

FOURTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

8 JUN -4 P5:08

SENATE

RECEIVED BY: 

S. No. 2376

Introduced by Senator JUAN MIGUEL F. ZUBIRI

EXPLANATORY NOTE

Much of our country's progress and development rely on an efficient and reliable transportation system. Thus, the government should ensure the continuous growth of the transportation sector, such as encouraging the entry of new players or providing support to existing ones, if it were to enhance its economic opportunities and competitiveness.


Southeast Asian Airlines, Inc., or more commonly known as SEAIR, flew its maiden flight in 1995 to Taytay, Palawan with 12 passengers. Since its maiden flight thirteen years ago, SEAIR has now been servicing 12 domestic routes and flew around 3 million domestic passengers until 2007.

SEAIR has been providing the country with vital air transportation services since 1995. Over the years, SEAIR has expanded its routes by servicing abandoned destinations by bigger commercial airlines and has explored new and unchartered territories such as Siargao, Camiguin, Baler and Basco. SEAIR has boldly gone where no one has gone before. It has also opened missionary routes in Mindanao, from Zamboanga connecting Jolo, Tawi-Tawi and Cotabato, at a time when other airlines abandoned these areas. SEAIR has shortened the distance to and fro the far-flung areas, so to speak.

SEAIR further aims to improve its services to the public thru expanding its operation to regional routes and provide additional low-cost travel alternatives within and outside the country to overseas Filipino workers and their families, business travelers and foreign tourists.

Thus, to ensure the vibrancy of the air transportation sector through competition and level playing field, as well as the safety of the riding public, the grant of Congressional Franchise to SEAIR is imperative.

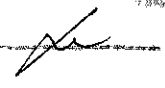
In view of the foregoing, approval of this bill is earnestly sought.


JUAN MIGUEL F. ZUBIRI

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AN ACT
GRANTING SOUTHEAST ASIAN AIRLINES (SEAir), INC. FRANCHISE TO
ESTABLISH, OPERATE AND MAINTAIN DOMESTIC AND INTERNATIONAL AIR
TRANSPORT SERVICES, WITH CLARKFIELD, PAMPANGA AS ITS BASE

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

1 **SECTION 1.** *Nature and Scope of Franchise.* - Subject to the provisions of the
2 Constitution and applicable laws, rules and regulations, there is hereby granted to
3 Southeast Asian Airlines (SEAir), Inc.; hereunder referred to as the grantee, its
4 successors or assigns, a franchise to establish, operate and maintain transport services
5 for the carriage of passengers, mail, goods and property by air, both domestic and
6 international.

7 Air transport services shall include the maintenance and operation of hangars
8 and aircraft service stations and facilities and other services of similar nature which may
9 be necessary, convenient or useful as an auxiliary to aircraft transportation.

10 The grantee shall have the right at its terminal and landing fields, as well as in its
11 aircraft, to construct, operate and maintain stations or transmitting sets for wireless
12 telegraphy and direction findings, and other radio aids to air navigation, using
13 wavelengths in accordance with the rules and regulations made from time to time by the
14 proper agencies of the government. The wireless communication, facilities shall be used
15 solely for receiving and transmitting weather forecasts and other matters in connection
16 with the grantee's services.

17 **SEC.2.** *Civil Aeronautics Board (CAB).* - The grantee shall secure from the CAB
18 the appropriate permits and licenses for its operations.

19 All aircraft used by the grantee including their accessories and equipment shall at
20 all times be air worthy and the crew members shall be licensed by the Government of
21 the Philippines. They shall be equipped with radio communications, safety and other
22 equipment and shall be operated and maintained in accordance with the regulations

1 and technical requirements of the Civil Aviation Authority of the Philippines or such
2 other regulatory bodies the government may prescribe for this purpose.

3 The grantee's equipment and the operation of such equipment shall at all times
4 be subject to inspection and regulation by the Civil Aviation Authority of the Philippines.

5 The grantee shall comply with the provisions of Republic Act Numbered Seven
6 hundred and seventy-six (R.A. No. 776), otherwise known as the "Civil Aeronautics Act
7 of the Philippines", and the regulation promulgated thereunder from, time to time.

8 **SEC. 3. Responsibility to the Public.** - Excepting cases of *force majeure* and
9 whenever weather conditions permit, the grantee shall maintain scheduled and/or non-
10 scheduled and/or chartered air transport services to any and all points and places
11 throughout the Philippines and between the Philippines and other countries at such
12 frequencies as traffic needs may require: *Provided*, however, That at least twenty-five
13 percent (25%) of all its frequencies shall be for domestic market.

14 **SEC.4. Rates for Services.** - The grantee shall fix just and reasonable rates for
15 the transportation of passengers, mail, goods and freight, subject to the regulations and
16 approval of the CAB and other proper regulatory agencies of the government.

17 **SEC.5. Term of Franchise.** - This franchise shall be for a term of twenty-five (25)
18 years from the date of effectivity of this Act, unless sooner revoked or cancelled. This
19 franchise shall be deemed *ipso facto* revoked in the event the grantee fails to comply
20 with any of the following conditions:

21 (a) Commence operations within one (1) year from the approval of its permit by
22 the CAB;

23 (b) Operate continuously for two (2) years; and

24 (c) Commence operations within two (2) years from the effectivity of this Act.

25 **SEC. 6. Acceptance and Compliance.** - Acceptance of this franchise shall be
26 given in writing within sixty (60) days after the effectivity of this Act. Upon giving such
27 acceptance, the grantee shall exercise the privileges granted under this Act.
28 Nonacceptance shall render the franchise void.

29 **SEC. 7. Bond.** - The grantee shall file a bond issued in favor of the CAB, which
30 shall determine the amount, to guarantee the compliance with and fulfillment of the
31 conditions under which this franchise is granted. If, after three (3) years from the date of
32 the approval of its permit by the Board, the grantee shall have fulfilled the same, the
33 bond shall be cancelled by the Board. Otherwise, the bond shall be forfeited in favor of
34 the government and the franchise *ipso facto* revoked

35 **SEC.8. Landing Facilities.** - The grantee may use the landing and other airport
36 facilities on land and water as may be maintained or owned by the government within
37 the Philippines on the grantee's line subject to such terms and conditions, restrictions
38 and national policy considerations as the Philippine Government may impose: *Provided*

1 That the Philippine Government shall have the right to use the landing and other airport
2 facilities as may be maintained and owned by the grantee in the Philippines.

3 **SEC. 9. Contracts.** - The grantee is authorized to enter into transportation
4 contracts with the Philippine Government, including the carrying of mail, upon such
5 terms and conditions as may be mutually agreed upon. The grantee shall give
6 preferential consideration to contracts with the Philippine Government. The grantee may
7 likewise enter into transportation maintenance and/or servicing contracts, and such
8 other contracts relating to air transport with other foreign-owned airlines particularly with
9 those which have international routes.

10 **SEC.10. Right of Government.** - A special right is hereby reserved to the
11 President of the Philippines, in times of war, rebellion, public peril, calamity, emergency,
12 disaster or disturbance of peace and order, to temporarily take over and operate the
13 facilities or equipment of the grantee, to temporarily suspend the operation of any facility
14 or equipment in the interest of the public safety, security and public welfare, or to
15 authorize the temporary use and operation thereof by any agency of the government,
16 upon due compensation to the grantee, for the use of said facilities or equipment during
17 the period when they shall be so operated.

18 **SEC. 11. Warranty in Favor of the National and Local Governments.** - The
19 grantee shall hold the national, provincial, city and municipal governments of the
20 Philippines harmless from all claims, accounts, demands or actions arising out of
21 accidents or injuries, whether to property or to persons, caused by the operation of the
22 services under the franchise hereby granted.

23 **SEC 12. Nontransferability of Franchise.** - The grantee shall not lease, transfer,
24 grant the usufruct of, sell nor assign this franchise or the rights and privileges acquired
25 thereunder to any person, firm, company, corporation or other commercial or legal
26 entity, nor merge with any other corporation or entity, nor shall the controlling interest of
27 the grantee be transferred, whether as a whole or in parts and whether simultaneously
28 or contemporaneously, to any such person, firm, company, corporation or entity without
29 the prior approval of the Congress of the Philippines. Any person or entity to which this
30 franchise is sold, transferred or assigned, shall be subject to the same conditions,
31 terms, restrictions and limitations of this Act.

32 **SEC. 13. Dispersal of Ownership** - In accordance with the constitutional provision
33 to encourage public participation in public utilities, the grantee shall offer at least thirty
34 percent (30%) of its outstanding capital stock or a higher percentage that may hereafter
35 be provided by law in any securities exchange in the Philippines within five (5) years
36 from the commencement of its operations. Noncompliance therewith shall render the
37 franchise *ipso facto* revoked.

1 **SEC. 14. Reportorial Requirement.** - The grantee shall submit an annual report to
2 the Congress of the Philippines on its compliance with the terms and conditions of the
3 franchise and on its operations within sixty (60) days from the end of every year.

4 **SEC 15. Equality Clause.** - In the event that any competing individual,
5 partnership or corporation receives or enjoys or shall receive similar permit or franchise
6 with terms, provisions and/or privileges more favorable than those herein granted or
7 which tend to place the herein grantee at any disadvantage, then such terms and/or
8 provisions shall be deemed part hereof and shall operate equally in favor of the herein
9 grantee.

10 **SEC. 16. Separability Clause** - If any of the sections or provisions of this Act is
11 held invalid, all other provisions not affected thereby shall remain valid.

12 **SEC. 17. Repealability and Nonexclusivity Clause.** - This franchise shall be
13 subject to amendment, alteration or repeal by the Congress of the Philippines when the
14 public interest so requires and shall not be interpreted as an exclusive grant of the
15 privileges herein provided for.

16 **SEC. 18. Effectivity Clause.** - This Act shall take effect fifteen (15) days from the
17 date of its publication, upon the initiative of the grantee, in at least two (2) newspapers
18 of general circulation in the Philippines.

19 Approved,