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SENATE

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COMMITTEE REPORT NO. 260

Submitted by the Committee on Public Services on SEP 23 2015

RE : H. B. No. 5391

Recommending its approval with amendments.

Sponsor : Senator Osmeña, III

MR. PRESIDENT:


The Senate Committee on Public Services to which was referred H. B. No. 5391, introduced by Representatives Gonzales, Bichara, Tambunting, *et.al.*, entitled:

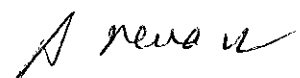
**“AN ACT
AMENDING THE FRANCHISE OF ALIW BROADCASTING
CORPORATION GRANTED UNDER REPUBLIC ACT NO.
7399, AND RENEWING/EXTENDING THE TERM THEREOF
TO ANOTHER TWENTY-FIVE (25) YEARS FROM THE DATE
OF THE EFFECTIVITY OF THIS ACT.”**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H. B. No. 5391 be approved with amendments, to wit:

1. On page 7 line 20, after the word “years” delete the words “from the effectivity of this Act,” and insert the phrase **“THAT SHALL TAKE EFFECT UPON THE EXPIRATION OF THE TERM GRANTED UNDER SECTION 6 OF REPUBLIC ACT NO. 7399,”** and
2. Lastly, on the title, the new title shall now read **“AN ACT AMENDING THE FRANCHISE OF ALIW BROADCASTING CORPORATION AND RENEWING/EXTENDING THE TERM THEREOF TO ANOTHER TWENTY-FIVE (25) YEARS THAT SHALL TAKE EFFECT UPON THE EXPIRATION OF THE TERM GRANTED UNDER SECTION 6 OF REPUBLIC ACT NO. 7399.”** with Senator Osmeña as sponsor thereof.

Respectfully submitted:


RAMON BONG REVILLA, JR.
Chairperson
Committee on Public Services


SERGIO R. OSMEÑA, III
Acting Chairperson
Committee on Public Services

MEMBERS:



SONNY M. ANGARA



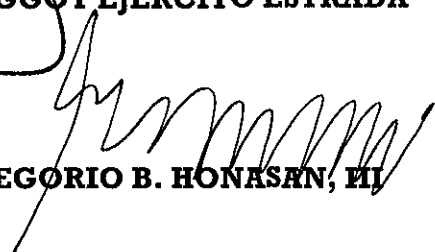
PIA S. CAYETANO



JINGGOY EJERCITO ESTRADA



JOSEPH VICTOR G. EJERCITO



GREGORIO B. HONASAN, III



LOREN B. LEGARDA



GRACE POE

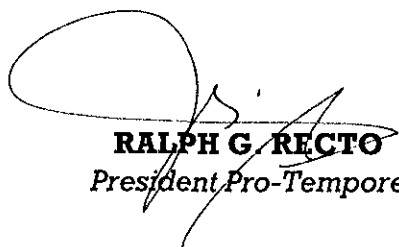


ANTONIO F. TRILLANES, IV



CYNTHIA A. VILLAR

EX-OFFICIO MEMBERS:



RALPH G. RECTO
President Pro-Tempore

JUAN PONCE ENRILE
Minority Floor Leader

ALAN PETER S. CAYETANO
Majority Floor Leader

FRANKLIN M. DRILON
Senate President
Pasay City



HOUSE OF REPRESENTATIVES

H. No. 5391

BY REPRESENTATIVES GONZALES, BICHARA, TAMBUNTING, VIOLAGO, TUGNA,
TUPAS, BELLO (S.), RIDON, LABADLABAD AND TEODORO

AN ACT AMENDING THE FRANCHISE OF ALIW BROADCASTING CORPORATION GRANTED UNDER REPUBLIC ACT NO. 7399, AND RENEWING/EXTENDING THE TERM THEREOF TO ANOTHER TWENTY-FIVE (25) YEARS FROM THE DATE OF EFFECTIVITY OF THIS ACT

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

1 SECTION 1. The franchise of Aliw Broadcasting Corporation granted
2 under Republic Act No. 7399 is hereby amended to read as follows:
3 "SECTION 1. *NATURE AND SCOPE OF FRANCHISE.* --
4 SUBJECT TO THE PROVISIONS OF THE 1987 PHILIPPINE
5 CONSTITUTION AND APPLICABLE LAWS, RULES AND
6 REGULATIONS, THE FRANCHISE GRANTED TO ALIW
7 BROADCASTING CORPORATION UNDER REPUBLIC ACT
8 NO. 7399, HEREUNDER REFERRED TO AS THE GRANTEE, ITS
9 SUCCESSORS OR ASSIGNEES, TO CONSTRUCT, INSTALL,
10 ESTABLISH, OPERATE AND MAINTAIN FOR COMMERCIAL
11 PURPOSES AND IN THE PUBLIC INTEREST, THROUGHOUT THE
12 PHILIPPINES, RADIO AND/OR TELEVISION BROADCASTING
13 STATIONS, INCLUDING DIGITAL TELEVISION SYSTEM,

1 THROUGH MICROWAVE, SATELLITE OR WHATEVER MEANS,
2 INCLUDING THE USE OF ANY NEW TECHNOLOGIES IN
3 TELEVISION AND RADIO SYSTEMS, WITH THE CORRESPONDING
4 TECHNOLOGICAL AUXILIARIES AND FACILITIES, SPECIAL
5 BROADCAST AND OTHER PROGRAM AND DISTRIBUTION
6 SERVICES AND RELAY STATIONS.

7 "SEC. 2. *MANNER OF OPERATION OF STATIONS OR*
8 *FACILITIES.* - THE STATIONS OR FACILITIES OF THE
9 GRANTEE SHALL BE CONSTRUCTED AND OPERATED IN A
10 MANNER AS WILL, AT MOST, RESULT ONLY IN THE MINIMUM
11 INTERFERENCE ON THE WAVELENGTHS OR FREQUENCIES OF
12 EXISTING STATIONS OR OTHER STATIONS WHICH MAY BE
13 ESTABLISHED BY LAW, WITHOUT IN ANY WAY DIMINISHING ITS
14 OWN RIGHT TO USE ITS SELECTED WAVELENGTHS OR
15 FREQUENCIES AND THE QUALITY OF TRANSMISSION OR
16 RECEPTION THEREON AS SHOULD MAXIMIZE RENDITION OF
17 THE GRANTEE'S SERVICES AND/OR AVAILABILITY THEREOF.

18 "SEC. 3. *PRIOR APPROVAL OF THE NATIONAL*
19 *TELECOMMUNICATIONS COMMISSION.* - THE GRANTEE SHALL
20 SECURE FROM THE NATIONAL TELECOMMUNICATIONS
21 COMMISSION (NTC), THE APPROPRIATE PERMITS AND
22 LICENSES FOR THE CONSTRUCTION AND OPERATION OF ITS
23 STATIONS AND FACILITIES AND SHALL NOT USE ANY
24 FREQUENCY IN THE RADIO/TELEVISION SPECTRUM WITHOUT
25 AUTHORIZATION FROM THE NTC. THE NTC, HOWEVER,
26 SHALL NOT UNREASONABLY WITHHOLD OR DELAY THE GRANT
27 OF ANY SUCH AUTHORITY.

28 "SEC. 4. *RESPONSIBILITY TO THE PUBLIC.* - THE
29 GRANTEE SHALL PROVIDE ADEQUATE PUBLIC SERVICE TIME
30 TO ENABLE THE GOVERNMENT, THROUGH THE SAID

1 BROADCASTING STATIONS OR FACILITIES, TO REACH THE
2 POPULATION ON IMPORTANT PUBLIC ISSUES; PROVIDE AT ALL
3 TIMES SOUND AND BALANCED PROGRAMMING; PROMOTE
4 PUBLIC PARTICIPATION SUCH AS IN COMMUNITY
5 PROGRAMMING; ASSIST IN THE FUNCTIONS OF PUBLIC
6 INFORMATION AND EDUCATION; CONFORM TO THE ETHICS OF
7 HONEST ENTERPRISE; AND NOT USE ITS STATIONS AND
8 FACILITIES FOR THE BROADCASTING OF OBSCENE AND
9 INDECENT LANGUAGE, SPEECH, ACT OR SCENE; OR FOR THE
10 DISSEMINATION OF DELIBERATELY FALSE INFORMATION OR
11 WILLFUL MISREPRESENTATION, TO THE DETRIMENT OF THE
12 PUBLIC INTEREST, OR TO INCITE, ENCOURAGE OR ASSIST IN
13 SUBVERSIVE OR TREASONABLE ACTS.

14 "SEC. 5. *RIGHT OF GOVERNMENT.* - A SPECIAL RIGHT IS
15 HEREBY RESERVED TO THE PRESIDENT OF THE PHILIPPINES,
16 IN TIMES OF WAR, REBELLION, PUBLIC PERIL, CALAMITY,
17 EMERGENCY, DISASTER OR DISTURBANCE OF PEACE AND
18 ORDER TO TEMPORARILY TAKE OVER AND OPERATE THE
19 STATIONS OR FACILITIES OF THE GRANTEE, TO TEMPORARILY
20 SUSPEND THE OPERATION OF ANY STATION OR FACILITY IN
21 THE INTEREST OF PUBLIC SAFETY, SECURITY AND PUBLIC
22 WELFARE, OR TO AUTHORIZE THE TEMPORARY USE AND
23 OPERATION THEREOF BY ANY AGENCY OF THE GOVERNMENT,
24 UPON DUE COMPENSATION TO THE GRANTEE, FOR THE USE OF
25 SAID STATIONS OR FACILITIES DURING THE PERIOD WHEN
26 THEY SHALL BE SO OPERATED. THE RADIO SPECTRUM IS A
27 FINITE RESOURCE THAT IS PART OF THE NATIONAL
28 PATRIMONY AND THE USE THEREOF IS A PRIVILEGE
29 CONFERRED UPON THE GRANTEE BY THE STATE AND MAY BE
30 WITHDRAWN ANY TIME AFTER DUE PROCESS.

1 **"SEC. 6. SELF-REGULATION BY AND UNDERTAKING OF**
2 **GRANTEE. - THE GRANTEE SHALL NOT REQUIRE ANY**
3 **PREVIOUS CENSORSHIP OF ANY SPEECH, PLAY, ACT OR SCENE,**
4 **OR OTHER MATTER TO BE BROADCAST FROM ITS STATIONS:**
5 **PROVIDED, THAT THE GRANTEE, DURING ANY BROADCAST,**
6 **SHALL CUT OFF FROM THE AIR THE SPEECH, PLAY, ACT OR**
7 **SCENE, OR OTHER MATTER BEING BROADCAST IF THE**
8 **TENDENCY THEREOF IS TO PROPOSE AND/OR INCITE TREASON,**
9 **REBELLION OR SEDITION; OR THE LANGUAGE USED THEREIN**
10 **OR THE THEME THEREOF IS INDECENT OR IMMORAL:**
11 **PROVIDED, FURTHER, THAT WILLFUL FAILURE TO DO SO**
12 **SHALL CONSTITUTE A VALID CAUSE FOR THE CANCELLATION**
13 **OF THIS FRANCHISE.**

14 **"SEC. 7. WARRANTY IN FAVOR OF NATIONAL AND LOCAL**
15 **GOVERNMENTS. - THE GRANTEE SHALL HOLD THE**
16 **NATIONAL, PROVINCIAL, CITY AND MUNICIPAL**
17 **GOVERNMENTS OF THE PHILIPPINES FREE FROM ALL CLAIMS,**
18 **ACCOUNTS, DEMANDS OR ACTIONS ARISING OUT OF**
19 **ACCIDENTS OR INJURIES, WHETHER TO PROPERTY OR TO**
20 **PERSONS, CAUSED BY THE CONSTRUCTION OR OPERATION OF**
21 **THE STATIONS OF THE GRANTEE.**

22 **"SEC. 8. SALE, LEASE, TRANSFER, USUFRUCT, OR**
23 **ASSIGNMENT OF FRANCHISE. - THE GRANTEE SHALL NOT**
24 **LEASE, TRANSFER, GRANT THE USUFRUCT OF, SELL NOR**
25 **ASSIGN THIS FRANCHISE OR THE RIGHTS AND PRIVILEGES**
26 **ACQUIRED THEREUNDER TO ANY PERSON, FIRM, COMPANY,**
27 **CORPORATION OR OTHER COMMERCIAL OR LEGAL ENTITY,**
28 **NOR MERGE WITH ANY OTHER CORPORATION OR ENTITY, NOR**
29 **SHALL THE CONTROLLING INTEREST OF THE GRANTEE BE**

1 TRANSFERRED, WHETHER AS A WHOLE OR IN PARTS, AND
2 WHETHER SIMULTANEOUSLY OR CONTEMPORANEOUSLY, TO
3 ANY SUCH PERSON, FIRM, COMPANY, CORPORATION OR
4 ENTITY WITHOUT THE PRIOR APPROVAL OF THE CONGRESS OF
5 THE PHILIPPINES: *PROVIDED*, THAT CONGRESS SHALL BE
6 INFORMED OF ANY LEASE, TRANSFER, GRANT OF USUFRUCT
7 OF, SALE OR ASSIGNMENT OF FRANCHISE OR THE RIGHTS OR
8 PRIVILEGES ACQUIRED THEREUNDER, OR OF THE MERGER, OR
9 TRANSFER OF CONTROLLING INTEREST OF THE GRANTEE
10 WITHIN SIXTY (60) DAYS AFTER THE COMPLETION OF SAID
11 TRANSACTION: *PROVIDED, FURTHER*, THAT FAILURE TO
12 REPORT TO CONGRESS SUCH CHANGE OF OWNERSHIP SHALL
13 RENDER THE FRANCHISE *IPSO FACTO* REVOKED: *PROVIDED*,
14 *FINALLY*, THAT ANY PERSON OR ENTITY TO WHICH THIS
15 FRANCHISE IS SOLD, TRANSFERRED OR ASSIGNED, SHALL BE
16 SUBJECT TO THE SAME CONDITIONS, TERMS, RESTRICTIONS
17 AND LIMITATIONS OF THIS ACT.

18 "SEC. 9. *DISPERSAL OF OWNERSHIP*. -- IN ACCORDANCE
19 WITH THE CONSTITUTIONAL PROVISION TO ENCOURAGE
20 PUBLIC PARTICIPATION IN PUBLIC UTILITIES, THE GRANTEE
21 SHALL OFFER TO FILIPINO CITIZENS AT LEAST THIRTY
22 PERCENT (30%) OR A HIGHER PERCENTAGE THAT MAY
23 HEREAFTER BE PROVIDED BY LAW OF ITS OUTSTANDING
24 CAPITAL STOCK IN ANY SECURITIES EXCHANGE IN THE
25 PHILIPPINES WITHIN FIVE (5) YEARS FROM THE
26 COMMENCEMENT OF ITS OPERATIONS: *PROVIDED*, THAT IN
27 CASES WHERE PUBLIC OFFER OF SHARES IS NOT APPLICABLE,
28 ESTABLISHMENT OF COOPERATIVES AND OTHER METHODS OF
29 ENCOURAGING PUBLIC PARTICIPATION BY CITIZENS AND
30 CORPORATIONS OPERATING PUBLIC UTILITIES MUST BE

1 IMPLEMENTED. NONCOMPLIANCE THEREWITH SHALL RENDER
2 THE FRANCHISE *IPSO FACTO* REVOKED.

3 "SEC. 10. *EQUALITY CLAUSE.* - ANY ADVANTAGE,
4 FAVOR, PRIVILEGE, EXEMPTION, OR IMMUNITY GRANTED
5 UNDER EXISTING FRANCHISE, OR WHICH MAY HEREAFTER BE
6 GRANTED FOR RADIO AND/OR TELEVISION BROADCASTING,
7 UPON PRIOR REVIEW AND APPROVAL OF CONGRESS, SHALL
8 BECOME PART OF THIS FRANCHISE AND SHALL BE ACCORDED
9 IMMEDIATELY AND UNCONDITIONALLY TO THE HEREIN
10 GRANTEE: *PROVIDED*, THAT THE FOREGOING SHALL NEITHER
11 APPLY TO NOR AFFECT PROVISIONS OF BROADCASTING
12 FRANCHISES CONCERNING TERRITORY COVERED BY THE
13 FRANCHISE, THE LIFE SPAN OF THE FRANCHISE OR THE TYPE
14 OF SERVICE AUTHORIZED BY THE FRANCHISE.

15 "SEC. 11. *GENERAL BROADCAST POLICY LAW.* - THE
16 GRANTEE SHALL COMPLY WITH AND BE SUBJECT TO THE
17 PROVISIONS OF A GENERAL BROADCAST POLICY LAW, WHICH
18 CONGRESS MAY HEREAFTER ENACT.

19 "SEC. 12. *REPORTORIAL REQUIREMENT.* - THE
20 GRANTEE SHALL SUBMIT AN ANNUAL REPORT TO THE
21 CONGRESS OF THE PHILIPPINES, THROUGH THE COMMITTEE
22 ON LEGISLATIVE FRANCHISES OF THE HOUSE OF
23 REPRESENTATIVES AND THE COMMITTEE ON PUBLIC
24 SERVICES OF THE SENATE, ON ITS COMPLIANCE WITH THE
25 TERMS AND CONDITIONS OF THE FRANCHISE AND ON ITS
26 OPERATIONS ON OR BEFORE APRIL 30 OF THE SUCCEEDING
27 YEAR. THE REPORTORIAL COMPLIANCE CERTIFICATE ISSUED
28 BY CONGRESS SHALL BE REQUIRED BEFORE ANY APPLICATION
29 FOR PERMIT OR CERTIFICATE IS ACCEPTED BY THE NTC.

1 **"SEC. 13. PENALTY CLAUSE. - FAILURE OF THE**
2 **GRANTEE TO SUBMIT THE REQUISITE ANNUAL REPORT TO**
3 **CONGRESS SHALL BE FINED FIVE HUNDRED PESOS (P500.00)**
4 **PER WORKING DAY OF NONCOMPLIANCE. THE FINE SHALL BE**
5 **COLLECTED BY THE NTC FROM DELINQUENT FRANCHISE**
6 **GRANTEE SEPARATE FROM THE REPORTORIAL PENALTIES**
7 **IMPOSED BY THE NTC.**

8 **"SEC. 14. SEPARABILITY CLAUSE. - IF ANY OF THE**
9 **SECTIONS OR PROVISIONS OF THIS ACT IS HELD INVALID, ALL**
10 **OTHER PROVISIONS NOT AFFECTED THEREBY SHALL REMAIN**
11 **VALID.**

12 **"SEC. 15. REPEALABILITY AND NONEXCLUSIVITY CLAUSE.**
13 **- THIS FRANCHISE SHALL BE SUBJECT TO AMENDMENT,**
14 **ALTERATION, OR REPEAL BY THE CONGRESS OF THE**
15 **PHILIPPINES WHEN THE PUBLIC INTEREST SO REQUIRES AND**
16 **SHALL NOT BE INTERPRETED AS AN EXCLUSIVE GRANT OF THE**
17 **PRIVILEGES HEREIN PROVIDED FOR."**

18 **SEC. 2. *Renewal/Extension of the Term of Franchise.* - The term of**
19 **franchise granted under Republic Act No. 7399 is hereby renewed/extended**
20 **for a period of twenty-five (25) years from the date of the effectivity of this**
21 **Act. This franchise shall be deemed *ipso facto* revoked in the event the grantee**
22 **fails to operate continuously for two (2) years.**

23 **SEC. 3. *Acceptance and Compliance.* - Acceptance of the**
24 **amendment and extension/renewal of the franchise shall be given in writing to**
25 **the Congress of the Philippines, through the Committee on Legislative**
26 **Franchises of the House of Representatives and the Committee on Public**
27 **Services of the Senate, within sixty (60) days from the effectivity of this Act.**
28 **Upon giving such acceptance, the grantee shall exercise the privileges granted**
29 **under this Act. Nonacceptance shall render the franchise void.**

1 SEC. 4. *Effectivity.* – This Act shall take effect fifteen (15) days from
2 the date of its publication in at least two (2) newspapers of general circulation
3 in the Philippines.

 Approved,

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