



HOUSE OF REPRESENTATIVES

H. No. 5952

BY REPRESENTATIVE PICHAY, PER COMMITTEE REPORT NO. 2072

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 House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. *Short Title.* – This Act shall be known as the “Surigao del
2 Sur Special Economic Zone and Freeport Act of 2006”.

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 family income, and thereby improve the level and
8 quality of living conditions through the establishment, among others, of
9 special economic zones and freeports in suitable and strategic locations in the
10 country and through measures that will attract legitimate and productive
11 foreign investments.

1 SEC. 3. *Creation of the Surigao del Sur Special Economic Zone and*
2 *Freeport Act of 2006.* – In accordance with the foregoing declared policy and
3 subject to the concurrence of the concerned local government units (LGUs) in
4 the Province of Surigao del Sur affected by the zone, there is hereby
5 established a special economic zone and freeport in the municipalities of
6 Carrascal, Cantilan, Madrid, Carmen and Lanuza in the Province of Surigao
7 del Sur to be known as the Surigao del Sur Special Economic Zone and
8 Freeport, hereinafter referred to as the Surigao del Sur Ecozone. The specific
9 metes and bounds of the Surigao del Sur Ecozone shall be more particularly
10 defined in a presidential proclamation that shall be issued for this purpose.

11 SEC. 4. *Governing Principles.* – The Surigao del Sur Ecozone shall be
12 managed and operated by the Surigao del Sur Special Economic Zone and
13 Freeport Authority, hereinafter referred to as the SDSEZA, created under
14 Section 10 of this Act, under the following principles:

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

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

25 (C) The Surigao del Sur Ecozone may establish a mutually beneficial
26 economic relation with other entities or enterprises within the country or,
27 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 Surigao del Sur Ecozone,
5 either by themselves or in a joint venture with Filipinos in any sector of
6 industry, international trade and commerce within the Surigao del Sur
7 Ecozone.

8 (E) The Surigao del Sur Ecozone shall be managed and operated as a
9 separate customs territory, thereby ensuring the free flow or movement of
10 goods and capital within, into and out of its territory, and shall likewise
11 provide incentives such as tax- and duty-free importations of raw materials and
12 capital equipment to registered enterprises located therein. However,
13 exportation or removal of goods from the territory of the Surigao del Sur
14 Ecozone to the other parts of the Philippine territory shall be subject to
15 customs duties and taxes under the Tariff and Customs Code of the
16 Philippines, as amended, and the National Internal Revenue Code (NIRC) of
17 1997, as amended.

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

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

1 the payment of corresponding taxes on raw materials and other regulations that
2 may be formulated by the SDSEZA, together with the PEZA, the Bureau of
3 Customs (BoC) and the DTI in accordance with the NIRC 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 the PEZA. Enterprises engaged in
7 industries included in such Negative List shall not be allowed to sell their
8 products locally.

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

12 SEC. 5. *Incentives to Registered Enterprises.* – The SDSEZA may
13 administer the following incentives to the registered enterprises located therein
14 to the extent of the activity/project:

15 (A) Income Tax Holiday (ITH) – Registered enterprises shall be
16 entitled to an ITH from the start of their commercial operations to the extent of
17 their activity under the following categories:

18 (1) Category A – Registered domestic enterprises located in highly
19 developed areas, as determined by the Board of Investments (BOI), shall be
20 entitled to a four-year ITH.

21 (2) Category B – Registered domestic enterprises on the following
22 shall be entitled to a six-year ITH:

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

24 (b) Producing/rendering new products/services or having strong
25 backward or forward linkages.

26 (3) Category C – Registered export enterprises shall be entitled to a
27 six-year ITH: *Provided, however,* That if the export enterprise complies with
28 the following: (a) large capital investments or sizeable employment

1 generation, or (b) use high level of technology, or (c) located outside Metro
2 Manila, it shall be entitled to an eight-year ITH.

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

7 Additional investments in the project shall be entitled to the ITH
8 corresponding to such investments as may be determined by the BOI.
9 Additional ITH may be granted for as long as the investment is made on the
10 same project: *Provided*, That the project is listed in the IPP at the same time
11 the additional investment in the project is made: *Provided, further*, That the
12 entitlement period for additional investments shall not exceed three times the
13 period provided under this subsection: *Provided, finally*, That the total ITH
14 period for an export enterprise availing of an eight-year ITH shall not exceed
15 twenty (20) years. Any unused incentives shall therefore be deemed forfeited
16 if not used during the incentive period.

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

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

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

1 (B) Net Operating Loss Carryover (NOLCO) – Net operating loss of
2 the business or enterprise during the first three years from the start of
3 commercial operations which have not been previously offset as a deduction
4 from the gross income shall be carried over as a deduction from the gross
5 income for the next five consecutive years immediately following the year of
6 such loss: *Provided, however,* That operating loss resulting from the
7 availment of incentives provided in this Code shall not be entitled to the
8 NOLCO.

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

11 (C) Imposition of a Tax Rate of Five Percent (5%) on Gross Income
12 Earned (GIE) – Except for real property tax on land, no local and national
13 taxes as prescribed under Republic Act No. 8424, also known as the “Tax
14 Reform Act of 1997”, such as the income tax, the excise tax and the franchise
15 taxes shall be imposed on business establishments operating within the
16 Surigao del Sur Ecozone. In lieu thereof, five percent (5%) of the gross
17 income earned shall be paid as follows:

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

19 (2) Two percent (2%) shall be remitted by the business establishments
20 to the treasurer’s office of the municipality or city where the enterprise is
21 located.

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

25 (D) Accelerated Depreciation – Accelerated depreciation of plant,
26 machinery and equipment that are reasonably needed and actually used for the
27 production and transport of goods and services may be allowed using a rate
28 not exceeding twice the rate which would have been used had the annual

1 allowance been computed in accordance with the rules and regulations
2 prescribed by the Secretary of Finance and the provisions of the NIRC of
3 1997, as amended.

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

13 (a) These are not manufactured domestically in sufficient quantity, of
14 comparable quality and at reasonable prices;

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

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

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

7 (iv) For reasons of proven technical obsolescence.

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

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

27 The registered export-oriented enterprise shall be granted a tax credit
28 equivalent to the amount of duties that would have been waived on the

1 machinery, capital equipment and raw materials, supplies, parts and semi-
2 finished products used in the fabrication of machinery and capital equipment,
3 had these items been imported, upon its submission to the Department of
4 Finance (DOF) of the bill of materials evidencing the transaction value of such
5 and other pertinent documents, for verification and proper endorsement.

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

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

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

20 (G) Raw Materials Incentives – Every registered export-oriented
21 enterprise shall enjoy a tax credit equivalent to the internal revenue taxes and
22 customs duties paid on the supplies, raw materials and semi-manufactured
23 products: *Provided*, That the same are not sufficient in quantity, quality or are
24 not competitively priced which are used in the manufacture, processing or
25 production of its export products forming part thereof, exported directly and
26 indirectly by the registered export-oriented enterprise based on the actual taxes
27 and duties paid for such materials/supplies/semi-manufactured products by the
28 registered enterprise.

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

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

9 Availment of the incentives by a registered enterprise shall be subject to
10 the following: (1) that said breeding stocks and genetic materials would have
11 been qualified for tax- and duty-free importation under the preceding
12 paragraph; (2) that the breeding stocks and genetic materials are reasonably
13 needed in the registered activity; (3) that approval of the SDSEZA has been
14 obtained by the registered enterprise; and (4) that the purchase is made within
15 ten (10) years from the date of registration of commercial operation of the
16 registered enterprise.

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

19 (I) Exemption from Wharfage Dues – The provisions of law to the
20 contrary notwithstanding, exports by a registered enterprise shall be exempted
21 from wharfage dues.

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

1 (K) (1) Tax Treatment of Merchandise in the Surigao del Sur Ecozone
2 – (a) Except as otherwise provided in this Act, foreign and domestic
3 merchandise, raw materials, supplies, articles, equipment, machineries, spare
4 parts and wares of every description, except those prohibited by law, brought
5 into the zone to be sold, stored, broken up, repacked, assembled, installed,
6 sorted, cleaned, graded or otherwise processed, manufactured, mixed with
7 foreign or domestic merchandise whether directly or indirectly related in such
8 activity, shall not be subject to customs and internal revenue laws and
9 regulations nor to local tax ordinances, any provision of law to the contrary
10 notwithstanding.

11 (b) Merchandise purchased by a registered Surigao del Sur Ecozone
12 enterprise, from the customs territory and subsequently brought into the export
13 processing zone, shall be considered as export sales and exportation thereof
14 shall be entitled to the benefits allowed by law for such transaction.

15 (c) Domestic merchandise sent from the Surigao del Sur Ecozone to
16 the customs territory shall, whether or not combined with or made part of other
17 articles likewise of local origin or manufactured in the Philippines while in the
18 export processing zone, be subject to internal revenue laws of the Philippines
19 as domestic goods sold, transferred or disposed of for local consumption.

20 (d) Merchandise sent from the Surigao del Sur Ecozone to the customs
21 territory shall, whether or not combined with or made part of other articles
22 while in the zone, be subject to rules and regulations governing imported
23 merchandise. The duties and taxes shall be based on the value of said
24 imported materials (except when the final product is exempt).

25 (e) Domestic merchandise on which all internal revenue taxes have
26 been paid, if subject thereto, and foreign merchandise previously imported on
27 which has been paid, or which have been admitted free of duty and tax, may be

1 taken into the Surigao del Sur Ecozone from the customs territory of the
2 Philippines and be brought back thereto free of quotas, duty or tax.

3 (f) Subject to such regulations respecting identity and safeguarding of
4 revenue as the SDSEZA may deem necessary, when the identity of an article
5 entered into the export processing zone under the immediately preceding
6 paragraph has been lost, such article when removed from the zone and taken to
7 the customs territory shall be treated as foreign merchandise entering the
8 country for the first time, under the provisions of the Tariff and Customs Code
9 of the Philippines, as amended.

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

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

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

24 (3) Tax Treatment of Services in the Surigao del Sur Ecozone – (a)
25 Sale of service by an entity from the customs territory to a registered ecozone
26 or free trade enterprise, or by a registered ecozone or freeport enterprise to
27 another ecozone or freeport enterprise shall be treated as indirect export and
28 hence, entitled to the benefits allowed by law for such transaction.

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

4 (L) Registered export-oriented enterprise shall have access to the
5 utilization of the bonded warehousing system in accordance with the rules and
6 regulations of the BoC.

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

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

26 The foreign nationals admitted herein, as well as their respective
27 spouses and dependents, shall be exempt from: (1) obtaining Alien Certificate
28 of Registration and Emigration Clearance Certificates; and (2) securing the

1 Alien Employment Permit (AEP) and all types of clearances, permits, licenses
2 or their equivalents required by any government department or agency.

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

7 *Provided, That,*

8 (A) He is at least eighteen (18) years of age;

9 (B) He has not been convicted of a crime involving moral turpitude;

10 (C) He is not afflicted with any loathsome, dangerous or contagious
11 disease; and

12 (D) He has not been institutionalized for any mental disorder or
13 disability: *Provided, further,* That in securing the investor's visa, the alien-
14 applicant shall be entitled to the same privileges provided for under Section 5
15 (M) hereof.

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

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

23 – The SDSEZA shall be responsible for the administration and implementation
24 of the incentives granted to its respective registered enterprises: *Provided,*
25 That any incentive administration policy adopted by the BOI for registered
26 enterprises shall be uniformly applied by the SDSEZA.

27 The following are the duties and responsibilities of the SDSEZA in the
28 administration of incentives:

1 (A) To adopt consistent procedures of administering incentives in
2 accordance with the guidelines established by the BOI;

3 (B) To adopt and implement systems and procedures affecting trade
4 and customs policies in accordance with the requirements established by the
5 DOF and the BOI;

6 (C) To submit data and information to the DOF and the BOI as
7 required by any of these agencies to ascertain consistency of investment
8 policies and incentives, including their implementation as provided in
9 paragraph (A) herein, and to ensure proper implementation of systems and
10 procedures affecting trade and customs policies as provided in paragraph (B)
11 herein; and

12 (D) To perform all other duties and responsibilities as may be required
13 by the President of the Philippines.

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

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

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

26 Fiscal incentives under this Act shall be terminated after a cumulative
27 period of twenty (20) years from the date of registration or the start of
28 commercial operation, whichever is applicable, except that it could be

1 extended with regard to industries deemed indispensable to national
2 development.

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

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

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

18 SEC. 12. *Powers and Functions of the SDSEZA.* – The SDSEZA shall
19 have the following powers and functions:

20 (A) To operate, administer, manage and develop the Surigao del Sur
21 Ecozone according to the principles and provisions set forth in this Act;

22 (B) To recommend to the President of the Philippines the issuance of a
23 proclamation to fix and delimit the site of the Surigao del Sur Ecozone;

24 (C) To register, regulate and supervise the enterprises in the Surigao
25 del Sur Ecozone in an efficient and decentralized manner, subject to existing
26 laws;

27 (D) To coordinate with the LGUs and to exercise general supervision
28 over the development plans, activities and operation of ecozones;

1 (E) To regulate and undertake the establishment, operation and
2 maintenance of utilities, other services and infrastructure in the Surigao del
3 Sur Ecozone such as, but not limited to, heat, light and power systems using
4 indigenous and/or renewable and other energy sources, water supply,
5 telecommunications, transport, toll roads and bridges, port services, etc. The
6 SDSEZA shall have the power to fix just, reasonable and competitive rates,
7 fares, charges and prices thereof, notwithstanding the provisions of the
8 Electric Power Industry Reform Act of 2001 and other pertinent laws;

9 (F) To construct, acquire, own, lease, operate and maintain on its own
10 or through contracts, franchises, licenses, bulk purchases from the private
11 sector or permits under any of the schemes allowed in Republic Act No. 6957
12 (otherwise known as the Build-Operate-Transfer Law, as amended by
13 Republic Act No. 7718), or joint venture, adequate facilities and infrastructure
14 required or needed for the operation and development of the Surigao del Sur
15 Ecozone, in coordination with the appropriate national and local government
16 authorities and in conformity with applicable laws thereon;

17 (G) To operate on its own either directly or indirectly, or through a
18 license to other tourism-related activities, including games, amusements,
19 recreational and sport facilities;

20 (H) Subject to the approval of the President and the Monetary Board of
21 the Bangko Sentral ng Pilipinas (BSP), upon the recommendation of the DOF,
22 to raise or borrow adequate and necessary funds from local or foreign sources
23 to finance its projects and programs under this Act and for that purpose, to
24 issue bonds, promissory notes and other forms of securities, and to secure the
25 same by a guarantee, pledge, mortgage, deed of trust or an assignment of all or
26 part of its property or assets;

27 (I) To provide security for the Surigao del Sur Ecozone in
28 coordination with the national and local governments. Military forces sent by

1 the national government for the purpose of defense shall not interfere in the
2 internal affairs of the ecozone, and expenditures for these military forces shall
3 be borne by the national government. For this purpose, the SDSEZA may
4 establish and maintain its security forces and firefighting capability or hire
5 others to provide the same;

6 (J) To protect, preserve, maintain and develop the virgin forests,
7 beaches, coral and coral reefs and maintain ecological balance within the
8 Surigao del Sur Ecozone;

9 (K) To create, operate and/or contract to operate such functional units
10 or offices of the SDSEZA as it may deem necessary;

11 (L) To adopt, alter and use a corporate seal; make contracts, leases,
12 own or otherwise dispose of personal or real property; sue and be sued; and
13 otherwise carry out its functions and duties as provided for in this Act;

14 (M) To issue certificates of origin for products manufactured or
15 processed in the Surigao del Sur Ecozone in accordance with the prevailing
16 rules of origin and the pertinent regulations of the PEZA, the DTI and/or the
17 DOF;

18 (N) To issue working visas renewable every two years for foreign
19 executives and foreign technicians with highly specialized skills which no
20 Filipino possesses, as certified by the Department of Labor and Employment
21 (DOLE);

22 (O) To report to the Bureau of Immigration the names of the foreigners
23 who have been granted permanent resident status and working visas within
24 thirty (30) days after the issuance of such grant;

25 (P) To exercise such powers as may be essential, necessary or
26 incidental to the powers granted to it hereunder, as well as those that shall
27 enable it to carry out, implement and accomplish the purposes, objectives and
28 policies of this Act; and

1 (Q) To issue rules and regulations consistent with the provisions of this
2 Act as may be necessary to accomplish and implement the purposes,
3 objectives and policies provided herein.

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

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

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

20 (A) The chairman, who shall at the same time be the administrator of
21 the SDSEZA;

22 (B) A vice chairman, who shall come from among the members of the
23 Board;

24 (C) The congressional representative of the district covering the site of
25 the Surigao del Sur Ecozone;

26 (D) One representative from the Provincial Government of Surigao del
27 Sur;

28 (E) One representative from the domestic investors;

1 (F) One representative from the foreign investors; and

2 (G) One representative from the workers working in the Surigao del
3 Sur Ecozone.

4 The congressional representative and the representative of the
5 provincial government shall serve as *ex officio* members of the Board, whose
6 terms in the Board corresponds to their term as elected officials.

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

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

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

26 SEC. 16. *Powers and Duties of the Chairman-Administrator.* – The
27 chairman-administrator shall have the following powers and duties:

1 (A) To direct and manage the affairs of the SDSEZA in accordance
2 with the policies of the Board;

3 (B) To establish the internal organization of the SDSEZA under such
4 conditions that the Board may prescribe;

5 (C) To submit an annual budget and necessary supplemental budget to
6 the Board for its approval;

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

9 (E) To submit to the Board for its approval, policies, systems,
10 procedures, rules and regulations that are essential to the operation of the
11 Surigao del Sur Ecozone;

12 (F) To create a mechanism in coordination with relevant agencies for
13 the promotion of industrial peace, the protection of the environment and the
14 advancement of the quality of life in the Surigao del Sur Ecozone; and

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

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

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

4 No officer or employee of the SDSEZA, subject to civil service laws
5 and regulations, shall be removed or suspended except for cause, as provided
6 for by law.

7 SEC. 18. *Resolution of Labor Disputes.* – The right of labor to form
8 unions or associations shall be observed. However, strikes and lockouts shall
9 be prohibited within the Surigao del Sur Ecozone, notwithstanding the
10 provisions of the Labor Code and other pertinent laws. Labor disputes shall
11 be resolved through mediation, conciliation and such other modes of dispute
12 resolution authorized by law.

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

19 SEC. 20. *Capitalization.* – The SDSEZA shall have an authorized
20 capital stock of two billion (2,000,000,000) no-par shares with a minimum
21 issue of Ten pesos (P10.00) each, the majority shares of which shall be
22 subscribed and paid for by the national government and the LGUs embracing
23 the Surigao del Sur Ecozone. The Board of Directors of the SDSEZA may,
24 with the written concurrence of the Secretary of Finance, sell shares,
25 representing not more than forty *per centum* (40%) of the capital stock of the
26 SDSEZA to the general public under such policy as the Board and the
27 Secretary of Finance may determine. The national government and the LGUs

1 shall, in no case, own less than sixty *per centum* (60%) of the total issued and
2 outstanding capital of the SDSEZA.

3 The amount necessary to subscribe and pay for the shares of the
4 national government to the capital stock of the SDSEZA shall be included in
5 the annual General Appropriations Act. For the LGUs, the funds shall be
6 taken from their internal revenue allotment (IRA) and other local funds.

7 *SEC. 21. Supervision and Coordination of Development Plans.* – For
8 purposes of policy direction and coordination, the SDSEZA shall be under the
9 direct control and supervision of the Office of the President of the Philippines.

10 *SEC. 22. Relationship with the Regional Development Council.* – The
11 SDSEZA shall determine the development goals for the Surigao del Sur
12 Ecozone within the framework of national development plans, policies and
13 goals. The administrator shall, upon approval by the Board, submit the
14 Surigao del Sur Ecozone plans, programs and projects to the Regional
15 Development Council for inclusion and inputs for the overall regional
16 development plan.

17 *SEC. 23. Relationship with the Local Government Units.* – Except as
18 herein provided, the LGUs comprising the Surigao del Sur Ecozone shall
19 retain their basic autonomy and identity. The municipalities of Carrascal,
20 Cantilan, Madrid, Carmen and Lanuza shall operate and function in
21 accordance with the Local Government Code of 1991. In case of any conflict
22 between the SDSEZA and the Province of Surigao del Sur on matters affecting
23 the Surigao del Sur Ecozone other than defense and security matters, the
24 decision of the SDSEZA shall prevail.

25 *SEC. 24. Interpretation/Construction.* – The powers, authorities and
26 functions that are vested in the SDSEZA are intended to decentralize
27 government functions and authority and promote an efficient and effective

1 working relationship between the Surigao del Sur Ecozone, the national
2 government and the LGUs.

3 SEC. 25. *Auditing.* – The Commission on Audit shall appoint a
4 representative who shall be a full-time auditor of the SDSEZA 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. 26. *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. 27. *Repealing Clause.* – All laws, executive orders or issuances
13 or any parts thereof which are inconsistent herewith are hereby repealed and
14 amended accordingly.

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

Approved,

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