



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

'16 JAN 26 AIO:16

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SENATE

COMMITTEE REPORT NO. 431

Submitted by the Committee on Public Services on JAN 26 2016

RE : H. B. No. 6021

Recommending its approval with amendments.

Sponsor : Senator Osmeña III

MR. PRESIDENT:

The Senate Committee on Public Services to which was referred H. B. No. 6021, introduced by Representatives Violago, Teodoro, Robes, *et. al.*, entitled:


**"AN ACT
GRANTING THE PILIPINAS ASIAN PEARL AIRWAYS, INC.
A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN
DOMESTIC AND INTERNATIONAL AIR TRANSPORT
SERVICES."**

has considered the same and has the honor to report it back to the Senate with the recommendation that the attached H. B. No. 6021 be approved with amendments, to wit:

1. On page 6 line 24, after the conjunctive "in" and before the word "newspaper" delete the words "the official gazette or in a" and insert the words "AT LEAST TWO (2)", and
2. On the same page 6 and line 24, add the letter "S" to the word "newspaper".

Respectfully submitted:

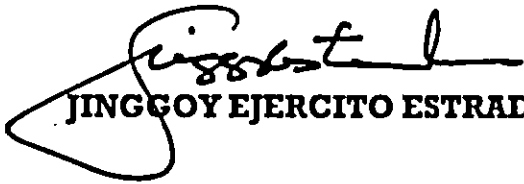

RAMON BONG REVILLA JR.
Chairperson
Committee on Public Services

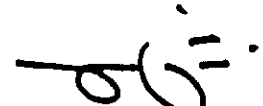

SERGIO R. OSMEÑA III
Acting Chairperson
Committee on Public Services

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Senate President
Pasay City



HOUSE OF REPRESENTATIVES

H. No. 6021

BY REPRESENTATIVES VIOLAGO, TEODORO, ROBES, SALVACION, CAMINERO,
UNABIA, BELLO (S.), ARNAZ, TAMBUNING AND DELA CRUZ, PER
COMMITTEE REPORT NO. 870

AN ACT GRANTING THE PILIPINAS ASIAN PEARL AIRWAYS,
INC. A FRANCHISE TO ESTABLISH, OPERATE AND
MAINTAIN DOMESTIC AND INTERNATIONAL AIR
TRANSPORT SERVICES

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

- 1 SECTION 1. *Nature and Scope of Franchise.* - Subject to the
2 provisions of the 1987 Philippine Constitution and applicable laws, rules and
3 regulations, there is hereby granted to Pilipinas Asian Pearl Airways, Inc.,
4 hereunder referred to as the grantee, its successors or assignees, a franchise to
5 establish, operate and maintain transport services for the carriage of
6 passengers, mail, goods and properties by air, both domestic and international.
7 Air transport services shall include the maintenance and operation of
8 hangars and aircraft service stations and facilities and other services of similar
9 nature which may be necessary, convenient or useful as an auxiliary to aircraft
10 transportation.

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

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

11 All aircraft used by the grantee including their accessories and
12 equipment shall at all times be air worthy and the crew members shall be
13 licensed by the Government of the Philippines. They shall be equipped with
14 radio communications, safety and other equipment, and shall be operated and
15 maintained in accordance with the regulations and technical requirements of
16 the Civil Aviation Authority of the Philippines (CAAP) or other regulatory
17 bodies the government may prescribe for this purpose.

18 The grantee's equipment and the operation of such equipment shall at
19 all times be subject to inspection and regulation by the CAAP.

20 The grantee shall comply with the provisions of Republic Act No. 776,
21 as amended, otherwise known as "The Civil Aeronautics Act of the
22 Philippines", and the regulations promulgated thereunder from time to time.

23 *SEC. 3. Responsibility to the Public.* - Excepting cases of *force*
24 *majeure* and whenever weather conditions permit, the grantee shall maintain
25 scheduled and/or non-scheduled and/or chartered air transport services to any
26 and all points and places throughout the Philippines and between the
27 Philippines and other countries at such frequencies as traffic needs may

1 require: *Provided, however,* That at least twenty-five percent (25%) of all its
2 frequencies shall be for the domestic market.

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

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

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

13 (b) Secure an Air Operator Certificate (AOC) from CAAP within the
14 same period of its application for a CAB permit;

15 (c) Operate continuously for two (2) years; and

16 (d) Commence operations within two (2) years from the effectivity of
17 this Act.

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

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

1 **SEC. 8. *Landing Facilities.*** - The grantee may use the landing and
2 other airport facilities on land and water as may be maintained or owned by the
3 government within the Philippines on the grantee's line subject to such terms
4 and conditions, restrictions, and national policy considerations as
5 the Philippine Government may impose: *Provided*, That the Philippine
6 Government shall have the right to use the landing and other airport facilities
7 as may be maintained and owned by the grantee in the Philippines.

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

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

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

1 **SEC. 12. *Sale, Lease, Transfer, Usufruct, or Assignment of Franchise.***

2 - The grantee shall not lease, transfer, grant the usufruct of, sell nor assign this
3 franchise or the rights and privileges acquired thereunder to any person, firm,
4 company, corporation or other commercial or legal entity, nor merge with any
5 other corporation or entity, nor shall transfer the controlling interest of the
6 grantee, whether as a whole or in parts, and whether simultaneously or
7 contemporaneously, to any such person, firm, company, corporation or entity
8 without the prior approval of the Congress of the Philippines: *Provided*, That
9 Congress shall be informed of any sale, lease, transfer, grant of usufruct of, or
10 assignment of franchise or the rights and privileges acquired thereunder, or the
11 merger or transfer of the controlling interest of the grantee, within sixty (60)
12 days after the completion of said transaction: *Provided, further*, That failure to
13 report to Congress such change of ownership shall render the franchise *ipso*
14 *facto* revoked: *Provided, finally*, That any person or entity to which this
15 franchise is sold, transferred, or assigned shall be subject to the same
16 conditions, terms, restrictions, and limitations of this Act.

17 **SEC. 13. *Dispersal of Ownership.*** - In accordance with the
18 constitutional provision to encourage public participation in public utilities, the
19 grantee shall offer to Filipino citizens at least thirty percent (30%) of its
20 outstanding capital stock or a higher percentage that may hereafter be provided
21 by law in any securities exchange in the Philippines within five (5) years from
22 the commencement of its operations.

23 **SEC. 14. *Equality Clause.*** - Any advantage, favor, privilege,
24 exemption, or immunity granted under other existing franchises, or which may
25 hereafter be granted, upon prior review and approval of Congress, shall
26 become part of this franchise and shall be accorded immediately and
27 unconditionally to the herein grantee: *Provided*, That the foregoing shall
28 neither apply to nor affect provisions of air transport services franchises

1 concerning territory covered by the franchise, the life span of the franchise or
2 the type of service authorized by the franchise.

3 **SEC. 15. Reportorial Requirement.** - The grantee shall submit an
4 annual report to the Congress of the Philippines, through the Committee on
5 Legislative Franchises of the House of Representatives and the Committee on
6 Public Services of the Senate, on its compliance with the terms and conditions
7 of the franchise and on its operations on or before April 30 of every year
8 during the term of its franchise. The reportorial compliance certificate issued
9 by Congress shall be required before any application for permit or certificate is
10 accepted by the CAB.

11 **SEC. 16. Penalty Clause.** - Failure of the grantee to submit the
12 requisite annual report to Congress shall be penalized by a fine in the amount
13 of five hundred pesos (P500.00) per working day of noncompliance. The fine
14 shall be collected by the CAB from the delinquent franchise grantee, separate
15 from the reportorial penalties imposed by the CAB.

16 **SEC. 17. Separability Clause.** - If any of the sections or provisions of
17 this Act is held invalid, all other provisions not affected thereby shall remain
18 valid.

19 **SEC. 18. Repealability and Nonexclusivity Clause.** - This franchise
20 shall be subject to amendment, alteration, or repeal by the Congress of the
21 Philippines when the public interest so requires, and shall not be interpreted as
22 an exclusive grant of the privileges herein provided for.

23 **SEC. 19. Effectivity.** - This Act shall take effect fifteen (15) days after
24 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,