



HOUSE OF REPRESENTATIVES

H. No. 5307

BY REPRESENTATIVE ALMARIO, PER COMMITTEE REPORT NO. 1588

AN ACT CREATING A SPECIAL ECONOMIC ZONE IN THE PROVINCE OF DAVAO ORIENTAL, CREATING FOR THIS PURPOSE THE DAVAO ORIENTAL SPECIAL ECONOMIC ZONE AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Davao
2 Oriental Special Economic Zone Act of 2006”.

3 SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the
4 State to encourage and promote the attainment of sound and balanced
5 industrial, economic and social development in the country through the
6 promotion of private enterprises. Towards this end, the State shall endeavor to
7 establish special economic zones in suitable and selected areas in the country
8 where enterprises will be given incentives to create an environment conducive
9 to business. This shall be the means to attract local and foreign investors,
10 generate employment opportunities, and encourage the regional dispersal of
11 industries.

1 SEC. 3. *Creation of the Davao Oriental Special Economic Zone.* – In
2 accordance with the foregoing policy and subject to the concurrence of the
3 city/ies and municipalities of Davao Oriental affected by the zone, there is
4 hereby established a special economic zone in the municipalities of Mati, San
5 Isidro and Lupon in the Province of Davao Oriental to be known as the Davao
6 Oriental Special Economic Zone, hereinafter referred to as the Davao Oriental
7 Ecozone. The specific metes and bounds of the Davao Oriental Ecozone shall
8 be more particularly defined in a presidential proclamation that shall be issued
9 for this purpose.

10 SEC. 4. *Governing Principles.* – The Davao Oriental Special
11 Economic Zone shall be managed and operated under the following principles:

12 (A) Within the framework and limitations of the Constitution and the
13 applicable provisions of the Local Government Code, the Davao Oriental
14 Ecozone shall be developed into a decentralized, self-reliant and self-
15 *sustaining agro-industrial, commercial, financial, investment and tourist center*
16 with suitable retirement and residential areas. The Davao Oriental Ecozone
17 shall be provided with transportation, telecommunications and other facilities
18 needed to attract legitimate and productive foreign investments, generate
19 linkage industries and employment opportunities for the people of the Province
20 of Davao Oriental and its neighboring towns and cities.

21 (B) The Davao Oriental Ecozone may establish mutually beneficial
22 economic relations with other entities within the country, subject to the
23 administrative guidance of the Department of Foreign Affairs (DFA) and/or the
24 Philippine Economic Zone Authority (PEZA) and the Department of Trade and
25 Industry (DTI) with regards to foreign entities or enterprises.

26 (C) Foreign citizens and companies owned by non-Filipinos in
27 whatever proportion may set up enterprises in the Davao Oriental Ecozone,
28 either by themselves or in joint venture with Filipinos in any sector of industry,

1 international trade and commerce within the *Davao Oriental Ecozone*, in
2 accordance with law.

3 (D) The *Davao Oriental Ecozone* shall be managed and operated as a
4 separate customs territory thereby ensuring the *free flow, entry and movement*
5 of goods and capital within, into and out of its territory. It shall be vested with
6 the authority to issue certificates of origin for products manufactured or
7 processed in the *Davao Oriental Ecozone* in accordance with prevailing rules
8 of origin, and the pertinent regulations of the duly recognized national bodies
9 tasked to oversee all other ecozones in the country.

10 SEC. 5. *Incentives to Registered Enterprises.* – The *Davao Oriental*
11 *Ecozone Authority* may administer the following incentives to the registered
12 enterprises located therein to the extent of the activity/project:

13 (A) *Income Tax Holiday (ITH)* – Registered enterprises shall be
14 entitled to an ITH from the start of their commercial operations to the extent of
15 their activity under the following categories:

16 (1) *Category A* – Registered domestic enterprise located in highly
17 developed areas, as determined by the Board of Investments (BOI), shall be
18 entitled to a four-year ITH.

19 (2) *Category B* – Registered domestic enterprise on the following shall
20 be entitled to a six-year ITH:

21 (a) Located in less developed areas as defined by the BOI, or

22 (b) Producing/rendering new products/services or having strong
23 backward or forward linkages.

24 (3) *Category C* – Registered export enterprise shall be entitled to a six-
25 year ITH: *Provided, however, That if the export enterprises comply with the*
26 *following: (a) large capital investments or sizeable employment generation, or*
27 *(b) use high level of technology, or (c) located outside Metro Manila, it shall*
28 *be entitled to an eight-year ITH.*

1 Registered enterprises embarking on new investments that are listed in
2 the current Investment Priorities Plan (IPP) shall be entitled to incentives
3 provided herein pertaining to the new investments and subject to such terms
4 and conditions as the BOI may determine.

5 Additional investments in the project shall be entitled to the ITH
6 corresponding to such investments as may be determined by the BOI.
7 Additional ITH may be granted for as long as the investment is made on the
8 same project: *Provided*, That the project is listed in the IPP at the same time
9 the additional investment in the project is made: *Provided, further*, That the
10 entitlement period for additional investments shall not exceed three times the
11 period provided under this subsection: *Provided, finally*, That the total ITH
12 period for an export enterprise availing of an eight-year ITH shall not exceed
13 twenty (20) years. Any unused incentive shall therefore be deemed forfeited if
14 not used during the incentive period.

15 Enterprises registered with the Davao Oriental Ecozone Authority are
16 required to share in the special development fund of the BOI for investment
17 promotion projects of the government equivalent to one percent (1%) of the
18 ITH granted for every application.

19 The Bureau of Internal Revenue (BIR) shall require a registered
20 enterprise availing of the ITH or the Net Operating Loss Carryover (NOLCO)
21 to secure a certificate of eligibility from the Davao Oriental Ecozone Authority
22 for validation before filing an official copy of its income tax return (ITR).

23 Failure to secure certification and/or to file the ITH or the NOLCO
24 availment for validation by the Authority within forty-five (45) days from the
25 last day of statutory filing date for ITR shall cause the forfeiture of the
26 availment for the taxable period.

27 (B) Net Operating Loss Carryover (NOLCO) – Net operating loss of
28 the business or enterprise during the first three years from the start of

1 commercial operations which have not been previously offset as deduction
2 from gross income shall be carried over as a deduction from gross income for
3 the next five consecutive years immediately following the year of such loss:
4 *Provided, however,* That operating loss resulting from availment of incentives
5 provided in this Code shall not be entitled to the NOLCO.

6 Registered enterprises availing of the ITH as herein provided shall not
7 be entitled to avail of the NOLCO.

8 (C) Imposition of a tax rate of five percent (5%) on gross income
9 earned (GIE) -- Except for real property tax on land, no local and national taxes
10 as prescribed under Republic Act No. 8424, also known as "The National
11 Internal Revenue Code of 1997, as amended", such as income tax, excise tax
12 and franchise taxes, shall be imposed on business establishments operating
13 within the Davao Oriental Ecozone. In lieu thereof, five percent (5%) of the
14 gross income earned shall be paid as follows:

15 (1) two percent (2%) to the national government;

16 (2) one percent (1%) to the Province of Davao Oriental;

17 (3) one half percent (½%) to be shared by the municipalities affected
18 by the declaration of the Davao Oriental Ecozone in proportion to their income
19 from business activities within the Davao Oriental Ecozone; and

20 (4) one and a half percent (1 ½%) to the Davao Oriental Ecozone
21 Authority.

22 All persons and service establishments in the Davao Oriental Ecozone
23 shall be subject to national and local taxes under the National Internal Revenue
24 Code (NIRC) of 1997, as amended, and the Local Government Code.

25 (D) Accelerated Depreciation -- Accelerated depreciation of plant,
26 machinery and equipment that are reasonably needed and actually used for the
27 production and transport of goods and services may be allowed using a rate not
28 exceeding twice the rate which would have been used had the annual allowance

1 been computed in accordance with the rules and regulations prescribed by the
2 Secretary of Finance and the provisions of the NIRC of 1997, as amended.

3 (E) Capital Equipment Incentives – (1) Importations of capital
4 equipment, spare parts, tools and dye, or those required for pollution
5 abatement and control, cleaner production and waste reduction including
6 consignment thereof by registered enterprises upon the effectivity of this law,
7 shall be exempted to the extent of one hundred percent (100%) of the taxes and
8 customs duties: *Provided*, That the importation thereof shall be used
9 exclusively by the registered enterprises in their registered activity: *Provided*,
10 *further*, That the importation of machinery and equipment and accompanying
11 parts shall comply with the following conditions:

12 (a) They are not manufactured domestically in sufficient quantity, of
13 comparable quality and at reasonable prices;

14 (b) They are reasonably needed and will be used exclusively by the
15 registered enterprise in the manufacture of its products, unless prior approval
16 of the Davao Oriental Ecozone Authority is secured for the part-time
17 *utilization of said equipment in a nonregistered activity to maximize usage*
18 thereof or the proportionate taxes and duties are paid on a specific equipment
19 and machinery being permanently used for nonregistered activities; and

20 (c) Approval of the Davao Oriental Ecozone Authority was obtained by
21 the registered enterprise for the importation of such machinery, equipment and
22 spare parts.

23 Approval of the Davao Oriental Ecozone Authority must be secured
24 before any sale, transfer or disposition of the imported capital equipment,
25 machinery or spare parts is made: *Provided*, That if such sale, transfer or
26 disposition is made within the first five years from the date of importation, any
27 of the following conditions must be present:

1 (i) The same is made to another enterprise enjoying tax and duty
2 exemption on imported capital equipment.

3 (ii) The same is made to another enterprise, upon payment of any taxes
4 and duties on the net book value of the capital equipment to be sold;

5 (iii) The importation of the capital equipment, machinery, spare parts or
6 source documents is required for pollution abatement and control; and

7 (iv) Proven technical obsolescence of the said equipment, machinery or
8 spare parts.

9 When the aforementioned sale, transfer or disposition is made under any
10 of the conditions provided for in the foregoing paragraphs other than paragraph
11 (ii) herein, the registered firm shall not pay the taxes and duties waived on such
12 items: *Provided*, That if the registered enterprise sells, transfers or disposes
13 the aforementioned imported items without prior approval within five years
14 from the date of importation, the registered enterprise and the vendee,
15 transferee or assignee shall be solidarily liable to pay twice the amount of the
16 tax and duty exemption given: *Provided, further*, That even if the sale, transfer
17 or disposition of the capital equipment, machinery or spare parts is approved
18 after five years from the date of importation, the registered enterprise is still
19 liable to pay the taxes and duties based on the net book value of the capital
20 equipment, machinery or spare parts if any of the registration terms and
21 conditions has been violated. Otherwise, it shall no longer be subject to the
22 payment of the taxes and duties waived thereon

23 (2) The purchase of machinery, capital equipment, raw materials,
24 supplies, parts and semi-finished products to be used in the fabrication of
25 machinery and capital equipment by a registered export-oriented enterprise
26 from a domestic manufacturer shall be subject to zero percent (0%) value-
27 added tax.

1 A registered export-oriented enterprise shall be granted a tax credit
2 equivalent to the amount of duties that would have been waived on the
3 machinery, capital equipment, raw materials, supplies, parts and semi-finished
4 products used in the fabrication of machinery and capital equipment, had these
5 items been imported, upon its submission to the Department of Finance (DOF)
6 of the bill of materials evidencing the transaction value of such and other
7 pertinent documents, for verification and proper endorsement.

8 The availment by a registered export enterprise of the incentives stated
9 in the immediately preceding two paragraphs shall be subject to the following
10 conditions: (a) that said capital equipment, machinery and spare parts will be
11 used exclusively by the registered enterprise in its registered activity; (b) that
12 the capital equipment or machinery where the raw materials, supplies, parts
13 and semi-finished products were used would have qualified for tax and duty-
14 free importation; and (c) that the approval of the Davao Oriental Ecozone
15 Authority is obtained by the registered enterprise. If the registered enterprise
16 sells, transfers or disposes these machineries, capital equipment and spare
17 parts, the provision in the preceding paragraphs for such disposition shall
18 apply.

19 This incentive shall be deemed waived if application for tax credit under
20 this subsection was not filed within one year from the date of delivery.

21 (F) The importation of source documents by information technology-
22 registered enterprises shall be eligible for tax and duty-free importation.

23 (G) Raw Materials Incentives – Every registered export-oriented
24 enterprise shall enjoy a tax credit equivalent to the internal revenue taxes and
25 customs duties paid on the supplies, raw materials and semi-manufactured
26 products provided the same are not sufficient in quantity, quality or are not
27 competitively priced which are used in the manufacture, processing or
28 production of its export products forming part thereof, exported directly and

1 indirectly by the registered export-oriented enterprise, based on the actual
2 taxes and duties paid for such materials/supplies/semi-manufactured products
3 by the registered enterprise.

4 This incentive shall be deemed waived if application for tax credit under
5 this subsection was not filed within one year from the date of exportation of the
6 final product.

7 (H) Incentives on Breeding Stocks and Genetic Materials – Importation
8 of breeding stocks and genetic materials within ten (10) years from the date of
9 registration of commercial operation of the enterprise shall be exempt from all
10 taxes and duties: *Provided*, That such breeding stocks and genetic materials
11 are reasonably needed in the registered activity and approved by the Davao
12 Oriental Ecozone Authority.

13 The availment of the incentives by a registered enterprise shall be
14 subject to the following: (1) that said breeding stocks and genetic materials
15 would have been qualified for tax and duty-free importation under the
16 preceding paragraph; (2) that the breeding stocks and genetic materials are
17 reasonably needed in the registered activity; (3) that approval of the Davao
18 Oriental Ecozone Authority has been obtained by the registered enterprise; and
19 (4) that the purchase is made within ten (10) years from the date of registration
20 of commercial operation of the registered enterprise.

21 This incentive shall be deemed waived if application for tax credit under
22 this subsection is not filed within one year from the date of delivery.

23 (I) Exemption from Wharfage Dues – The provisions of law to the
24 contrary notwithstanding, exports by a registered enterprise shall be exempted
25 from wharfage dues.

26 (J) Deferred Imposition of the Minimum Corporate Income Tax – The
27 minimum corporate income tax (MCIT) of two percent (2%) of the gross
28 income as of the end of the taxable year shall be imposed when the MCIT is

1 greater than the income tax computed under the NIRC of 1997, as amended,
2 for the taxable year: *Provided, however,* That said MCIT shall be imposed
3 only after the enterprise entitlement period to the income tax-based incentives.

4 (K) (1) Tax Treatment of Merchandise in the Davao Oriental Ecozone –

5 (a) Except as otherwise provided in this Act, foreign and domestic
6 *merchandise, raw materials, supplies, articles, equipment, machineries, spare*
7 *parts and wares of every description, except those prohibited by law, brought*
8 *into the zone to be sold, stored, broken up, repacked, assembled, installed,*
9 *sorted, cleaned, graded or otherwise processed, manufactured, mixed with*
10 *foreign or domestic merchandise, whether directly or indirectly related in such*
11 *activity, shall not be subject to customs and internal revenue laws and*
12 *regulations nor to local tax ordinances, any provision of law to the contrary*
13 *notwithstanding.*

14 (b) Merchandise purchased by a registered Davao Oriental Ecozone
15 enterprise, from the customs territory and subsequently brought into the export
16 processing zone, shall be considered as export sales and exportation thereof
17 shall be entitled to the benefits allowed by law for such transaction.

18 (c) Domestic merchandise sent from the Davao Oriental Ecozone to the
19 customs territory shall, whether or not combined with or made part of other
20 *articles of local origin or manufactured in the Philippines while in the export*
21 *processing zone, be subject to internal revenue laws of the Philippines as*
22 *domestic goods sold, transferred or disposed of for local consumption.*

23 (d) Merchandise sent from the Davao Oriental Ecozone to the customs
24 territory shall, whether or not combined with or made part of other articles
25 while in the zone, be subject to rules and regulations governing imported
26 merchandise. The duties and taxes shall be based on the value of said
27 *imported materials except when the final product is tax exempt.*

1 (e) Domestic merchandise on which all internal revenue taxes have
2 been paid, if subject thereto, and foreign merchandise previously imported on
3 which tax has been paid, or which have been admitted free of duty and tax,
4 may be taken into the Davao Oriental Ecozone from the customs territory of
5 the Philippines and be brought back thereto free of quotas, duty or tax.

6 (f) Subject to such regulations respecting identity and safeguarding of
7 the revenue as the Davao Oriental Ecozone Authority may deem necessary,
8 when the identity of an article entered into the export processing zone under
9 the immediately preceding paragraph has been lost, such article when removed
10 from the zone and taken to the customs territory shall be treated as foreign
11 merchandise entering the country for the first time, under the provisions of the
12 Tariff and Customs Code of the Philippines, as amended.

13 (g) Articles produced or manufactured in the Davao Oriental Ecozone
14 and exported shall, on subsequent importation into the customs territory, be
15 subject to the import laws applicable to like articles manufactured in a foreign
16 country.

17 (h) Unless the contrary is shown, merchandise taken out of the Davao
18 Oriental Ecozone shall be considered for tax purposes to have been sent to
19 customs territory.

20 (2) *Tax Treatment of Services in the Davao Oriental Ecozone* – (a)
21 Sale of service by an entity from the customs territory to a registered ecozone
22 or free trade enterprise, or by a registered ecozone or freeport enterprise to
23 another ecozone for freeport enterprise shall be treated as indirect export, and
24 hence, entitled to the benefits allowed by law for such transaction.

25 (b) Sale or service by a registered ecozone or freeport enterprise to the
26 customs territory shall be subject to applicable internal revenue laws and
27 regulations.

1 (L) Registered export-oriented enterprise shall have access to the
2 utilization of the bonded warehousing system in accordance with the rules and
3 regulations of the Bureau of Customs.

4 (M) Employment of Foreign Nationals – Subject to the provisions of
5 Section 29 of Commonwealth Act No. 613, as amended, a registered enterprise
6 may employ foreign nationals in supervisory or technical positions for a period
7 not exceeding ten (10) years from its registration: *Provided*, That when the
8 majority of the capital stock of a registered enterprise is owned by foreign
9 investors, the positions of the president, treasurer and general manager or their
10 equivalents in the enterprise may be retained by foreign nationals beyond the
11 period set forth herein and such officer is the owner or a stockholder owning at
12 least ten percent (10%) of the outstanding capital stock of the registered
13 enterprise and he remains the owner or maintains his stockholdings therein.

14 Foreign nationals under employment contract within the purview of this
15 incentive, their spouses and unmarried children under twenty-one (21) years of
16 age, who are not excluded by Section 29 of Commonwealth Act No. 613, as
17 amended, shall be permitted to enter and reside in the Philippines during the
18 period of employment of such foreign nationals. They shall be issued a
19 *multiple entry visa, valid for a period of three years, and shall be allowed to*
20 *enter and leave the Philippines without further documentary requirements other*
21 *than valid passports or other travel documents in the nature of passports. The*
22 *validity of the multiple entry visa shall be extendible yearly.*

23 *The foreign national admitted herein, as well as their respective spouses*
24 *and dependents shall be exempt from: (1) obtaining Alien Certificate of*
25 *Registration and Emigration Clearance Certificates; and (2) securing the Alien*
26 *Employment Permit (AEP) and all types of clearances, permits, licenses or*
27 *their equivalents required by any government, department or agency.*

1 SEC. 6. *Incentives to Investors.* – Any foreign national covered under
2 Subsection (M) of Section 5 of this Act, who invests an amount of at least
3 US\$150,000.00, either in cash and/or equipment, in a registered enterprise
4 shall be entitled to an investor’s visa: *Provided, That:*

5 (A) He is at least eighteen (18) years of age;

6 (B) He has not been convicted of a crime involving moral turpitude;

7 (C) He is not afflicted with any loathsome, dangerous or contagious
8 disease; and

9 (D) He has not been institutionalized for any mental disorder or
10 disability: *Provided, further,* That in securing the investor’s visa, the alien-
11 applicant shall be entitled to the same privileges provided for under Section 5
12 (M), hereof.

13 As a holder of an investor’s visa, an alien shall be entitled to reside in
14 the Philippines while his investment subsists. For this purpose, he should
15 submit an annual report, in the form duly prescribed for the purpose, to prove
16 that he has maintained his investment in the country. Should said alien
17 withdraw his investments from the Philippines, the investor’s visa issued to
18 him shall automatically expire.

19 SEC. 7. *Administration, Implementation and Monitoring of Incentives.*

20 – The Davao Oriental Ecozone Authority shall be responsible for the
21 administration and implementation of the incentives granted to its respective
22 registered enterprises: *Provided,* That any incentive administration policy
23 adopted by the BOI for registered enterprises shall be uniformly applied by the
24 Davao Oriental Ecozone Authority.

25 The following are the duties and responsibilities of the Davao Oriental
26 Ecozone Authority in the administration of incentives:

27 (A) To adopt consistent procedures of administering incentives in
28 accordance with the guidelines established by the BOI;

1 (B) To adopt and implement systems and procedures affecting trade
2 and customs policies in accordance with the requirements established by the
3 DOF and the BOI;

4 (C) To submit data and information to the DOF and the BOI as required
5 by any of these agencies to ascertain consistency of investment policies and
6 incentives, including their implementation as provided in paragraph (A) herein,
7 and to ensure proper implementation of systems and procedures affecting trade
8 and customs policies as provided in paragraph (B) herein; and

9 (D) To perform all other duties and responsibilities as may be required
10 by the President of the Philippines.

11 For proper monitoring, the BOI shall create a single database of all
12 incentives provided by all incentives granting agencies, including the Davao
13 Oriental Ecozone Authority, and all information thereto. Double entry
14 accounting shall be done by the BOI in recording all incentives granted by the
15 government for transparency purposes.

16 SEC. 8. *Extension of Period of Availment.* – The availment period of
17 the incentives provided herein may be extended by the Davao Oriental
18 Ecozone Authority, in the event that the registered enterprise suffers
19 operational *force majeure* or any event equivalent thereto, impairing its
20 viability.

21 SEC. 9. *Duration of Incentives.* – Enterprises registered with the Davao
22 Oriental Ecozone Authority may enjoy the ITH or the NOLCO granted by the
23 Authority prior to the availment of the five percent (5%) gross income earned
24 (GIE).

25 Fiscal incentives under this Act shall be terminated after a cumulative
26 period of twenty (20) years from the date of registration or the start of
27 commercial operation, whichever is applicable, except that it could be

1 extended with regard to industries deemed indispensable to national
2 development.

3 The industries exempted from this provision shall be recommended by
4 the BOI, with the concurrence of the Secretaries of the DOF and the DTI.

5 SEC. 10. *Creation of the Davao Oriental Special Economic Zone*
6 *Authority* – Subject to the concurrence of the local government units (LGUs)
7 that will be affected by the creation of the Davao Oriental Ecozone, there is
8 hereby created a body corporate to be known as the Davao Oriental Special
9 Economic Zone Authority, hereinafter referred to as the Davao Oriental
10 Ecozone Authority, which shall manage and operate the Davao Oriental
11 Ecozone, in accordance with this Act. It shall be organized within one hundred
12 eighty (180) days after the effectivity of this Act.

13 SEC. 11. *Principal Office*. – The Davao Oriental Ecozone Authority
14 shall maintain its principal office in the Municipality of Mati, Davao Oriental,
15 but it may establish branches within the Philippines as may be necessary for
16 the proper conduct of its business.

17 SEC. 12. *Powers and Functions of the Davao Oriental Ecozone*
18 *Authority*. – The Davao Oriental Ecozone Authority shall have the following
19 functions:

20 (A) To operate, administer and manage the Davao Oriental Ecozone
21 according to the principles and provisions set forth in this Act;

22 (B) To recommend to the President of the Philippines the issuance of a
23 proclamation to fix and delimit the site of the Davao Oriental Ecozone;

24 (C) To register, regulate and supervise the enterprises in the Davao
25 Oriental Ecozone in an efficient and decentralized manner;

26 (D) To regulate and undertake the establishment, operation and
27 maintenance of utilities, other services and infrastructure in the Davao Oriental
28 Ecozone such as heat, light and power, water supply, telecommunications,

1 transport, toll roads and bridges, port services, and to fix just, reasonable and
2 competitive rates, fares, charges and prices therefor;

3 (E) To construct, acquire, own, lease, operate and maintain on its own
4 or through others by virtue of contracts, franchises, licenses or permits under
5 any of the schemes allowed in Republic Act No. 6957, otherwise known as the
6 Build-Operate-Transfer Law, or in joint venture with the private sector, any or
7 all of the public utilities and infrastructure required or needed in the Davao
8 Oriental Ecozone in coordination with appropriate national and local
9 government authorities and in conformity with applicable laws thereon;

10 (F) To operate on its own, either directly or through a license to other
11 tourism-related activities, including recreational and sports facilities;

12 (G) Subject to the approval of the President of the Republic of the
13 Philippines and the Monetary Board of the *Bangko Sentral ng Pilipinas (BSP)*
14 upon the recommendation of the DOF, to raise or borrow adequate and
15 necessary funds from local or foreign sources to finance its projects and
16 programs under this Act, and for that purpose to issue bonds, promissory notes
17 and other forms of securities, and to secure the same by a guarantee, pledge,
18 mortgage, deed of trust, or an assignment of all or part of its property or assets;

19 (H) To provide security for the Davao Oriental Ecozone in coordination
20 with the national and local governments For this purpose, the Davao Oriental
21 Ecozone Authority may establish and maintain its security force and
22 firefighting capability or hire others to provide the same;

23 (I) To protect, preserve, maintain and develop the virgin forests,
24 beaches, coral and coral reefs within the Davao Oriental Ecozone;

25 (J) To create, operate and/or contract to operate such functional units
26 or offices of the Davao Oriental Ecozone Authority as it may deem necessary;

1 (K) To adopt, alter and use a corporate seal; make contracts, leases,
2 own or otherwise dispose of personal or real property; sue and be sued; and
3 carry out its functions and duties as provided for in this Act; and

4 (L) To issue rules and regulations consistent with the provisions of this
5 Act as may be necessary to implement and accomplish the purposes, objectives
6 and policies provided in this law.

7 SEC. 13. *Banking Rules and Regulations.* – Existing banking laws and
8 BSP rules and regulations shall apply on foreign exchange and other current
9 transactions (trade and nontrade), local and foreign borrowings, foreign
10 investments, establishment and operation of local and foreign banks, foreign
11 currency deposit under the supervision of the BSP.

12 SEC. 14. *Remittance of Earnings* – Without prior BSP approval, after
13 tax profits and other earnings of foreign investments in enterprises in the
14 Davao Oriental Ecozone may be remitted outward in the equivalent foreign
15 exchange through any of the banks licensed by the BSP in the Davao Oriental
16 Ecozone: *Provided, however,* That such foreign investments in said
17 enterprises have been previously registered with the BSP.

18 SEC. 15. *Board of Directors of the Davao Oriental Ecozone Authority.*
19 – The powers of the Davao Oriental Ecozone Authority shall be vested in and
20 exercised by a board of directors, hereinafter referred to as the Board, which
21 shall be composed of the following:

22 (A) A chairman who shall, at the same time, be the Administrator of the
23 Davao Oriental Ecozone Authority;

24 (B) A vice chairman who shall come from the PEZA;

25 (C) Members consisting of:

26 (1) The congressional representatives of the Province of Davao
27 Oriental;

28 (2) The Governor of Davao Oriental;

1 (3) The mayors of the municipalities of Mati, San Isidro and Lupon;

2 (4) One representative from domestic investors in the Davao Oriental
3 Ecozone;

4 (5) One representative from foreign investors in the Davao Oriental
5 Ecozone; and

6 (6) One representative from the labor sector chosen from the workers
7 in the Davao Oriental Ecozone.

8 The congressional representatives, the Governor of Davao Oriental and
9 the mayors shall serve as *ex officio* members of the Board.

10 The Chairman and the members of the Board, except the *ex officio*
11 members, shall be appointed by the President of the Philippines to serve for a
12 term of six years, unless sooner separated from service due to death, voluntary
13 resignation or removal for cause. In case of death, resignation or removal for
14 cause, the replacement shall serve only the unexpired portion of the term.

15 Except for the representatives of the business and investment sectors, no
16 person shall be appointed by the President of the Philippines as member of the
17 Board unless he is a Filipino citizen, of good moral character and of
18 recognized competence in relevant fields of business, banking, shipping
19 business or labor management, port operations, engineering or law.

20 Members of the Board shall each receive a reasonable per diem at rates
21 to be determined by the Department of Budget and Management in accordance
22 with existing rules and regulations.

23 SEC. 16. *Powers and Duties of the Chairman-Administrator.* – The
24 *Chairman-Administrator shall have the following powers and duties:*

25 (A) To direct and manage the affairs of the Authority in accordance
26 with the policies of the Board;

27 (B) To establish the internal organization of the Authority under such
28 conditions that the Board may prescribe;

1 (C) To submit an annual budget and necessary supplemental budget to
2 the Board for its approval;

3 (D) To submit within thirty (30) days after the close of each fiscal year
4 an annual report to the Board and such other reports as may be required; and

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

7 SEC. 17. *Promotion of Industrial Peace* – One representative each
8 from the Department of Labor and Employment (DOLE), labor sector, cultural
9 minorities, business and industry sectors shall formulate a mechanism under a
10 social pact for the enhancement and preservation of industrial peace in the
11 Province of Davao Oriental within thirty (30) days after the effectivity of this
12 Act.

13 SEC. 18. *Ipsa Facto Clause*. – Sections 25, 26 and 29; 30 to 37; and 39
14 to 41 of Republic Act No. 7916, otherwise known as “The Special Economic
15 Zone Act of 1995”, shall *ipso facto* apply to Davao Oriental Special Economic
16 Zone.

17 SEC. 19. *Capitalization*. – The Davao Oriental Ecozone Authority shall
18 have an authorized capital stock of two billion (2,000,000,000) no par shares
19 with a minimum issue of Ten pesos (P10.00) each, the majority shares of
20 which shall be subscribed and paid for by the national government and the
21 LGUs embracing the Davao Oriental Special Economic Zone. The Board of
22 Directors of the Davao Oriental Ecozone Authority may, with the written
23 concurrence of the Secretary of Finance, sell shares, representing not more
24 than forty percentum (40%) of the capital stock of the Authority to the general
25 public under such policy as the Board and the Secretary of Finance may
26 determine. The national government and the LGUs concerned shall in no case
27 own less than sixty percentum (60%) of the total issued and outstanding capital
28 of the Davao Oriental Ecozone Authority.

1 The amount necessary to subscribe and pay for the shares of the national
2 government to the capital stock of the Davao Oriental Ecozone Authority shall
3 be included in the annual General Appropriations Act. For LGUs, the funds
4 shall be taken from their internal revenue allotment and other local funds.

5 SEC. 20. *Supervision and Coordination of Development Plans.* – For
6 purposes of policy direction and coordination, the Davao Oriental Ecozone
7 shall be under the direct control and supervision of the Office of the President
8 of the Republic of the Philippines.

9 SEC. 21. *Relationship with the Regional Development Council.* – The
10 Davao Oriental Ecozone Authority shall determine the development goals for
11 the Davao Oriental Ecozone within the framework of national development
12 plans, policies and goals, and the Administrator shall, upon approval by the
13 Board, submit the Davao Oriental Ecozone plans, programs and projects to the
14 Regional Development Council for inclusion in and as inputs to the overall
15 regional development plan.

16 SEC. 22. *Relationship with the Local Government Units.* – In case of
17 any conflict between the Davao Oriental Ecozone Authority and the Province
18 of Davao Oriental on matters affecting the Davao Oriental Ecozone other than
19 defense and security matters, the decision of the Davao Oriental Ecozone
20 Authority shall prevail.

21 SEC. 23. *Auditing.* – The Commission on Audit shall appoint a
22 representative who shall be a full time auditor of the Davao Oriental Ecozone
23 Authority and assign such number of personnel as may be necessary to assist
24 said representative in the performance of his/her duties. The salaries and
25 emoluments of the assigned auditor and personnel shall be in accordance with
26 pertinent laws, rules and regulations.

27 SEC. 24. *Interpretation/Construction.* – The powers, authorities and
28 functions that are vested in the Davao Oriental Ecozone Authority are intended

1 to establish decentralization of governmental functions and authority as well as
2 an efficient and effective working relationship among the Davao Oriental
3 Ecozone, the central government and the LGUs.

4 SEC. 25. *Implementing Rules and Regulations* – The PEZA, the
5 Departments of Trade and Industry, Finance, Foreign Affairs, Agrarian
6 Reform, the Interior and Local Government, and Labor and Employment, the
7 National Economic Development Authority, the Bureau of Customs, the
8 Bureau of Immigration, the representatives from the technical staff of the
9 Committee on Economic Affairs of both Houses of Congress and other
10 concerned agencies shall formulate the implementing rules and regulations of
11 this Act within ninety (90) days after its approval. Such rules and regulations
12 shall take effect fifteen (15) days after its publication in a newspaper of general
13 circulation in the Philippines.

14 SEC. 26. *Separability Clause*. – If any provision of this Act shall be
15 held unconstitutional or invalid, the other provisions not otherwise affected
16 shall remain in full force and effect.

17 SEC. 27. *Repealing Clause*. – All laws, executive orders or issuances,
18 or any part thereof which are inconsistent herewith are hereby repealed or
19 amended accordingly.

20 SEC. 28. *Effectivity Clause*. – This Act shall take effect upon its
21 publication in at least one newspaper of general circulation.

Approved,

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