

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

5 NOV 21 P1:26

SENATE

RECEIVED BY: _____

S. B. No. 2168

INTRODUCED BY SENATOR EDGARDO J. ANGARA

EXPLANATORY NOTE

One of the more important whereas clause in a resolution adopted by the International Civil Aviation Organization (ICAO) in its 32nd General Assembly Meeting is that of encouraging each member state to **establish a single, centralized, and autonomous civil aviation authority to deal with all matters of civil aviation.**

Countries like the United Kingdom, New Zealand, Australia, Uganda, Jordan, Pakistan, Singapore, the Fiji Islands, Ireland, Romania, Jamaica, South Africa, Sri Lanka, and Trinidad and Tobago have all restructured their regulatory policies and framework and created a "stand-alone civil aviation authority" that had worked to their advantage in promoting their aviation industry thru reduced bureaucracy and inefficiency in meeting ICAO standards and recommended practices.

The new Civil Aviation Authority of the Philippines (CAAP) will be responsible for the provision of safe and efficient management of all services permitting aviation access to and from the Philippines. The main object of this Act is to establish a regulatory framework for maintaining, enhancing and promoting domestic and international civil aviation in the country, with particular emphasis on aviation safety at all times.

I urge my colleagues to support the CAAP bill with the certainty that this reform will spur the development of a ~~more state-of-the art~~ and dynamic civil aviation industry and consequently, tourism industry in our country.


EDGARDO J. ANGARA
Senator

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AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE
PHILIPPINES FOR THE REGULATION OF ALL CIVIL AVIATION
ACTIVITIES AND INSTITUTION OF SAFETY REQUIREMENTS,
DEFINING ITS POWERS AND FUNCTIONS,
AND FOR OTHER PURPOSES.

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

ARTICLE I

GENERAL PROVISIONS

SECTION 1. *Short Title.* This Act shall be known as the "*Civil Aviation
Act of 2005.*"

SEC 2. *Declaration of Policy.* It is hereby declared the policy of the State
to provide safe and efficient air transport and regulatory services in the
Philippines by providing for the creation of a single, centralized civil aviation
authority, with sole jurisdiction over the restructuring of aviation regulatory
regime, and the promotion, development and regulation of the technical,
economic, and aviation security functions.

SEC 3. *Definitions.* For purposes of this Act,

- a) "*Aircraft*" means any machine or craft that can derive support in the atmosphere from the reactions of the air, other than the reactions of the air against the earth's surface;
- b) "*Air route*" means the navigable airspace between two points and the terrain beneath such airspace identified, to the extent necessary, for application of flight rules;

- 1 c) *"Air route and airway facilities"* means facilities provided to permit safe
2 navigation of aircraft within the airspace of air routes and airways,
3 including:
4 (a) visual and non-visual aids along the air routes and airways;
5 (b) visual and non-visual aids to approach and landing at aerodromes;
6 (c) communications services;
7 (d) meteorological observations;
8 (e) air traffic control services and facilities; and
9 (f) flight service services and facilities.
10
- 11 d) *"Aerodrome"* means any area of land or water designed, equipped, set
12 apart or commonly used for affording facilities for the landing and
13 departure of aircraft and includes any area or space, whether on the
14 ground, on the roof of a building or elsewhere, which is designed,
15 equipped or set apart for affording facilities for the landing and departure
16 of aircraft capable of descending or climbing vertically, and also includes
17 an airport;
18
- 19 e) *"Airman"* means –
20 1. any individual who engages, as the person in command or as a
21 pilot, mechanic or member of the crew, or who navigates an aircraft
22 while the aircraft is underway;
23 2. any individual in charge of the inspection, maintenance,
24 overhauling or repair of aircraft, and any individual in charge of
25 the inspection, maintenance, overhauling, or repair of aircraft,
26 aircraft engines, propellers or appliances; or
27 3. any individual who serves in the capacity of flight operations
28 officer;
29
- 30 f) *"Aircraft engine"* means any engine used, or intended to be used, for
31 propulsion of aircraft and includes all parts, appurtenances and
32 accessories, other than propellers;
33
- 34 g) *"Air navigation"* means the practice of controlling, guiding and operating
35 aircraft from airport of departure to predetermined airport of destination,
36 including alternate airports. To ensure safety, regularity and efficiency of
37 civil aviation operations, standardization and common understanding
38 among all parties involved are essential in all matters affecting the
39 operation of aircraft and the numerous facilities and services required in
40 their support, such as aerodromes, telecommunications, navigation aids,
41 meteorology, air traffic services, search and rescue, aeronautical
42 information services and aeronautical charts, in accordance with the
43 procedures, rules and regulations contained in the appropriate ICAO
44 Annexes;
45
- 46 h) *"Air navigation facility"* means any facility used in, available for use in,
47 or designed for use in aid of, air navigation, including airports, landing
48 areas, lights, any apparatus or equipment for disseminating weather
49 information, for signaling, for radio directional finding, or for radio or
50 other electromagnetic communication, and any other structure or
51 mechanism having a similar purpose for guiding or controlling flight in
52 the air or in the landing and take-off of aircraft;
53

- 1 i) *"Air navigation services"* includes information, directions and other
2 facilities furnished, issued or provided in connection with the navigation
3 or movement of aircraft, and the control of movement of vehicles in any
4 part of an aerodrome used for the movement of aircraft;
5
- 6 j) *"Air operator"* means any organization which undertakes to engage in
7 domestic commercial air transport or international commercial air
8 transport, whether directly or indirectly or by a lease or any other
9 arrangement;
10
- 11 k) *"Air Operator Certificate"* means a certificate authorizing an operator to
12 carry out specified commercial air transport operations;
13
- 14 l) *"Air transport service"* means a service for the carriage by air of
15 passengers or cargo;
16
- 17 m) *"Appliances"* means instruments, equipment, apparatus, parts or
18 accessories, of whatever description, which are used or are capable of
19 being used, in the navigation, operation or control of aircraft, including
20 parachutes, communications equipment and any other mechanisms
21 installed in or attached to aircraft during flight, and which are not part or
22 parts of aircraft, aircraft engines or propellers;
23
- 24 n) *"Authority"* means the Civil Aviation Authority of the Philippines
25 established under Section 4 of this Act;
26
- 27 o) *"Aviation"* or *Air Transport*, refers to the activities surrounding
28 mechanical flight and the aircraft industry;
29
- 30 p) *"Aviation document"* means any license, certificate, or other document
31 issued by the Authority in respect of any person, aircraft, aerodrome or
32 aviation related service;
33
- 34 q) *"Board"* means the Board of the Civil Aviation Authority of the
35 Philippines established under section 7 of this Act;
36
- 37 r) *"Cargo"* includes mail;
38
- 39 s) *"Chicago Convention"* means the Convention on International Civil
40 Aviation (ICAO) concluded at Chicago on 7th December, 1944 and
41 includes any Protocol amending the Convention and any Annex to that
42 Convention relating to international standards and recommended
43 practices, being an Annex adopted in accordance with that Convention;
44
- 45 t) *"Commander"* in relation to an aircraft, means the member of the crew
46 designated for the time being as commander of that aircraft by the
47 operator thereof, or, failing such a person, the person who for the time
48 being is the pilot in command of the aircraft;
49
- 50 u) *"Contracting State"* means a country which is a party to the Chicago
51 Convention;
52
- 53 v) *"Corporate plan"* means a plan prepared in accordance with section 15;

- 1 w) "*Dangerous goods*" means articles or substances which are capable of
2 posing significant risk to health, safety or property when transported by
3 air;
4
- 5 x) "*Director General*" means the Director General of Civil Aviation
6 appointed under section 13;
7
- 8 y) "*Flight*" means any period from the moment when all the external doors
9 of an aircraft are closed following embarkation, until the moment when
10 any of such doors are open for disembarkation;
11
- 12 z) "*GAAP*" means Generally Accepted Accounting Practice;
13
- 14 aa) "*Loss or damage*" includes, in relation to persons, loss of life and personal
15 injury;
16
- 17 bb) "*Member*" means a member of the Board;
18
- 19 cc) "*Navigation of aircraft*" means a function which includes the piloting of
20 aircraft;
21
- 22 dd) "*Operator*" means –
23
- 24 (a) a person, organization or enterprise, engaged in or offering to
25 engage in, aircraft operations, and any person who causes or
26 authorizes the operation of aircraft, in the capacity of owner, lessee
27 or otherwise, whether with or without the control of the aircraft;
28 and
29 (b) who or which is deemed to be engaged in the operation of aircraft
30 within the meaning of this Act;
31
- 32
- 33 ee) "*Propeller*" includes all parts, appurtenances and accessories of a
34 propeller;
35
- 36 ff) "*public aerodrome or airport*" means an aerodrome or airport which is
37 under the management of body corporate established or owned by the
38 State;
39
- 40 gg) "*Rules of the Air*" means those provisions for securing the safety of
41 aircraft in flight and in movement on the surface and the safety of persons
42 and property on the surface.
43
- 44 These provisions include –
45
- 46 (a) lights and signals to be shown by aircraft;
47 (b) General, Visual and Instrument Flight Rules;
48 (c) Aerodrome Traffic Rules; and
49 (d) Aerodrome Signals and Markings;
50
- 51 hh) "*Philippine aircraft*" means aircraft registered in the Philippines.
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ARTICLE II

ESTABLISHMENT, POWERS AND FUNCTIONS OF
THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES

SEC 4. *Creation of the Civil Aviation Authority of the Philippines.* - All civil aviation affairs shall be administered by the Philippine Civil Aviation Authority, hereinafter referred to as the "*Authority*," to replace the Air Transportation Office (ATO) and the Civil Aeronautics Board (CAB) organized under Republic Act 776, and is attached to the Department of Transportation and Communications for the purpose of policy coordination.

SEC 5. - *Powers and Functions of the Civil Aviation Authority of the Philippines.* In addition to the powers provided for under Republic Act No. 776, as amended, the Authority shall:

- a) Maintain a standard of safety and efficiency in the civil aviation system that is at least equal to the standard of safety prescribed by the Chicago Convention and any other aviation convention, agreement or understanding to which the Philippines is a party thereto and consistent with national security policy;
- b) Formulate, coordinate and regulate the implementation of rules and regulations, governing the technical, economic, and security aspects of civil aviation;
- c) Control, supervise and regulate all civil aviation activities, including but not limited to the transport of passengers, cargo, air services, aviation companies, and persons, firms, corporations engaged in providing air transportation services, and related services;
- d) Issue, renew, vary, extend and amend licenses and other aviation documents, and to collect fees in respect thereof;
- e) Carry out an investigation of any aircraft accident occurring in or over the Philippines or in relation to any Philippine aircraft;
- f) Use the property of the Authority in such a manner as may appear to the Authority to be requisite, advantageous or convenient with a view to making the best use of any of the property of the authority in relation to its functions under the Act;
- g) Undertake projects for the construction of civil airways, navigation facilities, offices, stations, aerodromes, airport-related facilities and equipment, throughout the Philippines for the purpose of carrying out its oversight and services functions, consistent with the Standards and Recommended Practices (SARPs) adopted by the International Civil Aviation Organization (ICAO);
- h) Exercise overall jurisdiction over governmental functions of civil aviation, including the supervision, control and regulations on matters relating to safety and security of aircraft, airport facilities and installations, whether government or privately owned, as well as the supervision and regulation of safety and security in the Ninoy Aquino International airport (NAIA), Mactan-Cebu International Airport (MCIA), Diosdado Macapagal International Airport (DMIA), Subic Bay International Airport (SBIA), and other airport/s which maybe created in the future;

- 1 i) Determine, fix, and / or prescribe charges and / or rates pertinent to the
- 2 operation of public air transportation and services;
- 3 j) Exercise eminent domain over areas under its jurisdiction;
- 4 k) Exercise police powers and other law enforcement powers over areas
- 5 under its jurisdiction and for this purpose, to coordinate with the
- 6 Philippine National Police and other law enforcement agencies; and
- 7 l) Perform other related functions necessary, or in connection with, or are
- 8 required to achieve the objectives of the CAAP under this Act.

9
10 In performing its functions and exercising its powers, the Authority shall
11 have as its paramount consideration the safety of aviation.

12
13 Subject to the preceding paragraph, the Authority shall perform its
14 functions and exercise its powers in a manner that ensures, as far as practicable,
15 that the environment is protected from any detrimental effects associated with
16 the operation and use of aerodrome and aircraft and for this purpose the
17 Authority shall observe the provisions of Philippine environmental laws.

18
19
20 **SEC. 6. Corporate Powers** - The Authority shall have the following
21 corporate powers:

- 22
- 23 a) To succeed in its corporate name;
- 24 b) To sue and be sued in its corporate name, and to adopt, use and alter its
- 25 corporate seal, which shall be judicially noticed;
- 26 c) To adopt, amend or repeal its By-Laws;
- 27 d) To enter into, make, perform, and carry out contracts of every class, kind
- 28 and description, which are necessary or incidental to the realization of its
- 29 purposes, with any person, domestic or foreign private firm, or
- 30 corporation, local or national government office, agency, and with
- 31 international institutions, or foreign government;
- 32 e) To raise money, contract loans, indebtedness, credit and issue commercial
- 33 papers and bonds, in any local or convertible foreign currency from any
- 34 international financial institutions under terms and conditions prescribed
- 35 by law, rules and regulations;
- 36 f) To execute any deed of guarantee, mortgage, pledge, and trust or
- 37 assignment of any property for the purpose of financing the programs and
- 38 projects deemed vital for the attainment of its goals and objectives;
- 39 g) To construct, acquire, own, hold, operate, maintain, administer, and lease
- 40 personal and real properties, including buildings, machinery, equipment,
- 41 and other infrastructure, agricultural lands, and its improvements,
- 42 property rights, and interest therein, and to encumber, mortgage, dispose,
- 43 sell, or alienate or otherwise dispose the same at the fair market value it
- 44 may deem appropriate; to lease its plant, machinery, equipment or goods
- 45 not immediately required by it;
- 46 h) To receive gifts, donations, grants, bequests, services, properties, whether
- 47 personal or real, and assistance of all kinds, from private and public
- 48 sources, firms, institutions, domestic and foreign governments, and
- 49 international institutions, and utilize the same for the purposes set forth in
- 50 this Act;
- 51 i) To invest its funds and other assets in such areas, ventures, and projects as
- 52 it may deem wise;

- 1 j) To settle under such terms and conditions most advantageous to it, any
- 2 claim by or against it;
- 3 k) To determine and keep its own system of accounts following generally-
- 4 accepted principles of accounting, as well as the forms and contents of its
- 5 contracts and other business documents; and
- 6 l) To perform such other acts, as are necessary or convenient in connection
- 7 with the performance of its functions, to carry out the purposes of this
- 8 Act.
- 9

10
11 **SEC. 7. *Subsidiaries*** - The authority shall have the power to form,
12 **establish, organize, and maintain corporation or corporations.** Such subsidiary
13 or subsidiaries shall be formed in accordance with the Corporation Code of the
14 Philippines and the existing rules and regulations promulgated by the Securities
15 and Exchange Commission, unless otherwise provided for in this Act.
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19 **ARTICLE III**

20
21 **COMPOSITION, POWERS, AND FUNCTIONS**
22 **OF THE BOARD OF DIRECTORS**
23

24
25 **SEC. 8. *Board of Directors*** - The Board of Directors of the Authority shall
26 exercise the following powers and functions:
27

- 28 a) Provide comprehensive policy guidance for the promotion and
- 29 development of the aviation industry as provided for in this Act;
- 30 b) Decide the objectives, strategies, and policies to be followed by the
- 31 Authority;
- 32 c) Ensure that the Authority performs its functions in a proper, efficient, and
- 33 effective manner;
- 34 d) Determine the organizational structure of the Authority, establish a
- 35 human resources management system based on merit and fitness, and
- 36 adopt a rationale compensation and benefits scheme;
- 37 e) Approve the annual and supplementary budgets for submission to
- 38 Congress;
- 39 f) Approve the annual and supplementary budget plan for utilization of the
- 40 retained revenue; and
- 41 g) Submit an annual report on the accomplishments of the CAAP at the close
- 42 of each calendar year, for submission to the President of the Philippines.
- 43
- 44

45 **SEC.9. *Board Meetings.*** - The Board shall meet regularly once a month
46 and may hold special meetings to consider urgent matters upon call of the
47 Chairman or concurrence of at least three (3) members.
48

49 **The Board shall likewise prescribe the internal rules of procedure in the**
50 **conduct of its meetings.**
51
52

1 **SEC. 10. Composition.**- The seven-member Board shall be composed of
2 the Secretary of the DOTC as *ex-officio* Chairman, a Vice-Chairman to be elected
3 among the members of the Board, the Director-General as a member, and four (4)
4 members who shall from either the private sector or relevant government
5 agencies.

6
7 In no case shall the Director-General be elected as Vice-Chairman.

8
9 The regular members shall be appointed by the President for a term of
10 five (5) years. Of the members of the Board, the Vice-Chairman and the DGCA
11 shall be appointed for a term of five (5) years; two (2) shall be appointed for a
12 term of four (4) years; and two (2) for a term of three (3) years. In case of vacancy,
13 the appointee shall serve the unexpired term of the predecessor. Members of the
14 Board are eligible for two (2) reappointments.

15
16 No person shall be appointed or designated as a member of the Board
17 unless he is a Filipino citizen, of good moral character, unquestionable integrity,
18 probity, and competence in the field of aviation, aeronautical engineering,
19 economics, law and internal relations, and management in related fields.

20
21 Members of the Board shall be reimbursed by the Authority for actual
22 expenses, including traveling and subsistence, incurred by them in the
23 performance of their duties. The per diems of the members of the Board shall be
24 determined pursuant to a resolution to be adopted by the same, which shall be
25 adjusted annually, based on the consumer price index as determined by the
26 national government.

27
28 No member of the Board shall have pecuniary interest, directly or
29 indirectly, in any business contract or transaction entered into by the Authority
30 or in any privilege granted by it. Neither shall a member have any interest,
31 financial or otherwise, in any undertaking or business with an inherent conflict
32 of interest with the Authority.

33
34
35 **SEC 11. Declaration of Interest.**

- 36
37 (1) Any member of the Board who was in any way, whether directly or
38 indirectly, interested in a contract or proposed contract with or in any
39 other matter concerning an entity regulated by the Authority, or any body
40 corporate carrying on business with the Authority, shall, as soon as
41 possible after the relevant facts have come to his knowledge, disclose the
42 nature of his interest.
- 43
44 (2) A disclosure under subsection (1), shall be recorded in the minutes of the
45 Board, and the member –
- 46
47 (a) shall not take part after the disclosure in any deliberation or decision of
48 the Board with respect to that contract; and
- 49
50 (b) shall be disregarded for the purpose of constituting a quorum of the
51 Board.
- 52

1 (3) For purposes of this section, a person who or any nominee or relative of
2 whom is a Director, a shareholder or partner in a company or other body
3 of persons other than a statutory authority or who is an employee thereof
4 shall be treated as having indirectly, a pecuniary interest in a contract or
5 proposed contract or such other body of persons is a party to the contract
6 or proposed contract or has a pecuniary interest in such other matter
7 under consideration.
8

9
10 **SEC 12. *Limitation on Subsequent Employment.*** No member or former
11 member, shall accept employment or enter into a contract of service with an
12 entity regulated by the Authority, until the expiry of two years from the
13 termination of his appointment whether by signature, revocation, or otherwise.
14

15 **ARTICLE IV**

16 **PLANNING, MANAGEMENT AND FINANCE**

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21 **SEC 13. *Corporate Plan.*** Upon effectivity of this Act, the Board shall
22 prepare, a three year corporate plan (hereinafter referred to as "*the Plan*"), in
23 respect of the programs or goals of the Authority.
24

25 The Plan shall include details of the following:

- 26
27 (a) the Authority's operational environment;
28 (b) the strategies of the Authority;
29 (c) performance measures of the Authority;
30 (d) review of performance against previous Plans;
31 (e) analysis of risk factors likely to affect aviation safety in the aviation
32 industry; and
33 (f) human resource management system based on merit and fitness; and
34 (g) industrial relations strategies
35

36 The Plan shall also cover any other matters required by the Secretary of
37 the DOTC to be covered, which may include further details about the matters
38 referred to in the preceding paragraph subsection (2).
39

40 The Plan may be revised at least once a year and up to sixty days before
41 the end of the first year of the Plan.
42

43 The Board shall keep the Secretary of Department of Transportation and
44 Communication informed about the (a) significant changes to the Plan; and (b)
45 matters that arise that could significantly affect the objectives of the Plan.
46
47

48 **ARTICLE V**

49 **BOARD OFFICERS**

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1 **SEC. 14 *The President.*** – The President of the authority shall be known as
2 the Director General of Civil Aviation (DGCA) and must be an airman or must
3 have been an airman, with at least ten (10) years of experience in the field of
4 aviation, five (5) years of which shall be in a senior management position.
5

6 The President /DGCA, as the Chief Executive and Operating Officer of
7 the Authority, shall:
8

- 9 a) Execute, administer and implement the objectives, policies and programs
10 approved by the Board; enforce decisions, orders, rules and regulations
11 approved or prescribed by the Board;
12 b) Direct, supervise the management, operations and administration of the
13 Authority;
14 c) Represent the Authority in all dealings with offices, agencies and
15 instrumentality of the Government, and with all persons, firms and
16 institutions, public and private, domestic and foreign, including the
17 International Civil Aviation Organization, other international agencies,
18 and institutions;
19 d) Provide for rules and regulations, as maybe required, covering (i) air
20 transport services, (ii) air navigation services including the establishment,
21 administration, registrations, inspections, classification, ratings, issuance,
22 denial, revocation, cancellation, modification, investigations, of civil
23 airways navigation radio and telecommunication facilities, appliances,
24 aerodromes, repair stations, training schools, and other air agencies
25 installations, (iii) licenses, permits, certificates, type certificates of all kinds
26 classes and nature, (iv) aircraft accidents; and (v) such other rules
27 regulations, standards, practices, methods, procedures as the Director
28 General may determine, enforce the same, impose fines, penalties and
29 similar sanctions for any violations thereof; to ensure the safety,
30 effectiveness and efficiency of air transportation, consistent with national
31 objectives, and existing treatise, connections and agreements;
32 e) Exercise police powers in all areas within the jurisdiction of the Authority,
33 enforce all laws, regulations and rules relating thereto in the exercise of
34 these powers, he shall coordinate closely with the Philippine National
35 Police and other law enforcement agencies of government;
36 f) Exercise the powers provided for in Republic Act No. 776, not inconsistent
37 with this Act, nor otherwise repealed, until declared null and void by the
38 Authority in relation to the duties and responsibilities of his office, and to
39 the purpose and objectives and of the Authority; and
40 g) Perform such powers, and duties provided for in this Act, or as may be
41 delegated by the Board.
42
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45 **SEC. 15. *Exemption from Rules and Regulations of the Compensation and***
46 ***Position Classification Board.*** – The Authority shall have the power to
47 determine and fix the compensation and fringe benefits of employees holding
48 technical positions that is not common to the other agencies of the government
49 which shall be specified in the Implementing Rules and Regulations. The
50 Authority shall be exempted from coverage of the rules and regulations of the
51 Compensation and Position Classification Board.
52
53

- 1 a) All revenues from the aeronautical and allied services operated or
- 2 rendered by the Authority;
- 3 b) Such sums as are provided by foreign states, international organizations,
- 4 multilateral or bilateral lending agencies, corporations or private
- 5 individuals for the exercise of any of the functions of the Authority; or
- 6 c) Proceeds from sales of bonds, grants, donations, disposals of assets and
- 7 sales of disposable assets, loans and other forms of indebtedness entered
- 8 in to by Authority;
- 9 d) Interests which may be earned on investments or on idle cash of the
- 10 Authority; and
- 11 e) Drawings upon the capital or surplus of the Authority.

12
13
14 **SEC 19 *Application of Fund.*** - The money in the Fund shall be applied in

15 defraying the following expenditure:

- 16
- 17 (a) Acquisition of property by the Authority in the performance of its
- 18 functions or exercise of its powers;
- 19 (b) Remuneration and allowances of members of the Board;
- 20 (c) Remuneration, allowances, advances, loans, pensions and gratuities
- 21 payable or made to employees;
- 22 (d) Capital and operating expenses, including maintenance and insurance of
- 23 the property of the Authority; and
- 24 (e) Any other expenditure authorized by the Authority in the performance of
- 25 its functions.

26
27
28 **SEC 20. *Accounts and Audit.*** - The Authority shall keep proper books of

29 accounts and records in accordance with GAAP, of all moneys received and

30 expended and shall record the matters in respect of which such sums were

31 received and expended.

32
33 Within three months after the end of each financial year, the Authority

34 shall cause to be prepared, in respect of that year –

- 35 (a) A report setting out the activities of the Authority; and
- 36 (b) Financial statements prepared in accordance with GAAP and any other
- 37 statement as required by the Minister with responsibility for Finance.

38
39 For purposes of this Act, the term "*financial year*" shall be for a period of

40 twelve months beginning the first day of April in any year to the thirtieth day of

41 March in every year. The Authority may vary its financial year.

42
43
44
45 **SEC. 21. *Retention of Earnings Collected and Dispositions Thereof.*** -

46 Eighty percent (80%) of the total earnings collected by the Authority under the

47 provisions of this Act shall be retained and utilized as it may deem necessary and

48 appropriate, to carry out the objectives and policies of this Act.

49
50
51 **SEC. 22. *Management of Funds.*** - The authority may invest any of its

52 funds not immediately required for operating expenses, or other immediate

53 obligations in any business venture that it may deem appropriate, or in such

1 secured notes, government securities, and other negotiable instruments that
2 satisfy the guidelines prescribed by the Board.

3
4 Funds of the Authority shall be deposited in such commercial and
5 universal banks as the Authority may determine, subject to the requirements of
6 existing laws.

7
8
9 **SEC 23. *Obligations.*** Upon approval of the President, with prior
10 concurrence of the Monetary Board, the Authority shall be authorized to secure
11 or contract domestic or foreign loans, credits and other indebtedness, and to
12 issue bonds, notes, debentures, securities and other instruments of indebtedness,
13 as it may deem necessary to carry out the purposes of this Act, *Provided, however:*

- 14
15 a) That the outstanding liabilities and obligations, foreign and domestic,
16 shall not exceed, at any time, fifty percent (50%) of its net worth;
17 b) That the annual amortization on principal and interest shall not be more
18 than twenty percent (20%) of the prior year's gross revenues;
19 c) That where the obligations incurred from private sources of capital may
20 be secured by suitable assets or backed by priority claims against property
21 of the Authority;
22 d) That the obligation shall be considered the sole liability of the Authority,
23 unless otherwise guaranteed by the Republic of the Philippines, upon
24 approval of the President, with the prior concurrence of the Monetary
25 Board; and
26 e) That the issuance of bonds or long term notes shall be with prior approval
27 of or in accordance with the rules issued by the National Treasurer.

28
29
30 **SEC 24. *Annual Budget.*** The Authority shall adopt an annual budget.
31 Unless the Authority shall require subsidy and / or a guarantee of its liability
32 from the National Treasury, its budget for the year need not be submitted to
33 Congress for approval and inclusion in the General Appropriations Act.
34 Supplementary estimates may be prepared and adopted at any of the Board
35 meeting called for that purpose.

36
37
38 **SEC 25. *Exemption from Taxes, Customs, and Tariff Duties.*** The
39 importation of equipment, machineries, spare parts, accessories, and other
40 materials, including supplies and services used in the operations of the
41 Authority, not obtainable locally, shall be exempt from all direct and indirect
42 taxes, wharfage fees and other charges and restrictions, the existence of pertinent
43 laws to the contrary notwithstanding.

44
45 All obligations entered into by the Authority and any income derived
46 therefrom, including those contracted with private international banking and
47 financial institutions, shall be exempt from all taxes on both principal and
48 interest.

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50 The Authority is also exempt from the payment of capital gains tax, local
51 government imposts and fees upon the effectivity of this Act.

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ARTICLE VII

REGULATION OF AIR NAVIGATION

SEC 26. Regulation of Air Navigation. For the purpose of carrying out and giving effect to the Chicago Convention, and any other related Protocols, the Authority shall establish rules and regulations for —

- (a) the licensing, inspection and regulation of navigation aerodromes;
- (b) a system for the registration of the national aircraft;
- (c) the issuing of certificates of airworthiness and for prohibiting aircraft from flying unless such certificates, whether issued or validated are in force;
- (d) the certification of air operators;
- (e) the certification of airmen;
- (f) the certification of aviation schools, approved maintenance organizations and repair stations;
- (g) the conditions under which passengers may be carried by air and under which aircraft may be used for other commercial, industrial or gainful purposes;
- (h) the conditions under which goods may be carried by air;
- (i) securing the efficiency and regularity of the operations of air navigation and the safety of aircraft and of persons and property carried thereon, and of persons and property on the ground;
- (j) prohibiting the carriage by air, such goods as may be specified by the Regulations;
- (k) conferring on such persons as may be specified, powers relating to the enforcement of any such condition or prohibition including powers to examine, take samples of, seize and detain any goods, powers to open any baggage or packages containing goods after obtaining from a magistrate a warrant to do so or to require them to be opened and powers to require the production of any documents;
- (l) prescribing the fees to be paid in respect of the issue, validation, renewal, extension or variation of any aviation document or the undergoing of any examination or test required by, or in pursuance of the Regulations, or in respect of any other matter for which it appears to the Minister to be expedient to charge fees;
- (m) ensuring that foreign air carriers operating in Trinidad and Tobago comply with the safety and security requirements of the Chicago Convention;
- (n) registration of mortgages and any other liens on aircraft;
- (o) giving effect to the Rules of the Air; and
- (p) for any other matters required by or necessary to implement this Act.

The Authority in considering the grant of a license in relation to an aerodrome shall take into account in addition to other things, the need to minimize so far as is reasonably practicable —

- (a) any adverse effects on the environment; and
- (b) any disturbance to the public, from noise, vibration, atmospheric pollution or any other cause attributable to the use of aircraft for the purpose of civil aviation.

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ARTICLE VIII

MISCELLANEOUS AND GENERAL PROVISIONS

SEC 27. Authority to Administer Oaths. The Director General shall have the authority to administer oaths in the transaction and performance of official business.

SEC 28. Statutory Lien on Aircraft, Equipment, and Machinery. The Authority shall have the power to impose lien on any aircraft, equipment, machinery, *Provided, however:*

- a) IF the charges and other fees are not paid in full on the due date for payment, or any part of the charge, or the late payment, penalty thereto remains unpaid;
- b) For serious and gross violation of the rules and regulations promulgated by the Authority, in connection with its oversight functions, involving safety of navigation, within the various territories of the Authority, such as aerodrome zones, the airspace above said zones, including the landing approaches and departures therefrom, and relevant navigation requirement.

Aircraft levied upon pursuant to this Section shall be in custody of the Authority, and its clearance shall be withheld until the fines imposed shall be fully paid; of the same levied -- upon which aircraft may be sold after notice to the owners and the proceeds of the sale shall be applied to the payments of the fines and penalties and other obligations that are due and payable.

SEC 29. Lien on Real and Personal Properties. The Authority shall have the power to impose lien on the personal and real properties, and other assets of persons, corporations, partnerships, and such other entities that shall be in default, or shall fail to perform their obligations, pursuant to regulations promulgated by the Authority, or shall fail to pay the fines and other penalties imposed for violations of the law, rules, and regulations of the Authority.

Properties and assets levied upon, after due notice and hearing to the owner /s thereof, may be sold and the proceeds thereof applied to the satisfaction of the obligation, as the Authority may determine.

SEC 30. General Penalty. Any violation of the provisions of this Act, or any order, rule, or regulation issued thereunder, or any term, condition, or limitation of any certificate or permit issued under this Act for which no penalty is expressly provided shall be punished by a fine to be determined by the Authority.

SEC 31. Power to Regulate Height of Buildings and Installations that may Endanger the Safety of Flights. The Authority shall have the power to regulate the height of buildings, towers, antennae, and other edifices, situated

1 within the vicinity of or in close proximity to airports which may endanger
2 flights of aircrafts. It shall also have the power to prohibit or regulate the
3 establishment and operations of electrical, electronics, sound, magnetic, laser, or
4 other gadgets or installations which shall interfere with or impair air navigation
5 installations which shall interfere with air navigation and cause mishaps in the
6 operations of the aircraft.
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9 **SEC 32. *Building Permits Subject to Prior Approval of Authority.*** No
10 building permit or other license, or authority of any kind or nature shall be
11 granted by local authorities with respect to buildings and installations covered
12 by the preceding section, or for any other activity that may endanger the safety of
13 navigation or flight, without the prior approval of the Authority. Should any
14 conflict arise between the Authority and the local government units concerned
15 on matters affecting the safety of navigation as aforesaid above, or other matters
16 within the jurisdiction of the Authority, the decision of the Authority shall
17 prevail.
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19 For this purpose, the Authority may call upon any law enforcement
20 agency, other instrumentality of the government, or local government, to enforce
21 its rules and regulations, which may include removal of the obstructions to the
22 safety of flight, including the seizure of personal properties that directly or
23 indirectly may cause danger to the safety of navigation or flight.
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26 **SEC 33. *Role of Departments, Bureaus, Offices and Other Agencies and***
27 ***Instrumentalities of the Government.*** All Heads of Departments, Bureaus,
28 Offices, Agencies, and instrumentalities of the Government are hereby directed
29 to give full support to the institutionalization and restructuring program of civil
30 aviation, and to cooperate and coordinate with the Authority to facilitate and
31 expedite the transaction.
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34 **SEC 34. *Interlinkages with Local Government Units.*** Provisions with
35 existing laws, rules, and regulations to the contrary notwithstanding, the
36 Authority shall exercise administrative and regulatory powers over land,
37 buildings, installations and appurtenances thereto, including the construction of
38 any building, roads, towers, within the territorial areas, the airspace above the
39 zones, including the navigable airspaces. Coordination with local governments
40 units must be effected.
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43 **SEC 35. *Police Authority.*** The Authority shall have the power to exercise
44 such police authority, as it may deem necessary, within its premises or areas of
45 operation, to carry out its functions and attain its purposes and objectives:
46 *Provided, however,* That the Authority may request the assistance of any law
47 enforcement agency, including request for deputation as may be required. Such
48 police authority shall be exercised in relation to the following: providing public
49 safety, maintaining peace and order, ensuring the security of passengers, crew,
50 cargo and aircraft, buildings, installations, equipment and machinery, regulating
51 and controlling entry into, and exit from, and movement within controlled areas,
52 supervising private security guards, and enforcing rules and regulations of the
53 Authority.

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ARTICLE IX

TRANSITORY PROVISIONS

SEC 36. *Abolition of Existing Offices.* The Air Transportation Office (ATO) and the Civil Aeronautics Board (CAB) under the Department of Transportation and Communications, are hereby abolished.

Any arrangement or contract, aviation documents or resolution prepared, made, executed or approved by or on behalf of the ATO and CAB shall continue and be deemed to have been prepared, made, executed or approved by the Authority pursuant to this Act.

All obligations and liabilities of the ATO and the CAB immediately before the commencement of this Act shall from that date be the obligations and liabilities of the Authority and the Authority shall have all the necessary powers to discharge them.

All duties and functions carried out by the ATO and the CAB immediately before the commencement of the former Act, and which were carried out by the former Authority, shall from the date of commencement of this Act, be undertaken by the Authority.

All real and personal property now held by or vested in any person for the use and benefit of the Civil Aviation Division and the former Authority is hereby transferred to and vested in the Authority.

In any written law and in any document, unless the context otherwise requires, any reference to the Civil Aviation Division and the former Authority shall be construed as a reference to the Authority.

SEC 37. *Transfer of Personnel of the Air Transportation Office and the Civil Aeronautics Board.* To ensure smooth transition into a corporate structure, the incumbent Assistant Secretary of the ATO shall continue to hold office and assume the powers of the Director-General until his successor shall have been appointed and inducted into office.

Officials and employees of the ATO and CAB shall be absorbed into the Authority on the basis of merit and fitness: *Provided, however,* That officials and employees who shall be laid-off during the first two (2) years of the effectivity of this Act and as a result of the organization of the Authority, shall be entitled to gratuity at the rate equivalent to two (2) months salary for every year of continuous and satisfactory service rendered of the equivalent nearest fraction thereof favorable to them on the basis of the highest salary received, in addition to the retirement benefits or pensions under existing retirement law. Retirement gratuities of officials and employees who shall not be retained by the Authority shall be for the account of and reimbursed by the National Government.

Any of such officers and employees who may be later reinstated in the Authority, or who shall be rehired in any government office or instrumentality,

1 shall refund the unearned portion of gratuity received from the Authority before
2 he shall be reinstated or rehired.

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5 **SEC 38. *Organization of the Authority.*** Within sixty (60) days upon the
6 effectivity of this Act, the Board of Directors of the Authority, or if none are as
7 yet appointed, the incumbent Director-General or Assistant Secretary of ATO, as
8 the case may be, shall organize the Authority.

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11 **SEC 39. *Appropriations.*** To provide for any extraordinary expenses of the
12 Authority upon its organization, unavailed portion of the excess of actual
13 operating income over the estimated expenses of the ATO and CAB, if any, at the
14 time of the passage of this Act is hereby appropriated for purposes that the
15 Board may approve. This shall be considered as part of the paid-up capital.

16
17 For the purpose of funding the gratuity aforementioned, the amount of
18 Seven Billion Five Hundred Million Pesos (P 7,500,000,000.00), inclusive of the
19 amount referred to above, is hereby appropriated out of any funds available and
20 not otherwise appropriated in the National Treasury.

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23 **SEC 40. *Savings Clause.*** All orders, rules, regulations, permits, certificates,
24 licenses, and privileges which have been made, issued, granted, or allowed to
25 become effective by the former ATO or its predecessors or by the CAB,
26 respectively, shall continue to be in effect according to their terms, until
27 modified, amended, revoked, cancelled, superseded, or otherwise set aside.

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29 Causes of action, suits or other proceedings may be asserted by or against
30 the Authority or such official of the Authority, and its predecessors, or the CAB,
31 as may be appropriate.

32 33 34 **ARTICLE X**

35 36 **FINAL PROVISIONS**

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39 **SEC 41. *Limited Liability.*** Unless otherwise declared and mutually
40 agreed upon at the time of posting, the liability of the Authority with respect to
41 its contractual obligations shall be limited to existing rules and regulations of
42 these matters.

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45 **SEC 42. *Injunction and Restraining Order.*** The implementation of the
46 projects for the institutionalization and restructuring of the aviation industry are
47 urgent and necessary and shall not be restrained or enjoined except by an order
48 issued by the Supreme Court of the Philippines.

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51 **SEC 43. *Legal Counsel.*** Without prejudice to the appointment of the
52 Corporate Counsel by the Board, the Government Corporate Counsel shall be the
53 *ex-officio* counsel of the Authority.

1 **SEC 44. Auditor.** The Commission on Audit shall appoint a representative
2 who shall be the full-time auditor of the Authority, and such personnel as may
3 be necessary to assist said representative in the performance of his duties.
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6 **SEC 45. Separability Clause.** If any provision of this Act or an application
7 thereof to any person or circumstance is held to be invalid, the other provisions
8 of this Act, and the application of such provision to other persons or
9 circumstances, shall not be affected thereby.
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12 **SEC 46. Repealing Clause.** All existing laws, orders, rules and regulations
13 or parts thereof deemed inconsistent with the provisions of this Act are hereby
14 repealed or modified accordingly.
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17 **SEC 47 Effectivity.** This Act shall take effect fifteen (15) days following the
18 date of its publication in the Official Gazette or in at least two (2) newspapers of
19 general circulation, whichever comes first.
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22 *Approved,*