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SENATE
S.B. No. 2812

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Introduced by **SENATOR IMEE R. MARCOS**

AN ACT
AMENDING REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS "THE
PHILIPPINE FISHERIES CODE OF 1998", AS AMENDED BY RA 10654, AND
FOR OTHER PURPOSES

EXPLANATORY NOTE

Article XIII, Section 7 states that *"The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of local marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production, and marketing assistance, and other services."*

Republic Act No. 8550 or the Philippine Fisheries Code of 1998 regulates fisheries resources of the country. It defines the scope of municipal waters and the activities that are allowed in them. The current definition of municipal waters is defined by their distance from the coast without regard to the water depth. It also specifies, among others, that only citizens of the Philippines, partnerships or associations, cooperatives or corporations duly registered in the Philippines with at least sixty percent (60%) of the capital stock of which is owned by Filipino citizens are eligible for a commercial fishing vessel license. Lastly, it also regulates the disposition of public lands for fishery, fish ponds, and fish hatcheries.

The current definition of municipal waters does not reflect international and scientific standards, which primarily look at depth of water instead of distance from the coast. Changing the focus of our fishing regulation will place our country in line with international standards and allow us to effectively manage municipal and commercial fishing waters.

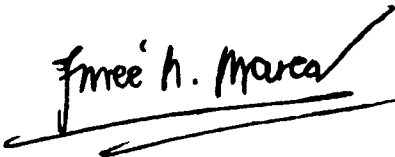
The citizenship requirement places commercial fishing in the Foreign Investment Negative List (FINL), which is prepared by the National Economic and Development

Authority every two years as prescribed by R.A. No. 7042 or the "Foreign Investment Act", as amended.

Such limitation on the grant of commercial fishing vessel licenses go hand in hand with limiting the ability of the country to negotiate a Code of Conduct for fishing activities in contested waters. Given the various nautical rows in which our country finds itself as far as the enforcement of our fishing grounds is concerned, allowing the Executive the latitude to explore various contractual agreements for managing our fishing grounds will also be in line with the current policy thrust of opening up and liberalizing our economy to attract foreign investment.

The current regulation on the disposition of public lands for fisheries, fish ponds, and fish hatcheries limits the ability of the Department of Environment and Natural Resources (DENR) to manage public lands for possible redevelopment of unused or underutilized fish ponds and fish hatcheries, as well as reversion to mangrove areas. As such, there is a need to amend the law to improve the ability of the DENR to manage our fisheries resources.

For the abovementioned reasons, the immediate passage of this bill is earnestly sought.


IMEE R. MARCOS

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

Section 1. Section 18 of Republic Act No. 8550, as amended by Republic Act No. 10654, is hereby amended to read as follows:

"SEC. 18. Users of Municipal Waters. – All fishery activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk.

The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate ~~[within the ten-point one (10.1) to fifteen (15) kilometer area from the shoreline]~~ in municipal waters **WITH DEPTH OF 20 FATHOMS (36.5 meters) OR MORE** as defined herein, provided, that all the following are met:

a. ~~[no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency]~~ **NO COMMERCIAL FISHING SHALL BE ALLOWED IN CRITICAL HABITATS, REGARDLESS OF DEPTH, INCLUDING SPAWNING AREAS, AS DECLARED BY THE DEPARTMENT AND OTHER RELEVANT AGENCIES;**

b. **THE** fishing ~~[activities utilizing methods and]~~ gears **AND**

1 **METHODS USED** [that] are determined to be consistent with national
2 policies set by the Department;

3
4 C. xxx

5
6 xxx."

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8 **Sec. 2.** Section 26 of Republic Act No. 8550, as amended by Republic Act No. 10654,
9 is hereby amended to read as follows:

10
11 **"SEC. 26. Commercial Fishing Vessel**
12 **License and Other Licenses.** – No person shall operate a
13 commercial fishing vessel, pearl fishing vessel or fishing vessel for
14 scientific, research or educational purposes, or engage in any
15 fishery activity, or seek employment as a fishworker or pearl diver
16 without first securing a license from the Department, the period of
17 which shall be prescribed by the Department: *Provided*, That no
18 such license shall be required of a fishing vessel engaged in scientific
19 research or educational purposes within Philippine waters and
20 pursuant to an international agreement of which the Philippines is
21 a signatory and which agreement defines the status, privileges and
22 obligations of said vessel and its crew and the non-Filipino officials
23 of the international agency under which vessel operates: *Provided*
24 *further*, That members of the crew of a fishing vessel used for
25 commercial fishing except the duly licensed and/or authorized
26 patrons, marine engineers, radio operators and cooks shall be
27 considered as fisherfolk: *Provided furthermore*, That all
28 skippers/master fishers shall be required to undertake an orientation
29 training on detection of fish caught by illegal means before they can
30 be issued their fishworker licenses[: ~~*Provided finally*, That the large~~
31 ~~commercial fishing vessel license herein authorized to be granted~~
32 ~~shall allow the licensee to operate only in Philippine waters seven (7)~~
33 ~~or more fathoms deep, the depth to be certified by the NAMRIA, and~~
34 ~~subject to the conditions that may be stated therein and the rules~~
35 ~~and regulations that may be promulgated by the Department.]"~~

36
37 **Sec. 3.** Section 27 of the same Act is hereby amended to read as follows:

38
39 **"SEC. 27. Persons Eligible for Commercial Fishing Vessel**
40 **License.** – No commercial fishing vessel license shall be issued
41 except to citizens of the Philippines, partnership or to associations,
42 cooperatives or corporations duly registered in the Philippines [at
43 ~~least sixty percent (60%) of the capital stock of which is owned by~~
44 ~~Filipino citizens.] No person to whom a license has been issued shall~~
45 ~~sell, transfer or assign, directly or indirectly, his stock or interest~~
46 ~~therein to any person not qualified to hold a license. Any such~~
47 ~~transfer, sale or assignment shall be null and void and shall not be~~

1 registered in the books of the association, cooperative or
2 corporation. For purposes of commercial fishing, fishing vessels
3 ~~[owned by citizens of the Philippines, partnerships, corporations,~~
4 ~~cooperatives or associations qualified under this section]~~ shall
5 secure Certificates of Philippine Registry and such other documents
6 as are necessary for fishing operations from the concerned
7 agencies: Provided, That the commercial fishing vessel license shall
8 be valid for a period to be determined by the Department.”
9

10 **Sec. 4.** Section 28 of the same Act is hereby amended to read as follows:
11
12

13 **“SEC. 28. Commercial Fishing Vessel Registration.** – The
14 registration, documentation, inspection and manning of the
15 operation of all types of fishing vessels **OPERATING IN** Philippine
16 **AND IN DISTANT WATERS** ~~[plying Philippine waters]~~ shall be in
17 accordance with existing laws, rules and regulations”
18

19 **Sec. 5.** Section 29 of the same Act is hereby amended to read as follows:
20

21 **“SEC 29. Registration and Licensing of Fishing Gears**
22 **Used in Commercial Fishing.** – Before ~~[a commercial fishing~~
23 ~~holding a commercial]~~ **THE HOLDER OF A** fishing vessel license
24 may begin **TO ENGAGE IN** fishing operations in Philippine **AND**
25 **IN DISTANT WATERS** waters, the fishing gear **TO BE USED** ~~[it~~
26 ~~will utilize in fishing]~~ shall be registered and a license granted
27 therefor. ~~The Department shall promulgate guidelines to implement~~
28 ~~this provision within sixty (60) days from approval of this Code.]”~~
29

30 **Sec. 6.** Section 32 of the same Act is hereby amended to read as follows:
31

32 **“SEC. 32. Distant Water Fishing.** – ~~[Fishing vessels of~~
33 ~~Philippine registry]~~ **Philippine-FLAGGED FISHING VESSELS**
34 may engage in distant water fishing as defined in this Code:
35 Provided, That they comply with the safety, manning and other
36 requirements of the Philippine Coast Guard, Maritime Industry
37 Authority and other agencies concerned: Provided, however, That
38 they secure a fishing permit, gear license and other clearances
39 from the Department: Provided, further, That the fish caught by
40 such vessels shall be considered as caught in Philippine waters and
41 therefore not subject to all import duties and taxes only when the
42 same is landed in duly designated fish landings and fish ports in
43 the Philippines: ~~[Provided, furthermore, That landing ports~~
44 ~~established by canneries, seafood processors and all fish landing~~
45 ~~sites established prior to the effectivity of this Code shall be~~
46 ~~considered authorized landing sites]~~: Provided, finally, That
47 fishworkers on board Philippine registered **-FLAGGED** fishing

vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers.

Distant water fishing vessels shall comply with the monitoring, control and surveillance requirements, conservation and management measures, and fishing access conditions of the Department, the RFMO, or other coastal **AND PORT** states."

Sec. 7. Section 38 of the same Act is hereby amended to read as follows:

"SEC. 38. Reportorial Requirements. – Each commercial fishing vessel **SHALL COMPLY WITH THE PRESCRIBED REPORTORIAL REQUIREMENTS AND** shall keep **FISHING LOG SHEETS OR** a daily record of fish catch and spoilage, **BYCATCH**, landing points, and quantity and value of fish caught, and off-loaded for transshipment, sale and/ or other disposal. Detailed information shall be duly certified by the vessel's captain and transmitted to BFAR within the period prescribed in the implementing rules and regulations promulgated by the Department. Failure to comply shall result to administrative and penal sanctions."

Sec. 8. Section 44 of the same Act is hereby amended to read as follows:

"SEC. 44. Use of ~~Superlight~~ or Fishing Light Attractor. – The number and candle light power or intensity of ~~superlight~~ and fishing light attractor used in commercial fishing vessels shall be regulated by the Department: ~~[Provided, That the use of superlight is banned within municipal waters and bays.]~~ The use of fishing light attractor in municipal waters shall be regulated by the local government units."

Sec. 9. Section 45 of the same Act is hereby amended to read as follows:

"SEC. 45. Disposition of Public Lands for Fishery Purpose. – Public lands such as tidal swamps, mangroves, marshes, foreshore lands and ponds suitable for fishery operations shall not be disposed or alienated. Upon effectivity of this Code, FLA may be issued for public lands that may be declared available for fishpond development primarily to qualified ~~[fisherfolk cooperative/associations]~~ **LESSEES FOR FISH/AQUATIC PRODUCTION PURPOSES, AS MAY BE DETERMINED BY THE DEPARTMENT:** *Provided, however,* That upon the expiration of existing FLAs the current lessees shall be given priority and be entitled to an extension of twenty-five (25) years in the utilization

1 of their respective leased areas. Thereafter, such FLAs shall be
2 granted to any Filipino citizen with preference, primarily to
3 qualified fisherfolk cooperatives/associations as well as small and
4 medium enterprises as defined under Republic Act No. 8289:
5 Provided, further, That the Department shall declare as
6 reservation, portions of available public lands certified as suitable
7 for fishpond purposes for fish sanctuary, conservation, and
8 ecological purposes: Provided , finally, that two (2) years after the
9 approval of this Act, no fish pens or fish cages or fish traps shall
10 be allowed in lakes.”

11
12 **Sec. 10.** Section 46 of the same Act is hereby amended to read as follows:

13
14 **“SEC. 46. Lease of Fishponds.** – Fishpond leased to qualified
15 persons and fisherfolk organizations/cooperatives shall be subject
16 to the following conditions:

17
18 a. Areas leased for fishpond purposes shall be no more than 50
19 hectares for individuals and 250 hectares for corporations or
20 fisherfolk organizations;

21 b. The lease shall be for a period of twenty-five (25) years and
22 renewable for another twenty-five (25) years: Provided, That in
23 case of the death of the lessee, his spouse and/or children, as his
24 heirs, shall have preemptive rights to the unexpired term of his
25 Fishpond Lease Agreement subject to the same terms and
26 conditions provided herein provided that the said heirs are
27 qualified;

28 c. Lease rates for fishpond areas shall be determined by the
29 Department: Provided, That all fees collected shall be remitted to
30 the National Fisheries Research and Development Institute and
31 other qualified research institutions to be used for aquaculture
32 research development. **FOR THIS PURPOSE, A SPECIAL**
33 **ACCOUNT SHALL BE CREATED TO BE ADMINISTERED BY**
34 **THE NFRDI.;**

35 d. ~~{The area leased shall be developed and producing on a~~
36 ~~commercial scale within three (3) years from the approval of the~~
37 ~~lease contract: Provided, however, That all areas not fully~~
38 ~~producing within five (5) years from the date of approval of the~~
39 ~~lease contract shall automatically revert to the public domain for~~
40 ~~reforestation;}~~

41 **d. All FLAs COVERING areas not fully DEVELOPED AND**
42 **NOT producing ON A COMMERCIAL SCALE within TWO (2)**
43 **years from the date of approval of the lease contract shall**
44 **BE CANCELLED AND SUCH AREAS SHALL BE DECLARED**
45 **OPEN TO ANY QUALIFIED APPLICANT.**

xxx."

Sec. 11. Section 49 of the same Act is hereby amended to read as follows:

"SEC. 49. ~~[Reversion of All]~~ **Abandoned, Undeveloped or Underutilized Fishponds.** – ~~[The DENR, in coordination with t]~~
The DA-BFAR, LGUs, other concerned agencies and FARMs shall determine which abandoned, undeveloped or underutilized fishponds covered by FLAs **CAN BE UTILIZED FOR FISH/AQUATIC PRODUCTION PURPOSES OR MAY BE** can be reverted to their original mangrove state. **FOR PURPOSES OF REVERSION OF ABANDONED, UNDEVELOPED OR UNDERUTILIZED FISHPONDS, THE DENR, IN COORDINATION WITH THE DA-BFAR, AND OTHER CONCERNED AGENCIES,** ~~[and after having made such determination]~~ shall take all steps necessary to restore such areas in their original mangrove state."

Sec. 12. Section 57 of the same Act is hereby amended to read as follows:

"SEC. 57. **Registration of Fish Hatcheries, FISH PENS, FISH CAGES and Private Fishponds, etc.** – All fish hatcheries, **FISH PENS, FISH CAGES,** fish breeding facilities and private fishponds must be registered with the LGUs which shall prescribe minimum standards for such facilities in consultation with the Department: Provided, That the Department shall conduct a yearly inventory of all fishponds, fish pens and fish cages whether in public or private lands: Provided, further that all fishpond, ~~[fish pen and fish cage]~~ **AQUACULTURE AND MARICULTURE** operators shall annually report to the ~~[Department]~~ **DA-BFAR** the type of species and volume of production in areas devoted to aquaculture."

Sec. 13. Section 86 of the same Act is hereby amended to read as follows:

"SEC. 86. **Unauthorized Fishing.** – (a) It shall be unlawful for any person to capture or gather or to cause the capture or gathering of fish, fry or fingerlings of any fishery species or fishery products without license or permit from the Department or LGU, **WHICHEVER IS APPLICABLE.**

~~Except in cases specified under this Code,~~ (b) it shall also be unlawful for any commercial fishing vessel to fish in municipal waters, **EXCEPT IN CASES SPECIFIED UNDER THIS CODE.**

xxx"

Sec. 14. Section 96 of the same Act is hereby amended to read as follows:

"SEC. 96. *Ban on Coral Exploitation and Exportation.* –

x x x

Upon a summary finding of administrative liability, the ~~[owner/operator of the fishing vessel/s, boat captain, master fisherman, and recruiter or organizer of fishworkers]~~ **OFFENDER** shall be punished with an administrative fine equivalent to eight (8) times the value of the corals gathered, possessed, commercially transported, sold, or exported, or the amount of Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), whichever is higher, and forfeiture of the subject corals. The offender shall also pay compensation for the restoration of the damaged corals reefs.

Upon conviction by a court of law, ~~[the boat captain, master fisherman, and recruiter or organizer of fishworkers,]~~ **OFFENDER** shall be punished by imprisonment from ten (10) years to twenty (20) years and a fine equivalent to twice the administrative fine and forfeiture of the subject corals.

The offender shall also be required to pay the cost of restoration of the damaged coral reefs based on available studies and as determined by the Department."

Sec. 15. Section 96 of the same Act is hereby amended to read as follows:

"SEC. 98. *Illegal Use of Superlights or Fishing Light Attractor FOR FISHING.* – It shall be unlawful to engage in fishing with the use of ~~[superlight in municipal waters, or to fish with]~~ fishing light attractor using candlelight power or intensity beyond the standards set by the Department ~~[in consultation with the LGUs for fishing in municipal waters, or in violation of the rules promulgated by the Department for fishing with the use of superlight or fishing light attractor outside municipal waters.]~~

xxx"

Sec. 16. Section 119 of the same Act is hereby amended to read as follows:

"SEC. 119. *Non-Compliance with Vessel Monitoring Measures.* – No municipal, commercial or distant water fishing

vessel, shall engage in fishing activity without complying with the vessel monitoring measures. ~~[promulgated by the Department in coordination with the LGUs:]~~ Provided, That **CATCHER AND CARRIER** vessels **SHALL BE AUTOMATICALLY COVERED BY THIS REQUIREMENT.** ~~[operating in Philippine waters, only the catcher vessel shall be covered by this requirement.]~~ **PROVIDED FURTHER THAT, FOR MUNICIPAL FISHING VESSELS, THE DEPARTMENT SHALL PROMULGATE A VESSEL MONITORING MEASURE FOR THE ENFORCEMENT OF THIS SECTION."**

It shall also be unlawful to intentionally tamper with, switch off or disable the vessel monitoring system.

xxx."

Sec. 17. Section 130 of Republic Act No. 8550, as amended by Republic Act No. 10654, is hereby amended to read as follows:

"SEC. 130. Administrative Adjudication. – The Department is hereby empowered to impose the administrative fines and penalties provided in this Code.

For this purpose, the Department shall organize and designate the composition of the Adjudication Committee, which shall be composed of the bureau director as chairperson and four (4) other members to be designated by the Secretary. The Adjudication Committee shall be supported by sufficient number of staff to enable it to perform its mandate.

The Committee shall promulgate rules and regulations for the conduct of administrative adjudication **INCLUDING BUT NOT LIMITED TO** and the disposition of confiscated catch, gears, equipment and other paraphernalia **AND EXECUTION OF ORDERS AND DECISIONS.** It shall also issue subpoena duces tecum and ad testificandum in administrative cases before it. **THE COMMITTEE SHALL ALSO HAVE THE POWER TO CITE PARTIES IN CONTEMPT FOR UNLAWFUL DISOBEDIENCE TO ITS ORDERS."**

Sec. 18. Implementing Rules and Regulations. – The Department of Agriculture, in consultation with concerned government agencies and stakeholders, shall promulgate the implementing rules and regulations of this Act, within six (6) months from the effectivity of this Act.

Sec. 19. Separability Clause. – If any provision, or part hereof, is held invalid or

1 unconstitutional, the remainder of the law or the provision not otherwise affected shall
2 remain valid and subsisting.

3
4 **Sec. 20. Repealing Clause.** – Any law, presidential decree or issuance, executive
5 order, letter of instruction, administrative order, rule or regulation contrary to or
6 inconsistent with, the provisions of this Act is hereby repealed, modified, or amended
7 accordingly.

8
9 **Sec. 21. Effectivity Clause.** – This This Act shall take effect fifteen (15) days after
10 its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved,