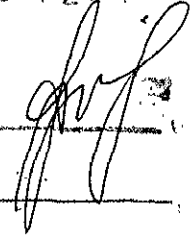


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 JUN 30 P2:14

SENATE BILL NO. 128

RECEIVED BY: 

Introduced by Senator Juan Ponce Enrile

EXPLANATORY NOTE

Past and present administrations have endeavored to spur economic development in the countryside. Through the creation of industrial centers in the rural and underdeveloped areas, the government hopes to encourage investors and stimulate activities that will result in job creation and enhanced productivity that will redound to the benefit not only of the residents within these areas, but also of nearby provinces and regions as well.

The province of Surigao del Sur in the CARAGA Region in Mindanao is an area that boasts of vast natural and human resources. It is strategically located as it serves as an entry and exit point for trade and other activities coming from the nearby provinces of Surigao Del Norte, Davao Oriental and Agusan del Sur. It has a total population of 501,808 residents, based on the 2000 Census, approximately 63.97% of which serves as the province's labor force. While the agriculture sector remains the major provider of employment, 35% of the labor force also devote their efforts on various industries and services.

It is in view of the potentials of this province that this representation proposes to create a special economic zone and free port in the province of Surigao del Sur, covering the municipalities of Carrascal, Cantilan, Madrid, Carmen, and Lanuza. The location of the proposed special economic zone is ideal as the seaport in Cantilan can be further developed to serve the needs of the entire coastline of Surigao del Sur.

The bill proposes to create the Surigao del Sur Special Economic Zone and Freeport Authority which will oversee the operations and activities within the zone, with the end in view of facilitating its development into a self-sustaining industrial, commercial, financial and investment center and free port. Hopefully, this economic zone will serve as an engine of growth in the southern region of the country.

In view of the foregoing, approval of the bill is earnestly requested.


JUAN PONCE ENRILE
Senator

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

7 JUN 30 P2:14

SENATE BILL NO. 128 RECEIVED BY: 

Introduced by Sen. Juan Ponce Enrile

AN ACT
ESTABLISHING THE SURIGAO DEL SUR SPECIAL ECONOMIC ZONE AND
FREEPORT 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 Special*
2 *Economic Zone and Free Port Act of 2007.*"

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

12
13 **SEC. 3. Creation of the Surigao del Sur Special Economic Zone and Freeport.** -
14 In accordance with the foregoing declared policy and subject to the concurrence of the
15 concerned local government units (LGUs) in the Province of Surigao del Sur affected by
16 the zone, there is hereby established a Special Economic Zone and Freeport in the
17 Municipalities of Carrascal, Cantilan, Madrid, Carmen, and Lanuza in the Province of

1 Surigao del Sur to be known as the Surigao del Sur Special Economic Zone and
2 Freeport, hereinafter referred to as the Surigao del Sur Ecozone. The specific metes and
3 bounds of the Surigao del Sur Ecozone shall be more particularly defined in a
4 presidential proclamation that shall be issued for this purpose.

5

6 **SEC. 4. *Governing Principles.*** - The Surigao del Sur Ecozone shall be managed
7 and operated by the Surigao del Sur Special Economic Zone and Free Port Authority,
8 herein referred to as the SDSEZA, created under Section 11 of this Act, under the
9 following principles:

10

11 (a) Within the framework and limitations of the Constitution and applicable
12 provisions of the Local Government Code, the Surigao del Sur Ecozone shall be
13 developed into and operated as a decentralized, self-reliant and self-sustaining
14 industrial, commercial/trading, agro-industrial, tourist, banking, financial and
15 investment center with suitable residential areas.

16

17 (b) The Surigao del Sur Ecozone shall be provided with transportation,
18 telecommunications and other facilities needed to attract legitimate and
19 productive investments, generate linkage industries and employment
20 opportunities for the people of the Municipalities of, Carrascal, Cantilan, Madrid,
21 Carmen, and Lanuza and its neighboring towns and cities.

22

23 (c) The Surigao del Sur Ecozone may establish a mutually beneficial economic
24 relation with other entities or enterprises within the country or, subject to the
25 administrative guidance of the Department of Foreign Affairs (DFA), the
26 Philippine Economic Zone Authority (PEZA) and/or the Department of Trade
27 and Industry (DTI), with foreign entities or enterprises.

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(d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the Surigao del Sur Ecozone, either by themselves or in a joint venture with Filipinos in any sector of industry, international trade and commerce within the *Surigao del Sur Ecozone*.

(e) The Surigao del Sur Ecozone shall be managed and operated as a separate customs territory thereby ensuring the free flow or movement of goods and capital within, into and out of its territory, and shall likewise provide incentives such as tax and duty-free importations of raw materials, and capital equipment to registered enterprises located therein. However, exportation or removal of goods from the territory of the Surigao del Sur Ecozone to the other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code of the Philippines, as amended, and the National Internal Revenue Code of 1997, as amended.

(f) The areas comprising the Surigao del Sur Ecozone may be expanded or reduced when necessary. For this purpose, the SDSEZA, in consultation with the LGUs, shall have the power to acquire either by purchase, negotiation or condemnation proceedings, any private land within or adjacent to the Surigao del Sur Ecozone for the following purposes: (1) consolidation of lands for Surigao del Sur Ecozone development; (2) acquisition of right-of-way to the Surigao del Sur Ecozone; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Surigao del Sur Ecozone.

(g) Goods manufactured by a Surigao del Sur Ecozone enterprise shall be made available for immediate retail sale in the domestic market, subject to the payment

1 of corresponding taxes on raw materials and other regulations that may be
2 formulated by the SDSEZA, together with the PEZA, the Bureau of Customs and
3 the DTI in accordance with the National Internal Revenue Code of 1997, as
4 amended, and the Tariff and Customs Code of the Philippines, as amended.
5 However, in order to protect domestic industries, a Negative List of industries
6 shall be drawn up and regularly updated by PEZA. Enterprises engaged in
7 industries included in such Negative List shall not be allowed to sell their
8 products locally.

9
10 (h) The defense of the Surigao del Sur Ecozone and the security of its perimeter
11 fence shall be the responsibility of the national government (NG) in coordination
12 with the Surigao del Sur Ecozone and the LGUs.

13
14 **SEC. 5. Incentives To Registered Enterprises** - The Surigao del Sur Special
15 Economic Zone and Freeport Authority (SDSEZA) may administer the following
16 incentives to the registered enterprises located therein to the extent of the
17 activity/project:

18
19 (A) *Income Tax Holiday (ITH)* - Registered enterprises shall be entitled to an income
20 tax holiday from the start of their commercial operations to the extent of their
21 activity under the following categories:

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

25 (2) Category B - registered domestic enterprise on the following shall be
26 entitled to a six-year income tax holiday:

27 (a) Located in less developed areas as defined by the BOI; or

1 (b) Producing/rendering new products/services or having strong
2 backward or forward linkages

3 (3) Category C - Registered export enterprise shall be entitled to a six-year
4 income tax holiday: *Provided, however,* That if the export enterprise
5 complies with the following: (a) large capital investments or sizeable
6 employment generation, or (b) use high level of technology or (c) located
7 outside Metro-Manila, it shall be entitled to an eight-year income tax
8 holiday.

9
10 Registered enterprises embarking on new investments that are listed in
11 the current Investment Priorities Plan (IPP) shall be entitled to incentives
12 provided herein pertaining to the new investments and subject to such terms and
13 conditions as the BOI may determine.

14
15 Additional investments in the project shall be entitled to the income tax
16 holiday corresponding to such investments as may be determined by the BOI.
17 Additional income tax holiday may be granted for as long as the investment is
18 made on the same project. *Provided,* That the project is listed in the IPP at the
19 same time the additional investment in the project is made: *Provided, further,* That
20 the entitlement period for additional investments shall not exceed three times the
21 period provided under this subsection: *Provided, however,* That the total ITH
22 period for an export enterprise availing of an eight-year ITH shall not exceed
23 twenty (20) years. Any unused incentives shall therefore be deemed forfeited if
24 not used during the incentive period.

25

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

5
6 The Bureau of Internal Revenue (BIR) shall require a registered enterprise
7 availing of the ITH or the net operating loss carryover (NOLCO) to secure a
8 certificate of eligibility from the SDSEZA before submitting its income tax return
9 (ITR) with SDSEZA for validation.

10
11 Failure to secure certification and/or to file the ITH or NOLCO availment
12 for validation by the SDSEZA within forty-five (45) days from the last day of
13 statutory filing date for ITR shall cause the forfeiture of the availment for the
14 taxable period.

15
16 (B) *Net Operating Loss Carryover (NOLCO)* - Net operating loss of the business or
17 enterprise during the first three years from start of commercial operations which
18 have not been previously offset as deduction from gross income shall be carried
19 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
21 loss resulting from availment of incentives provided in this Code shall not be
22 entitled to NOLCO.

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

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

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

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

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
20 the rate which would have been used had the annual allowance been computed
21 in accordance with the rules and regulations prescribed by the Secretary of
22 Finance and the provisions of the National Internal Revenue Code (NIRC) of
23 1997, as amended.

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1 (E) *Capital Equipment Incentives -*

2 (1) Importations of capital equipment, spare parts, tools and dye, or those
3 required for pollution abatement and control, cleaner production and
4 waste reduction including consignment thereof by registered enterprises
5 upon the effectivity of this law, shall be exempted to the extent of one
6 hundred percent (100%) of the taxes and customs duties: *Provided, That*
7 *the importation thereof shall be used exclusively by the registered*
8 *enterprises in their registered activity: Provided, further, That the*
9 *importation of machinery and equipment and accompanying parts shall*
10 *comply with the following conditions:*

11 (a) They are not manufactured domestically in sufficient quantity, of
12 comparable quality and at reasonable prices;

13 (b) They are reasonably needed and will be used exclusively by the
14 registered enterprise in the manufacture of its products, unless prior
15 approval of the SDSEZA is secured for the part time utilization of said
16 equipment in a non-registered activity to maximize usage thereof or
17 the proportionate taxes and duties are paid on a specific equipment
18 and machinery being permanently used for non-registered activities;
19 and,

20 (c) Approval of the SDSEZA was obtained by the registered enterprise for
21 the importation of such machinery, equipment and spare parts.

22
23 Approval of the SDSEZA must be secured before any sale, transfer
24 or disposition of the imported capital equipment, machinery or spare
25 parts is made: *Provided, That if such sale, transfer or disposition is made*
26 *within the first five years from date of importation, any of the following*
27 *conditions must be present:*

- 1 (i) If made to another enterprise enjoying tax and duty exemption on
2 imported capital equipment;
- 3 (ii) If made to another enterprise, upon the payment of any taxes and
4 duties on the net book value of the capital equipment to be sold;
- 5 (iii) Exportation of the capital equipment, machinery, spare parts or
6 source documents or those required for pollution abatement and
7 control; and
- 8 (iv) For reasons of proven technical obsolescence.
- 9

10 When the aforementioned sale, transfer or disposition is made
11 under any of the conditions provided for in the foregoing paragraphs
12 other than paragraph (ii), the registered firm shall not pay the taxes and
13 duties waived on such items: *Provided, further,* That if the registered
14 enterprise sells, transfers or disposes the aforementioned imported items
15 without prior approval within five years from the date of importation, the
16 registered enterprise and the vendee, transferee, or assignee shall be
17 solidarily liable to pay twice the amount of the tax and duty exemption
18 given it: *Provided, finally,* That even if the sale, transfer or disposition of
19 the capital equipment, machinery or spare parts is approved after five
20 years from the date of importation, the registered enterprise is still liable
21 to pay the taxes and duties based on the net book value of the capital
22 equipment, machinery or spare parts if it has violated any of its
23 registration terms and conditions. Otherwise, they shall no longer be
24 subject to the payment of the taxes and duties waived thereon.

25

- 26 (2) The purchase of machinery, capital equipment, raw materials, supplies,
27 parts and semi-finished products to be used in the fabrication of

1 machinery and capital equipment by a registered export-oriented
2 enterprise from a domestic manufacturer shall be subject to zero percent
3 (0%) value-added tax.
4

5 The registered export-oriented enterprise shall be granted a tax
6 credit equivalent to the amount of duties that would have been waived on
7 the machinery, capital equipment and raw materials, supplies, parts and
8 semi-finished products used in the fabrication of machinery and capital
9 equipment, had these items been imported, upon its submission to the
10 Department of Finance (DOF) of the bill of materials evidencing the
11 transaction value of such and other pertinent documents, for verification
12 and proper endorsement.

13 The availment of the incentives by a registered export enterprise
14 provided under the *immediately preceding* two paragraphs shall be
15 subject to the following conditions: (a) that said capital equipment,
16 machinery and spare parts will be used exclusively by the registered
17 enterprise in its registered activity; (b) that the capital equipment or
18 machinery where the raw materials, supplies, parts and semi-finished
19 products were used would have qualified for tax and duty-free
20 importation; and (c) That the approval of the *SDSEZA* is obtained by the
21 registered enterprise. If the registered enterprise sells, transfers or
22 disposes of these machineries, capital equipment and spare parts, the
23 provision in the preceding paragraphs for such disposition shall apply.

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

1 (F) The importation of source documents by information technology- registered
2 enterprises shall be eligible for tax and duty free importation.

3
4 (G) *Raw Materials Incentives* - Every registered export-oriented enterprise shall enjoy
5 a tax credit equivalent to the internal revenue taxes and customs duties paid on
6 the supplies, raw materials and semi-manufactured products provided the same
7 are not sufficient in quantity, quality or are not competitively priced which are
8 used in the manufacture, processing or production of its export products forming
9 part thereof, exported directly and indirectly by the registered export-oriented
10 enterprise, based on the actual taxes and duties paid for such
11 materials/supplies/semi-manufactured products by the registered enterprise.

12 This incentive shall be deemed waived if application for tax credit under this
13 subsection is not filed within one year from date of exportation of the final
14 product.

15
16 (H) *Incentives on Breeding Stocks and Genetic Materials* - Importation of breeding stocks
17 and genetic materials within ten (10) years from the date of registration of
18 commercial operation of the enterprise shall be exempt from all taxes and duties:
19 *Provided,* That such breeding stocks and genetic materials are reasonably needed
20 in the registered activity; and approved by the SDSEZA.

21
22 Availment of the incentives by a registered enterprise shall be subject to the
23 following: (1) that said breeding stocks and genetic materials would have been
24 qualified for tax and duty-free importation under the preceding paragraph; (2)
25 that the breeding stocks and genetic materials are reasonably needed in the
26 registered activity; (3) that approval of the SDSEZA has been obtained by the

1 registered enterprise; and (4) that the purchase is made within ten (10) years
2 from the date of registration of commercial operation of the registered enterprise.

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

5 (I) *Exemption from Wharfage Dues* - The provisions of law to the contrary
6 notwithstanding, exports by a registered enterprise shall be exempted from
7 wharfage dues.

8
9 (J) *Deferred Imposition of the Minimum Corporate Income Tax* - The Minimum
10 Corporate Income Tax (MCIT) of two percent (2%) of the gross income as of the
11 end of the taxable year shall be imposed when the MCIT is greater than the
12 income tax computed under the NIRC of 1997, as amended, for the taxable year:
13 *Provided, however,* That said MCIT shall be imposed only after the enterprise'
14 entitlement period to the income tax-based incentives.

15
16 (K)(1) *Tax treatment of merchandise in the Surigao del Sur Ecozone* -

17 (a) Except as otherwise provided in this Act, foreign and domestic merchandise,
18 raw materials, supplies, articles, equipment, machineries, spare parts and
19 wares of every description, except those prohibited by law, brought into the
20 zone to be sold, stored, broken up, repacked, assembled, installed, sorted,
21 cleaned, graded, or otherwise processed, manufactured, mixed with foreign
22 or domestic merchandise whether directly or indirectly related in such
23 activity, shall not be subject to customs and internal revenue laws and
24 regulations nor to local tax ordinances, any provision of law to the contrary
25 notwithstanding.

- 1 (b) Merchandise purchased by a registered Surigao del Sur Ecozone enterprise,
2 from the customs territory and subsequently brought into the export
3 processing zone, shall be considered as export sales and exportation thereof
4 shall be entitled to the benefits allowed by law for such transaction.
- 5 (c) Domestic merchandise sent from the Surigao del Sur Ecozone to the customs
6 territory shall, whether or not combined with or made part of other articles
7 likewise of local origin or manufactured in the Philippines while in the export
8 processing zone, be subject to internal revenue laws of the Philippines as
9 domestic goods sold, transferred or disposed of for local consumption.
- 10 (d) Merchandise sent from the Surigao del Sur Ecozone to the customs territory
11 shall, whether or not combined with or made part of other articles while in
12 the zone, be subject to rules and regulations governing imported
13 merchandise. The duties and taxes shall be based on the value of said
14 imported materials (except when the final product is exempt).
- 15 (e) Domestic merchandise on which all internal revenue taxes have been paid, if
16 subject thereto, and foreign merchandise previously imported on which has
17 been paid, or which have been admitted free of duty and tax, may be taken
18 into the Surigao del Sur Ecozone from the customs territory of the Philippines
19 and be brought back thereto free of quotas, duty or tax.
- 20 (f) Subject to such regulations respecting identity and safeguarding of revenue
21 as the SDSEZA may deem necessary, when the identity of an article entered
22 into the export processing zone under the immediately preceding paragraph
23 has been lost, such article when removed from the zone and taken to the
24 customs territory shall be treated as foreign merchandise entering the country
25 for the first time, under the provisions of the Tariff and Customs Code of the
26 Philippines, as amended.

1 (g) Articles produced or manufactured in the Surigao del Sur Ecozone and
2 exported therefrom shall, on subsequent importation into the customs
3 territory, be subject to the import laws applicable to like articles
4 manufactured in a foreign country.

5 (h) Unless the contrary is shown, merchandise taken out of the Surigao del Sur
6 Ecozone shall be considered for tax purposes to have been sent to customs
7 territory.

8
9 (2) Tax treatment of Merchandise in the Surigao del Sur Ecozone - The Surigao
10 del Sur Special Economic Zone and Freeport shall be operated and managed
11 as a separate customs territory ensuring free flow or movement of goods
12 within, into and exported out of the free trade/freeport zone. Importations of
13 raw materials, and capital equipment are tax and duty free. However,
14 exportations or removal of goods from the Surigao del Sur Ecozone to the
15 other parts of Philippine territory shall be subject to customs and internal
16 revenue regulations.

17
18 (3) Tax Treatment of Services in the Surigao del Sur Ecozone - (a) Sale of service
19 by an entity from the customs territory to a registered ecozone or free trade
20 enterprise, or by a registered ecozone or freeport enterprise to another
21 ecozone or freeport enterprise shall be treated as indirect export, and hence,
22 entitled to the benefits allowed by law for such transaction.

23 (b) Sale or service by a registered ecozone or freeport enterprise to the
24 customs territory shall be subject to applicable internal revenue laws and
25 regulations.

26

1 (L) Registered export oriented enterprise shall have access to the utilization of the
2 bonded warehousing system in accordance with the rules and regulations of the
3 Bureau of Customs.
4

5 (M) Employment of Foreign Nationals - Subject to the provisions of Section 29
6 of Commonwealth Act No. 613, as amended, a registered enterprise may employ
7 foreign nationals in supervisory or technical positions for a period not exceeding
8 ten (10) years from its registration: *Provided*, That when the majority of the
9 capital stock of a registered enterprise is owned by foreign investors, the
10 positions of the president, treasurer and general manager or their equivalents
11 may be retained by foreign nationals beyond the period set forth herein and such
12 officers are the owners or stockholders owning at least ten percent (10%) of the
13 outstanding capital stock of the registered enterprise and they remain the owner
14 or maintain their stockholdings therein.
15

16 Foreign nationals under employment contract within the purview of this
17 incentive, their spouses and unmarried children under twenty-one (21) years of
18 age, who are not excluded by Section 29 of Commonwealth Act No. 613, as
19 amended, shall be permitted to enter and reside in the Philippines during the
20 period of employment of such foreign nationals. They shall be issued a multiple
21 entry visa, valid for a period of three years, and shall be allowed to enter and
22 leave the Philippines without further documentary requirements other than
23 valid passports or other travel documents in the nature of passports. The
24 validity of the multiple entry visa shall be extendible yearly.
25

1 The foreign nationals admitted herein, as well as their respective spouses
2 and dependents shall be exempt from: (1) obtaining Alien Certificate of
3 Registration and Emigration Clearance Certificates; and (2) securing the Alien
4 Employment Permit (AEP) and all types of clearances, permits, licenses or their
5 equivalents required by any government department or agency.

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

10 *Provided, That,*

11 (a) He is at least eighteen (18) years of age;

12 (b) He has not been convicted of a crime involving moral turpitude;

13 (c) He is not afflicted with any loathsome, dangerous or contagious disease;

14 (d) He has not been institutionalized for any mental disorder or disability.

15 *Provided, further, That* in securing the investor's visa, the alien-applicant shall be
16 entitled to the same privileges provided for under Section 5 (M), last paragraph.

17
18 As holder of investor's visa, an alien shall be entitled to reside in the Philippines
19 while his investment subsists. For this purpose, he should submit an annual report, in
20 the form duly prescribed for the purpose, to prove that he has maintained his
21 investment in the country. Should said alien withdraw his investments from the
22 Philippines, then the investor's visa issued to him shall automatically expire.

23
24 **SEC. 7. *Administration, Implementation and Monitoring of Incentives.*** - The
25 SDSEZA shall be responsible for the administration and implementation of the
26 incentives granted to its respective registered enterprises: *Provided, That* any incentive

1 administration policy adopted by the BOI for registered enterprises shall be uniformly
2 applied by SDSEZA.

3
4 The following are the duties and responsibilities of the SDSEZA in the
5 administration of incentives:

6 (a) To adopt consistent procedures of administering incentives in accordance with
7 the guidelines established by the BOI;

8 (b) To adopt and implement systems and procedures affecting trade and customs
9 policies in accordance with the requirements established by the Department of
10 Finance (DOF) and the BOI;

11 (c) To submit data and information to the DOF and the BOI as required by any of
12 these agencies to ascertain consistency of investment policies and incentives,
13 including their implementation as provided in paragraph (a) herein, and to
14 ensure proper implementation of systems and procedures affecting trade and
15 customs policies as provided in paragraph (b) herein; and

16 (d) To perform all other duties and responsibilities as may be required by the
17 President of the Philippines.

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

23
24 **SEC. 8. Extension of Period of Availment.** - The availment period of the
25 incentives provided herein may be extended by SDSEZA in the event that the registered
26 enterprise suffers operational *force majeure* or any event equivalent thereto, impairing its
27 viability.

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SEC. 9. *Duration of Incentives.* - Enterprises registered with SDSEZA may enjoy ITH or NOLCO granted by the latter prior to the availment of the five percent (5%) GIE.

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

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

SEC. 10. *Creation of the Surigao del Sur Special Economic Zone and Freeport Authority.* - There is hereby created a body corporate to be known as the "Surigao del Sur Special Economic Zone and Freeport Authority" hereinafter referred to as the SDSEZA, which shall manage and operate the Surigao del Sur Ecozone, in accordance with the provisions of this Act. This corporate franchise shall expire in fifty (50) years counted from the first year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SEC. 11. *Principal Office of SDSEZA.* - The SDSEZA shall maintain its principal office in the Municipality of Cantilan but it may establish branches within the Philippines as may be necessary for the proper conduct of its business.

1
2 **SEC. 12. Powers and Functions of the SDSEZA.** – The Surigao del Sur Special

3 Economic Zone and Freeport Authority shall have the following powers and functions:

4
5 (a) To operate, administer, manage and develop the Surigao del Sur Ecozone
6 according to the principles and provisions set forth in this Act;

7
8 (b) To recommend to the President of the Philippines the issuance of a
9 proclamation to fix and delimit the site of the Surigao del Sur Ecozone;

10
11 (c) To register, regulate and supervise the enterprises in the Surigao del Sur
12 Ecozone in an efficient and decentralized manner, subject to existing laws;

13
14 (d) To coordinate with local government units and exercise general supervision
15 over the development plans, activities and operation of ecozones;

16
17 (e) To regulate and undertake the establishment, operation and maintenance of
18 utilities, other services and infrastructure in the Surigao del Sur Ecozone such
19 as but not limited to heat, light and power systems using indigenous and/or
20 renewable, and other energy sources, water supply, telecommunications,
21 transport, toll roads and bridges, port services, etc. The SDSEZA shall have
22 the power to fix just, reasonable and competitive rates, fares, charges and
23 prices thereof, notwithstanding the provisions of the Electric Power Industry
24 Reform Act of 2001, and other pertinent laws.

25
26 (f) To construct, acquire, own, lease, operate and maintain on its own or through
27 contracts, franchise, licenses, bulk purchase from the private sector or permits

1 under any of the schemes allowed in Republic Act No. 6957 (otherwise
2 known as the Build-Operate-Transfer Law, as amended by RA 7718) or joint
3 venture, *adequate facilities and infrastructure* required or needed for the
4 operation and development of the Surigao del Sur Ecozone, in coordination
5 with the appropriate national and local government authorities and in
6 conformity with applicable laws thereon;

7
8 (g) To operate on its own, either directly or indirectly or through a license to
9 other tourism-related activities, including games, amusements, recreational
10 and sport facilities;

11
12 (h) Subject to the approval of the President and the Monetary Board of the
13 Bangko Sentral ng Pilipinas, upon the recommendation of the Department of
14 Finance (DOF), to raise or borrow adequate and necessary funds from local or
15 foreign sources to finance its projects and programs under this Act and for
16 that purpose, to issue bonds, promissory notes and other forms of securities,
17 and to secure the same by a guarantee, pledge, mortgage, deed of trust or an
18 assignment of all or part of its property or assets;

19
20 (i) To provide security for the Surigao del Sur Ecozone in coordination with the
21 national and local governments. Military forces sent by the national
22 government for the purpose of defense shall not interfere in the internal
23 affairs of the ecozone and expenditures for these military forces shall be borne
24 by the national government. For this purpose, the SDSEZA may establish and
25 maintain its security forces and firefighting capability or hire others to
26 provide the same;

27

- 1 (j) To protect, preserve, maintain and develop the virgin forests, beaches, coral
2 and coral reefs and maintain ecological balance within the Surigao del Sur
3 Ecozone;
- 4
- 5 (k) To create, operate and/or contract to operate such functional units or offices
6 of the SDSEZA as it may deem necessary;
- 7
- 8 (l) To adopt, alter and use a corporate seal; make contracts, leases, own, or
9 otherwise dispose of personal or real property; sue and be sued; and
10 otherwise carry out its functions and duties as provided for in this Act;
- 11
- 12 (m) To issue certificates of origin for products manufactured or processed in
13 the Surigao del Sur Ecozone in accordance with the prevailing rules of origin,
14 and the pertinent regulations of the PEZA, DTI and/or the DOF;
- 15
- 16 (n) To issue working visas renewable every two (2) years for foreign executives
17 and foreign technicians with highly specialized skills which no Filipinos
18 possesses, as certified by the Department of Labor and Employment (DOLE);
- 19
- 20 (o) To report to the Bureau of Immigration the names of the foreigners who have
21 been granted permanent resident status and working visas within thirty (30)
22 days after issuance of such grant;
- 23
- 24 (p) To exercise such powers as may be essential, necessary or incidental to the
25 powers granted to it hereunder, as well as those that shall enable it to carry
26 out, implement and accomplish the purposes, objectives and policies of this
27 Act; and,

1
2 (q) To issue rules and regulations consistent with the provisions of this Act as
3 maybe necessary to accomplish and implement the purpose, objectives and
4 policies provided herein.
5

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

14 **SEC. 14. *Remittance of Earnings.*** - In the case of foreign investments, a
15 registered enterprise in the SDSEZA shall have the right to remit earnings from the
16 investment in the currency in which the investment was originally made and at the
17 exchange rate prevailing at the time of remittance, subject to the provisions of Section 74
18 of Republic Act No. 265, as amended, otherwise known as "the New Central Bank Act".

19 **SEC. 15. *Board of Directors of the SDSEZA.*** - The powers of the SDSEZA shall
20 be vested in and exercised by a board of directors, hereinafter referred to as the Board,
21 which shall be composed of the following:

- 22 (a) The chairman, who shall at the same time be the administrator of the
23 SDSEZA;
- 24 (b) A vice-chairman, who shall come from among the members of the Board;
- 25 (c) The Congressional Representative of the district covering the site of the
26 Surigao del Sur Ecozone;
- 27 (d) One (1) representative of the Provincial Government of Surigao del Sur;

1 (e) One (1) representative from the domestic investors;

2 (f) One (1) representative from the foreign investors; and

3 (g) One (1) representative from the workers working in the Surigao del Sur
4 Ecozone.

5
6 The congressional representative and the representative of the Provincial
7 Government shall serve as *ex-officio* members of the Board, whose term in the Board
8 corresponds to their term as elected officials.

9
10 The chairman and members of the Board, except the *ex-officio* members, shall be
11 appointed by the President of the Philippines to serve for a term of six (6) years, unless
12 sooner separated from service due to death, voluntary resignation or removal for cause.
13 In case of death, resignation or removal for cause, the replacement shall serve only the
14 unexpired portion of the term.

15
16 Except for the representatives of the business and labor sectors, no person shall
17 be appointed by the President of the Philippines as a member of the Board unless he is a
18 Filipino citizen, of good moral character, of proven probity and integrity, and a degree-
19 holder in any of the following fields: economics, business, public administration, law,
20 management or their equivalent, and with at least ten (10) years relevant working
21 experience preferably in the field of management or public administration.

22
23 The members of the Board shall each receive *per diem* at rates to be determined by
24 the Department of Budget and Management (DBM) in accordance with existing rules
25 and regulations: *Provided, however,* That the total *per diem* collected each month shall not
26 exceed the equivalent *per diem* for four (4) meetings. Unless and until the President of

1 the Philippines has fixed a higher *per diem* for the members of the Board, such *per diem*
2 shall not be more than Ten thousand pesos (P10,000.00) for every Board meeting.

3
4
5 **SEC. 16. Powers and Duties of the Administrator.** – The chairman-administrator
6 shall have the following powers and duties:

7 (a) To direct and manage the affairs of the SDSEZA in accordance with the policies
8 of the Board;

9 (b) To establish the internal organization of the SDSEZA under such conditions that
10 the Board may prescribe;

11 (c) To submit an annual budget and necessary supplemental budget to the Board for
12 its approval;

13 (d) To submit within thirty (30) days after the close of each fiscal year an annual
14 report to the Board and such other reports as may be required;

15 (e) To submit to the Board for its approval, policies, systems, procedures, rules and
16 regulations that are essential to the operation of the Surigao del Sur Ecozone;

17 (f) To create a mechanism in coordination with relevant agencies for the promotion
18 of industrial peace, the protection of the environment, and the advancement of
19 the quality of life in the Surigao del Sur Ecozone; and

20 (g) To perform such other duties as may be assigned to him by the Board or which
21 are necessary or incidental to his office.

22
23 **SEC. 17. Organization and Personnel.** – The Board of Directors of the SDSEZA
24 shall provide for an organization and staff of its officers and employees. Upon the
25 recommendation of the chairman-administrator, with the approval of the Secretary of
26 the DTI, the Board shall appoint and fix the remuneration and other emoluments of its
27 officers and employees in accordance with existing laws on compensation and position

1 classification: *Provided*, That the Board shall have exclusive and final authority to
2 promote, transfer, assign or reassign officers of the SDSEZA, any provision of existing
3 laws to the contrary notwithstanding: *Provided, further*, That the chairman-administrator
4 may carry out removal of such officers and employees.

5

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

9

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

12

13 **SEC. 18. *Resolution of Labor Disputes.*** - The right of labor to form unions or
14 associations shall be observed. However, strikes and lockouts shall be prohibited
15 within the Surigao del Sur Ecozone, notwithstanding the provisions of the Labor Code
16 and other pertinent laws. Labor disputes shall be resolved through mediation,
17 conciliation and such other modes of dispute resolution authorized by law.

18

19 **SEC. 19. *Applicability Clause.*** - The provisions of Sections 30 to 42 of Republic
20 Act No. 7916, otherwise known as the Special Economic Zone Act of 1995, as amended,
21 on leases of lands and buildings, land conversion, shipping and shipping register,
22 protection of environment, termination of business, registration of business enterprise,
23 one-stop shop center and on industrial harmony in ecozones, shall apply to the Surigao
24 del Sur Ecozone.

25

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

13
14 The amount necessary to subscribe and pay for the shares of the National
15 Government to the capital stock of the SDSEZA shall be included in the Annual General
16 Appropriations Act. For LGUs, the funds shall be taken from their Internal Revenue
17 Allotment and other local funds.

18
19 **SEC. 21. Supervision and Coordination of Development Plans.** - For purposes of
20 policy direction and coordination, the Surigao del Sur Ecozone shall be under the direct
21 control and supervision of the Office of the President of the Philippines.

22
23 **SEC. 22. Relationship with the Regional Development Council.** - The Surigao
24 del Sur Special Economic Zone and Freeport Authority shall determine the
25 development goals for the Surigao del Sur Ecozone within the framework of national
26 development plans, policies and goals. The Administrator shall, upon approval by the

1 Board, submit the Surigao del Sur Ecozone plans, programs and projects to the Regional
2 Development Council for inclusion and inputs for the overall regional development
3 plan.

4
5 **SEC. 23. *Relationship with Local Government Units.*** – Except as herein
6 provided, the local government units comprising the Surigao del Sur Ecozone shall
7 retain their basic autonomy and identity. The Municipalities of Carrascal, Cantilan,
8 Madrid, Carmen, and Lanuza, shall operate and function in accordance with the Local
9 Government Code of 1991. In case of any conflict between the SDSEZA and the
10 Province of Surigao del Sur on matters affecting the Surigao del Sur Ecozone other than
11 defense and security matters, the decision of the SDSEZA shall prevail.

12
13 **SEC. 24. *Interpretation/Construction.*** – The powers, authorities and functions
14 that are vested in the SDSEZA are intended to decentralize government functions and
15 authority and promote an efficient and effective working relationship between the
16 Surigao del Sur Ecozone, the national government and the LGUs.

17
18 **SEC. 25. *Auditing.*** – The Commission on Audit shall appoint a representative
19 who shall be a full time auditor of the SDSEZA and assign such number of personnel as
20 may be necessary to assist said representative in the performance of his/her duties. The
21 salaries and emoluments of the assigned auditor and personnel shall be in accordance
22 with pertinent laws, rules and regulations.

23
24 **SEC. 26. *Separability Clause.*** – If any provisions of this Act shall be held
25 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
26 full force and effect.

27

1 **SEC. 27. Repealing Clause.** - All laws, executive orders or issuances, or any parts
2 thereof, which are inconsistent herewith are hereby repealed and amended accordingly.

3
4 **SEC. 28. Effectivity Clause.** - This Act shall take effect upon its publication in at
5 least one (1) newspaper of general circulation.

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7 *Approved,*

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