

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

7 1 - 7 27 08

RECEIVED BY: *[Signature]*

SENATE

COMMITTEE REPORT NO. 280

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

Re: Senate Bill No. 2608, prepared by the Committees

Recommending its approval in substitution of House Bill No. 5958

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. 5958, introduced by Representative Garcia, entitled:

“AN ACT

CONVERTING THE BATAAN ECONOMIC ZONE LOCATED IN THE MUNICIPALITY OF MARIVELES, PROVINCE OF BATAAN, INTO THE BATAAN SPECIAL ECONOMIC ZONE AND FREEPORT, CREATING FOR THIS PURPOSE THE BATAAN SPECIAL ECONOMIC ZONE AND FREEPORT 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. 2608, prepared by the Committees, entitled:


Jmfr
THE BATAAN ACT

ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE PROVINCE OF BATAAN, CREATING FOR THE PURPOSE THE BATAAN SPECIAL ECONOMIC ZONE AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES”

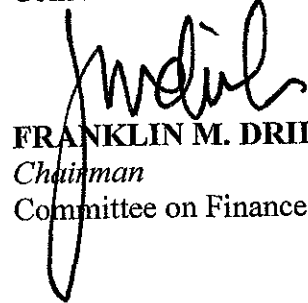
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be approved in substitution of House Bill No. 5958 with Senators Roxas, Lim, Reeto and Drilon as authors thereof.

Respectfully submitted:



ALFREDO S. LIM (3,4)
Chairman
Committee on Local Government


MAR ROXAS (3,4)
Chairman
Committee on Economic Affairs

RALPH G. RECTO (2,4)
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Committee on Ways and Means

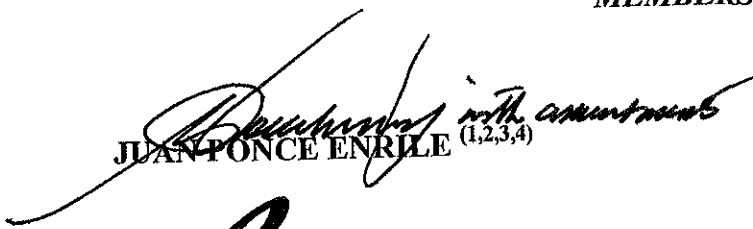

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Committee on Finance

VICE-CHAIRMEN:


RODOLFO G. BIAZON (2,3,4)
Vice-Chairman
Committee on Economic Affairs

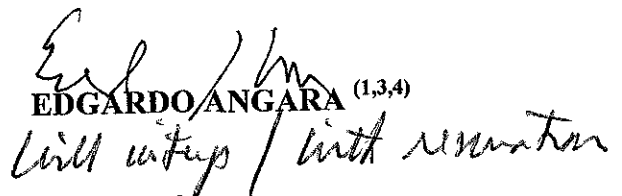
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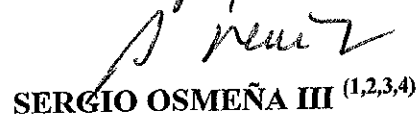

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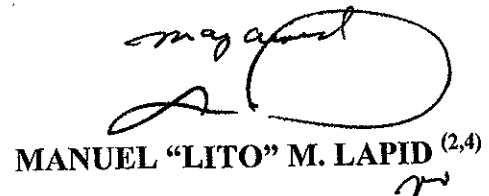

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will interject / with reservation

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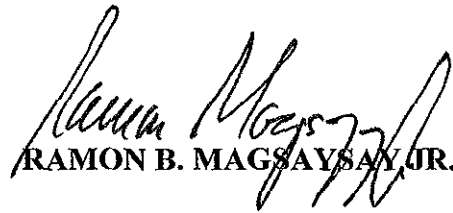

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JINGGOY EJERCITO ESTRADA ^(2,3)

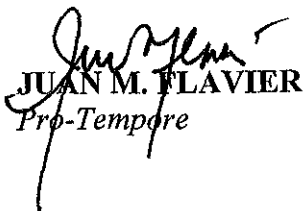

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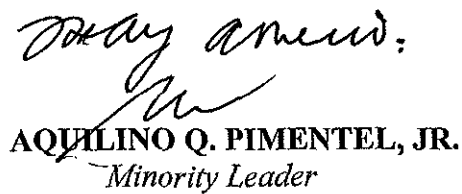
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THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

7 27 2010

SENATE
S. B. NO. 2608

RECEIVED BY: JWG

(In substitution of H. No. 5958)

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

JWG

AN ACT
ESTABLISHING THE BATAAN SPECIAL ECONOMIC ZONE IN THE PROVINCE OF BATAAN, CREATING FOR THE PURPOSE THE BATAAN 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 “Bataan Special
2 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 Bataan Special Economic Zone.** – In pursuit of the
12 foregoing declared policy and subject to the concurrence of the concerned local
13 government units of Bataan affected by the zone, there is hereby established a Special
14 Economic Zone, hereinafter referred to as the Bataan Ecozone. The Bataan Ecozone
15 shall cover portions of Barangays Maligaya, Malaya, Alas-asin, Baseco and Sisiman,
16 all in the Municipality of Mariveles, Province of Bataan. The specific metes and
17 bounds of the Bataan Ecozone shall be more particularly defined in a proclamation to
18 be issued by the President of the Philippines, upon the recommendation of the
19 Philippine Economic Zone Authority (PEZA), provided that the lands embraced
20 therein shall be public lands.

21 **Sec. 4. Governing Principles.** – The Bataan Special Economic Zone shall be
22 managed and operated by the Bataan Special Economic Zone Authority, herein

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

3 (a) Within the framework and limitations of the Constitution and
4 applicable provisions of the Local Government Code, the Bataan Ecozone shall be
5 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 Bataan 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 Bataan and its neighboring towns and cities.

12 (c) The Bataan Ecozone may establish mutually beneficial economic
13 relations with other entities or enterprises within the country or, subject to the
14 administrative guidance of the Department of Foreign Affairs (DFA), the Philippine
15 Economic Zone Authority (PEZA) and/or the Department of Trade and Industry
16 (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 Bataan Ecozone, either by themselves or in
19 joint venture with Filipinos in any sector of industry, international trade and
20 commerce within the Bataan Ecozone.

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

29 (f) Goods manufactured by a Bataan Ecozone enterprise shall be made
30 available for immediate retail sale in the domestic market, subject to the payment of
31 corresponding taxes on raw materials and other regulations that may be formulated by
32 the BSEZA, together with the PEZA, the Bureau of Customs and the DTI. However,
33 in order to protect domestic industries, a Negative List of industries shall be drawn up
34 and regularly updated by PEZA. Enterprises engaged in industries included in such
35 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 Bataan Ecozone and the local government units.

1 **SEC. 5. Incentives To Registered Enterprises.** – The Bataan Special
2 Economic Zone Authority (BSEZA) 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 Bataan
26 Special Economic Zone Authority (BSEZA) to transact business within the Bataan
27 Special Economic Zone. A registered export enterprise shall be defined as any
28 registered enterprise engaged directly or indirectly in the production, manufacture or
29 trade of products or services which earns at least seventy percent (70%) of its normal
30 operating revenues from the sale of its products or services abroad for foreign
31 currency. A registered domestic enterprise, meanwhile, shall be defined as any
32 registered enterprise not falling under the definition of a registered export enterprise.

33 Additional investments in the project shall be entitled to the income tax
34 holidays corresponding to such investments as may be determined by the BOI.
35 Additional income tax holiday may be granted for as long as the investment is made
36 on the same project: *Provided,* That the project is listed in the IPP at the same time the
37 additional investment in the project is made: *Provided, further,* That the entitlement
38 period for additional investments shall not exceed three times the period provided

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

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

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

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

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

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

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

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

35 All persons and service establishments in the Bataan Ecozone shall be subject
36 to national and local taxes under the National Internal Revenue Code of 1997, as
37 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 BSEZA 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 BSEZA was obtained by the registered enterprise for
24 the importation of such machinery, equipment and spare parts.

25 Approval of the BSEZA 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 BSEZA 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 BSEZA.

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 BSEZA has been obtained by the registered enterprise; and (d)
21 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 Bataan Ecozone. –

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

9 c. Articles produced or manufactured in the Bataan 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 Bataan
14 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 Bataan
17 Ecozone. – Importations of raw materials and capital equipment shall be treated as in
18 the Omnibus Investments Code. Registered export oriented enterprise shall have
19 access to the utilization of the bonded warehousing system in accordance with the
20 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 BSEZA 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 BSEZA.

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

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

1 **Sec. 12. Powers and Functions of the Bataan Special Economic Zone**

2 **Authority.** – The Bataan Special Economic Zone Authority shall have the following
3 powers and functions:

- 4 (a) To operate, administer, manage and develop the Bataan Ecozone
5 according to the principles and provisions set forth in this Act;
- 6 (b) To register, regulate and supervise the enterprises in the Bataan Ecozone
7 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 Bataan Ecozone;
- 11 (d) To regulate and undertake the establishment, operation and maintenance
12 of utilities, other services and infrastructure in the Bataan Ecozone such as
13 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 Bataan Ecozone, in coordination with
23 appropriate national and local government authorities and in conformity
24 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 Bataan
37 Ecozone;

- 1 (i) To create, operate and/or contract to operate such functional units of
2 offices of the BSEZA 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 Bataan Ecozone in accordance with prevailing rules of origin, and the
8 pertinent regulations of the PEZA, DTI and/or the Department of Finance
9 (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 Bataan Ecozone, such as those governing
27 foreign exchange and other concurrent account transactions (trade and non-trade),
28 local and foreign borrowings, foreign investments, establishment and operation of
29 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 BSEZA 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 Bataan Special Economic Zone***
37 ***Authority.*** – The powers of the Bataan Special Economic Zone Authority shall be

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

- 3 a) The Chairman who shall, at the same time be the administrator of the
4 BSEZA;
- 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 Bataan;
 - 8 (2) The Congressional Representative of the district covering the site
9 of the Bataan Ecozone;
 - 10 (3) The mayor of the Municipality of Mariveles, Province of Bataan;
 - 11 (4) One (1) representative from the domestic investors;
 - 12 (5) One (1) representative from the foreign investors; and
 - 13 (6) Two (2) representatives from the workers working in Bataan
14 Ecozone.

15 The Governor, the Congressional representative, and the mayor of the
16 Municipality of Mariveles, Province of Bataan, shall serve as *ex-officio* members of
17 the Board, whose term in the Board corresponds to their term as elected officials.

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

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

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

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

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

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

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

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

33 **Sec. 18. *Ipsa Facto Clause.*** – Sections 30-41 of Republic Act 7916, shall
34 *ipso facto* apply to the Bataan Special Economic Zone.

35 **Sec. 19. *Capitalization.*** – The Bataan Special Economic Zone Authority shall
36 have an authorized capital stock of One Billion (1,000,000,000) no par shares with a
37 minimum issue of Ten Pesos (P10.00) each, the majority shares of which shall be
38 subscribed and paid for by the National Government and the Local Government Units

1 (LGUs) embracing the Bataan Special Economic Zone. The Board of Directors of the
2 BSEZA may, with the written concurrence of the Secretary of Finance, sell shares,
3 representing not more than forty per centum (40%) of the capital stock of the BSEZA
4 to the general public under such policy as the Board and the Secretary of Finance may
5 determine. The National Government and the LGUs shall in no case own less than
6 sixty per centum (60%) of the total issued and outstanding capital of the Bataan
7 Special Economic Zone Authority.

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

12 **Sec. 20. Supervision.** – The Bataan Special Economic Zone shall be under the
13 direct control and supervision of the Philippine Economic Zone Authority (PEZA) for
14 purposes of policy direction and coordination

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

21 **Sec. 22. Relationship with Local Government Units.** – Except as herein
22 provided, the local government units comprising the Bataan Special Economic Zone
23 shall retain their basic autonomy and identity. The Barangays of Maligaya, Malaya,
24 Alas-asin, Baseco and Sisiman, all in the Municipality of Mariveles, shall operate and
25 function in accordance with the Local Government Code of 1991. In case of any
26 conflict between the BSEZA and the Province of Bataan on matters affecting the
27 Bataan Ecozone other than defense and security matters, the decision of the BSEZA
28 shall prevail.

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

33 **Sec. 24. Auditing.** – The Commission on Audit shall appoint a representative
34 who shall be a full time auditor of the BSEZA and assign such number of personnel as
35 may be necessary to assist said representative in the performance of his/her duties.
36 The salaries and emoluments on the assigned auditor and personnel shall be in
37 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
5 any 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,