foreign investors; and
  - (5) One (1) representative from the workers working in the Samal Island ECOZONE.

The Congressional representative and the City Mayor shall serve as *ex-officio* members of the Board, whose term in the Board corresponds to their term as elected officials.

The Chairman and members of the Board, except the *ex-officio* members, shall be appointed by the President of the Philippines to serve for a term of six (6) years, unless sooner removed for cause or dies or resigns voluntarily. In case of death, resignation or removal for cause, the replacement shall serve only the unused portion of the term.

Except for the representative of the business and labor sectors, no person shall be appointed by the President of the Philippines as a member of the Board unless he is a Filipino citizen, of good moral character, of proven probity and integrity, and a degree-holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration.

The members of the Board shall each receive per diem at rates to be determined by the Department of Budget and Management in accordance with existing rules and regulations: *Provided, however,* That the total per diem collected each month shall not exceed the equivalent per diem for four (4) meetings. Unless and until the President of the Philippines has fixed a higher per diem for the members of the Board, such per diem shall not be more than ten thousand pesos (P10,000.00) for every Board meeting.

SEC. 11. *Powers and Duties of the Chairman-Administrator.* – The Chairman-Administrator shall have the following powers and duties:

- (a) To direct and manage the affairs of the SISEZFA in accordance with the policies of the Board;
- (b) To establish the internal organization of the SISEZFA under such conditions that the Board may prescribe;
- (c) To submit an annual budget and necessary supplemental budget to the Board for its approval;
- (d) To submit within thirty (30) days after the close of each fiscal year an annual report to the Board and such other reports as may be required;
- (e) To submit to the Board for its approval policies, systems, procedures, rules and regulations that are essential to the operation of the Samal Island ECOZONE;
- (f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment, and the advancement of the quality of life in the Samal Island ECOZONE; and

- (g) To perform such other duties as may be assigned to him by the Board or which are necessary or incidental to his office.

SEC. 12. *Personnel.* – The Board of Directors of the SISEZFA shall provide for an organization and staff of its officers and employees. Upon recommendation of the Chairman-Administrator with the approval of the Secretary of the DTI, the Board shall appoint and fix the remuneration and other emoluments: *Provided*, That the Board shall have exclusive and final authority to promote, transfer, assign or reassign officers of the SISEZFA, any provision of existing laws to the contrary notwithstanding: *Provided*, further, that the chairman-administrator may carry out removal of such offices and employees.

The officers and employees of the SISEZFA, including all members of the Board, shall not engage directly or indirectly in partisan activities nor take part in any election except to vote.

No officer or employee of the SISEZFA, subject to the Civil Service laws and regulations, shall be removed or suspended except for cause, as provided by law.

SEC. 13. *Applicability Clause.* – The provisions of Sections 30 to 42 of Republic Act No. 7916, as amended, on leases of lands and buildings, land conversion, shipping and shipping register, protection of environment, termination of business, registration of business enterprise, one-stop shop center and on industrial harmony in ecozones, shall apply to the Samal Island ECOZONE.

SEC. 14. *Capitalization.* The Samal Island Special Economic Zone and Free Port Authority shall have an authorized capital stock of Two Billion (P2,000,000,000) no par shares with a minimum issue value of Ten Pesos (P10.00) each. The initial amount of Two Hundred and Fifty Million Pesos (P250,000,000) shall be sourced from the national government and from the share of the Province of Davao del Norte.

The amount necessary to subscribe and pay for the shares of stock shall be included in the General Appropriations Act of the year following the enactment into law and thereafter. The Board of Directors of the SISEZFA may, from time to time and with the written concurrence of the Secretary of Finance, sell shares representing not more than forty percent (40%) of the capital stock of SISEZFA to the general public with such annual dividend policy as the Board and Secretary of Finance may determine. The national government shall in no case own less than sixty percent (60%) of the total issued and outstanding capital stock of the SISEZFA.

SEC. 15. *Supervision and Coordination of Development Plans.* – For purposes of policy direction and coordination, the Samal Island Special Economic Zone and Free Port shall be under the direct control and supervision of the Office of the President.

SEC. 16. *Relationship with the Regional Development Council.* – The Samal Island Special Economic Zone and Free Port Authority shall determine the development goals for the Samal Island ECOZONE within the framework of national development plans, policies and goals. The Administrator shall, upon approval by the Board, submit the Samal Island ECOZONE plans, programs and projects to the Regional Development Council for inclusion and inputs for the overall regional development plan.

SEC. 17. *Relationship with Local Government Units.* – Except as herein provided, the local government units comprising the Samal Island ECOZONE shall retain their basic autonomy and identity. The Island Garden City of Samal shall operate and function in accordance with the Local Government Code of 1991. In case of any conflict between the SISEZFA and the Province of Davao del Norte on matters affecting the Samal Island ECOZONE other than defense and security matters, the decision of the SISEZFA shall prevail.



SEC. 18. *Interpretation/Construction.* – The powers, authorities and functions that are vested in the SISEZFA are intended to establish decentralization of government functions and authority and promote an efficient and effective working relationship between the Samal Island ECOZONE, the central government and the local government units.

SEC. 19. *Auditing.* – The Commission on Audit shall appoint a representative who shall be a full time auditor of the SISEZFA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

SEC. 20. *Separability Clause.* – If any provisions of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 21. *Repealing Clause.* – All laws, executive orders or issuances, or any parts thereof, which are inconsistent herewith are hereby repealed and amended accordingly.

SEC. 22. *Effectivity Clause.* – This Act shall take effect upon its publication in at least one (1) newspaper of general circulation.

Approved,