

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

February 5, 2008

REVENUE MEMORANDUM CIRCULAR NO. 23-2008

SUBJECT : **Publishing the Full Text of Republic Act No. 9490, Entitled An Act Establishing the Aurora Special Economic Zone in the Province of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor and for Other Purposes.**

TO : **All Internal Revenue Officials, Employees and Others Concerned.**

For the information and guidance of all internal revenue officials, employees and others concerned, quoted hereunder is the full text of REPUBLIC ACT NO. 9490, issued by the President of the Philippines on June 29, 2007.

“[REPUBLIC ACT NO. 9490]

AN ACT ESTABLISHING THE AURORA SPECIAL ECONOMIC ZONE IN THE PROVINCE OF AURORA, CREATING FOR THE PURPOSE THE AURORA 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:

SECTION 1. *Short Title.* - This Act shall be known as the “Aurora Special Economic Zone Act of 2007.”

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to actively encourage, promote, induce and accelerate the sound and balanced industrial, economic and social development of the country in order to provide jobs to the people, especially those in rural areas, increase their productivity and their individual and family income,

and thereby improve the level and quality of their living conditions through the establishment, among others, of special economic zones in suitable and strategic locations in the country and through measures that shall effectively attract legitimate and productive foreign investments.

SEC. 3. *Creation of the Aurora Special Economic Zone.* - In pursuit of the foregoing declared policy and subject to the concurrence of the concerned local government units (LGUs) of Aurora affected by the zone, there is hereby established a special economic zone, hereinafter referred to as the Aurora Ecozone. The Aurora Ecozone shall cover the entire area embraced by barangays Esteves, Dibet and Dibacong, all in the Municipality of Casiguran. The specific metes and bounds of the Aurora Ecozone shall be more particularly described and defined as follows:

A portion of an agricultural land of the public domain, embraced by CAD-358-D of Casiguran cadastre and beginning at a point marked "1" on the map which is located at the center of the intersection of a road going to Barangay Bianoan, Casiguran, Aurora and to the barangay road going to Casiguran National High School (CNHS), Barangay Esteves, Casiguran, Aurora with geographic coordinates of 16-12-05 North, 122-02-34.7 East.

Thence N 05⁰ 00' E 1,000.00 m. to corner 2, intersection of barangay road to Barangay Dibet and So. Bikal, Barangay Esteves, Casiguran, Aurora.

Thence N 70⁰ 00' E 1,700.00 m. to corner 3, stake on the ground

Thence S 08⁰ 00' E 1,300.00 m. to corner 4, along the shoreline of Casiguran Bay

Thence S 85⁰ 00' W 380.00 m. to corner 5, center of Barangay Road and Motiong Creek

Thence N 16⁰ 00' E 700.00 m. to corner 6, intersection of barangay road to Barangay Esteves and Dibet, Casiguran, Aurora

Thence N 58⁰ 00' E 1,500.00 m. to corner 7, center of road at Banawang Creek

Thence Due South 250.00 m. to corner 8, along the shoreline of Casiguran Bay

Thence S 35⁰ 00' W 600.00 m. to corner 9, along the shoreline of Casiguran Bay

Thence N 73⁰ 00' W 600.00 m. to corner 10, Gmelina tree 40 cm. diam. along barangay road

Thence Due North 830.00 m. to corner 11, following the road from CNHS

Thence N 40° 00' E 1,000.00 m. to corner 1, following the road from CNHS to point of beginning containing an area of five hundred (500) hectares, more or less, subject to actual ground survey: *Provided*, That the lands embraced therein shall be public lands.

SEC. 4. *Governing Principles.* - The Aurora Special Economic Zone shall be managed and operated by the Aurora Special Economic Zone Authority, hereinafter referred to as the ASEZA, created under Section 10 of this Act, under the following principles:

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

(b) The Aurora Ecozone shall be provided with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the people of the Province of Aurora and its neighboring towns and cities.

(c) The Aurora Ecozone may establish mutually beneficial economic relations with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises.

(d) Foreign citizens and companies owned by nonFilipinos in whatever proportion may set up enterprises in the Aurora Ecozone, either by themselves or in joint venture with Filipinos in any sector of industry, international trade and commerce within the Aurora Ecozone.

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

(f) Goods manufactured by an Aurora Ecozone enterprise shall be made available for immediate retail sale in the domestic market, subject to

the payment of corresponding taxes on raw materials and other regulations that may be formulated by the ASEZA, together with the PEZA, the Bureau of Customs and the DTI. However, in order to protect domestic industries, a negative list of industries shall be drawn up and regularly updated by the PEZA. Enterprises engaged in industries included in such negative list shall not be allowed to sell their products locally.

(g) The national government shall maintain its ability to coordinate with the Aurora Ecozone and the local government units.

SEC. 5. *Incentives to Registered Enterprises.* - The Aurora Special Economic Zone Authority (ASEZA) may administer the following incentives to the registered enterprises located therein to the extent of the activity/project:

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

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

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

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

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

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

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

For this purpose, a registered enterprise shall be defined as any person, natural or juridical, licensed to do business in the Philippines and registered with the Aurora Special Economic Zone Authority (ASEZA) to transact business within the Aurora Special Economic Zone. A registered export enterprise shall be defined as any registered enterprise engaged directly or indirectly in the production, manufacture or trade of

products or services which earns at least seventy percent (70%) of its normal operating revenues from the sale of its products or services abroad for foreign currency. A registered domestic enterprise, meanwhile, shall be defined as any registered enterprise not falling under the definition of a registered export enterprise.

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

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

The Bureau of Internal Revenue (BIR) shall require a registered enterprise availing of ITH or Net Operating Loss Carryover (NOLCO) to secure a certificate of eligibility from the ASEZA before submitting its income tax return (ITR) with the ASEZA for validation.

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

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

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

(C) Imposition of a tax rate of five percent (5%) on Gross Income Earned (GIE) – Except for real property tax on land, no local and national taxes as prescribed under Republic Act No. 8424, also known as “The National Internal Revenue Code of 1997, as Amended” such as income

tax, excise tax and franchise taxes, shall be imposed on registered enterprises operating within the Aurora Ecozone. In lieu thereof, five percent (5%) of the gross income earned shall be paid as follows:

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

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

All persons and service establishments in the Aurora Ecozone shall be subject to national and local taxes under the National Internal Revenue Code of 1997, as amended, and the Local Government Code.

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

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

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

(ii) They are reasonably needed and will be used exclusively by the registered enterprise in the manufacture of its products, unless prior approval of the ASEZA is secured for the part time utilization of said equipment in a nonregistered activity to maximize usage thereof or the proportionate taxes and duties are paid on a specific equipment and machinery being permanently used for nonregistered activities; and

(iii) Approval of the ASEZA was obtained by the registered enterprise for the importation of such machinery, equipment and spare parts.

Approval of the ASEZA must be secured before any sale, transfer or disposition of the imported capital equipment, machinery or spare parts is made: *Provided*, That if such sale, transfer or disposition is made

within the first five years from date of importation, any of the following conditions must be present:

- (1) the same is made to another enterprise enjoying tax and duty exemption on imported capital equipment;
- (2) the same is made to another enterprise, upon the payment of any taxes and duties on the net book value of the capital equipment to be sold;
- (3) the exportation of the capital equipment, machinery, spare parts or source documents or those required for pollution abatement and control; or
- (4) proven technical obsolescence of the said equipment, machinery or spare parts.

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

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

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

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

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

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

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

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

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

The availment of the incentives by the registered enterprise shall be subject to the following: (a) that said breeding stocks and genetic materials would have been qualified for tax and duty-free importation under the preceding paragraph; (b) that the breeding stocks and genetic materials are reasonably needed in the registered activity; (c) that approval of the ASEZA has been obtained by the registered enterprise;

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

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

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

(J) Deferred Imposition of the Minimum Corporate Income Tax.

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

(K) Tax Treatment of Merchandise in the Aurora Ecozone. -

(a) Domestic merchandise sent from the Aurora Ecozone to areas outside the said ecozone shall, whether or not combined with or made part of other articles likewise of local origin or manufactured in the Philippines while in the export processing zone, be subject to internal revenue laws of the Philippines as domestic goods sold, transferred or disposed of for local consumption.

(b) Merchandise sent from the Aurora Ecozone to areas outside the said ecozone shall, whether or not combined with or made part of other articles while in the zone, be subject to rules and regulations governing imported merchandise. The duties and taxes shall be based on the value of said imported materials (except when the final product is exempt).

(c) Articles produced or manufactured in the Aurora Ecozone and exported therefrom shall, on subsequent importation into the customs territory, be subject to the import laws applicable to like articles manufactured in a foreign country.

(d) Unless the contrary is shown, merchandise taken out of the Aurora Ecozone shall be considered for tax purposes to have been sent to customs territory.

(L) Tax Treatment of Raw Materials and Capital Equipment in the Aurora Ecozone. - Importations of raw materials and capital equipment shall be treated as in the Omnibus Investments Code.

(M) Importations of raw materials and capital equipment shall be treated as in the Omnibus Investments Code. Registered export-oriented enterprise shall have access to the utilization of the bonded warehousing

system in accordance with the rules and regulations of the Bureau of Customs.

(N) Employment of Foreign Nationals. - Subject to the provisions of Section 29 of Commonwealth Act No. 613, as amended, a registered enterprise may employ foreign nationals in supervisory or technical positions for a period not exceeding ten (10) years from its registration: *Provided*, That when the majority of the capital stock of a registered enterprise is owned by foreign investors, the positions of the president, treasurer and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein and such officer is the owner or a stockholder owning at least ten percent (10%) of the outstanding capital stock of the registered enterprise and he remains the owner or maintains his stockholdings therein.

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

The said foreign nationals admitted under this provision, as well as their respective spouses and dependents shall be exempt from: (a) obtaining alien certificates of registration and immigration clearance certificates; and (b) securing the Alien Employment Permit (AEP) and all types of clearances, permits, licenses or their equivalents required by any government department or agency.

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

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

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

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

SEC. 7. Administration, Implementation and Monitoring of Incentives. - The ASEZA shall be responsible for the administration and implementation of the incentives granted to its respective registered enterprises: *Provided*, That any incentive administration policy adopted by the BOI for registered enterprises shall be uniformly applied by the ASEZA.

The following are the duties and responsibilities of the ASEZA in the administration of incentives:

- (A) To adopt consistent procedures of administering incentives in accordance with the guidelines established by the BOI;
- (B) To adopt and implement systems and procedures affecting trade and customs policies in accordance with the requirements established by the Department of Finance (DOF) and the BOI;
- (C) To submit information on registered enterprises to the DOF and the BOI as required by any of these agencies to ascertain consistency of investment policies and incentives, including their implementation as provided in paragraph (A) herein, and to ensure proper implementation of systems and procedures affecting trade and customs policies as provided in paragraph (B) herein; and
- (D) To perform all other duties and responsibilities as may be required by the President of the Philippines.

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

SEC. 8. Extension of Period of Availment. - The availment period of the incentives provided herein may be extended by the ASEZA, in the event that the registered enterprise suffers operational *force majeure* or any event equivalent thereto, impairing its viability: *Provided*, That the

availment period shall not exceed the duration of the said *force majeure* or equivalent event.

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

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

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

SEC.10. Creation of the Aurora Special Economic Zone Authority.

- There is hereby created a body corporate to be known as the Aurora Special Economic Zone Authority, hereinafter referred to as the ASEZA, which shall manage and operate, in accordance with the provisions of this Act, the Aurora Special Economic Zone. This corporate franchise shall expire in fifty (50) years counted from the first day of the fifth (5th) calendar year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SEC. 11. Principal Office of the ASEZA. - The Aurora Special Economic Zone Authority shall maintain its principal office in the Municipality of Casiguran, but it may establish branches within the Philippines as may be necessary for the proper conduct of its business.

SEC. 12. Powers and Functions of the Aurora Special Economic Zone Authority (ASEZA). - The Aurora Special Economic Zone Authority shall have the following powers and functions:

(a) To operate, administer, manage and develop the Aurora Ecozone according to the principles and provisions set forth in this Act;

(b) To register, regulate and supervise the enterprises in the Aurora Ecozone in an efficient and decentralized manner, subject to existing laws;

(c) To coordinate with local government units and exercise general supervision over the development plans, activities and operations of the Aurora Ecozone;

(d) To regulate and undertake the establishment, operation and maintenance of utilities, other services and infrastructure in the Aurora

Ecozone such as but not limited to heat, light and power, water supply, telecommunications, transport, toll roads and bridges, port services, etc. and to fix just, reasonable and competitive rates, fares, charges and prices thereof;

(e) To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchise, licenses, bulk purchase from the private sector or permits under any of the schemes allowed in Republic Act No. 6957 (the Build-Operate-Transfer Law, as amended by R.A. No. 7718), or joint venture, adequate facilities and infrastructures required or needed for the operation and development of the Aurora Ecozone, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

(f) To operate on its own, either directly or through a license to other tourism-related activities, including games, amusements, recreational and sports facilities;

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

(h) To protect, preserve, maintain and develop the virgin forests, beaches, coral and coral reefs and maintain ecological balance within the Aurora Ecozone;

(i) To create, operate and/or contract to operate such functional units of offices of the ASEZA as it may deem necessary;

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

(k) To issue certificates of origin for products manufactured or processed in the Aurora Ecozone in accordance with prevailing rules of origin, and the pertinent regulations of the PEZA, the DTI and/or the Department of Finance (DOF);

(l) To issue working visas renewable every two (2) years to foreign executives and foreign technicians with highly specialized skills which no Filipinos possesses, as certified by the Department of Labor and Employment;

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

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

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

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

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

SEC. 15. *Board of Directors of the Aurora Special Economic Zone Authority.* - The powers of the Aurora Special Economic Zone Authority shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of the following:

(a) The Chairman who shall, at the same time be the administrator of the ASEZA;

(b) A Vice Chairman who shall come from among the members of the Board;

(c) Members consisting of:

(1) The Governor of the Province of Aurora;

(2) The Congressional Representative of the district covering the site of the Aurora Ecozone;

- (3) The mayor of the Municipality of Casiguran, Province of Aurora;
- (4) One representative from the domestic investors;
- (5) One representative from the foreign investors; and
- (6) Two representatives from the workers working in the Aurora Ecozone.

The Governor, the Congressional Representative and the mayor of the Municipality of Casiguran, Province of Aurora shall serve as *ex officio* members of the Board, whose term in the Board corresponds to their terms as elected officials.

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

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

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

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

- (a) To direct and manage the affairs of the ASEZA in accordance with the policies of the Board;
- (b) To establish the internal organization of the ASEZA under such conditions that the Board may prescribe;

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

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

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

(f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment, and the advancement of the quality of life in the Aurora Ecozone; and

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

SEC. 17. *Organization and Personnel.* - The board of directors of the ASEZA shall provide for an organization and staff of its officers and employees. Upon recommendation of the Chairman-Administrator, the Board shall appoint and fix the remuneration and other emoluments of its officers and employees in accordance with existing laws on compensation and position classification: *Provided*, That the Board shall have exclusive and final authority to promote, transfer, assign or reassign officers of the ASEZA, any provision of existing law to the contrary notwithstanding: *Provided, further*, That the Chairman-Administrator may carry out removal of such officers and employees.

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

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

SEC. 18. *Ipsa Facto Clause.* - Sections 30-41 of Republic Act No. 7916, shall *ipso facto* apply to the Aurora Special Economic Zone.

SEC. 19. *Capitalization.* - The Aurora Special Economic Zone Authority shall have an authorized capital stock of one billion (1,000,000,000) no par shares with a minimum issue of Ten pesos (P10.00) each, the majority shares of which shall be subscribed and paid for by the National Government and the local government units (LGUs) embracing the Aurora Special Economic Zone. The board of directors of the ASEZA may, with the written concurrence of the Secretary of Finance, sell shares, representing not more than *forty per centum* (40%) of the capital stock of the ASEZA to the general public under such policy as the

Board and the Secretary of Finance may determine. The National Government and the LGUs shall, in no case, own less than *sixty per centum* (60%) of the total issued and outstanding capital of the Aurora Special Economic Zone Authority.

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

SEC. 20. *Supervision.* - The Aurora Special Economic Zone shall be under the direct control and supervision of the Philippine Economic Zone Authority (PEZA) for purposes of policy direction and coordination.

SEC. 21. *Relationship with the Regional Development Council.* - The Aurora Special Economic Zone Authority shall determine the development goals for the Aurora Ecozone within the framework of national development plans, policies and goals. The Administrator shall, upon approval by the Board, submit the Aurora Ecozone plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

SEC. 22. *Relationship with Local Government Units.* - Except as herein provided, the local government units comprising the Aurora Special Economic Zone shall retain their basic autonomy and identity. The barangays of Esteves, Dibet and Dibacong, all in the Municipality of Casiguran shall operate and function in accordance with the Local Government Code of 1991. In case of any conflict between the ASEZA and the Province of Aurora on matters affecting the Aurora Ecozone other than defense and security matters, the decision of the ASEZA shall prevail.

SEC. 23. *Interpretation / Construction.* - The powers, authorities and functions that are vested in the ASEZA are intended to decentralize governmental functions and authority and promote an efficient and effective working relationship between the Aurora Ecozone, the national government, and the local government units.

SEC. 24. *Auditing.* - The Commission on Audit shall appoint a representative who shall be a full time auditor of the ASEZA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

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

SEC. 26. *Repealing Clause.* - All laws, executive orders and issuances, or any part thereof, which are inconsistent herewith are hereby repealed or amended accordingly.

SEC. 27. *Effectivity Clause.* - This Act shall take effect upon its publication in the Official Gazette or in at least one newspaper of general circulation.

Approved,

(Original Signed)
MANNY VILLAR
President of the Senate

(Original Signed)
JOSE DE VENECIA, JR.
Speaker of the House
of Representatives

This Act which is a consolidation of House Bill No. 5309 and Senate Bill No. 2603 was finally passed by the House of Representatives and the Senate on February 20, 2007.

(Original Signed)
OSCAR G. YABES
Secretary of the Senate

(Original Signed)
ROBERTO P. NAZARENO
Secretary General
House of Representatives

Approved: June 29, 2007

(Original Signed)
GLORIA MACAPAGAL-ARROYO
President of the Philippines"

All concerned are hereby enjoined to be guided accordingly and give this circular a wide publicity as possible.

(Original Signed)
LILIAN B. HEFTI
Commissioner of Internal Revenue