

SENATE

S. B. NO. 2602

(In substitution of S.B. No. 2489, taking into consideration H. No. 5952)

Prepared by the Committees on Economic Affairs; Local Government; Ways and Means; and Finance with Senators Enrile, Roxas, Lim, Recto, and Drilon as authors thereof. *Janitor*

AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE PROVINCE OF SURIGAO DEL SUR, CREATING FOR THE PURPOSE THE SURIGAO DEL SUR 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 “Surigao del Sur
2 Special Economic Zone Act of 2007.”

3 **Sec. 2. Declaration of Policy.** – It is hereby declared the policy of the State
4 to actively encourage, promote, induce, and accelerate the sound and balanced
5 industrial, economic and social development of the country in order to provide jobs to
6 the people, especially those in rural areas, increase their productivity and their
7 individual and family income, and thereby improve the level and quality of their
8 living conditions through the establishment, among others, of special economic zones
9 in suitable and strategic locations in the country and through measures that shall
10 effectively attract legitimate and productive foreign investments.

11 **Sec. 3. Creation of the Surigao del Sur Special Economic Zone.** – In pursuit
12 of the foregoing declared policy and subject to the concurrence of the concerned local
13 government units of Surigao del Sur affected by the zone, there is hereby established
14 a Special Economic Zone, hereinafter referred to as the Surigao del Sur Ecozone. The
15 Surigao del Sur Ecozone shall cover the entire area embraced by the Municipalities of
16 Carrascal, Cantilan, Madrid, Carmen, and Lanuza, Province of Surigao del Sur. The
17 specific metes and bounds of the Surigao del Sur Ecozone shall be more particularly
18 defined in a proclamation to be issued by the President of the Philippines, upon the
19 recommendation of the Philippine Economic Zone Authority (PEZA), provided that
20 the lands embraced therein shall be public lands.

21 **Sec. 4. Governing Principles.** – The Surigao del Sur Special Economic Zone
22 shall be managed and operated by the Surigao del Sur Special Economic Zone

1 Authority, herein referred to as the SDSEZA, created under Section 10 of this Act,
2 under the following principles:

3 (a) Within the framework and limitations of the Constitution and
4 applicable provisions of the Local Government Code, the Surigao del Sur Ecozone
5 shall be developed into and operated as a decentralized, self-reliant and self-sustaining
6 industrial, commercial/trading, agro-industrial, tourist, banking, financial and
7 investment center with suitable residential areas.

8 (b) The Surigao del Sur Ecozone shall be provided with transportation,
9 telecommunications and other facilities needed to attract legitimate and productive
10 investments, generate linkage industries and employment opportunities for the people
11 of the Province of Surigao del Sur and its neighboring towns and cities.

12 (c) The Surigao del Sur Ecozone may establish mutually beneficial
13 economic relations with other entities or enterprises within the country or, subject to
14 the administrative guidance of the Department of Foreign Affairs (DFA), the
15 Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and
16 Industry (DTI), with foreign entities or enterprises.

17 (d) Foreign citizens and companies owned by non-Filipinos in whatever
18 proportion may set up enterprises in the Surigao del Sur Ecozone, either by
19 themselves or in joint venture with Filipinos in any sector of industry, international
20 trade and commerce within the Surigao del Sur Ecozone.

21 (e) The areas comprising the Surigao del Sur Ecozone may be expanded or
22 reduced when necessary. For this purpose, the SDSEZA, in consultation with the
23 local government units, shall have the power to acquire either by purchase,
24 negotiation or condemnation proceedings, any private land within or adjacent to the
25 Surigao del Sur Ecozone for the following purposes: (1) consolidation of lands for
26 Surigao del Sur Ecozone development; (2) acquisition of right of way to the Surigao
27 del Sur Ecozone; and (3) the protection of watershed areas and natural assets valuable
28 to the prosperity of the Surigao del Sur Ecozone.

29 (f) Goods manufactured by an Surigao del Sur Ecozone enterprise shall be
30 made available for immediate retail sale in the domestic market, subject to the
31 payment of corresponding taxes on raw materials and other regulations that may be
32 formulated by the SDSEZA, together with the PEZA, the Bureau of Customs and the
33 DTI. However, in order to protect domestic industries, a Negative List of industries
34 shall be drawn up and regularly updated by PEZA. Enterprises engaged in industries
35 included in such Negative List shall not be allowed to sell their products locally.

36 (g) The national government shall maintain its ability to coordinate with
37 the Surigao del Sur Ecozone and the local government units.

1 **SEC. 5. Incentives to Registered Enterprises.** – The Surigao del Sur Special
2 Economic Zone Authority (SDSEZA) may administer the following incentives to the
3 registered enterprises located therein to the extent of the activity/project:

4 (A) Income Tax Holiday (ITH) – Registered enterprises shall be entitled to
5 an income tax holiday from the start of their commercial operations to the extent of
6 their activity under the following categories:

7 Category A – Registered domestic enterprise located in highly developed
8 areas, as determined by the Board of Investments (BOI), shall be entitled to a
9 four-year income tax holiday.

10 Category B – Registered domestic enterprise on the following shall be entitled
11 to a six-year income tax holiday:

12 (1) Located in less developed areas as defined by the BOI; or

13 (2) Producing/rendering new products/services or having strong
14 backward or forward linkages

15 Category C – Registered export enterprise shall be entitled to a six- year
16 income tax holiday: *Provided, however,* That if the export enterprise complies
17 with the following: (1) large capital investments or sizeable employment
18 generation, or (2) use high level of technology or (3) located outside Metro-
19 Manila, it shall be entitled to an eight-year income tax holiday.

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

24 For this purpose, a registered enterprise shall be defined as any person, natural
25 or juridical, licensed to do business in the Philippines and registered with the Surigao
26 del Sur Special Economic Zone Authority (SDSEZA) to transact business within the
27 Surigao del Sur Special Economic Zone. A registered export enterprise shall be
28 defined as any registered enterprise engaged directly or indirectly in the production,
29 manufacture or trade of products or services which earns at least seventy percent
30 (70%) of its normal operating revenues from the sale of its products or services
31 abroad for foreign currency. A registered domestic enterprise, meanwhile, shall be
32 defined as any registered enterprise not falling under the definition of a registered
33 export enterprise.

34 Additional investments in the project shall be entitled to the income tax
35 holidays corresponding to such investments as may be determined by the BOI.
36 Additional income tax holiday may be granted for as long as the investment is made
37 on the same project: *Provided,* That the project is listed in the IPP at the same time the
38 additional investment in the project is made: *Provided, further,* That the entitlement

1 period for additional investments shall not exceed three times the period provided
2 under this subsection: *Provided, however,* That the total ITH period for an export
3 enterprise availing of an eight year ITH shall not exceed twenty (20) years. Any
4 unused incentives shall therefore be deemed forfeited if not used during the incentive
5 period.

6 Enterprises registered with SDSEZA are required to share in the special
7 development fund of the BOI for investment promotion projects of the government
8 equivalent to one percent (1%) of the ITH granted for every application.

9 The Bureau of Internal Revenue (BIR) shall require a registered enterprise
10 availing of ITH or Net Operating Loss Carryover (NOLCO) to secure a certificate of
11 eligibility from the SDSEZA before submitting its income tax return (ITR) with
12 SDSEZA for validation.

13 Failure to secure certification and/or to file the ITH or NOLCO availment for
14 validation by the SDSEZA within forty-five (45) days from the last day of each
15 statutory filing date for ITR shall cause the forfeiture of the availment for the taxable
16 period.

17 (B) Net Operating Loss Carryover (NOLCO) – Net operating loss of the
18 business or enterprise during the first three years from start of commercial operations
19 which have not been previously offset as deduction from gross income shall be
20 carried over as a deduction from gross income for the next five consecutive years
21 immediately following the year of such loss: *Provided however,* That operating loss
22 resulting from availment of incentives provided in this Act shall not be entitled to
23 NOLCO.

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

26 (C) Imposition of a tax rate of five percent (5%) on Gross Income Earned
27 (GIE). – Except for real property tax on land, no local and national taxes as prescribed
28 under Republic Act No. 8424, also known as “The National Internal Revenue Code of
29 1997, as Amended” such as income tax, excise tax, and franchise taxes, shall be
30 imposed on registered enterprises operating within the Surigao del Sur Ecozone. In
31 lieu thereof, five percent (5%) of the gross income earned shall be paid as follows:

32 (a) Three percent (3%) to the national government;

33 (b) Two percent (2%) shall be remitted by the business establishments to the
34 treasurer’s office of the municipality or city where the enterprise is
35 located;

36 All persons and service establishments in the Surigao del Sur Ecozone shall be
37 subject to national and local taxes under the National Internal Revenue Code of 1997,
38 as amended, and the Local Government Code.

1 D. Accelerated Depreciation. – Accelerated depreciation of plant, machinery
2 and equipment that are reasonably needed and actually used for the production and
3 transport of goods and services may be allowed using a rate not exceeding twice the
4 rate which would have been used had the annual allowance been computed in
5 accordance with the rules and regulations prescribed by the Secretary of Finance and
6 the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.

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

- 15 i. They are not manufactured domestically in sufficient quantity, of
16 comparable quality and at reasonable prices;
- 17 ii. They are reasonably needed and will be used exclusively by the
18 registered enterprise in the manufacture of its products, unless prior approval
19 of the SDSEZA is secured for the part time utilization of said equipment in a
20 non-registered activity to maximize usage thereof or the proportionate taxes
21 and duties are paid on a specific equipment and machinery being permanently
22 used for non-registered activities; and
- 23 iii. Approval of the SDSEZA was obtained by the registered enterprise for
24 the importation of such machinery, equipment and spare parts.

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

- 29 1) The same is made to another enterprise enjoying tax and duty
30 exemption on imported capital equipment;
- 31 2) The same is made to another enterprise, upon the payment of any
32 taxes and duties on the net book value of the capital equipment to
33 be sold;
- 34 3) The exportation of the capital equipment, machinery, spare parts or
35 source documents or those required for pollution abatement and
36 control; or
- 37 4) Proven technical obsolescence of the said equipment, machinery or
38 spare parts.

1 When the aforementioned sale, transfer or disposition is made under any of the
2 conditions provided for in the foregoing paragraphs other than paragraph (2) herein,
3 the registered firm shall not pay the taxes and duties waived on such items: *Provided,*
4 *further,* That if the registered enterprises sell, transfer or dispose the aforementioned
5 imported items without prior approval within five years from the date of importation,
6 the registered enterprise and the vendee, transferee, or assignee shall be solidarily
7 liable to pay twice the amount of the tax and duty exemption given it: *Provided,*
8 *finally,* That even if the sale, transfer or disposition of the capital equipment,
9 machinery or spare parts is approved after five years from date of importation, the
10 registered enterprises are still liable to pay the taxes and duties based on the net book
11 value of the capital equipment, machinery or spare parts if any of the registration
12 terms and conditions has been violated. Otherwise, they shall no longer be subject to
13 the payment of the taxes and duties waived thereon.

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

18 The registered export-oriented enterprise shall be granted a tax credit
19 equivalent to the amount of duties that would have been waived on the machinery;
20 capital equipment; raw materials, supplies, parts and semi-finished products used in
21 the fabrication of machinery and capital equipment, had these items been imported,
22 upon its submission to the DOF of the bill of materials evidencing the transaction
23 value of such and other pertinent documents, for verification and proper endorsement.

24 The availment by a registered export enterprise of the incentive stated under
25 the immediately preceding two paragraphs shall be subject to the following
26 conditions: (a) That said capital equipment, machinery and spare parts will be used
27 exclusively by the registered enterprise in its registered activity; (b) That the capital
28 equipment or machinery where the raw materials, supplies, parts and semi-finished
29 products were used would have qualified for tax and duty-free importation; and (c)
30 That the approval of the SDSEZA is obtained by the registered enterprise. If the
31 registered enterprise sells, transfers or disposes of these machineries, capital
32 equipment and spare parts, the provision in the preceding paragraphs for such
33 disposition shall apply.

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

36 F. The importation of source documents by information technology-
37 registered enterprises shall be eligible for tax and duty free importation.

1 G. Raw Materials Incentives. – Every registered export-oriented
2 enterprise shall enjoy a tax credit equivalent to the internal revenue taxes and customs
3 duties paid on the supplies, raw materials and semi-manufactured products provided
4 the same are not sufficient in quantity, quality or are not competitively priced in the
5 Philippines and which are used in the manufacture, processing or production of its
6 export products forming part thereof, exported directly and indirectly by the registered
7 export-oriented enterprise, based on the actual taxes and duties paid for such
8 materials/supplies/semi-manufactured products by the registered enterprise.

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

11 H. Incentives on Breeding Stocks and Genetic Materials. - Importation of
12 breeding stocks and genetic materials within ten (10) years from the date of
13 registration of commercial operation of the enterprise shall be exempt from all taxes
14 and duties: *Provided*, That such breeding stocks and genetic materials are reasonably
15 needed in the registered activity; and approved by the SDSEZA.

16 The availment of the incentives by the registered enterprise shall be subject to
17 the following: (a) that said breeding stocks and genetic materials would have been
18 qualified for tax and duty-free importation under the preceding paragraph; (b) that the
19 breeding stocks and genetic materials are reasonably needed in the registered activity;
20 (c) that approval of the SDSEZA has been obtained by the registered enterprise; and
21 (d) that the purchase is made within ten (10) years from the date of registration of
22 commercial operation of the registered enterprise.

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

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

28 J. Deferred Imposition of the Minimum Corporate Income Tax. – The
29 Minimum Corporate Income Tax (MCIT) of two percent (2%) of the gross income as
30 of the end of the taxable year shall be imposed when the MCIT is greater than the
31 income tax computed under the NIRC of 1997, as amended, for the taxable year:
32 *Provided, however*, That said MCIT shall be imposed only after the enterprise's
33 entitlement period to the income tax-based incentives has expired

34 K. Tax Treatment of Merchandise in the Surigao del Sur Ecozone. –

- 35 a. Domestic merchandise sent from the Surigao del Sur Ecozone to areas
36 outside the said Ecozone shall, whether or not combined with or made
37 part of other articles likewise of local origin or manufactured in the
38 Philippines while in the export processing zone, be subject to internal

1 revenue laws of the Philippines as domestic goods sold, transferred or
2 disposed of for local consumption.

3 b. Merchandise sent from the Surigao del Sur Ecozone to areas outside
4 the said Ecozone shall, whether or not combined with or made part of
5 other articles while in the zone, be subject to rules and regulations
6 governing imported merchandise. The duties and taxes shall be based
7 on the value of said imported materials (except when the final product
8 is exempt).

9 c. Articles produced or manufactured in the Surigao del Sur Ecozone and
10 exported therefrom shall, on subsequent importation into the customs
11 territory, be subject to the import laws applicable to like articles
12 manufactured in a foreign country.

13 d. Unless the contrary is shown, merchandise taken out of the Surigao del
14 Sur Ecozone shall be considered for tax purposes to have been sent to
15 customs territory.

16 L. Tax Treatment of Raw Materials and Capital Equipment in the Surigao
17 del Sur Ecozone. – Importations of raw materials and capital equipment shall be
18 treated as in the Omnibus Investments Code. Registered export oriented enterprise
19 shall have access to the utilization of the bonded warehousing system in accordance
20 with the rules and regulations of the Bureau of Customs.

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

31 Foreign nationals under employment contract within the purview of this
32 incentive, their spouses and unmarried children under twenty-one (21) years of age,
33 who are not excluded by Section 29 of Commonwealth Act No. 613, as amended,
34 shall be permitted to enter and reside in the Philippines during the period of
35 employment of such foreign nationals. They shall be entitled to a multiple entry visa,
36 valid for a period of three years, and shall be allowed to enter and leave the
37 Philippines without further documentary requirements other than valid passports or

1 other travel documents in the nature of passports. The validity of the multiple entry
2 visa shall be extendible yearly.

3 The said foreign nationals admitted under this provision, as well as their
4 respective spouses and dependents shall be exempt from: (a) obtaining alien
5 certificate of registration and immigration clearance certificates; and (b) securing the
6 Alien Employment Permit (AEP) and all types of clearances, permits, licenses or their
7 equivalents required by any government department or agency.

8 **Sec. 6. Incentive to Investors.** – Any foreign national covered under
9 Subsection (M) of Section 5 of this Act, who invests an amount of US \$ 150,000.00,
10 either in cash and/or equipment, in a registered enterprise shall be entitled to an
11 investor's visa: *Provided*, That,

- 12 (1) He is at least eighteen (18) years of age;
- 13 (2) He has not been convicted of a crime involving moral turpitude;
- 14 (3) He is not afflicted with any loathsome, dangerous or contagious disease;
- 15 and
- 16 (4) He has not been institutionalized for any mental disorder or disability.

17 *Provided, further*, That in securing the investor's visa, the alien-applicant shall be
18 entitled to the same privileges provided for under paragraph (M), Section 5 hereof.

19 As a holder of investor's visa, an alien shall be entitled to reside in the
20 Philippines while his investment subsists. For this purpose, he should submit an
21 annual report, in the form duly prescribed for the purpose, to prove that he has
22 maintained his investment in the country. Should said alien withdraw his investments
23 from the Philippines, then the investor's visa issued to him shall automatically expire.

24 **Sec. 7. Administration, Implementation and Monitoring of Incentives.** –
25 The SDSEZA shall be responsible for the administration and implementation of the
26 incentives granted to its respective registered enterprises: *Provided*, That any
27 incentive administration policy adopted by the BOI for registered enterprises shall be
28 uniformly applied by SDSEZA.

29 The following are the duties and responsibilities of the SDSEZA in the
30 administration of incentives:

- 31 (A) To adopt consistent procedures of administering incentives in
32 accordance with the guidelines established by the BOI;
- 33 (B) To adopt and implement systems and procedures affecting trade and
34 customs policies in accordance with the requirements established by the
35 Department of Finance (DOF) and the BOI;
- 36 (C) To submit information on registered enterprises to the DOF and the BOI
37 as required by any of these agencies to ascertain consistency of
38 investment policies and incentives, including their implementation as

1 provided in paragraph (a) herein, and to ensure proper implementation of
2 systems and procedures affecting trade and customs policies as provided
3 in paragraph (b) herein; and

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

6 For proper monitoring, the BOI shall create a single database of all incentives
7 provided by all incentives granting agencies, including SDSEZA, and all information
8 thereto. Double entry accounting shall be done by the BOI in recording all incentives
9 granted by the government for transparency purposes.

10 **Sec. 8. *Extension of Period of Availment.*** – The availment period of the
11 incentives provided herein may be extended by SDSEZA, in the event that the
12 registered enterprise suffers operational *force majeure* or any event equivalent thereto,
13 impairing its viability, provided that the availment period shall not exceed the
14 duration of the said *force majeure* or equivalent event.

15 **Sec. 9. *Duration of Incentives.*** – Enterprises registered with SDSEZA may
16 enjoy ITH or NOLCO granted by the latter prior to the availment of the five percent
17 (5%) GIE.

18 Fiscal incentives under this Act shall be terminated after a cumulative period
19 of twenty (20) years from date of registration or start of commercial operation,
20 whichever is applicable, except that it could be extended with regard to industries
21 deemed indispensable to national development.

22 The industries exempted from this provision shall be recommended by BOI,
23 with the concurrence of the Secretaries of the Department of Finance and Trade and
24 Industry.

25 **Sec. 10. *Creation of the Surigao del Sur Special Economic Zone Authority.***
26 – There is hereby created a body corporate to be known as the Surigao del Sur Special
27 Economic Zone Authority, hereinafter referred to as the SDSEZA, which shall
28 manage and operate, in accordance with the provisions of this Act, the Surigao del Sur
29 Special Economic Zone. This corporate franchise shall expire in fifty (50) years
30 counted from the first day of the fifth (5th) calendar year after the effectivity of this
31 Act, unless otherwise extended by Congress. It shall be organized within one hundred
32 eighty (180) days after the effectivity of this Act.

33 **Sec. 11. *Principal Office of SDSEZA.*** – The Surigao del Sur Special
34 Economic Zone Authority shall maintain its principal office in the Municipality of
35 Cantilan, Province of Surigao del Sur, but it may establish branches within the
36 Philippines as may be necessary for the proper conduct of its business.

1 **SEC. 12. Powers and Functions of the Surigao del Sur Special Economic**
2 **Zone Authority.** – The Surigao del Sur Special Economic Zone Authority shall have
3 the following powers and functions:

- 4 (a) To operate, administer, manage and develop the Surigao del Sur Ecozone
5 according to the principles and provisions set forth in this Act;
- 6 (b) To register, regulate and supervise the enterprises in the Surigao del Sur
7 Ecozone in an efficient and decentralized manner, subject to existing laws;
- 8 (c) To coordinate with local government units and exercise general
9 supervision over the development plans, activities and operations of the
10 Surigao del Sur Ecozone;
- 11 (d) To regulate and undertake the establishment, operation and maintenance
12 of utilities, other services and infrastructure in the Surigao del Sur
13 Ecozone such as but not limited to heat, light and power, water supply,
14 telecommunications, transport, toll roads and bridges, port services, etc.
15 and to fix just, reasonable and competitive rates, fares, charges and prices
16 thereof;
- 17 (e) To construct, acquire, own, lease, operate and maintain on its own or
18 through contracts, franchise, licenses, bulk purchase from the private
19 sector or permits under any of the schemes allowed in Republic Act No.
20 6957 (the Build-Operate-Transfer Law, as amended by RA 7718), or joint
21 venture, adequate facilities and infrastructure required or needed for the
22 operation and development of the Surigao del Sur Ecozone, in
23 coordination with appropriate national and local government authorities
24 and in conformity with applicable laws thereon;
- 25 (f) To operate on its own, either directly or through a license to other
26 tourism-related activities, including games, amusements, recreational and
27 sports facilities;
- 28 (g) Subject to the approval of the President and the Monetary Board of the
29 Bangko Sentral ng Pilipinas upon the recommendation of the Department
30 of Finance, to raise or borrow adequate and necessary funds from local or
31 foreign sources to finance its projects and programs under this Act, and
32 for that purpose to issue bonds, promissory notes, and other forms of
33 securities, and to secure the same by a guarantee, pledge, mortgage, deed
34 of trust, or an assignment of all or part of its property or assets;
- 35 (h) To protect, preserve, maintain and develop the virgin forests, beaches,
36 coral and coral reefs and maintain ecological balance within the Surigao
37 del Sur Ecozone;

- 1 (i) To create, operate and/or contract to operate such functional units of
2 offices of the SDSEZA as it may deem necessary;
- 3 (j) To adopt, alter and use a corporate seal; make contracts, leases, own, or
4 otherwise dispose of personal or real property; sue and be sued; and
5 otherwise carry out its functions and duties as provided for in this Act;
- 6 (k) To issue certificates of origin for products manufactured or processed in
7 the Surigao del Sur Ecozone in accordance with prevailing rules of origin,
8 and the pertinent regulations of the PEZA, DTI and/or the Department of
9 Finance (DOF);
- 10 (l) To issue working visas renewable every two (2) years to foreign
11 executives and foreign technicians with highly specialized skills which no
12 Filipinos possesses, as certified by the Department of Labor and
13 Employment;
- 14 (m) To report to the Bureau of Immigration the names of the foreigners who
15 have been granted permanent resident status and working visas within
16 thirty (30) days after issuance of such grant;
- 17 (n) To exercise such powers as maybe essential, necessary or incidental to the
18 powers granted to it hereunder as well as those that shall enable it to carry
19 out, implement and accomplish the purposes, objectives and policies of
20 this Act; and
- 21 (o) To issue rules and regulations consistent with the provisions of this Act as
22 maybe necessary to accomplish and implement the purposes, objectives
23 and policies provided herein.

24 **Sec. 13. *Banking Rules and Regulations.*** – Existing laws and
25 rules/regulations of the *Bangko Sentral ng Pilipinas* (BSP) shall apply to banks and
26 financial institutions to be established in the Surigao del Sur Ecozone, such as those
27 governing foreign exchange and other concurrent account transactions (trade and non-
28 trade), local and foreign borrowings, foreign investments, establishment and operation
29 of local and foreign banks, foreign currency deposit units, offshore banking units and
30 other financial institutions under the supervision of the BSP.

31 **Sec. 14. *Remittance of Earnings.*** – In the case of foreign investments, a
32 registered enterprise in the SDSEZA shall have the right to remit earnings from the
33 investment in the currency in which the investment was originally made and at the
34 exchange rate prevailing at the time of remittance, subject to the provisions of Section
35 74 of Republic Act No. 265, as amended.

36 **Sec. 15. *Board of Directors of the Surigao del Sur Special Economic Zone***
37 ***Authority.*** – The powers of the Surigao del Sur Special Economic Zone Authority

1 shall be vested in and exercised by a Board of Directors, hereinafter referred to as the
2 Board, which shall be composed of the following:

3 a) The Chairman who shall, at the same time be the administrator of the
4 SDSEZA;

5 b) A Vice-Chairman who shall come from among the members of the Board;

6 c) Members consisting of:

7 (1) The Governor of the Province of Surigao del Sur;

8 (2) The Congressional Representative of the district covering the site
9 of the Surigao del Sur Ecozone;

10 (3) The mayors of the Municipalities of Carrascal, Cantilan, Madrid,
11 Carmen, and Lanuza, Province of Surigao del Sur;

12 (4) One (1) representative from the domestic investors;

13 (5) One (1) representative from the foreign investors; and

14 (6) Two (2) representatives from the workers working in Surigao del
15 Sur Ecozone.

16 The Governor, the Congressional representative and the mayors of the
17 Municipalities of Carrascal, Cantilan, Madrid, Carmen, and Lanuza, Province of
18 Surigao del Sur shall serve as *ex-officio* members of the Board, whose term in the
19 Board corresponds to their term as elected officials.

20 The Chairman and the members of the Board, except the *ex-officio* members,
21 shall be appointed by the President of the Philippines to serve for a term of six (6)
22 years, unless sooner separated from service due to death, voluntary resignation, or
23 removal for cause. In case of death, resignation or removal for cause, the replacement
24 shall serve only the unexpired portion of the term.

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

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

1 **Sec. 16. Powers and Duties of the Chairman-Administrator.** – The
2 Chairman-Administrator shall have the following powers and duties:

- 3 a) To direct and manage the affairs of the SDSEZA in accordance with
4 the policies of the Board;
- 5 b) To establish the internal organization of the SDSEZA under such
6 conditions that the Board may prescribe;
- 7 c) To submit an annual budget and necessary supplemental budget to
8 the Board for its approval;
- 9 d) To submit within thirty (30) days after the close of each fiscal year
10 an annual report to the Board and such other reports as may be
11 required;
- 12 e) To submit to the Board for its approval policies, systems,
13 procedures, rules and regulations that are essential to the operation
14 of the Surigao del Sur Ecozone;
- 15 f) To create a mechanism in coordination with relevant agencies for
16 the promotion of industrial peace, the protection of the environment,
17 and the advancement of the quality of life in the Surigao del Sur
18 Ecozone; and
- 19 g) To perform such other duties as may be assigned to him by the
20 Board or which are necessary or incidental to his office.

21 **Sec. 17. Organization and Personnel.** – The Board of Directors of the
22 SDSEZA shall provide for an organization and staff of its officers and employees.
23 Upon recommendation of the Chairman-Administrator, the Board shall appoint and
24 fix the remuneration and other emoluments of its officers and employees in
25 accordance with existing laws on compensation and position classification: *Provided,*
26 That the Board shall have exclusive and final authority to promote, transfer, assign or
27 reassign officers of the SDSEZA, any provision of existing law to the contrary
28 notwithstanding: *Provided, further,* That the Chairman-Administrator may carry out
29 removal of such officers and employees.

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

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

35 **Sec. 18. Ipso Facto Clause.** – Sections 30-41 of Republic Act 7916, shall *ipso*
36 *facto* apply to the Surigao del Sur Special Economic Zone.

37 **Sec. 19. Capitalization.** – The Surigao del Sur Special Economic Zone
38 Authority shall have an authorized capital stock of One Billion (1,000,000,000) no par

1 shares with a minimum issue of Ten Pesos (P10.00) each, the majority shares of
2 which shall be subscribed and paid for by the National Government and the Local
3 Government Units (LGUs) embracing the Surigao del Sur Special Economic Zone.
4 The Board of Directors of the SDSEZA may, with the written concurrence of the
5 Secretary of Finance, sell shares, representing not more than forty per centum (40%)
6 of the capital stock of the SDSEZA to the general public under such policy as the
7 Board and the Secretary of Finance may determine. The National Government and the
8 LGUs shall in no case own less than sixty per centum (60%) of the total issued and
9 outstanding capital of the Surigao del Sur Special Economic Zone Authority.

10 The amount necessary to subscribe and pay for the shares of the National
11 Government to the capital stock of the SDSEZA shall be included in the Annual
12 General Appropriations Act. For LGUs, the funds shall be taken from their internal
13 revenue allotment and other local funds

14 **Sec. 20. *Supervision*** – The Surigao del Sur Special Economic Zone shall be
15 under the direct control and supervision of the Philippine Economic Zone Authority
16 (PEZA) for purposes of policy direction and coordination

17 **Sec. 21. *Relationship with the Regional Development Council***. – The
18 Surigao del Sur Special Economic Zone Authority shall determine the development
19 goals for the Surigao del Sur Ecozone within the framework of national development
20 plans, policies and goals. The Administrator shall, upon approval by the Board,
21 submit the Surigao del Sur Ecozone plans, programs and projects to the Regional
22 Development Council for inclusion and inputs to the overall regional development
23 plan.

24 **Sec. 22. *Relationship with Local Government Units***. – Except as herein
25 provided, the local government units comprising the Surigao del Sur Special
26 Economic Zone shall retain their basic autonomy and identity. The Municipalities of
27 Carrascal, Cantilan, Madrid, Carmen, and Lanuza shall operate and function in
28 accordance with the Local Government Code of 1991. In case of any conflict between
29 the SDSEZA and the Province of Surigao del Sur on matters affecting the Surigao del
30 Sur Ecozone other than defense and security matters, the decision of the SDSEZA
31 shall prevail.

32 **Sec. 23. *Interpretation/Construction***. – The powers, authorities and functions
33 that are vested in the SDSEZA are intended to decentralize governmental functions
34 and authority and promote an efficient and effective working relationship between the
35 Surigao del Sur Ecozone, the NG, and the local government units.

36 **Sec. 24. *Auditing***. – The Commission on Audit shall appoint a representative
37 who shall be a full time auditor of the SDSEZA and assign such number of personnel
38 as may be necessary to assist said representative in the performance of his/her duties.

1 The salaries and emoluments on the assigned auditor and personnel shall be in
2 accordance with pertinent laws, rules and regulations.

3 **Sec. 25. *Separability Clause.*** – If any provisions of this Act shall be held
4 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
5 full force and effect.

6 **Sec. 26. *Repealing Clause.*** – All laws, executive orders and issuances, or any
7 parts thereof, which are inconsistent herewith are hereby repealed or amended
8 accordingly.

9 **Sec. 27. *Effectivity Clause.*** – This Act shall take effect upon its publication
10 in at least one (1) newspaper of general circulation.

Approved,