

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

SENATE

COMMITTEE REPORT NO. 270

Submitted jointly by the Committees on Economic Affairs; Local Government;
Ways and Means and Finance on FEB 07 2007.

Re: Senate Bill No. 2598, prepared by the Committees

Recommending its approval in substitution of House Bill No. 5308

Sponsor: Senator MAR Roxas

MR. PRESIDENT:

The Committees on Economic Affairs; Local Government; Ways and Means and
Finance, to which was referred House Bill No. 5308, introduced by Representative
Libanan, entitled:


“AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE AND FREE PORT
IN THE MUNICIPALITIES OF GUIUAN, MERCEDES AND
SALCEDO, INCLUDING THE ISLANDS OF HOMONHON,
MANICANI, SULUAN AND CALICOAN, PROVINCE OF EASTERN
SAMAR, PROVIDING FUNDS THEREFOR AND FOR OTHER
PURPOSES”

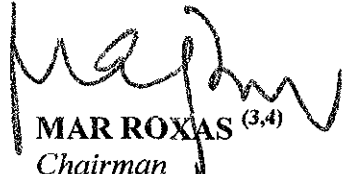
have considered the same and have the honor to report it back to the Senate with the
recommendation that the attached bill, S.B. No. 2598, prepared by the Committees,
entitled:

“AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE
PROVINCE OF EASTERN SAMAR, CREATING FOR THE
PURPOSE THE EASTERN SAMAR SPECIAL ECONOMIC ZONE
AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR
OTHER PURPOSES”

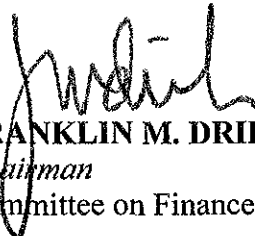
be approved in substitution of House Bill No. 5308 with Senators Roxas, Lim, Reeto and
Drilon as authors thereof.

Respectfully submitted:



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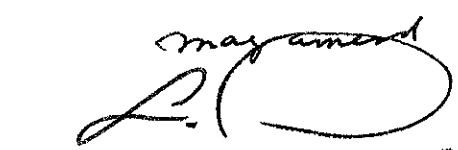

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may amend:


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Senate President
Senate of the Philippines
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SENATE

S. B. NO. 2598

(In substitution of H. No. 5308)

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

AN ACT
ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE PROVINCE OF
EASTERN SAMAR, CREATING FOR THE PURPOSE THE EASTERN
SAMAR 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 “Eastern Samar
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 Eastern Samar Special Economic Zone.** – In pursuit
12 of the foregoing declared policy and subject to the concurrence of the concerned local
13 government units of Eastern Samar affected by the zone, there is hereby established a
14 Special Economic Zone, hereinafter referred to as the Eastern Samar Ecozone. The
15 Eastern Samar Ecozone shall cover the entire area embraced by the Municipalities of
16 Guiuan, Mercedes and Salcedo, and the islands of Homonhon, Manicani, Suluan and
17 Calicoan, Province of Eastern Samar. The specific metes and bounds of the Eastern
18 Samar Ecozone shall be more particularly defined in a proclamation to be issued by
19 the President of the Philippines, upon the recommendation of the Philippine
20 Economic Zone Authority (PEZA), provided that the lands embraced therein shall be
21 public lands.

1 **Sec. 4. Governing Principles.** – The Eastern Samar Special Economic Zone
2 shall be managed and operated by the Eastern Samar Special Economic Zone
3 Authority, herein referred to as the ESEZA, created under Section 10 of this Act,
4 under the following principles:

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

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

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

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

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

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

1 (g) The national government shall maintain its ability to coordinate with
2 the Eastern Samar Ecozone and the local government units.

3 **SEC. 5. Incentives To Registered Enterprises.** – The Eastern Samar Special
4 Economic Zone Authority (ESEZA) may administer the following incentives to the
5 registered enterprises located therein to the extent of the activity/project:

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

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

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

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

15 (2) Producing/rendering new products/services or having strong
16 backward or forward linkages

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

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

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

36 Additional investments in the project shall be entitled to the income tax
37 holidays corresponding to such investments as may be determined by the BOI.
38 Additional income tax holiday may be granted for as long as the investment is made

1 on the same project: *Provided*, That the project is listed in the IPP at the same time the
2 additional investment in the project is made: *Provided, further*, That the entitlement
3 period for additional investments shall not exceed three times the period provided
4 under this subsection: *Provided, however*, That the total ITH period for an export
5 enterprise availing of an eight year ITH shall not exceed twenty (20) years. Any
6 unused incentives shall therefore be deemed forfeited if not used during the incentive
7 period.

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

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

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

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

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

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

- 34 (a) Three percent (3%) to the national government;
- 35 (b) Two percent (2%) shall be remitted by the business establishments to the
36 treasurer’s office of the municipality or city where the enterprise is
37 located;

1 All persons and service establishments in the Eastern Samar Ecozone shall be
2 subject to national and local taxes under the National Internal Revenue Code of 1997,
3 as amended, and the Local Government Code.

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

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

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

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

- 32 1) The same is made to another enterprise enjoying tax and duty
33 exemption on imported capital equipment;
- 34 2) The same is made to another enterprise, upon the payment of any
35 taxes and duties on the net book value of the capital equipment to
36 be sold;

- 1 3) The exportation of the capital equipment, machinery, spare parts or
2 source documents or those required for pollution abatement and
3 control; or
4 4) Proven technical obsolescence of the said equipment, machinery or
5 spare parts.

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

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

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

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

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

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

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

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

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

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

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

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

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

38 K. Tax Treatment of Merchandise in the Eastern Samar Ecozone. –

- 1 a. Domestic merchandise sent from the Eastern Samar Ecozone to areas
2 outside the said Ecozone shall, whether or not combined with or made
3 part of other articles likewise of local origin or manufactured in the
4 Philippines while in the export processing zone, be subject to internal
5 revenue laws of the Philippines as domestic goods sold, transferred or
6 disposed of for local consumption.
- 7 b. Merchandise sent from the Eastern Samar Ecozone to areas outside the
8 said Ecozone shall, whether or not combined with or made part of
9 other articles while in the zone, be subject to rules and regulations
10 governing imported merchandise. The duties and taxes shall be based
11 on the value of said imported materials (except when the final product
12 is exempt).
- 13 c. Articles produced or manufactured in the Eastern Samar Ecozone and
14 exported therefrom shall, on subsequent importation into the customs
15 territory, be subject to the import laws applicable to like articles
16 manufactured in a foreign country.
- 17 d. Unless the contrary is shown, merchandise taken out of the Eastern
18 Samar Ecozone shall be considered for tax purposes to have been sent
19 to customs territory.

20 L. Tax Treatment of Raw Materials and Capital Equipment in the Eastern
21 Samar Ecozone. – Importations of raw materials and capital equipment shall be
22 treated as in the Omnibus Investments Code. Registered export oriented enterprise
23 shall have access to the utilization of the bonded warehousing system in accordance
24 with the rules and regulations of the Bureau of Customs.

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

35 Foreign nationals under employment contract within the purview of this
36 incentive, their spouses and unmarried children under twenty-one (21) years of age,
37 who are not excluded by Section 29 of Commonwealth Act No. 613, as amended,
38 shall be permitted to enter and reside in the Philippines during the period of

1 employment of such foreign nationals. They shall be entitled to a multiple entry visa,
2 valid for a period of three years, and shall be allowed to enter and leave the
3 Philippines without further documentary requirements other than valid passports or
4 other travel documents in the nature of passports. The validity of the multiple entry
5 visa shall be extendible yearly.

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

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

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

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

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

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

32 The following are the duties and responsibilities of the ESEZA in the
33 administration of incentives:

- 34 (A) To adopt consistent procedures of administering incentives in
35 accordance with the guidelines established by the BOI;
- 36 (B) To adopt and implement systems and procedures affecting trade and
37 customs policies in accordance with the requirements established by the
38 Department of Finance (DOF) and the BOI;

1 (C) To submit information on registered enterprises to the DOF and the BOI
2 as required by any of these agencies to ascertain consistency of
3 *investment policies and incentives*, including their implementation as
4 provided in paragraph (a) herein, and to ensure proper implementation of
5 systems and procedures affecting trade and customs policies as provided
6 in paragraph (b) herein; and

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

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

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

18 **Sec. 9. *Duration of Incentives.*** – Enterprises registered with ESEZA may
19 enjoy ITH or NOLCO granted by the latter prior to the availment of the five percent
20 (5%) GIE.

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

25 The industries exempted from this provision shall be recommended by BOI,
26 with the concurrence of the Secretaries of the Department of Finance and Trade and
27 Industry.

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

36 **Sec. 11. *Principal Office of ESEZA.*** – The Eastern Samar Special Economic
37 Zone Authority shall maintain its principal office in the Municipality of Guiuan,

1 Province of Eastern Samar but it may establish branches within the Philippines as
2 may be necessary for the proper conduct of its business.

3 **SEC. 12. Powers and Functions of the Eastern Samar Special Economic**
4 **Zone Authority.** – The Eastern Samar Special Economic Zone Authority shall have
5 the following powers and functions:

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

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

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

34 **Sec. 14. *Remittance of Earnings.*** – In the case of foreign investments, a
35 registered enterprise in the ESEZA shall have the right to remit earnings from the
36 investment in the currency in which the investment was originally made and at the
37 exchange rate prevailing at the time of remittance, subject to the provisions of Section
38 74 of Republic Act No. 265, as amended.

1 **Sec. 15. Board of Directors of the Eastern Samar Special Economic Zone**
2 **Authority.** – The powers of the Eastern Samar Special Economic Zone Authority
3 shall be vested in and exercised by a Board of Directors, hereinafter referred to as the
4 Board, which shall be composed of the following:

- 5 a) The Chairman who shall, at the same time be the administrator of the
6 ESEZA;
- 7 b) A Vice-Chairman who shall come from among the members of the Board;
- 8 c) Members consisting of:
- 9 (1) The Governor of the Province of Eastern Samar;
- 10 (2) The Congressional Representative of the district covering the site
11 of the Eastern Samar Ecozone;
- 12 (3) The mayors of the Municipalities of Guiuan, Mercedes, and
13 Salcedo, Province of Eastern Samar;
- 14 (4) One (1) representative from the domestic investors;
- 15 (5) One (1) representative from the foreign investors; and
- 16 (6) Two (2) representatives from the workers working in Eastern
17 Samar Ecozone.

18 The Governor, the Congressional representative and the mayors of the
19 Province of Eastern Samar shall serve as *ex-officio* members of the Board, whose term
20 in the Board corresponds to their term as elected officials.

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

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

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

1 of the board, such per diem shall not be more than ten thousand pesos (P10,000.00)
2 for every Board meeting.

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

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

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

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

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

37 **Sec. 18. Ipso Facto Clause.** – Sections 30-41 of Republic Act 7916, shall *ipso*
38 *facto* apply to the Eastern Samar Special Economic Zone.

1 **Sec. 19. Capitalization.** – The Eastern Samar Special Economic Zone
2 Authority shall have an authorized capital stock of One Billion (1,000,000,000) no par
3 shares with a minimum issue of Ten Pesos (P10.00) each, the majority shares of
4 which shall be subscribed and paid for by the National Government and the Local
5 Government Units (LGUs) embracing the Eastern Samar Special Economic Zone.
6 The Board of Directors of the ESEZA may, with the written concurrence of the
7 Secretary of Finance, sell shares, representing not more than forty per centum (40%)
8 of the capital stock of the ESEZA to the general public under such policy as the Board
9 and the Secretary of Finance may determine. The National Government and the LGUs
10 shall in no case own less than sixty per centum (60%) of the total issued and
11 outstanding capital of the Eastern Samar Special Economic Zone Authority.

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

16 **Sec. 20. Supervision.** – The Eastern Samar Special Economic Zone shall be
17 under the direct control and supervision of the Philippine Economic Zone Authority
18 (PEZA) for purposes of policy direction and coordination

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

26 **Sec. 22. Relationship with Local Government Units.** – Except as herein
27 provided, the local government units comprising the Eastern Samar Special Economic
28 Zone shall retain their basic autonomy and identity. The Municipalities of Guiuan,
29 Mercedes, and Salcedo shall operate and function in accordance with the Local
30 Government Code of 1991. In case of any conflict between the ESEZA and the
31 Province of Eastern Samar on matters affecting the Eastern Samar Ecozone other than
32 defense and security matters, the decision of the ESEZA shall prevail.

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

37 **Sec. 24. Auditing.** – The Commission on Audit shall appoint a representative
38 who shall be a full time auditor of the ESEZA and assign such number of personnel as

1 may be necessary to assist said representative in the performance of his/her duties.
2 The salaries and emoluments on the assigned auditor and personnel shall be in
3 accordance with pertinent laws, rules and regulations.

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

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

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

Approved,