

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

SENATE

COMMITTEE REPORT NO. 276

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

Re: Senate Bill No. 2604, prepared by the Committees

Recommending its approval in substitution of House Bill No. 5307

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. 5307, introduced by Representative Almario, entitled:


**“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”**


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. 2604, prepared by the Committees, entitled:

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

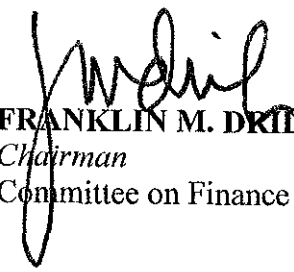
be approved in substitution of House Bill No. 5307 with Senators Roxas, Lim, <sup>Jimena</sup> Recto and Drilon as authors thereof.

Respectfully submitted:

  
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MAR ROXAS (3,4)  
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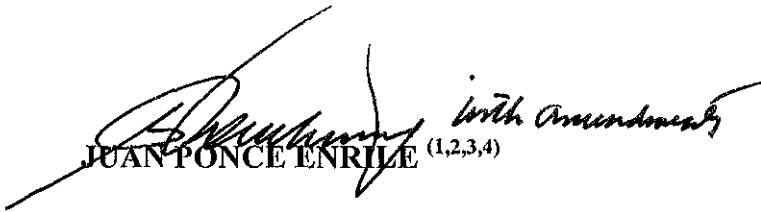
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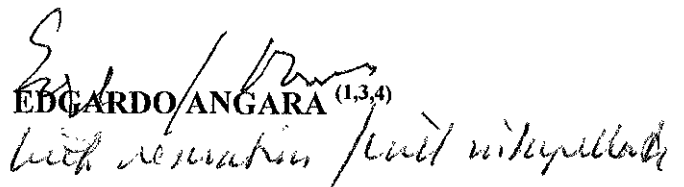


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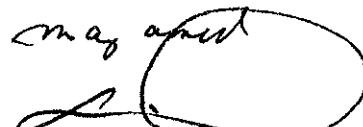
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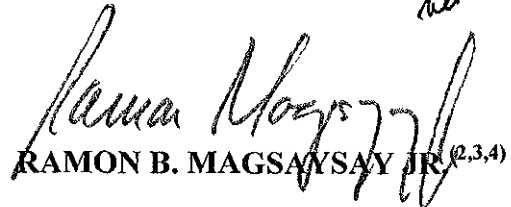
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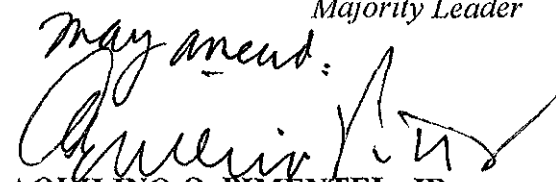
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THIRTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S. B. NO. 2604

(In substitution of H. No. 5307)

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

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AN ACT  
ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE PROVINCE OF  
DAVAO ORIENTAL, CREATING FOR THE 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 Oriental  
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 Davao Oriental Special Economic Zone.** – In  
12 pursuit of the foregoing declared policy and subject to the concurrence of the  
13 concerned local government units of Davao Oriental affected by the zone, there is  
14 hereby established a Special Economic Zone, hereinafter referred to as the Davao  
15 Oriental Ecozone. The Davao Oriental Ecozone shall cover the entire area embraced  
16 by the Municipalities of Mati, San Isidro, and Lupon in the Province of Davao  
17 Oriental. The specific metes and bounds of the Davao Oriental Ecozone shall be  
18 more particularly defined in a proclamation to be issued by the President of the  
19 Philippines, upon the recommendation of the Philippine Economic Zone Authority  
20 (PEZA), provided that the lands embraced therein shall be public lands.

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

1 Authority, herein referred to as the DOSEZA, 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 Davao Oriental 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 Davao Oriental 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 Davao Oriental and its neighboring towns and cities.

12 (c) The Davao Oriental 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 Davao Oriental Ecozone, either by  
19 themselves or in joint venture with Filipinos in any sector of industry, international  
20 trade and commerce within the Davao Oriental Ecozone.

21 (e) The areas comprising the Davao Oriental Ecozone may be expanded or  
22 reduced when necessary. For this purpose, the DOSEZA, 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 Davao Oriental Ecozone for the following purposes: (1) consolidation of lands for  
26 Davao Oriental Ecozone development; (2) acquisition of right of way to the Davao  
27 Oriental Ecozone; and (3) the protection of watershed areas and natural assets  
28 valuable to the prosperity of the Davao Oriental Ecozone.

29 (f) Goods manufactured by a Davao Oriental 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 DOSEZA, 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 Davao Oriental Ecozone and the local government units.

1           **SEC. 5. Incentives To Registered Enterprises.** – The Davao Oriental Special  
2 Economic Zone Authority (DOSEZA) 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 Davao  
26 Oriental Special Economic Zone Authority (DOSEZA) to transact business within the  
27 Davao Oriental 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 DOSEZA 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 DOSEZA before submitting its income tax return (ITR) with  
12 DOSEZA for validation.

13 Failure to secure certification and/or to file the ITH or NOLCO availment for  
14 validation by the DOSEZA 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 Davao Oriental 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 Davao Oriental 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 DOSEZA 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 DOSEZA was obtained by the registered enterprise for  
24 the importation of such machinery, equipment and spare parts.

25 Approval of the DOSEZA 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 DOSEZA 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 DOSEZA.

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 DOSEZA 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 Davao Oriental Ecozone. –

- 35 a. Domestic merchandise sent from the Davao Oriental 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 Davao Oriental 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 Davao Oriental 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 Davao  
14 Oriental Ecozone shall be considered for tax purposes to have been  
15 sent to customs territory.

16 L. Tax Treatment of Raw Materials and Capital Equipment in the Davao  
17 Oriental 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 DOSEZA 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 DOSEZA.

29 The following are the duties and responsibilities of the DOSEZA 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 DOSEZA, 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 DOSEZA, 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 DOSEZA 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 Davao Oriental Special Economic Zone Authority.***  
26 – There is hereby created a body corporate to be known as the Davao Oriental Special  
27 Economic Zone Authority, hereinafter referred to as the DOSEZA, which shall  
28 manage and operate, in accordance with the provisions of this Act, the Davao Oriental  
29 Special Economic Zone. This corporate franchise shall expire in fifty (50) years  
30 counted from the first day of the fifth (5<sup>th</sup>) 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 DOSEZA.*** – The Davao Oriental Special  
34 Economic Zone Authority shall maintain its principal office in the Municipality of  
35 Mati, Province of Davao Oriental, but it may establish branches within the Philippines  
36 as may be necessary for the proper conduct of its business.

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

- 4           (a) To operate, administer, manage and develop the Davao Oriental Ecozone  
5           according to the principles and provisions set forth in this Act;
- 6           (b) To register, regulate and supervise the enterprises in the Davao Oriental  
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           Davao Oriental Ecozone;
- 11           (d) To regulate and undertake the establishment, operation and maintenance  
12           of utilities, other services and infrastructure in the Davao Oriental  
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 Davao Oriental 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 Davao  
37           Oriental Ecozone;

- 1 (i) To create, operate and/or contract to operate such functional units of  
2 offices of the DOSEZA 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 Davao Oriental 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 Davao Oriental 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 DOSEZA 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 Davao Oriental Special Economic Zone***  
37 ***Authority.*** – The powers of the Davao Oriental 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 DOSEZA;

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 Davao Oriental;

8 (2) The Congressional Representative of the district covering the site  
9 of the Davao Oriental Ecozone;

10 (3) The mayors of the Municipalities of Mati, San Isidro, and Lupon,  
11 Province of Davao Oriental;

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 Davao  
15 Oriental Ecozone.

16 The Governor, the Congressional representative and the mayors of the  
17 Municipalities of Mati, San Isidro, and Lupon, Province of Davao Oriental shall serve  
18 as *ex-officio* members of the Board, whose term in the Board corresponds to their  
19 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 DOSEZA in accordance with  
4                   the policies of the Board;
- 5           b)       To establish the internal organization of the DOSEZA 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 Davao Oriental 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 Davao Oriental  
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 DOSEZA 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 DOSEZA, 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 DOSEZA, 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 DOSEZA, 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 Davao Oriental Special Economic Zone.

37           **Sec. 19. Capitalization.** – The Davao Oriental 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 Davao Oriental Special Economic Zone.  
4 The Board of Directors of the DOSEZA 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 DOSEZA 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 Davao Oriental 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 DOSEZA 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 Davao Oriental 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 Davao  
18 Oriental Special Economic Zone Authority shall determine the development goals for  
19 the Davao Oriental Ecozone within the framework of national development plans,  
20 policies and goals. The Administrator shall, upon approval by the Board, submit the  
21 Davao Oriental Ecozone plans, programs and projects to the Regional Development  
22 Council for inclusion and inputs to the overall regional development plan.

23 **Sec. 22. *Relationship with Local Government Units.*** – Except as herein  
24 provided, the local government units comprising the Davao Oriental Special  
25 Economic Zone shall retain their basic autonomy and identity. The Municipalities of  
26 Mati, San Isidro, and Lupon shall operate and function in accordance with the Local  
27 Government Code of 1991. In case of any conflict between the DOSEZA and the  
28 Province of Davao Oriental on matters affecting the Davao Oriental Ecozone other  
29 than defense and security matters, the decision of the DOSEZA shall prevail.

30 **Sec. 23. *Interpretation/Construction.*** – The powers, authorities and functions  
31 that are vested in the DOSEZA are intended to decentralize governmental functions  
32 and authority and promote an efficient and effective working relationship between the  
33 Davao Oriental Ecozone, the NG, and the local government units.

34 **Sec. 24. *Auditing.*** – The Commission on Audit shall appoint a representative  
35 who shall be a full time auditor of the DOSEZA and assign such number of personnel  
36 as may be necessary to assist said representative in the performance of his/her duties.  
37 The salaries and emoluments on the assigned auditor and personnel shall be in  
38 accordance with pertinent laws, rules and regulations.

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

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

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

Approved,