



HOUSE OF REPRESENTATIVES

H. No. 5973

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BY REPRESENTATIVES ALMARIO AND DURANO, PER COMMITTEE REPORT  
No. 1783

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AN ACT ESTABLISHING A SPECIAL ECONOMIC ZONE IN THE  
PROVINCE OF DAVAO ORIENTAL, CREATING FOR THE  
PURPOSE THE DAVAO ORIENTAL SPECIAL ECONOMIC ZONE  
AUTHORITY, APPROPRIATING FUNDS THEREFOR AND FOR  
OTHER PURPOSES

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

1           SECTION 1. *Short Title* – This Act shall be known as the “Davao  
2   Oriental Special Economic Zone Act of 2009”.

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

1 country and through measures that will attract legitimate and productive  
2 foreign investments.

3         SEC. 3. *Creation of the Special Economic Zone.* – In pursuit of the  
4 foregoing declared policy and subject to the concurrence of the concerned  
5 local government units (LGUs) of Davao Oriental affected by the zone, there is  
6 hereby established a special economic zone in the City of Mati and the  
7 municipalities of San Isidro and Lupon in the Province of Davao Oriental to be  
8 known as the Davao Oriental Special Economic Zone, hereinafter referred to  
9 as the Davao Oriental Ecozone. The specific metes and bounds of the Davao  
10 Oriental Ecozone shall be more particularly defined in a presidential  
11 proclamation that shall be issued for this purpose.

12         SEC. 4. *Governing Principles.* – The Davao Oriental Ecozone shall be  
13 managed and operated by the Davao Oriental Special Economic Zone  
14 Authority, hereinafter referred to as the DOEZA, created under Section 11 of  
15 this Act, under the following principles:

16         (a) Within the framework and limitations of the Constitution and the  
17 applicable provisions of the Local Government Code, the Davao Oriental  
18 Ecozone shall be developed into and operated as a decentralized, self-reliant  
19 and self-sustaining industrial, commercial/trading, agro-industrial, tourist,  
20 banking, financial and investment center with suitable residential areas;

21         (b) The Davao Oriental Ecozone shall be provided with transportation,  
22 telecommunications and other facilities needed to attract legitimate and  
23 productive investments, generate linkage industries and employment  
24 opportunities for the people of the Province of Davao Oriental and its  
25 neighboring towns and cities;

26         (c) The Davao Oriental Ecozone may establish mutually beneficial  
27 economic relations with other entities or enterprises within the country or,  
28 subject to the administrative guidance of the Department of Foreign Affairs

1 (DFA), the Philippine Economic Zone Authority (PEZA) and/or the  
2 Department of Trade and Industry (DTI), with foreign entities or enterprises;

3 (d) Foreign citizens and companies owned by non-Filipinos in  
4 *whatever proportion may set up enterprises in the Davao Oriental Ecozone*,  
5 either by themselves or in joint venture with Filipinos in any sector of industry,  
6 international trade and commerce within the *Davao Oriental Ecozone*;

7 (e) Goods and capital equipment including spare parts are subject to  
8 the tax incentives provided in this Act;

9 (f) The areas comprising the *Davao Oriental Ecozone* may be  
10 expanded or reduced when necessary. For this purpose, the *Davao Oriental*  
11 *Ecozone*, in consultation with the LGUs, shall have the power to acquire either  
12 by purchase, negotiation or condemnation proceedings, any private land within  
13 or adjacent to the *Davao Oriental Ecozone* for the following purposes: (1)  
14 consolidation of lands for the *Davao Oriental Ecozone* development; (2)  
15 acquisition of right-of-way to the *Davao Oriental Ecozone*; and (3) the  
16 protection of watershed areas and natural assets valuable to the prosperity of  
17 the *Davao Oriental Ecozone*;

18 (g) Goods manufactured by a *Davao Oriental Ecozone* enterprise shall  
19 be made available for immediate retail sale in the domestic market, subject to  
20 the payment of corresponding taxes on raw materials and other regulations that  
21 may be formulated by the DOEZA, together with the PEZA, the Bureau of  
22 Customs (BoC) and the DTI in accordance with the National Internal Revenue  
23 Code (NIRC) of 1997, as amended, and the Tariff and Customs Code of the  
24 Philippines, as amended. However, in order to protect domestic industries, a  
25 Negative List of industries shall be drawn up and regularly updated by the  
26 PEZA. Enterprises engaged in industries included in such Negative List shall  
27 not be allowed to sell their products locally; and

1 (h) The defense of the Davao Oriental Ecozone and the security of its  
2 perimeter fence shall be the responsibility of the national government in  
3 coordination with the Davao Oriental Ecozone and the LGUs. For this  
4 purpose, a special defense team shall be organized to define its powers, duties  
5 and responsibilities.

6 SEC. 5. *Incentives to Registered Enterprises.* – The DOEZA shall  
7 provide the following incentives to the registered enterprises located therein to  
8 the extent of the activity/project:

9 (a) Income Tax Holiday (ITH) – Registered enterprises shall be  
10 entitled to an ITH from the start of their commercial operations to the extent of  
11 their activity under the following categories:

12 (1) Category A – Registered domestic enterprises producing/rendering  
13 new products/services or having strong backward or forward linkages shall be  
14 entitled to a six (6)-year ITH; and

15 (2) Category B -- Registered export enterprises shall be entitled to a  
16 six (6)-year ITH: *Provided*, That an export enterprise shall be entitled to an  
17 eight (8)-year ITH if it complies with the following:

- 18 (i) Large capital investments or sizeable employment generation; or  
19 (ii) Use of high level of technology.

20 Registered enterprises embarking on new investments that are listed in  
21 the current Investment Priorities Plan (IPP) shall be entitled to incentives  
22 provided herein pertaining to the new investments and subject to such terms  
23 and conditions as the Board of Investments (BOI) may determine.

24 Additional investments in the project shall be entitled to the ITH  
25 corresponding to such investments as may be determined by the BOI.  
26 Additional ITH may be granted for as long as the investment is made on the  
27 same project: *Provided*, That the project is listed in the IPP at the same time  
28 the additional investment in the project is made: *Provided, further*, That the

1 entitlement period for additional investments shall not exceed three (3) times  
2 the period provided under this subsection: *Provided, however,* That the total  
3 ITH period for an export enterprise availing of an eight (8)-year ITH shall not  
4 exceed twenty (20) years. Any unused incentive shall therefore be deemed  
5 forfeited if not used during the incentive period.

6 Enterprises registered with the DOEZA are required to share in the  
7 special development fund of the BOI for investment promotion projects of the  
8 government equivalent to one percent (1%) of the ITH granted for every  
9 application.

10 The Bureau of Internal Revenue (BIR) shall require a registered  
11 enterprise availing of the ITH or the net operating loss carryover (NOLCO) to  
12 secure a certificate of eligibility from the DOEZA before submitting its income  
13 tax return (ITR) with the DOEZA for validation.

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

18 (b) Net Operating Loss Carryover (NOLCO) – The net operating loss  
19 of the business or enterprise during the first three (3) years from the start of  
20 commercial operations which have not been previously offset as a deduction  
21 from the gross income shall be carried over as a deduction from the gross  
22 income for the next five (5) consecutive years immediately following the year  
23 of such loss: *Provided, however,* That operating loss resulting from the  
24 availment of incentives provided in this Code shall not be entitled to the  
25 NOLCO.

26 Registered enterprises availing of the ITH as herein provided shall not  
27 be entitled to avail of the NOLCO.

1 (c) Imposition of a Tax Rate of Five Percent (5%) on Gross Income  
2 Earned (GIE) – Except for real property tax on land, no local and national  
3 taxes, as prescribed under Republic Act No. 8424, also known as “the National  
4 Internal Revenue Code of 1997, As Amended”, such as the income tax, the  
5 excise tax and the franchise taxes shall be imposed on business establishments  
6 operating within the Davao Oriental Ecozone. In lieu thereof, there shall be  
7 imposed a tax rate of five percent (5%) of the gross income earned by all the  
8 business enterprises with the DOEZA and remitted as follows:

9 (1) Three percent (3%) to the national government; and

10 (2) Two percent (2%) which shall be directly remitted by the business  
11 establishments to the treasurer’s office of the municipality or city where the  
12 enterprise is located.

13 All persons and service establishments in the Davao Oriental Ecozone  
14 that are not covered by Section 5 hereof shall be subject to national and local  
15 taxes under the NIRC of 1997, as amended, and the Local Government Code.

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

22 (e) Capital Equipment Incentives – Importations of capital equipment,  
23 spare parts, tools and dye, or those required for pollution abatement and  
24 control, cleaner production and waste reduction including consignment thereof  
25 by registered enterprises upon the effectivity of this Act shall be exempted to  
26 the extent of one hundred percent (100%) of the taxes and customs duties:  
27 *Provided*, That the importation thereof shall be used exclusively by the  
28 registered enterprise in its registered activity within the Davao Oriental

1 Ecozone: *Provided, further,* That the importation of machinery and equipment  
2 and accompanying parts shall comply with the following conditions:

3 (1) These are not manufactured domestically in sufficient quantity, of  
4 comparable quality and at reasonable prices;

5 (2) These are reasonably needed and will be used exclusively by the  
6 registered enterprise in the manufacture of its products, unless prior approval  
7 of the DOEZA is secured for the part-time utilization of said equipment in a  
8 nonregistered activity to maximize usage thereof or the proportionate taxes and  
9 duties are paid on a specific equipment and machinery being permanently used  
10 for nonregistered activities; and

11 (3) Approval of the DOEZA was obtained by the registered enterprise  
12 for the importation of such machinery, equipment and spare parts.

13 Approval of the DOEZA must be secured before any sale, transfer or  
14 disposition of the imported capital equipment, machinery or spare parts is  
15 made: *Provided,* That if such sale, transfer or disposition is made within the  
16 first five (5) years from the date of importation, any of the following conditions  
17 must be present:

18 (i) If made to another enterprise enjoying tax and duty exemption on  
19 imported capital equipment;

20 (ii) If made to another enterprise not covered by part (i), upon payment  
21 of the taxes and duties on the net book value of the capital equipment to be  
22 sold;

23 (iii) Exportation of the capital equipment, machinery, spare parts or  
24 source documents or those required for pollution abatement and control; and

25 (iv) For reasons of proven technical obsolescence.

26 When the aforementioned sale, transfer or disposition is made under any  
27 of the conditions provided for in the foregoing paragraphs other than paragraph  
28 (ii), the registered firm shall not pay the taxes and duties waived on such items:

1 *Provided, further,* That if the registered enterprise sells, transfers or disposes  
2 the aforementioned imported items without prior approval within five (5) years  
3 from the date of importation, the registered enterprise and the vendee,  
4 transferee or assignee shall be solidarily liable to pay twice the amount of the  
5 tax and duty exemption given it: *Provided, finally,* That even if the sale,  
6 transfer or disposition of the capital equipment, machinery or spare parts is  
7 approved after five (5) years from the date of importation, the registered  
8 enterprise is still liable to pay the taxes and duties based on the net book value  
9 of the capital equipment, machinery or spare parts if it has violated any of its  
10 registration terms and conditions. Otherwise, it shall no longer be subject to  
11 the payment of the taxes and duties waived thereon.

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

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

23 The registered export-oriented enterprise availing of the incentives  
24 provided under the immediately preceding two (2) paragraphs shall be subject  
25 to the following: (i) that said capital equipment, machinery and spare parts  
26 will be used exclusively by the registered enterprise in its registered activity;  
27 (ii) that the capital equipment or machinery where the raw materials, supplies,  
28 parts and semi-finished products were used would have qualified for tax- and



1 duty-free importation; and (iii) that the approval of the DOEZA is obtained by  
2 the registered enterprise. If the registered enterprise sells, transfers or disposes  
3 of these machineries, capital equipment and spare parts, the provision in the  
4 preceding paragraphs for such disposition shall apply.

5 This incentive shall be deemed waived if application for tax credit under  
6 this subsection was not filed within one (1) year from the date of delivery.

7 (f) The importation of source documents by information technology-  
8 registered enterprises shall be eligible for tax- and duty-free importation.

9 (g) Raw Materials Incentives -- Every registered export-oriented  
10 enterprise shall enjoy a tax credit equivalent to the internal revenue taxes and  
11 customs duties paid on the supplies, raw materials and semi-manufactured  
12 products: *Provided*, That the same are not sufficient in quantity, quality or are  
13 not competitively priced which are used in the manufacture, processing or  
14 production of its export products forming part thereof, exported directly and  
15 indirectly by the registered export-oriented enterprise based on the actual taxes  
16 and duties paid for such materials/supplies/semi-manufactured products by the  
17 registered enterprise.

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

21 (h) Incentives on Breeding Stocks and Genetic Materials – Importation  
22 of breeding stocks and genetic materials within ten (10) years from the date of  
23 registration of commercial operations of the enterprise shall be exempt from all  
24 taxes and duties: *Provided*, That such breeding stocks and genetic materials  
25 are reasonably needed in the registered activity and approved by the DOEZA.

26 The availment of the incentives by a registered enterprise shall be  
27 subject to the following: (1) that said breeding stocks and genetic materials  
28 would have been qualified for tax- and duty-free importation under the

1 preceding paragraph; (2) that the breeding stocks and genetic materials are  
2 reasonably needed in the registered activity; (3) that approval of the DOEZA  
3 has been obtained by the registered enterprise; and (4) that the purchase is  
4 made within ten (10) years from the date of registration of commercial  
5 operation of the registered enterprise.

6 This incentive shall be deemed waived if application for tax credit under  
7 this subsection is not filed within one (1) year from the date of delivery.

8 (i) Exemption From Wharfage Dues – The provisions of law to the  
9 contrary notwithstanding, exports by a registered enterprise shall be exempted  
10 from wharfage dues.

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

18 (k) (1) Tax Treatment of Merchandise in the Davao Oriental Ecozone –  
19 The free trade/freeport zone shall be operated and managed as a separate  
20 customs territory ensuring free flow or movement of goods within, into and  
21 exported out of the free trade/freeport zone. Importations of raw materials and  
22 capital equipment are tax- and duty-free. However, exportations or removal of  
23 goods from the free trade/freeport zone to the other parts of the Philippine  
24 territory shall be subject to customs and internal revenue regulations:

25 (i) Except as otherwise provided in this Act, foreign and domestic  
26 merchandise, raw materials, supplies, articles, equipment, machineries, spare  
27 parts and wares of every description, except those prohibited by law, brought  
28 into the zone to be sold, stored, broken up, repacked, assembled, installed,

1 sorted, cleaned, graded or otherwise processed, manufactured, mixed with  
2 foreign or domestic merchandise, whether directly or indirectly related in such  
3 activity, shall not be subject to customs and internal revenue laws and  
4 regulations nor to local tax ordinances, any provision of law to the contrary  
5 notwithstanding;

6 (ii) Merchandise purchased by a registered Davao Oriental Ecozone  
7 enterprise, from the customs territory and subsequently brought into the export  
8 processing zone, shall be considered as export sales and exportation thereof  
9 shall be entitled to the benefits allowed by law for such transaction;

10 (iii) Domestic merchandise sent from the Davao Oriental Ecozone to  
11 the customs territory shall, whether or not combined with or made part of other  
12 articles likewise of local origin or manufactured in the Philippines while in the  
13 export processing zone, be subject to internal revenue laws of the Philippines  
14 as domestic goods sold, transferred or disposed of for local consumption;

15 (iv) Merchandise sent from the Davao Oriental Ecozone to the customs  
16 territory shall, whether or not combined with or made part of other articles  
17 while in the zone, be subject to rules and regulations governing imported  
18 merchandise. The duties and taxes shall be based on the value of said  
19 imported materials (except when the final product is exempt);

20 (v) Domestic merchandise on which all internal revenue taxes have  
21 been paid, if subject thereto, and foreign merchandise previously imported on  
22 which taxes have been paid, or which have been admitted free of duty and tax,  
23 may be taken into the Davao Oriental Ecozone from the customs territory of  
24 the Philippines and be brought back thereto free of quotas, duty or tax;

25 (vi) Subject to such regulations respecting identity and safeguarding of  
26 revenue as the DOEZA may deem necessary, when the identity of an article  
27 entered into the export processing zone under the immediately preceding  
28 paragraph has been lost, such article when removed from the zone and taken to

1 the customs territory shall be treated as foreign merchandise entering the  
2 country for the first time, under the provisions of the Tariff and Customs Code  
3 of the Philippines, as amended;

4 (vii) Articles produced or manufactured in the Davao Oriental Ecozone  
5 and exported therefrom shall, on subsequent importation into the customs  
6 territory, be subject to the import laws applicable to like articles manufactured  
7 in a foreign country; and

8 (viii) Unless the contrary is shown, merchandise taken out of the export  
9 processing zone shall be considered for tax purposes to have been sent to  
10 customs territory.

11 (2) Tax Treatment of Services in the Davao Oriental Ecozone – (i) Sale  
12 of service by an entity from the customs territory to a registered ecozone or  
13 free trade enterprise, or by a registered ecozone or freeport enterprise to  
14 another ecozone or freeport enterprise, shall be treated as indirect export and,  
15 hence, entitled to the benefits allowed by law for such transaction; and (ii) Sale  
16 or service by a registered ecozone or freeport enterprise to the customs  
17 territory shall be subject to applicable internal revenue laws and regulations.

18 (l) Registered export-oriented enterprise shall have access to the  
19 utilization of the bonded warehousing system in accordance with the rules and  
20 regulations of the BoC.

21 (m) Employment of Foreign Nationals – Subject to the provisions of  
22 Section 29 of Commonwealth Act No. 613, as amended, a registered enterprise  
23 may employ foreign nationals in supervisory or technical positions for a period  
24 not exceeding ten (10) years from its registration: *Provided*, That when the  
25 majority of the capital stock of a registered enterprise is owned by foreign  
26 investors, the positions of the president, treasurer and general manager or their  
27 equivalents may be retained by foreign nationals beyond the period set forth  
28 herein and such officer is the owner or a stockholder owning at least ten

1 percent (10%) of the outstanding capital stock of the registered enterprise and  
2 he/she remains the owner or maintains his/her stockholdings therein.

3 *Foreign nationals under employment contract within the purview of this*  
4 *incentive, their spouses and unmarried children under twenty-one (21) years of*  
5 *age who are not excluded by Section 29 of Commonwealth Act No. 613, as*  
6 *amended, shall be permitted to enter and reside in the Philippines during the*  
7 *period of employment of such foreign nationals. They shall be issued*  
8 *multiple-entry visas, renewable every two (2) years and shall be allowed to*  
9 *enter and leave the Philippines without further documentary requirements other*  
10 *than valid passports or other travel documents in the nature of passports.*

11 The foreign nationals admitted herein, as well as their respective  
12 spouses and dependents, shall be exempt from: (1) obtaining alien certificates  
13 of registration and emigration clearance certificates; and (2) securing the alien  
14 employment permits (AEP) and all types of clearances, permits, licenses or  
15 their equivalents required by any government department or agency.

16 *SEC. 6. Incentive to Investors.* – Any foreign national covered under  
17 subsection (m) of Section 5 of this Act, who invests an amount of One hundred  
18 fifty thousand US Dollars (US\$150,000.00), either in cash and/or equipment,  
19 in a registered enterprise shall be entitled to an investor's visa: *Provided, That,*

20 (a) he/she is at least eighteen (18) years of age;

21 (b) he/she has not been convicted of a crime involving moral turpitude;

22 (c) he/she is not afflicted with any loathsome, dangerous or contagious  
23 disease; and

24 (d) he/she has not been institutionalized for any mental disorder or  
25 disability: *Provided, further,* That in securing the investor's visa, the alien-  
26 applicant shall be entitled to the same privileges provided for under Section  
27 5(m), last paragraph.

1           As a holder of an investor's visa, an alien shall be entitled to reside in  
2 the Philippines while his/her investment subsists. For this purpose, he/she shall  
3 submit an annual report, in the form duly prescribed for the purpose, to prove  
4 that he/she has maintained his/her investment in the country. Should said alien  
5 withdraw his/her investments from the Philippines, then the investor's visa  
6 issued to him/her shall automatically expire.

7           SEC. 7. *Administration, Implementation and Monitoring of Incentives*

8           – The DOEZA shall be responsible for the administration and implementation  
9 of the incentives granted to its respective registered enterprises: *Provided,*  
10 That any incentive administration policy adopted by the BOI for incentives  
11 common to all registered enterprises shall be uniformly applied by the  
12 DOEZA.

13           The following are the duties and responsibilities of the DOEZA in the  
14 administration of incentives:

15           (a) Adopt consistent procedures of administering incentives in  
16 accordance with the guidelines established by the BOI and to amend the same  
17 when necessary;

18           (b) Adopt and implement systems and procedures affecting trade and  
19 customs policies in accordance with the requirements established by the DOF  
20 and the BOI and to amend the same when necessary;

21           (c) Submit data and information to the DOF and the BOI as required by  
22 any of these agencies to ascertain consistency of investment policies and  
23 incentives, including their implementation as provided in (a) and to ensure  
24 proper implementation of systems and procedures affecting trade and customs  
25 policies as provided in (b); and

26           (d) Perform all other duties and responsibilities as may be required by  
27 the President of the Philippines.

1 For proper monitoring, the BOI shall create a single database of all  
2 incentives provided by all incentives-granting agencies, including the DOEZA  
3 and all information thereto. Double-entry accounting shall be done by the BOI  
4 in recording all incentives granted by the government for transparency  
5 purposes.

6 SEC. 8. *Extension of Period of Availment.* – The availment period of  
7 the incentives provided herein may be extended by the DOEZA in the event  
8 that the registered enterprise suffers operational *force majeure* or any event  
9 equivalent thereto, impairing its viability.

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

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

18 The industries exempted from this provision shall be recommended by  
19 the BOI, with the concurrence of the secretaries of the DOF and of the DTI.

20 SEC. 10. *Authority of the Bureau of Customs to Examine the Entry and*  
21 *Exit of Imported Articles in the Davao Oriental Special Economic Zone.* – The  
22 BOC, in coordination with the appropriate government agencies such as, but  
23 not limited to, the departments of Trade and Industry, Agriculture,  
24 Transportation and Communications and Health shall have the authority to  
25 examine the entry and exit of imported articles in the Davao Oriental Special  
26 Economic Zone for the purpose of determining: (a) the quantity and  
27 description of subject imported articles; and (b) the compliance with the  
28 sanitary and agricultural requirements.

1           SEC. 11. *Creation of the Davao Oriental Special Economic Zone*  
2 *Authority* – There is hereby created a body corporate to be known as the  
3 Davao Oriental Special Economic Zone Authority, hereinafter referred to as  
4 the DOEZA, which shall manage and operate the Davao Oriental Ecozone in  
5 accordance with the provisions of this Act. This corporate franchise shall  
6 expire in fifty (50) years counted from the first year after the effectivity of this  
7 Act, unless otherwise extended by Congress. It shall be organized within one  
8 hundred eighty (180) days after the effectivity of this Act.

9           SEC. 12. *Principal Office of the Davao Oriental Special Economic*  
10 *Zone Authority*. – The DOEZA shall maintain its principal office in the City of  
11 Mati, Davao Oriental, but it may establish branches within the Philippines as  
12 may be necessary for the proper conduct of its business.

13           SEC. 13. *Powers and Functions of the Davao Oriental Special*  
14 *Economic Zone Authority*. – The DOEZA shall have the following functions:

15           (a) Operate, administer, manage and develop the Davao Oriental  
16 Ecozone according to the principles and provisions set forth in this Act;

17           (b) Recommend to the President of the Philippines the issuance of a  
18 proclamation to fix and delimit the site of the Davao Oriental Ecozone;

19           (c) Register, regulate and supervise the enterprises in the Davao  
20 Oriental Ecozone in an efficient and decentralized manner, subject to existing  
21 laws;

22           (d) Coordinate with LGUs and exercise general supervision over the  
23 development plans, activities and operations of the Davao Oriental Ecozone;

24           (e) Authorize or undertake, on its own or through others, and regulate  
25 the establishment, operation and maintenance of public utilities, services and  
26 infrastructure in the Davao Oriental Ecozone such as shipping, barging,  
27 stevedoring, cargo handling, hauling, warehousing, storage of cargo, port  
28 services or concessions, piers, wharves, bulkheads, bulk terminals, mooring



1 areas, storage areas, roads, bridges, terminals, conveyors, water supply and  
2 storage, sewerage, drainage, airport operations in coordination with the Civil  
3 Aeronautics Board, and such other services or concessions or infrastructure  
4 necessary or incidental to the accomplishment of the objectives of this Act:  
5 *Provided, however,* That the private investors in the Davao Oriental Ecozone  
6 shall be given priority in the awarding of contracts, franchises, licenses or  
7 permits for the establishment, operation and maintenance of utilities, services  
8 and infrastructure in the Davao Oriental Ecozone;

9 (f) Regulate and undertake the establishment, operation and  
10 maintenance of utilities, other services and infrastructure in the Davao  
11 Oriental Ecozone such as, but not limited to, heat, light and power, water  
12 supply, telecommunications, transport, toll roads and bridges, port services,  
13 etc. and to fix just, reasonable and competitive rates, fares, charges and  
14 prices thereof;

15 (g) Construct, acquire, own, lease, operate and maintain, on its own or  
16 through contracts, franchises, licenses, bulk purchases from the private sector  
17 or permits under any of the schemes allowed in Republic Act No. 6957 (the  
18 Build-Operate-Transfer Law, as amended), or joint ventures, adequate  
19 facilities and infrastructure required or needed for the operation and  
20 development of the Davao Oriental Ecozone, in coordination with appropriate  
21 national and local government authorities and in conformity with applicable  
22 laws thereon;

23 (h) Operate on its own, either directly or through licenses to others,  
24 tourism-related activities and sports facilities, such as golf courses and others,  
25 under priorities and standards set by the DOEZA;

26 (i) Subject to the approval of the President of the Philippines and the  
27 Monetary Board of the Bangko Sentral ng Pilipinas (BSP), upon the  
28 recommendation of the DOF, to raise or borrow adequate and necessary funds

1 from local or foreign sources to finance its projects and programs under this  
2 Act and, for that purpose, to issue bonds, promissory notes and other forms of  
3 securities and to secure the same by a guarantee, pledge, mortgage, deed of  
4 trust or an assignment of all or part of its property or assets;

5 (j) Provide security for the Davao Oriental Ecozone in coordination  
6 with the national and local governments. Military forces sent by the national  
7 government for the purpose of defense shall not interfere in the internal affairs  
8 of the Davao Oriental Ecozone and expenditures for these military forces shall  
9 be borne by the national government. For this purpose, the DOEZA may  
10 establish and maintain its security forces and firefighting capability or hire  
11 others to provide the same;

12 (k) Protect, preserve, maintain and develop the virgin forests, beaches,  
13 coral and coral reefs, and maintain ecological balance within the Davao  
14 Oriental Ecozone;

15 (l) Create, operate and/or contract to operate such functional units or  
16 offices of the DOEZA as it may deem necessary;

17 (m) Adopt, alter and use a corporate seal; contract, lease, buy, acquire,  
18 own or otherwise dispose of personal and/or real property of whatever nature;  
19 sue and be sued; and otherwise carry out its functions and duties as provided  
20 for in this Act;

21 (n) Issue certificates of origin for products manufactured or processed  
22 in the Davao Oriental Ecozone in accordance with the prevailing rules of  
23 origin and the pertinent regulations of the PEZA, the DTI and/or the DOF;

24 (o) Issue working visas renewable every two (2) years to foreign  
25 executives and foreign technicians with highly specialized skills which no  
26 Filipino possesses, as certified by the Department of Labor and Employment;

1 (p) Report to the Bureau of Immigration the names of the foreigners  
2 who have been granted permanent resident status and working visas within  
3 thirty (30) days after the issuance of such grant;

4 (q) Exercise such powers as may be essential, necessary or incidental to  
5 the powers granted to it hereunder, as well as those that shall enable it to carry  
6 out, implement and accomplish the purposes, objectives and policies of this  
7 Act; and

8 (r) Issue rules and regulations consistent with the provisions of this Act  
9 as may be necessary to accomplish and implement the purposes, objectives and  
10 policies provided herein.

11 SEC. 14. *Tax Exemptions.* – The DOEZA is hereby declared exempt  
12 from the payment of all taxes, duties, fees, imports, charges, costs and service  
13 fees in any court or administrative proceedings in which it may be a party.

14 The foregoing exemptions may, however, be entirely or partially lifted  
15 by the President of the Philippines upon the recommendation of the Secretary  
16 of Finance, not earlier than five (5) years from the effectivity of this Act, if the  
17 President shall find the DOEZA to be self-sustaining and financially capable  
18 by then to pay such taxes, customs duties, fees and other charges after  
19 providing for debt service requirements of the DOEZA and of its projected  
20 capital and operating expenditures.

21 Furthermore, all donations made by any person or entity in favor of the  
22 DOEZA shall be exempt from the payment of the donor's tax and the same  
23 shall be considered as deductible from the gross income of the donor, pursuant  
24 to the NIRC of 1997, as amended.

25 SEC. 15. *Banking Rules and Regulations.* – Existing banking laws and  
26 rules/regulations of the BSP shall apply to banks and financial institutions to  
27 be established in the Davao Oriental Ecozone, such as those governing foreign  
28 exchange and other current account transactions (trade and nontrade), local and

1 foreign borrowings, foreign investments, establishment and operation of local  
2 and foreign banks, foreign currency deposit units, offshore banking units and  
3 other financial institutions under the supervision of the BSP.

4 SEC. 16. *Remittance of Earnings* – In the case of foreign investments,  
5 a registered enterprise in the DOEZA shall have the right to remit earnings  
6 from the investment in the currency in which the investment was originally  
7 made and at the exchange rate prevailing at the time of remittance, subject to  
8 the provisions of Section 74 of Republic Act No. 265 (The New Central Bank  
9 Act), as amended.

10 SEC. 17. *Board of Directors*. – The powers of the DOEZA shall be  
11 vested in and exercised by a Board of Directors, hereinafter referred to as the  
12 Board, which shall be composed of the following:

13 (a) The chairperson who shall, at the same time, be the administrator of  
14 the DOEZA,

15 (b) A vice chairperson who shall come from among the members of the  
16 Board;

17 (c) Members consisting of:

18 (1) The Governor of the Province of Davao Oriental;

19 (2) The congressional representative of the district covering the site of  
20 the Davao Oriental Ecozone;

21 (3) The mayors of the City of Mati and the municipalities of San Isidro  
22 and Lupon;

23 (4) One (1) representative from the domestic investors;

24 (5) One (1) representative from the foreign investors; and

25 (6) One (1) representative from labor from among the workers in the  
26 Davao Oriental Ecozone.

1           The governor, the congressional representative and the mayors of the  
2 municipalities of San Isidro and Lupon shall serve as *ex officio* members of the  
3 Board, whose terms in the Board correspond to their term as elected officials.

4           The chairperson and the members of the Board, except the *ex officio*  
5 members, shall be appointed by the President of the Philippines to serve for a  
6 term of six (6) years unless sooner removed for cause or dies or resigns  
7 voluntarily. In case of death, resignation or removal for cause, the replacement  
8 shall serve only the unexpired portion of the term.

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

16           The members of the Board shall each receive *per diem* at rates to be  
17 determined by the Department of Budget and Management (DBM) in  
18 accordance with existing rules and regulations: *Provided, however,* That the  
19 total *per diem* collected each month shall not exceed the equivalent *per diem*  
20 for four (4) meetings. Unless and until the President of the Philippines has  
21 fixed a higher *per diem* for the members of the Board, such *per diem* shall not  
22 be more than Ten thousand pesos (P10,000.00) for every Board meeting.

23           SEC. 18. *Powers and Duties of the Chairperson-Administrator* – The  
24 chairperson-administrator shall have the following powers and duties:

25           (a) Direct and manage the affairs of the DOEZA in accordance with the  
26 policies of the Board;

27           (b) Establish the internal organization of the DOEZA under such  
28 conditions that the Board may prescribe;

1 (c) Submit an annual budget and necessary supplemental budget to the  
2 Board for its approval;

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

5 (e) Submit to the Board for its approval policies, systems, procedures,  
6 rules and regulations that are essential to the operation of the Davao Oriental  
7 Ecozone;

8 (f) Create a mechanism in coordination with relevant agencies for the  
9 promotion of industrial peace, the protection of the environment and the  
10 advancement of the quality of life; and

11 (g) Perform such other duties as may be assigned to him/her by the  
12 Board or which are necessary or incidental to his/her office.

13 SEC. 19. *Organization and Personnel.* – The Board of Directors of the  
14 DOEZA shall provide for an organization and staff of its officers and  
15 employees. Upon the recommendation of the chairperson-administrator, the  
16 Board shall appoint and fix the remuneration and other emoluments of its  
17 officers and employees in accordance with existing laws on compensation and  
18 position classification: *Provided,* That the Board shall have exclusive and final  
19 authority to promote, transfer, assign or reassign officers of the DOEZA, any  
20 provision of existing law to the contrary notwithstanding: *Provided, further,*  
21 That the chairperson-administrator may carry out removal of such officers and  
22 employees.

23 The officers and employees of the DOEZA, including all members of  
24 the Board, shall not engage directly or indirectly in partisan activities nor take  
25 part in any election, except to vote.

26 No officer or employee of the DOEZA, subject to civil service laws and  
27 regulations, shall be removed or suspended except for cause, as provided by  
28 law.

1           SEC. 20. *General Manager.* – The Board of Directors of the DOEZA  
2 shall appoint a full-time professional and competent administrator and chief  
3 executive officer for the DOEZA whose compensation shall be determined by  
4 its Board of Directors and shall be in accordance with the revised  
5 compensation and position classification system. The administrator as chief  
6 executive officer of the DOEZA shall be responsible to the Board and to the  
7 President of the Philippines for the efficient management and operation of the  
8 DOEZA.

9           SEC. 21. *Applicability Clause* – The provisions of Sections 30 to 41 of  
10 Republic Act No. 7916 (The Special Economic Zone Act of 1995), as  
11 amended, on leases of lands and buildings, land conversion, shipping and  
12 shipping register, protection of environment, termination of business,  
13 registration of business enterprises, one-stop shop center and on industrial  
14 harmony in the ecozones shall apply to the DOEZA.

15           SEC. 22. *Capitalization.* – The DOEZA shall have an authorized  
16 capital stock of two billion (2,000,000,000) no-par shares with a minimum  
17 issue of Ten pesos (P10.00) each, the majority shares of which shall be  
18 subscribed and paid for by the national government and the LGUs embracing  
19 the Davao Oriental Ecozone. The Board of Directors of the DOEZA may,  
20 with the written concurrence of the Secretary of Finance, sell shares,  
21 representing not more than forty *per centum* (40%) of the capital stock of the  
22 DOEZA to the general public under such policy as the Board and the Secretary  
23 of Finance may determine. The national government and the LGUs shall, in no  
24 case, own less than sixty *per centum* (60%) of the total issued and outstanding  
25 capital of the DOEZA.

26           The amount necessary to subscribe and pay for the shares of the national  
27 government to the capital stock of the DOEZA shall be included in the annual

1 General Appropriations Act. For LGUs, the funds shall be taken from their  
2 internal revenue allotment and other local funds.

3 SEC. 23. *Supervision and Coordination of Development Plans* -- For  
4 purposes of policy direction and coordination, the Davao Oriental Ecozone  
5 shall be under the direct control and supervision of the Office of the President  
6 of the Philippines.

7 SEC. 24. *Relationship with the Regional Development Council.* -- The  
8 DOEZA shall determine the development goals for the Davao Oriental  
9 Ecozone within the framework of national development plans, policies and  
10 goals. The administrator shall, upon approval by the Board, submit the Davao  
11 Oriental Ecozone plans, programs and projects to the Regional Development  
12 Council for inclusion and inputs to the overall regional development plan.

13 SEC. 25. *Relationship with LGUs.* -- Except as herein provided, the  
14 LGUs comprising the Davao Oriental Ecozone shall retain their basic  
15 autonomy and identity. The City of Mati and the municipalities of San Isidro  
16 and Lupon shall operate and function in accordance with the Local  
17 Government Code of 1991. In case of any conflict among the DOEZA and the  
18 municipalities of San Isidro and Lupon on matters affecting the Davao Oriental  
19 Ecozone other than defense and security matters, the decision of the DOEZA  
20 shall prevail.

21 SEC. 26. *Legal Counsel* -- The DOEZA shall have its own internal  
22 legal counsel under the supervision of the government corporate counsel.  
23 When the exigencies of its businesses and operations demand it, the DOEZA  
24 may engage the services of an outside counsel either on a case to case or on a  
25 fixed retainer basis

26 SEC. 27. *Interpretation/Construction.* -- The powers, authorities and  
27 functions that are vested in the DOEZA are intended to decentralize  
28 governmental functions and authority and promote an efficient and effective



1 working relationship among the Davao Oriental Ecozone, the national  
2 government and the LGUs.

3       SEC. 28. *Auditing.* - The Commission on Audit shall appoint a  
4 representative who shall be a full-time auditor of the DOEZA and assign such  
5 number of personnel as may be necessary to assist said representative in the  
6 performance of his/her duties. The salaries and emoluments of the assigned  
7 auditor and personnel shall be in accordance with pertinent laws, rules and  
8 regulations.

9       SEC. 29. *Separability Clause.* - If any provision of this Act shall be  
10 held unconstitutional or invalid, the other provisions not otherwise affected  
11 shall remain in full force and effect.

12       SEC. 30. *Repealing Clause.* - All laws, executive orders or issuances or  
13 any part thereof which are inconsistent herewith are hereby repealed or  
14 amended accordingly.

15       SEC. 31. *Effectivity Clause.* - This Act shall take effect fifteen (15)  
16 days after its publication in at least two (2) national newspapers of general  
17 circulation.

Approved,

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