

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

SENATE
S.B. No. 2075



Introduced by SENATOR RICHARD J. GORDON '18 OCT 11 P2:57

EXPLANATORY NOTE


Central to the government's economic agenda is economic dynamism and competitiveness with increased investments, business opportunities, and job generation. But with competition posed by neighboring countries with lower production costs, especially in the export industry, the journey toward this goal will travel at a slow pace.

For instance, China has been edging its Asian neighbors in enticing foreign investors, particularly for their export industry, due to its increasing number and magnitude of economic zones with low production costs. In so doing, it has been displacing our own export industry thereby causing shrinking businesses and job losses. To gain back a steady footing in the export industry, we need to bring the battle to the countryside where there are lower costs of production and vast natural and human capital. To more effectively achieve this, we need to establish more economic zones in favorable geographic positions such as Surigao del Sur.

Surigao del Sur, being strategically situated along the border area, allowing for easy transit of goods, having sufficient road networks and sea and air transportation infrastructure, and being blessed with raw materials and human capital at varying levels of skills and trades, is surely a viable location for a special economic zone.

The proposed Surigao del Sur economic zone and freeport will not only contribute to the development of their province, but also concomitantly contribute to regional and national development as the capital, technological, and knowledge spill-overs of the ecozone will filter throughout the country thereby helping attain the government's agenda of economic dynamism and competitiveness.

In view of the foregoing, the passage of this measure is earnestly sought.



RICHARD J. GORDON

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AN ACT
ESTABLISHING THE SURIGAO DEL SUR SPECIAL ECONOMIC ZONE AND FREE
PORT IN THE MUNICIPALITIES OF CARRASCAL, CANTILAN, MADRID,
CARMEN, AND LANUZA, PROVINCE OF SURIGAO DEL SUR, PROVIDING
FUNDS THEREFOR, AND FOR OTHER PURPOSES.

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

1 **SECTION 1. Short Title.** – This Act shall be known as the "Surigao del Sur
2 Special Economic Zone and Free Port Act of 2016."

3 **SEC. 2. Declaration of Policy.** – It is hereby declared the policy of the State to
4 actively encourage, promote, induce and accelerate the sound and balanced industrial,
5 economic and social development of the country in order to provide jobs to the people
6 especially those in the rural areas, increase productivity and individual family income,
7 and thereby improve the level and quality of living conditions through the
8 establishment, among others, of special economic zones in suitable and strategic
9 locations in the country and through measures that will attract legitimate and
10 productive foreign investments.

11 **SEC. 3. Creation of the Surigao del Sur Special Economic Zone and Free**
12 **Port Act of 2016.** – In accordance with the foregoing declared policy, there is hereby
13 established a Special Economic Zone and Free Port in the Municipalities of Carrascal,
14 Cantilan, Madrid, Carmen, and Lanuza in the Province of Surigao del Sur to be known
15 as the Surigao del Sur Special Economic Zone and Free Port Act, hereinafter referred to
16 as Surigao del Sur Ecozone. The specific metes and bounds of the Surigao del Sur
17 Special Economic Zone and Free Port Act shall be more particularly defined in a
18 presidential proclamation that shall be issued for this purpose.

19 **SEC. 4. Governing Principles.** – The Surigao del Sur Special Economic Zone
20 and Free Port shall be managed and operated by the Surigao del Sur Special Economic
21 Zone and Free Port Authority, herein referred to as the SDSEZA, to be created under
22 Section 10 of this Act, under the following principles:

- 23
- 24 a. Within the framework and limitations of the Constitution and applicable
25 provisions of the Local Government Code, the Surigao del Sur Ecozone shall be
26 developed into and operated as a decentralized, self-reliant and self-sustaining
27 industrial, commercial/trading, agro-industrial, tourist, banking, financial and
28 investment center with suitable residential areas.
- 29
- 30 b. The Surigao del Sur Ecozone shall be provided with transportation,
31 telecommunications and other facilities needed to attract legitimate and
32 productive investments, generate linkage industries and employment

1 opportunities for the people of the Municipalities of, Carrascal, Cantilan, Madrid,
2 Carmen, and Lanuza and its neighboring towns and cities.

- 3
- 4 c. The Surigao del Sur Ecozone may establish a mutually beneficial economic
5 relation with other entities or enterprises within the country or, subject to the
6 administrative guidance of the Department of Foreign Affairs (DFA), the
7 Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and
8 Industry (DTI), with foreign entities or enterprises.
- 9
- 10 d. Foreign citizens and companies owned by non-Filipinos in whatever proportion
11 may set up enterprises in the Surigao del Sur Ecozone, either by themselves or in
12 a joint venture with Filipinos in any sector of industry, international trade and
13 commerce within the Surigao del Sur Ecozone.
- 14
- 15 e. The Surigao del Sur Ecozone shall be managed and operated as a separate
16 customs territory thereby ensuring the free flow or movement of goods and
17 capital within, into and out of its territory, and shall likewise provide incentives
18 such as tax and duty-free importations of raw materials, capital and equipment
19 to registered enterprises located therein. However, exportation or removal of
20 goods from the territory of the Surigao del Sur Ecozone to the other parts of the
21 Philippine territory shall be subject to customs duties and taxes under the
22 Customs and Tariff Code and other relevant tax laws of the Philippines.
- 23
- 24 f. The areas comprising the Surigao del Sur Ecozone may be expanded or reduced
25 when necessary. For this purpose, the SDSEZA, in consultation with the local
26 government units, shall have the power to acquire either by purchase,
27 negotiation or condemnation proceedings, any private land within or adjacent to
28 the Surigao del Sur Ecozone for the following purposes: (1) consolidation of
29 lands for zone development; (2) acquisition of right of way to the Surigao del Sur
30 Ecozone; and (3) the protection of watershed areas and natural assets valuable
31 to the prosperity of the Surigao del Sur Ecozone.
- 32
- 33 g. Goods manufactured by a Surigao del Sur Ecozone enterprise shall be made
34 available for immediate retail sale in the domestic market, subject to the
35 payment of corresponding taxes on raw materials and other regulations that may
36 be formulated by the SDSEZA together with the PEZA, the Bureau of Customs
37 and the DTI. However, in order to protect domestic industries, a Negative List of
38 industries shall be drawn up and regularly updated by PEZA. Enterprises engaged
39 in industries included in such Negative List shall not be allowed to sell their
40 products locally.
- 41
- 42 h. The defense of the Surigao del Sur Ecozone and the security of its perimeter
43 fence shall be the responsibility of the national government in coordination with
44 the Surigao del Sur Ecozone and the local government units.

45

46 **SEC. 5. Incentives To Registered Enterprises** – The Surigao del Sur Special
47 Economic Zone and Free Port Authority (SDSEZA) may administer the following
48 incentives to the registered enterprises located therein to the extent of the
49 activity/project:

50

51 A. Income Tax Holiday (ITH) – Registered enterprises shall be entitled to an
52 income tax holiday from the start of their commercial operations to the extent of their
53 activity under the following categories:

54

1 Category A – registered domestic enterprise located in highly developed areas,
2 as determined by the Board of Investments (BOI), shall be entitled to a four-year
3 income tax holiday.

4
5 Category B – registered domestic enterprise on the following shall be entitled to
6 a six -year income tax holiday:

- 7 (1) Located in less developed areas as defined by the BOI; or
8 (2) Producing/rendering new products/services or having strong backward
9 or forward linkages

10
11 Category C – Registered export enterprise shall be entitled to a six-year income
12 tax holiday: *Provided, However,* That if the export enterprise complies with the
13 following: (1) large capital investments or sizeable employment generation, or
14 (2) use high level of technology or (3) located outside Metro-Manila, it shall be
15 entitled to an eight-year income tax holiday.

16
17 Registered enterprises embarking on new investments that are listed in the
18 current Investment Priorities Plan (IPP) shall be entitled to incentives provided herein
19 pertaining to the new investments and subject to such terms and conditions as the BOI
20 may determine.

21
22 Additional investments in the project shall be entitled to the income tax holiday
23 corresponding to such investments as may be determined by the BOI. Additional
24 income tax holiday may be granted for as long as the investment is made on the same
25 project. *Provided,* That the project is listed in the IPP at the same time the additional
26 investment in the project is made: *Provided, Further,* That the entitlement period for
27 additional investments shall not exceed three times the period provided under this
28 subsection: *Provided, However,* That the total ITH period for an export enterprise
29 availing of an eight year ITH shall not exceed twenty (20) years. Any unused incentives
30 shall therefore be deemed forfeited if not used during the incentive period.

31
32 Enterprises registered with SDSEZA are required to share in the special
33 development fund of the BOI for investment promotion projects of the government
34 equivalent to one percent (1%) of the ITH granted for every application.

35
36 The Bureau of Internal Revenue (BIR) shall require a registered enterprise
37 availing of ITH or NOLCO to secure a certificate of eligibility from the SDSEZA before
38 submitting its income tax return (ITR) with SDSEZA for validation.

39
40 Failure to secure certification and/or to file the ITH or NOLCO availment for
41 validation by the SDSEZA within forty-five (45) days from the last day of each statutory
42 filing date for ITR shall cause the forfeiture of the availment for the taxable period.

43
44 B. Net Operating Loss Carryover (NOLCO) – Net operating loss of the business or
45 enterprise during the first three years from start of commercial operations which
46 have not been previously offset as deduction from gross income shall be carried
47 over as a deduction from gross income for the next five consecutive years
48 immediately following the year of such loss: *Provided, However,* That operating
49 loss resulting from availment of incentives provided in this code shall not be
50 entitled to NOLCO.

51
52 Registered enterprises availing of the ITH as herein provided shall not be entitled
53 to avail of the NOLCO.

1
2 C. Imposition of a tax rate of five percent (5%) on Gross Income Earned (GIE) -
3 Except for real property tax on land, no local and national taxes as prescribed
4 under Republic Act No. 8424, also known as "The National Internal Revenue
5 Code of 1997, as amended" such as income tax, excise tax, franchise taxes, shall
6 be imposed on business establishments operating within Surigao del Sur
7 Ecozone. In lieu thereof, 5% of the gross income earned shall be paid as follows:

- 8 a. Three percent (3%) to the national government;
9 b. Two percent (2%) shall be directly remitted by the business
10 establishments to the treasurer's office of the municipality or city.
11

12 All persons and service establishments in the Surigao del Sur Ecozone shall be
13 subject to national and local taxes under the National Internal Revenue Code of 1997,
14 as amended, and the Local Government Code.
15

16
17 D. Accelerated Depreciation – Accelerated depreciation of plant, machinery and
18 equipment that are reasonably needed and actually used for the production and
19 transport of goods and services may be allowed using a rate not exceeding twice the
20 rate which would have been used had the annual allowance been computed in
21 accordance with the rules and regulations prescribed by the Secretary of Finance and
22 the provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.
23

24 E. Capital Equipment Incentives - (1) Importations of capital equipment, spare
25 parts, tools and dye, or those required for pollution abatement and control, cleaner
26 production and waste reduction including consignment thereof by registered enterprises
27 upon the effectivity of this law, shall be exempted to the extent of one hundred percent
28 (100%) of the taxes and customs duties: *Provided*, That the importation thereof shall
29 be used exclusively by the registered enterprise in its registered activity: *Provided*,
30 *Further*, That the importation of machinery and equipment and accompanying parts
31 shall comply with the following conditions:
32

- 33 I.
34 II. 1. They are not manufactured domestically in sufficient quantity, of comparable
35 quality and at reasonable prices;
36 III.
37 IV. 2. They are reasonably needed and will be used exclusively by the registered
38 enterprise in the manufacture of its products, unless prior approval of the
39 SDSEZA is secured for the part time utilization of said equipment in a non-
40 registered activity to maximize usage thereof or the proportionate taxes and
41 duties are paid on a specific equipment and machinery being permanently used
42 for non-registered activities; and
43 V.
44 VI. 3. Approval of the SDSEZA was obtained by the registered enterprise for the
45 importation of such machinery, equipment and spare parts.
46 VII.

47 Approval of the SDSEZA must be secured before any sale, transfer or disposition
48 of the imported capital equipment, machinery or spare parts is made: *Provided*, That if
49 such sale, transfer or disposition is made within the first five years from date of
50 importation, any of the following conditions must be present:

- 51 1) The same is made to another enterprise enjoying tax and duty exemption on
52 imported capital equipment;
53 2) The same is made to another enterprise, upon the payment of any taxes and
54 3) The exportation of the capital equipment, machinery, spare parts or source

1 documents or those required for pollution abatement and control; and
2 4) Proven technical obsolescence of the said equipment, machinery or spare parts.
3

4 When the aforementioned sale, transfer or disposition is made under any of the
5 conditions provided for in the foregoing paragraphs other than paragraph (2) herein,
6 the registered firm shall not pay the taxes and duties waived on such items: Provided,
7 Further, That if the registered enterprises sell, transfer or dispose the aforementioned
8 imported items without prior approval within five years from the date of importation,
9 the registered enterprise and the vendee, transferee, or assignee shall be solidarily
10 liable to pay twice the amount of the tax and duty exemption given it: Provided, Finally,
11 That even if the sale, transfer or disposition of the capital equipment, machinery or
12 spare parts is approved after five years from date of importation, the registered
13 enterprises are still liable to pay the taxes and duties based on the net book value of
14 the capital equipment, machinery or spare parts if any of the registration terms and
15 conditions has been violated. Otherwise, they shall no longer be subject to the payment
16 of the taxes and duties waived thereon.
17

18 (2) The purchase of machinery, capital equipment, raw materials, supplies, parts
19 and semi-finished products to be used in the fabrication of machinery and capital
20 equipment by a registered export-oriented enterprise from a domestic manufacturer
21 shall be subject to zero percent (0%) value-added tax.
22

23 The registered export-oriented enterprise shall be granted a tax credit equivalent
24 to the amount of duties that would have been waived on the machinery, capital
25 equipment; raw materials, supplies, parts and semi-finished products used in the
26 fabrication of machinery and capital equipment, had these items been imported, upon
27 its submission to the DOF of the bill of materials evidencing the transaction value of
28 such and other pertinent documents, for verification and proper endorsement.
29

30 The availment of the incentives by a registered export enterprise provided under
31 the immediately preceding two paragraphs shall be subject to the following conditions:
32 (a) That said capital equipment, machinery and spare parts will be used exclusively by
33 the registered enterprise in its registered activity; (b) That the capital equipment or
34 machinery where the raw materials, supplies, parts and semi-finished products were
35 used would have qualified for tax and duty-free importation; and (c) That the approval
36 of the SDSEZA is obtained by the registered enterprise. If the registered enterprise
37 sells, transfers or disposes of these machineries, capital equipment and spare parts, the
38 provision in the preceding paragraphs for such disposition shall apply.
39

40 This incentive shall be deemed waived if application for tax credit under this
41 subsection was not filed within one year from date of delivery.
42

43 F. The importation of source documents by information technology-
44 registered enterprises shall be eligible for tax and duty free importation.
45

46 G. Raw Materials Incentives - Every registered export-oriented enterprise
47 shall enjoy a tax credit equivalent to the internal revenue taxes and customs duties paid
48 on the supplies, raw materials and semi-manufactured products provided the same are
49 not sufficient in quantity, quality or are not competitively priced which are used in the
50 manufacture, processing or production of its export products forming part thereof,
51 exported directly and indirectly by the registered export-oriented enterprise, based on
52 the actual taxes and duties paid for such materials/supplies/semi-manufactured
53 products by the registered enterprise.
54

1 This incentive shall be deemed waived if application for tax credit under this
2 subsection was not filed within one year from date of exportation of the final product.

3
4 H. Incentives on Breeding Stocks and Genetic Materials. - Importation of
5 breeding stocks and genetic materials within ten (10) years from the date of
6 registration of commercial operation of the enterprise shall be exempt from all taxes
7 and duties: Provided, That such breeding stocks and genetic materials are reasonably
8 needed in the registered activity; and approved by the SDSEZA.

9
10 Availment of the incentives by a registered enterprise shall be subject to the
11 following: (a) that said breeding stocks and genetic materials would have been qualified
12 for tax and duty-free importation under the preceding paragraph; (b) that the breeding
13 stocks and genetic materials are reasonably needed in the registered activity; (c) that
14 approval of the SDSEZA has been obtained by the registered enterprise; and (d) that
15 the purchase is made within ten (10) years from the date of registration of commercial
16 operation of the registered enterprise.

17
18 This incentive shall be deemed waived if application for tax credit under this
19 subsection is not filed within one year from date of delivery.

20
21 I. Exemption from Wharfage Dues. - The provisions of law to the contrary
22 notwithstanding, exports by a registered enterprise shall be exempted from wharfage
23 dues.

24
25 J. Deferred Imposition of the Minimum Corporate Income Tax. - The Minimum
26 Corporate Income Tax (MCIT) of two percent (2%) of the gross income as of the end of
27 the taxable year shall be imposed when the MCIT is greater than the income tax
28 computed under the NIRC of 1997, as amended, for the taxable year: Provided,
29 However, That said MCIT shall be imposed only after the enterprise' entitlement period
30 to the income tax-based incentives.

31
32 K. (1). Tax treatment of merchandise in the Surigao del Sur Ecozone. -

33 (A) Except as otherwise provided in this Act, foreign and domestic
34 merchandise, raw materials, supplies, articles, equipment, machineries,
35 spare parts and wares of every description, except those prohibited by
36 law, brought into the zone to be sold, stored, broken up, repacked,
37 assembled, installed, sorted, cleaned, graded, or otherwise processed,
38 manufactured, mixed with foreign or domestic merchandise whether
39 directly or indirectly related in such activity, shall not be subject to
40 customs and internal revenue laws and regulations nor to local tax
41 ordinances, any provision of law to the contrary notwithstanding.

42 (B) Merchandise purchased by a registered Surigao del Sur Ecozone
43 enterprise, from the customs territory and subsequently brought into the
44 export processing zone, shall be considered as export sales and
45 exportation thereof shall be entitled to the benefits allowed by law for
46 such transaction.

47 (C) Domestic merchandise sent from the Surigao del Sur Ecozone to the
48 customs territory shall whether, or not combined with or made part of
49 other articles likewise of local origin or manufactured in the Philippines
50 while in the export processing zone, be subject to internal revenue laws of
51 the Philippines as domestic goods sold, transferred or disposed of for local
52 consumption.

53 (D) Merchandise sent from the Surigao del Sur Ecozone to the customs

1 territory shall, whether or not combined with or made part of other
2 articles while in the zone, be subject to rules and regulations governing
3 imported merchandise. The duties and taxes shall be based on the value
4 of said imported materials (except when the final product is exempt).

5 (E) Domestic merchandise on which all internal revenue taxes have been
6 paid, if subject thereto, and foreign merchandise previously imported on
7 which has been paid, or which have been admitted free of duty and tax,
8 may be taken into the Surigao del Sur Ecozone from the customs territory
9 of the Philippines and be brought back thereto free of quotas, duty or tax.

10 (F) Subject to such regulations respecting identity and safeguarding of
11 revenue as the SDSEZA may deem necessary when the identity of an
12 article entered into the export processing zone under the immediately
13 preceding paragraph has been lost, such article when removed from the
14 zone and taken to the customs territory shall be treated as foreign
15 merchandise entering the country for the first time, under the provisions
16 of the Tariff and Customs Code of the Philippines, as amended.

17 (G) Articles produced or manufactured in the Surigao del Sur Ecozone and
18 exported therefrom shall, on subsequent importation into the customs
19 territory, be subject to the import laws applicable to like articles
20 manufactured in a foreign country.

21 (H) Unless the contrary is shown, merchandise taken out of the Surigao del
22 Sur Ecozone shall be considered for tax purposes to have been sent to
23 customs territory.
24

25 (2) Tax treatment of Merchandise in the Surigao del Sur Ecozone. - The
26 Surigao del Sur Special Economic and Free Port shall be operated and managed as a
27 separate customs territory ensuring free flow or movement of goods within, into and
28 exported out of the free trade/freeport zone. Importations of raw materials, and capital
29 equipment are tax and duty free. However, exportations or removal of goods from the
30 free trade/freeport zones to the other parts of Philippines territory shall be subject to
31 customs and internal revenue regulations.
32

33 (3) Tax treatment of services in the Surigao del Sur Ecozone.

34 (A) Sale of service by an entity from the customs territory to a registered
35 ecozone or free trade enterprise, or by a registered ecozone or freeport
36 enterprise to another ecozone or freeport enterprise shall be treated as
37 indirect export, and hence, entitled to the benefits allowed by law for such
38 transaction.

39 (B) Sale or service by a registered ecozone or freeport enterprise to the
40 customs territory shall be subject to applicable internal revenue laws and
41 regulations.
42

43 L. Registered export oriented enterprise shall have access to the utilization of the
44 bonded warehousing system in accordance with the rules and regulations of the Bureau
45 of Customs.
46

47 M. Employment of Foreign Nationals. - Subject to the provisions of Section 29 of
48 Commonwealth Act No. 613, as amended, a registered enterprise may employ foreign
49 nationals in supervisory or technical positions for a period not exceeding ten (10) years
50 from its registration: Provided, That when the majority of the capital stock of a
51 registered enterprise is owned by foreign investors, the positions of the president,
52 treasurer and general manager or their equivalents may be retained by foreign

1 nationals beyond the period set forth herein and such officer is the owner or a
2 stockholder owning at least ten percent (10%) of the outstanding capital stock of the
3 registered enterprise and he remains the owner or maintains his stockholdings therein.

4
5 Foreign nationals under employment contract within the purview of this
6 incentive, their spouses and unmarried children under twenty-one (21) years of age,
7 who are not excluded by Section 29 of Commonwealth Act No. 613, as amended, shall
8 be permitted to enter and reside in the Philippines during the period of employment of
9 such foreign nationals. They shall be issued a multiple entry visa, valid for a period of
10 three years, and shall be allowed to enter and leave the Philippines without further
11 documentary requirements other than valid passports or other travel documents in the
12 nature of passports. The validity of the multiple entry visa shall be extendible yearly.

13
14 The foreign nationals admitted herein, as well as their respective spouses and
15 dependents shall be exempt from obtaining alien certificate of registration and
16 emigration clearance certificates permits, licenses or their equivalents required by any
17 government department or agency.

18
19 **SEC. 6. Incentive to Investors** – Any foreign national covered under
20 Subsection (M) of Section 5 of this Act, who invests an amount of US \$ 150,000.00,
21 either in cash and/or equipment, in a registered enterprise shall be entitled to an
22 investor's visa: Provided, That,

- 23 (1) He is at least eighteen (18) years of age;
24 (2) He has not been convicted of a crime involving moral turpitude;
25 (3) He is not afflicted with any loathsome, dangerous or contagious disease;
26 (4) He has not been institutionalized for any mental disorder or disability. *Provided,*
27 *further,*

28
29 That in securing the investor's visa, the alien-applicant shall be entitled to the same
30 privileges provided for under paragraph (M) Section 5 hereof.

31
32 As holder of investor's visa, an alien shall be entitled to reside in the Philippines
33 while his investment subsists. For this purpose, he should submit an annual report, in
34 the form duly prescribed for the purpose, to prove that he has maintained his
35 investment in the country. Should said alien withdraw his investments from the
36 Philippines, then the investor's visa issued to him shall automatically expire.

37
38 **SEC. 7. Resolution of Labor Disputes.** - The right of labor to form unions or
39 associations shall be observed. However, strikes and lockouts shall be prohibited within
40 the economic and freeport zone, notwithstanding the provisions of the Labor Code and
41 other pertinent laws. Labor disputes shall be resolved through mediation, conciliation
42 and such other modes of dispute resolution authorized by law.

43
44 **SEC. 8. Administration, Implementation and Monitoring of Incentives.** -
45 The SDSEZA shall be responsible for the administration and implementation of the
46 incentives granted to its respective registered enterprises: Provided, That any incentive
47 administration policy adopted by the BOI for registered enterprises shall be uniformly
48 applied by SDSEZA.

49
50 The following are the duties and responsibilities of the SDSEZA in the

1 administration of incentives:

- 2 (A) To adopt consistent procedures of administering incentives in accordance with
3 the guidelines established by the BOI;
4 (B) To adopt and implement systems and procedures affecting trade and customs
5 policies in accordance with the requirements established by the Department of
6 Finance (DOF) and the BOI;
7 (C) To submit data and information to the DOF and the BOI as required by any of
8 these agencies to ascertain consistency of investment policies and incentives,
9 including their implementation as provided in paragraph (a) herein, and to
10 ensure proper implementation of systems and procedures affecting trade and
11 customs policies as provided in paragraph (b) herein; and
12 (D) To perform all other duties and responsibilities as may be required by the
13 President of the Philippines.

14 For proper monitoring, the BOI shall create a single database of all incentives
15 provided by all incentives granting agencies, including SDSEZA, and all
16 information thereto. Double entry accounting shall be done by the BOI in
17 recording all incentives granted by the government for transparency purposes.
18

19 **SEC. 9. Extension of Period of Availment.** - The availment period of the
20 incentives provided herein may be extended by SDSEZA, in the event that the
21 registered enterprise suffers operational force majeure or any event equivalent thereto,
22 impairing its viability.
23

24 **SEC. 10. Duration of Incentives.** - Enterprises registered with SDSEZA may
25 enjoy ITH or NOLCO granted by the latter prior to the availment of the five percent
26 (5%) GIE.
27

28 Fiscal incentives under this Act shall be terminated after a cumulative period of
29 twenty (20) years from date of registration or start of commercial operation, whichever
30 is applicable, except that it could be extended with regard to industries deemed
31 indispensable to national development.
32

33 The industries exempted from this provision shall be recommended by BOI, with
34 the concurrence of the Secretaries of the Department of Finance and Trade and
35 Industry.
36

37 **SEC. 11. Creation of the Surigao del Sur Special Economic and Free Port**
38 **Authority.** - There is hereby created a body corporate to be known as the "Surigao del
39 Sur Special Economic and Free Port Authority" hereinafter referred to as the SDSEZA,
40 which shall manage and operate the Surigao del Sur Ecozone, in accordance with the
41 provision of this Act. This corporate franchise shall expire in fifty (50) years counted
42 from the first year after the effectivity of this Act, unless otherwise extended by
43 Congress. It shall be organized within one hundred eighty (180) days after the
44 effectivity of this Act.
45

46 **SEC. 12. Principal Office of SDSEZA.** - The Surigao del Sur Special Economic
47 Zone and Free Port Authority shall maintain its principal office in the Municipality of
48 Cantilan but it may establish branches within the Philippines as may be necessary for
49 the proper conduct of its business.
50

1 **SEC. 13. Powers and Functions of the Surigao del Sur Special Economic**
2 **Zone and Free Port Authority.** – The Surigao del Sur Special Economic Zone and
3 Free Port Authority shall have the following powers and functions:

- 4 a) To operate, administer, manage and develop the Surigao del Sur Ecozone
5 according to the principles and provisions set forth in this Act;
- 6 b) To recommend to the President of the Philippines the issuance of a proclamation
7 to fix and delimit the site of the Surigao del Sur Ecozone;
- 8 c) To register, regulate and supervise the enterprises in the Surigao del Sur
9 Ecozone in an efficient and decentralized manner, subject to existing laws;
- 10 d) To coordinate with local government units and exercise general supervision over
11 the development plans, activities and operation of ecozones;
- 12 e) To regulate and undertake the establishment, operation and maintenance of
13 utilities, other services and infrastructure in the Surigao del Sur Ecozone such as
14 but not limited to heat, light and power systems using indigenous and/or
15 renewable and other sources, water supply, telecommunications, transport, toll
16 roads and bridges, port services, etc. The SDSEZA shall have the power to fix
17 just, reasonable and competitive rates, fares, charges and prices thereof,
18 notwithstanding the provisions of the Electric Power Industry Reform Act of
19 2001, and other pertinent laws.
- 20 f) To construct, acquire, own, lease, operate and maintain on its own or through
21 contracts, franchise, licenses, bulk purchase from the private sector or permits
22 under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-
23 Transfer Law, as amended by RA 7718), or joint venture, adequate facilities and
24 infrastructure required or needed for the operation and development of the
25 Surigao del Sur Ecozone, in coordination with the appropriate national and local
26 government authorities and in conformity with applicable laws thereon;
- 27 g) To operate on its own, either directly or indirectly or through a license to other
28 tourism-related activities, including games, amusements, recreational and sport
29 facilities;
- 30 h) Subject to the approval of the President and the Monetary Board of the Bangko
31 Sentral ng Pilipinas, upon the recommendation of the Department of Finance
32 (DOF), to raise or borrow adequate and necessary funds from local or foreign
33 sources to finance its projects and programs under this Act and for that purpose,
34 to issue bonds, promissory notes and other forms or securities, and to secure the
35 same by a guarantee, pledge, mortgage, deed of trust or an assignment of all or
36 part of its property or assets;
- 37 i) To provide security for the Surigao del Sur Ecozone in coordination with the
38 national and local governments. Military forces sent by the national government
39 for the purpose of defense shall not interfere in the internal affairs of the
40 ecozone and expenditures for these military forces shall be borne by the national
41 government. For this purpose, the SDSEZA may establish and maintain its
42 security forces and firefighting capability or hire others to provide the same;
- 43 j) To protect, preserve, maintain and develop the virgin forests, beaches, coral and
44 coral reefs and maintain ecological balance within the Surigao del Sur Ecozone;
- 45 k) To create, operate and/or contract to operate such functional units or offices of
46 the SDSEZA as it may deem necessary;
- 47 l) To adopt, alter and use a corporate seal; make contracts, leases, own, or
48 otherwise dispose of personal or real property; sue and be sued; and otherwise
49 carry out its functions and duties as provided for in this Act;
- 50 m) To issue certificates of origin for products manufactured or processed in the
51 Surigao del Sur Ecozone in accordance with the prevailing rules of origin, and the
52 pertinent regulations of the PEZA, DTI and/or the Department of Finance (DOF).
- 53 n) To issue working visas renewable every two (2) years for foreign executives and
54 foreign technicians with highly specialized skills which no Filipinos possesses, as

1 certified by the Department of Labor and Employment (DOLE);

- 2 o) To report to the Bureau of Immigration the names of the foreigners who have
3 been granted permanent resident status and working visas within thirty (30)
4 days after issuance of such grant;
- 5 p) To exercise such powers as maybe essential, necessary or incidental to the
6 powers granted to it hereunder, as well as those that shall enable it to carry out,
7 implement and accomplish the purposes, objectives and policies of this Act; and
- 8 q) To issue rules and regulations consistent with the provisions of this Act as maybe
9 necessary to accomplish and implement the purpose, objectives and policies
10 provided herein.

11

12 **SEC. 14. *Banking Rules and Regulations.*** - Existing banking laws and
13 rules/regulations of the *Bangko Sentral ng Pilipinas (BSP)* shall apply to banks and
14 financial institutions to be established in the Surigao del Sur Ecozone, such as those
15 governing foreign exchange and other current account transactions (trade and non-
16 trade), local and foreign borrowings, foreign investments, establishment and operation
17 of local and foreign banks, foreign currency deposit units, offshore banking units and
18 other financial institutions under the supervision of the BSP.

19

20 **SEC. 15. *Remittance of Earnings.*** - In the case of foreign investments, a
21 registered enterprise in the SDSEZA shall have the right to remit earnings from the
22 investment in the currency in which the investment was originally made and at the
23 exchange rate prevailing at the time of remittance, subject to the provisions of Section
24 74 of Republic Act No. 265, as amended.

25

26 **SEC. 16. *Board of Directors of the Surigao del Sur Special Economic***
27 ***Zone and Free Port Authority.*** - The powers of the SDSEZA shall be vested in and
28 exercised by a Board of Directors, hereinafter referred to as the Board, which shall be
29 composed of the following:

- 30 a) The Chairman, who shall at the same time be the administrator of the
31 SDSEZA;
- 32 b) A Vice-Chairman, who shall come from among the members of the Board;
- 33 c) Members consisting of:
- 34 (1) The Congressional Representative of the district covering the site of
35 the Surigao del Sur Ecozone;
- 36 (2) One (1) representative of the Provincial Government of Surigao del
37 Sur;
- 38 (3) One (1) representative from the domestic investors; (4) One (1)
39 representative from the foreign investors; and (5) One (1)
40 representative from the workers working in the Surigao del Sur
41 Ecozone.

42

43 The Congressional representative and the representative of the Provincial
44 Government shall serve as ex-officio members of the Board, whose term in the Board
45 corresponds to their term as elected officials.

46

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

1
2 Except for the representative of the business and labor sectors, no person shall
3 be appointed by the President of the Philippines as a member of the Board unless he is
4 a Filipino citizen, of good moral character, of proven probity and integrity, and a
5 degree- holder in any of the following fields: economics, business, public administration,
6 law, management or their equivalent, and with at least ten (10) years relevant working
7 experience preferably in the field of management or public administration.

8
9 The members of the Board shall each receive per diem at rates to be determined
10 by the Department of Budget and Management in accordance with existing rules and
11 regulations: Provided, however, That the total per diem collected each month shall not
12 exceed the equivalent per diem for four (4) meetings. Unless and until the President of
13 the Philippines has fixed a higher per diem for the members of the Board, such per
14 diem shall not be more than ten thousand pesos (P10,000.00) for every Board meeting.

15
16 **SEC. 17. Powers and Duties of the Chairman-Administrator.** - The
17 Chairman-Administrator shall have the following powers and duties:

- 18 (a) To direct and manage the affairs of the SDSEZA in accordance with the policies
19 of the Board;
20 (b) To establish the internal organization of the SDSEZA under such conditions that
21 the Board may prescribe;
22 (c) To submit an annual budget and necessary supplemental budget to the Board for
23 its approval;
24 (d) To submit within thirty (30) days after the close of each fiscal year an annual
25 report to the Board and such other reports as may be required;
26 (e) To submit to the Board for its approval policies, systems, procedures, rules and
27 regulations that are essential to the operation of the Surigao del Sur Ecozone;
28 (f) To create a mechanism in coordination with relevant agencies for the promotion
29 of industrial peace, the protection of the environment, and the advancement of
30 the quality of life in the Surigao del Sur Ecozone; and
31 (g) To perform such other duties as may be assigned to him by the Board or which
32 are necessary or incidental to his office.

33
34 **SEC. 18. Organization and Personnel.** - The Board of Directors of the
35 SDSEZA shall provide for an organization and staff of its officers and employees. Upon
36 recommendation of the Chairman-Administrator with the approval of the Secretary of
37 the DTI, the Board shall appoint and fix the remuneration and other emoluments of its
38 officers and employees in accordance with existing laws on compensation and position
39 classification: *Provided*, That the Board shall have exclusive and final authority to
40 promote, transfer, assign or reassign officers of the SDSEZA, any provision of existing
41 laws to the contrary notwithstanding: *Provided*, further, that the chairman-administrator
42 may carry out removal of such officers and employees.

43
44 The officers and employees of the SDSEZA, including all members of the Board,
45 shall not engage directly or indirectly in partisan activities nor take part in any election
46 except to vote.

47
48 No officer or employee of the SDSEZA, subject to Civil Service laws and
49 regulations, shall be removed or suspended except for cause, as provided by law.

50
51 **SEC. 19. Applicability Clause.** - The provisions of Sections 30 to 41 of

1 Republic Act No. 7916, as amended, on leases of lands and buildings, land conversion,
2 shipping and shipping register, protection of environment, termination of business,
3 registration of business enterprise, one-stop shop center and on industrial harmony in
4 ecozones, shall apply to the Surigao del Sur Ecozone.

5
6 **SEC. 20. Capitalization.**- The Surigao del Sur Special Economic Zone and Free
7 Port Authority shall have an authorized capital stock of Two Billion (2,000,000,000) no
8 par shares with a minimum issue of Ten Pesos (P10.00) each, the majority shares of
9 which shall be subscribed and paid for by the National Government and the Local
10 Government Units (LGUs) embracing the Surigao del Sur Special Economic Zone and
11 Free Port. The Board of Directors of the SDSEZA may, with the written concurrence of
12 the Secretary of Finance, sell shares, representing not more than forty per centum
13 (40%) of the capital stock of the SDSEZA to the general public under such policy as the
14 Board and the Secretary of Finance may determine. The National Government and the
15 LGUs shall in no case own less than sixty per centum (60%) of the total issued and
16 outstanding capital of the Surigao del Sur Special Economic Zone and Free Port
17 Authority.

18
19 The amount necessary to subscribe and pay for the shares of the National
20 Government to the capital stock of the SDSEZA shall be included in the Annual General
21 Appropriations Act. For LGUs, the funds shall be taken from their Internal Revenue
22 Allotment and other local funds.

23
24 **SEC. 21. Supervision and Coordination of Development Plans.** – For
25 purposes of policy direction and coordination, the Surigao del Sur Special Economic
26 Zone and Free Port shall be under the direct control and supervision of the Office of the
27 President of the Philippines.

28
29 **SEC. 22. Relationship with the Regional Development Council.** – The
30 Surigao del Sur Special Economic Zone and Free Port Authority shall determine the
31 development goals for the Surigao del Sur Ecozone within the framework of national
32 development plans, policies and goals. The Administrator shall, upon approval by the
33 Board, submit the Surigao del Sur Ecozone plans, programs and projects to the
34 Regional Development Council for inclusion and inputs for the overall regional
35 development plan.

36
37 **SEC. 23. Relationship with Local Government Units.** – Except as herein
38 provided, the local government units comprising the Surigao del Sur Ecozone shall
39 retain their basic autonomy and identity. The Municipalities of Carrascal, Cantilan,
40 Madrid, Carmen, and Lanuza, shall operate and function in accordance with the Local
41 Government Code of 1991. In case of any conflict between the SDSEZA and the
42 Province of Surigao del Sur on matters affecting the Surigao del Sur Ecozone other than
43 defense and security matters, the decision of the SDSEZA shall prevail.

44
45 **SEC. 24. Interpretation/Construction.** – The powers, authorities and
46 functions that are vested in the SDSEZA are intended to decentralize government
47 functions and authority and promote an efficient and effective working relationship
48 between the Surigao del Sur Ecozone, the NG, and the local government units.

1 **SEC. 25. Auditing.** – The Commission on Audit shall appoint a representative
2 who shall be a full time auditor of the SDSEZA and assign such number of personnel as
3 may be necessary to assist said representative in the performance of his/her duties.
4 The salaries and emoluments of the assigned auditor and personnel shall be in
5 accordance with pertinent laws, rules and regulations.

6
7 **SEC. 26. Separability Clause.** – If any provisions of this Act shall be held
8 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
9 full force and effect.

10
11 **SEC. 27. Repealing Clause.** – All laws, executive orders or issuances, or any
12 parts thereof, which are inconsistent herewith are hereby repealed and amended
13 accordingly.

14
15 **SEC. 28. Effectivity Clause.** – This Act shall take effect upon its publication in
16 at least one (1) newspaper of general circulation.

Approved,