



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS

First Regular Session

House Bill No. **4106**



Introduced by Representative Jose Enrique S. Garcia III

EXPLANATORY NOTE

It is the Declared Principle and Policy of the State to develop a self-reliant and independent national economy, effectively encourages private enterprise, and provides incentives to needed investments with the determined purpose of equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged.

It is the policy of the state likewise to encourage and promote the establishment and development of economic areas in the country as a means to achieve and enjoy genuine a sound and balanced industrial, economic, and social development, so that territorial and political subdivisions of the State can attain meaningful local autonomy to enable the local governments to achieve their fullest development and growth as self-reliant communities and make them more effective partners in the attainment of national goals.

This measure is an amendment to some of the existing provisions of the "Freeport Area of Bataan Act" created under RA 9728 on 23 October 2009, since said period much economic development has already become apparent and has made the mentioned law less competitive with our neighboring ASEAN countries. Credible economic gains have already been achieved and accomplished since the passage and approval of the RA 9728, however, there is more room for improvement and there are more investors that can be persuaded in investing in our Freeport Area.

Steadfast in our pursuit to provide a venue and attract more qualified domestic and foreign investors with appropriate and appealing incentives, such as among others, by providing the exceedingly globally competitive investment climate and facility, opportunities for more investment portfolios, bolstering and boosting the powers and functions of the authority to be more pro-active and responsive to the demands of the international business market and increasing the financial capability of the designated authority.

This bill will highly intensify and greatly strengthen our economic capability and viability with the international or global market and would put as closer or even at par with our ASEAN neighbors in terms of investment areas.

The passage of this bill is earnestly sought.


JOSE ENRIQUE S. GARCIA III
Second District, Bataan



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**AN ACT FURTHER
STRENGTHENING THE POWERS AND FUNCTIONS OF THE
AUTHORITY OF THE FREEPORT AREA OF BATAAN (AFAB),
AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 9728,
OTHERWISE KNOWN AS THE "FREEPORT AREA OF BATAAN (FAB)
ACT OF 2009"**

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

1 **SECTION 1.** Section 3 of Republic Act No. 9728 is hereby amended to read
2 as follows:

3 "SEC. 3. Conversion of the Bataan Economic
4 Zone (BEZ) into the Freeport Area of Bataan. The existing
5 Bataan Economic Zone located in the Municipality of
6 Mariveles, Province of Bataan, is hereby converted into a
7 special economic zone and Freeport to be known as the
8 Freeport Area of Bataan (FAB). The FAB shall cover the
9 **LAND AND WATER TERRITORIES** in the Municipality
10 of Mariveles, Province of Bataan **AND ALL OTHER**
11 **AREAS WHICH MAY BE DECLARED AS PART OF**
12 **FAB IN COMPLIANCE WITH SECTION 4(G) OF THE**
13 **ACT."**

14
15 **SECTION 2.** Section 4 of Republic Act No. 9728 is hereby amended to read
16 as follows:

17 "SEC. 4. Governing Principles. The FAB shall be
18 managed and operated under the following principles:

19
20 "(a) Within the framework and limitations of the
21 Constitution and applicable provisions of the Local
22 Government Code, the FAB shall be developed into and
23 operated as a decentralized, self - reliant and self - sustaining
24 industrial, commercial - trading, agro - Industrial, tourist,

1 banking, financial and investment center with suitable
2 residential areas;

3
4 “(b) The FAB shall continue to be provided with
5 transportation, telecommunications and other facilities
6 needed to attract legitimate and productive investments,
7 generate linkage industries and employment opportunities
8 for the people of the Province of Bataan and its neighboring
9 towns and cities;

10
11 “(c) The FAB may establish mutually beneficial
12 economic relations with other entities or enterprises within
13 the country or with foreign entities or enterprises;

14
15 “(d) Foreign citizens and companies owned by non-
16 Filipinos may whatever proportion may set up enterprises in
17 the FAB either by themselves or in Joint venture with
18 Filipinos in any sector of industry, international trade, and
19 commerce within the FAB;

20
21 “(e) The FAB shall be managed and operated as a
22 separate customs territory ensuring free flow or movement
23 of goods and capital within, into and out of its territory.**FOR**
24 **THIS PURPOSE, THE AFAB SHALL BE EXEMPT**
25 **FROM PAYMENT OF ALL NATIONAL AND LOCAL**
26 **TAXES;**

27
28 “(f) The FAB shall provide incentives such as tax and
29 duty free importations of raw materials, capital and
30 equipment to registered enterprises located therein,
31 However, exportation or removal of goods from the territory
32 of the FAB to the other parts of the Philippine territory’ shall
33 be subject to customs duties and taxes under the Tariff and
34 Customs Code of the Philippines, as amended, and the
35 National Internal Revenue Code (NIRC) of 1997, as
36 amended;

37
38 “(g) The areas comprising the FAB may be expanded
39 or reduced when necessary. For this purpose, the FAB
40 Authority which will be created under this Act, with the
41 concurrence of the **APPROPRIATE AND AFFECTED**
42 **local government units (LGUs) AND APPROVAL OF THE**
43 **BOARD,** in accordance **AND IN COMPLIANCE** with
44 existing laws and local ordinances shall have the power to
45 acquire, **PROCURE, AND/OR INCREASE, EXPAND**
46 either by purchase, negotiation or condemnation
47 proceedings, any private **OR PUBLIC LANDS AND/OR**
48 **THEIR RESPECTIVE WATER TERRITORIES, IF**
49 **ANY** for the following purposes: (1) consolidation of lands
50 for FAB development; (2) acquisition of right of way to the
51 FAB; and (3) the protection, **AND SAFEGUARD** of
52 watershed areas and the maintenance and improvement of

1 its water yield and natural assets valuable to the prosperity
2 of the FAB **AND THE LGU**, the **EFFECTIVE** management
3 of solid and water waste **IN COMPLIANCE WITH**
4 **EXISTING NATIONAL LAWS AND LOCAL**
5 **ORDINANCES**, and its impact to adjacent areas within the
6 local government concerned. **THE MUNICIPAL WATERS**
7 **OF UP TO 15 KILOMETERS FROM THE LOW**
8 **WATER MARK AREA OF THE MUNICIPALITIES**
9 **CONCERNED SHALL BE DEEMED INCLUDED IN**
10 **THE TERRITORIAL WATERS OF THE FAB.**
11

12 The LGU and the FAB shall provide for **AN**
13 **IMMEDIATE AND RESPONSIVE MECHANISM TO**
14 **UNDERTAKE BEST MANAGEMENT PRACTICE**
15 **THROUGH COASTAL ZONE MANAGEMENT**
16 **PROGRAM** to address **THE ABUSE AND** inappropriate
17 exploitation of the natural environment and disruptive land
18 use within the jurisdiction of the FAB;
19

20 “(h) Goods manufactured by the FAB enterprise shall
21 be made available for immediate retail sale in the domestic
22 market, subject to the payment of corresponding taxes on
23 raw materials and other regulations that may be formulated
24 by the FAB Authority, together with the Philippine Economic
25 Zone Authority (PEZA), the Bangko Sentral ng Pilipinas
26 (BSP), the Department of Finance (DOF), the Bureau of
27 Customs (BOC) and the Department of Trade and Industry
28 (DTI) in accordance with the NIRC of 1997, as amended, and
29 the Tariff and Customs Code of the Philippines, as amended,
30 However, in order to protect the domestic Industries, a
31 negative list of industries shall be drawn up and regularly
32 updated by the PEZA. Enterprises engaged in industries
33 included in such negative list shall not be allowed to sell their
34 products locally; and
35

36 “(i) The defense of the FAB and the security of its
37 perimeter fence shall be the responsibility of the National
38 Government in coordination with the FAB Authority and the
39 LGUs.”
40

41 **SECTION. 3.** Section 13 of Republic Act No. 9728 is hereby amended to read

42 as follows:

43 “SEC. 13. Powers and Functions of AFAB. The AFAB
44 shall have the following functions:
45

46 “(a) To adopt, alter, use a corporate seal, to contract,
47 lease, buy, sell, acquire, own and dispose properties of
48 whatever nature;
49

1 “(b) To sue and be sued in order to carry out its duties,
2 responsibilities, privileges, powers and functions as granted
3 and provided for in this Act and to exercise the power of
4 eminent domain for public use and public purpose;
5

6 “(c) To operate, administer, manage, **AND** develop in
7 accordance with Executive Order No. 525, as amended, the
8 FAB according to the principles and provisions set forth in
9 this Act and to coordinate with the LGUs for the
10 development plans, activities and operation of the FAB;
11

12 “[(e)] (d) To register, regulate and supervise the
13 enterprises in the FAB in an efficient and decentralized
14 manner, subject to existing laws;
15

16 “[(f)] (e) To coordinate with the LGUs and exercise
17 general supervision over the development plans, activities
18 and operations of the FAB;
19

20 “[(g)] (f) To authorize or undertake, on its own or
21 through others, and to regulate the establishment,
22 construction, operation and maintenance of public utilities,
23 services, and infrastructure in the FAB such as shipping,
24 barging, stevedoring, cargo, handling, hauling, warehousing,
25 storage of cargo, port services or concessions, piers, wharves,
26 bulkheads, bulk terminals, mooring areas, storage areas,
27 roads, bridges, reclamation projects, terminals, conveyors,
28 water supply and storage sewerage, drainage, airport
29 operations in coordination with the Civil Aeronautics Board,
30 and such other services or concessions or infrastructure
31 necessary or incidental to the accomplishment of the
32 objectives of this Act. Provided, however, That the private
33 investors in the FAB shall be given priority in the awarding
34 of contracts, franchises, licenses, or permits for the
35 establishment, operation and maintenance of utilities,
36 services and infrastructure in the FAB;
37

38 “[(h)] (g) To license, set fees, regulate and undertake
39 the establishment, operation and maintenance of utilities,
40 other services, educational and medical institutions and
41 infrastructure in the FAB such as, but not limited to, heat,
42 light and power, water supply, telecommunications, mobile,
43 internet and other data facilities, transport, toll roads and
44 bridges, port services, etc. and to fix just, reasonable and
45 competitive rates, fares, charges and prices thereof;
46

47 “[(i)] (h) To construct, acquire, own, lease, operate
48 and maintain on its own or through contracts, franchises,
49 licenses, bulk purchase from the private sector and build-
50 operate-transfer scheme or under a Joint Venture with the
51 private sectors, any or all of the public utilities and
52 infrastructure required or needed for the operation and

development of the FAB, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

“[(j)] (i) To operate on its own, either directly or through a **SUBSIDIARY OR PRIVATE ENTITY, OR CONCESSION, OR** license to other, tourism-related activities, including **BUT NOT LIMITED TO** games, amusements **AND NATURE PARKS**, recreational and sports facilities, **SUCH AS OFFSHORE ONLINE GAMING FACILITIES AND OTHER RELATED ACTIVITIES UNDER THE PRIORITIES AND STANDARDS SET BY THE AFAB.**

“[(k)] (j) To raise, or borrow, within the limitation provided by law, 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;

“(k) **TO EXCLUSIVELY ENFORCE AND ADMINISTER THE PROVISIONS OF THE NATIONAL BUILDING CODE OF THE PHILIPPINES AND THE FIRE CODE OF THE PHILIPPINES WITHIN THE TERRITORIAL JURISDICTION OF THE FAB. FOR THIS PURPOSE, THE AFAB CHAIRMAN AND ADMINISTRATOR, OR HIS OFFICIAL DESIGNATE, SHALL FUNCTION AS THE AFAB BUILDING OFFICIAL, WHO SHALL ISSUE ALL BUILDING PERMITS AND OTHER RELATED PERMITS SUBJECT TO THE COLLECTION BY AFAB OF THE CORRESPONDING PERMIT FEES; PROVIDED, THAT THE AFAB BUILDING OFFICIAL SHALL ALSO BE AUTHORIZED** to require owners of houses, buildings, or other structures constructed without the necessary **AFAB** permit/s, **OR CONDEMNED AND/OR ABATED BY THE AUTHORITY IN ACCORDANCE WITH THE CONDITIONS SET FORTH IN THE NATIONAL BUILDING CODE or CIVIL CODE, as the case may be,** whether **OWNED BY** or constructed on public or private lands, to remove or demolish such houses, buildings, structures within fifteen (15) days **FROM** notice. Upon failure of such owner to remove or demolish such house, building, or structure within such period, **THE AUTHORITY** may summarily cause its removal or demolition at the expense of the owner **AND THE OCCUPANTS. FOR THIS PURPOSE, THE AUTHORITY MAY SUMMARILY EVICT ANY PERSON WHO REFUSES TO VACATE SUCH PREMISES WITHOUT NEED OF ANY COURT**

1 **ORDER PROVIDED THAT THERE IS A**
2 **TEMPORARY OR PERMANENT RELOCATION SITE**
3 **MADE AVAILABLE FOR QUALIFIED INDIVIDUALS**
4 **OR FAMILIES;**

5
6 “(l) To provide security for the FAB in coordination
7 with the national and local governments. The AFAB may
8 establish and maintain its security forces and firefighting
9 capability or hire others to provide the same. In the event
10 that an assistance of the military force is necessary, it shall
11 not interfere in the internal affairs of the FAB except to
12 provide the necessary security and defense, and their
13 expenses shall be borne by the National Government. **FOR**
14 **THIS PURPOSE, THE AFAB POLICE FORCE**
15 **AGENTS SHALL HAVE POLICE AUTHORITY AND**
16 **MAINTAIN LAW AND ORDER WITHIN THE**
17 **BOUNDARIES OF THE FAB, INCLUDING BUT NOT**
18 **LIMITED TO CONDUCTING POLICE**
19 **INVESTIGATIONS, ARREST, SEARCH AND**
20 **SEIZURES FOR VIOLATIONS OF PENAL LAWS**
21 **AND TARIFF AND CUSTOMS LAWS INSIDE THE**
22 **FAB. THE AFAB SHALL ALSO BE AUTHORIZED TO**
23 **INSTALL CONTROL GATES AT STRATEGIC POINTS**
24 **OF THE NATIONAL ROADS WITHIN THE FAB,**
25 **THROUGH WHICH ACCESS INTO AND**
26 **DEPARTURE FROM THE FAB SHALL BE FULLY**
27 **CONTROLLED BY THE AFAB POLICE AGENTS;**

28
29 “(m) To protect, preserve, maintain and develop the
30 virgin forests, beaches, coral and coral reefs, and maintain
31 ecological balance within the FAB. For this purpose, the rules
32 and regulations of the Department of Environment and
33 Natural Resources (DENR) and other government agencies
34 involved in the above functions shall be implemented by the
35 AFAB. **THE ISSUANCE, ENFORCEMENT AND**
36 **MONITORING OF ECCs, TREE CUTTING PERMIT,**
37 **FORESHORE LEASE AND ALL OTHER RELATED**
38 **PERMITS AND CLEARANCES CURRENTLY BEING**
39 **ISSUED BY THE DENR AND OTHER**
40 **GOVERNMENT AGENCIES SHALL BE UNDER THE**
41 **EXCLUSIVE CONTROL AND JURISDICTION OF**
42 **THE AFAB.**

43
44 “(n) To create, operate and/or contract to operate
45 such functional units or offices of the AFAB as it may deem
46 necessary;

47
48 “(o) To issue certificates of origin for products
49 manufactured or processed in the FAB;

50
51 “(p) To issue rules and regulations consistent with the
52 provisions of this Act as may be necessary to implement and

1 accomplish the purposes, objectives and policies provided
2 herein;

3
4 “(q) To exercise such powers as may be essential,
5 necessary or incidental to the powers granted to it hereunder
6 as well as those that shall enable it to carry out, implement
7 and accomplish the purposes, objectives and policies of this
8 Act; and”
9

10 “(r) TO ISSUE EXEMPTIONS FROM THE
11 REQUIREMENTS PROVIDED UNDER
12 PRESIDENTIAL DECREE NO. 442 (P.D. 442) OR
13 THE LABOR CODE OF THE PHILIPPINES, AND ITS
14 IMPLEMENTING RULES AND REGULATIONS
15 (IRR), FOR THE ISSUANCE OF ALIEN
16 EMPLOYMENT PERMIT AND/OR WORKING VISA,
17 FOR ALIENS EMPLOYED WITH, OR
18 CONSULTANTS OF, FAB-DULY REGISTERED
19 ENTERPRISES, SUBJECT TO SUCH RULES AND
20 REGULATIONS AS MAY THEREAFTER BE
21 ESTABLISHED BY THE AFAB;
22

23 “(s) TO ACT AS AN OFFSHORE FINANCIAL
24 CENTRE TO ENGAGE IN, OR ALLOW, ANY OR ALL
25 INTERNATIONAL FINANCIAL AND BUSINESS
26 SERVICES, INCLUDING BUT NOT LIMITED TO,
27 BANKING, OFFSHORE FUND MANAGEMENT AND
28 COLLECTIVE INVESTMENT SCHEMES, PROVIDE
29 THE NECESSARY and PERTINENT FISCAL
30 INCENTIVES AS PROVIDED FOR UNDER
31 REPUBLIC ACT NO. 7916, AS AMENDED BY
32 REPUBLIC ACT NO. 8748, ALSO KNOWN AS THE
33 SPECIAL ECONOMIC ZONE ACT OF 1995, AND/OR
34 THOSE PROVIDED UNDER EXECUTIVE ORDER
35 NO. 226, AS AMENDED, OTHERWISE KNOWN AS
36 THE OMNIBUS INVESTMENT CODE OF 1987, AND
37 SHALL BE SUBJECT TO EXISTING APPLICABLE
38 LAWS CONSISTENT WITH PURPOSES OF FAB,
39 AND SUCH OTHER LAWS AS MAY BE REQUIRED
40 INCLUDING WITHOUT LIMITATION TO THE
41 FOREGOING.”
42

43 “(t) TO ESTABLISH AND INSTITUTE A
44 MUTUALLY SUPPORTIVE AND ALL-INCLUSIVE
45 INTERNATIONAL ECONOMIC RELATIONS TO
46 ALLOW THE ESTABLISHMENT AND OPERATION
47 OF REGIONAL OR AREA HEADQUARTERS,
48 REGIONAL OPERATING HEADQUARTERS AND
49 REGIONAL WAREHOUSES OF MULTINATIONAL
50 COMPANIES WITHIN THE TERRITORIAL
51 JURISDICTION OF FAB, AS PROVIDED FOR
52 IN REPUBLIC ACT NO. 8756;

1 “[(r)] (u) To be vested with other powers enjoyed or
2 exercised by other free port zone authorities.
3

4 **SECTION. 4.** Section 16 of R.A. 9728 is likewise amended to read as follows:

5 “SEC. 16. Organization and Personnel. The AFAB
6 Board of Directors shall provide for an organizational
7 structure and appoint employees, subject to the civil service
8 law. Upon the recommendation of the chairman-
9 administrator and with the approval of the Secretary of the
10 DTI, the Board shall appoint and fix the remuneration and
11 other emoluments of its officers and employees in
12 accordance with existing laws on compensation and position
13 classification. Provided, that the Board shall exercise
14 administrative supervision on their employees. **AFTER
15 FIVE (5) YEARS FROM PASSAGE OF THIS ACT,
16 THE REMUNERATION AND OTHER EMOLUMENTS
17 OF ITS OFFICERS AND EMPLOYEES SHALL BE
18 EXEMPTED FROM THE SALARY
19 STANDARDIZATION LAW. THE AUTHORITY
20 THROUGH ITS BOARD, MAY DETERMINE AND
21 FIX THE AMOUNTS THEREOF AT ITS
22 DISCRETION; SUBJECT TO, AND PROVIDED,
23 THAT THE SAID EMOLUMENTS,
24 REMUNERATION, BONUSES, AND ANY
25 INCREASES, IF ANY, SHALL BE SUBJECT TO THE
26 PRIOR APPROVAL OF THE DBM; AND, THE SAME
27 SHALL IN NO CASE BE LOWER THAN THE PAY
28 GRADES OF THE SALARY STANDARDIZATION
29 LAW FOR POSITIONS OF SIMILAR NATURE AND
30 FUNCTIONS; PROVIDED FURTHER, HOWEVER,
31 THAT BEFORE ANY SUCH INCREASE MAY BE
32 IMPLEMENTED AND GRANTED, THE SAME
33 SHOULD BE IN ACCORDANCE WITH, AND
34 JUSTIFIED BY AN EXCESS IN REVENUES
35 GENERATED; PROVIDED, FINALLY, THAT ANY
36 INCREASE HEREUNDER SHALL BE EXERCISED
37 ONCE ONLY EVERY THREE (3) YEARS
38 THEREAFTER.**
39

40 The officers and employees of the AFAB, including all
41 members of the Board shall not engage directly or indirectly
42 in partisan activities nor take part in any election, except to
43 vote.
44

45 No officer or employee of the AFAB, subject to civil
46 service laws and regulations, shall be removed or suspended
47 except for cause, as provided by law.”
48
49
50
51

1 **SECTION. 5.** Section 21 of R.A. 9728 is hereby amended to read as follows:

2 “SEC. 21. Capitalization. The [AFAB shall have an
3 authorized] capital [stock of] **TO BE CONTRIBUTED BY**
4 **THE GOVERNMENT SHALL BE** Two billion FIVE
5 HUNDRED MILLION pesos (Php 2,500,000,000.00), with
6 option to increase capitalization upon the discretion of the
7 AFAB, [divided into twenty thousand (20,000) no – par
8 shares fully subscribed and paid up by the Republic of the
9 Philippines with] **CONSISTING OF:** (a) All lands
10 embraced and covered by the FAB, **INCLUDING THOSE**
11 **PROPERTIES CONVEYED TO THE GSIS AND/OR**
12 **SSS UNDER PROCLAMATION NO. 740, AS**
13 **AMENDED BY PROCLAMATION 900,** as well as
14 permanent improvements and fixtures upon proper
15 inventory not otherwise alienated, conveyed, or transferred
16 to another government agency; (b) All other assets which the
17 President may transfer to the AFAB as part of the equity
18 contribution of the government; and (c) Cash contribution
19 by the government in the amount of Five hundred million
20 pesos (Php 500,000,000) a year for the next five (5) years,
21 which is hereby appropriated out of any fund in the National
22 Treasury not otherwise appropriated.”

23
24 **SECTION 6. Non Impairment of Contract/Permits/Licenses.** – All
25 existing contracts, permits and licenses DULY granted by the AFAB BEFORE THE
26 date of Effectivity of this Act, shall remain valid, and shall not be impaired, shall be
27 cured, and shall be recognized by the Government.
28

29 **SECTION 7. Retroactivity Clause.** - This Act shall have retroactive effect
30 insofar as it does not prejudice or impair vested or acquired rights.
31

32 **SECTION 8. Repealing Clause.** - All laws, decrees, executive orders, rules
33 and regulations or parts thereof, inconsistent with the provisions of this Act are
34 hereby repealed or modified accordingly.
35

36 **SECTION 9. Separability Clause.** Any portion or provision of this Act that
37 may be declared unconstitutional shall not have the effect of nullifying other portions
38 or provisions hereof as such remaining provisions can still subsist and be given
39 effect.
40

41 **SECTION 10. Effectivity.** – This Act shall take effect after fifteen (15) days
42 following its complete publication in the Official Gazette or in two (2) newspapers of
43 general circulation whichever is earlier.
44

45 **Approved.**