

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 901



Introduced by REP. PROSPERO A. PICHAY, JR.

EXPLANATORY NOTE

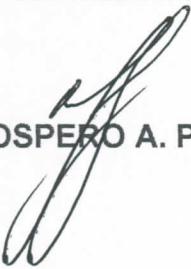
Central to the government's economic agenda is economic dynamism and competitiveness with increased investments, business opportunities, and job generation. But with competition posed by neighboring countries with lower production costs, especially in the export industry, the journey toward this goal will travel at a slow pace.

For instance, China has been edging its Asian neighbors in enticing foreign investors, particularly for their export industry, due to its increasing number and magnitude of economic zones with low production costs. In so doing, it has been displacing our own export industry thereby causing shrinking businesses and job losses. To gain back a steady footing in the export industry, we need to bring the battle to the countryside where there are lower costs of production and vast natural and human capital. To more effectively achieve this, we need to establish more economic zones in favorable geographic positions such as Surigao del Sur.

Surigao del Sur, being strategically situated along the boarder area, allowing for easy transit of goods, having sufficient road networks and sea and air transportation infrastructure, and being blessed with raw materials and human capital at varying levels of skills and trades, is surely a viable location for a special economic zone.

The proposed Surigao del Sur economic, mining zone and freeport will not only contribute to the development of their province, but also concomitantly contribute to regional and national development as the capital, technological, and knowledge spillovers of the ecozone will filter throughout the country thereby helping attain the government's agenda of economic dynamism and competitiveness.

In view of the foregoing, the passage of this measure is earnestly sought.


PROSPERO A. PICHAY, JR.

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HOUSE BILL NO. 901

Introduced by: HON. PROSPERO A. PICHAY, JR.

**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 AND
PROVIDING FUNDS THEREFOR**

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

**CHAPTER I
GENERAL PROVISIONS**

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

SECTION 2. Declaration of Policy. – It is declared the policy of the State to encourage, promote and accelerate the sound and balanced industrial, economic and social development of the country. The establishment of special economic zones shall attract legitimate and productive foreign investments in strategic locations in the country. It shall generate employment and increase productivity and individual, as well as family incomes, thereby enhancing the quality of life of the Filipino people.

**CHAPTER II
CREATION OF THE ECONOMIC ZONE AND FREEPORT**

SECTION 3. Creation of the Surigao del Sur Special Economic Zone and Freeport. – In accordance with the foregoing declared policy and subject to the concurrence of the affected Local Government Units (LGUs) of Surigao del Sur, there is hereby established a Special Economic Zone and Freeport, hereinafter referred to as the Surigao del Sur Ecozone. The Surigao del Sur Ecozone shall cover the entire area embraced by the Municipalities of Carrascal,

Cantilan, Carmen, and Lanuza in the Province of Surigao del Sur. The specific metes and bounds of the Surigao del Sur Ecozone shall be more particularly defined in a presidential proclamation that shall be issued for this purpose: *Provided*, That the lands embraced therein shall be public lands and contiguous to one another.

SECTION 4. *Creation of the Surigao del Sur Special Economic Zone and Freeport Authority.* – There is hereby created a body corporate to be known as the "Surigao del Sur Special Economic Zone and Freeport Authority" hereinafter referred to as the SDSEZA, which shall manage and operate the Surigao del Sur Ecozone, in accordance with the provisions of this Act.

It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SECTION 5. *Governing Principles.* – The Surigao del Sur Special Economic Zone and Freeport shall be managed and operated by the Surigao del Sur Special Economic Zone and Freeport Authority hereinafter referred to as SDSEZA, created under Section 4 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 Surigao del Sur 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 Surigao del Sur Ecozone shall be equipped with transportation, telecommunications and other facilities needed to attract legitimate and productive investments, generate linkage industries and employment opportunities for the people of the Municipalities of Carrascal, Cantilan, Madrid, Carmen, and Lanuza and its neighboring towns and cities;
- c) The Surigao del Sur 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 non-Filipinos in whatever proportion may set up enterprises in the Surigao del Sur Ecozone, either by themselves or in a joint venture with Filipinos in any sector of industry, international trade and commerce within the Surigao del Sur Ecozone;
- e) The Surigao del Sur Ecozone shall be managed and operated as a separate customs territory thereby ensuring the free flow or movement of goods and capital within, into, and out of its territory, and shall likewise provide incentives such as tax and duty-free importations of raw materials, capital and equipment to registered enterprises located therein. However, exportation or removal of goods from the territory shall be subject to

customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines;

- f) The areas comprising the Surigao del Sur Ecozone may be expanded or reduced when necessary. For this purpose, the SDSEZA, 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 Surigao del Sur Ecozone for the following purposes: (1) consolidation of lands for zone development; (2) acquisition of right of way to the Surigao del Sur Ecozone; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Surigao del Sur Ecozone;
- g) Goods manufactured by a Surigao del Sur 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 SDSEZA together with the PEZA, the Bureau of Customs (BOC) and the DTI. However, in order to protect domestic industries, a Negative List of Industries shall be drawn up and regularly updated by PEZA. Enterprises engaged in industries included in such Negative List shall not be allowed to sell their products locally;
- h) The defense of the Surigao del Sur Ecozone and the security of its perimeter fence shall be the responsibility of the national government in coordination with the SDSEZA and the LGUs.

Section 6. Capitalization. – The SDSEZA shall have an authorized capital stock of Fifty Billion (50,000,000,000) no par shares at 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 LGUs embracing the Surigao del Sur Special Economic Zone and Freeport. The Board of Directors of the SDSEZA 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 SDSEZA 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 SDSEZA.

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

SECTION 7. Principal Office of SDSEZA. – The SDSEZA shall maintain its principal office in the Municipality of Cantilan, but it may establish branches within the Philippines as may be necessary for the proper conduct of its business.

SECTION 8. Powers and Functions of the SDSEZA. – The SDSEZA

shall have the following powers and functions:

- a) To operate, administer, manage and develop the Surigao del Sur Ecozone according to the principles and provisions set forth in this Act;
- b) To register, regulate and supervise the enterprises in the Surigao del Sur Ecozone in an efficient and decentralized manner, subject to existing laws;
- c) To coordinate with LGUs and exercise general supervision over the development plans, activities and operations of the Surigao del Sur Ecozone;
- d) To regulate and undertake the establishment, construction, operation and maintenance of public utilities, other services, and infrastructure in the Surigao del Sur Ecozone such as light and power, shipping, barging, stevedoring, cargo, handling, hauling, warehousing, storage of cargo, port services or concessions, piers, wharves, bulkheads, bulk terminals, mooring areas, storage areas, roads, telecommunications, transport, bridges, terminals, conveyors, water supply and storage, sewerage, drainage, airport operations in coordination with the Civil Aviation Authority of the Philippines and such other services or concessions or infrastructure necessary or incidental to the accomplishment of the objectives of this Act;
- e) To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchises, licenses, bulk purchase from the private sector or permits under any of the schemes allowed in Republic Act No. 6957, otherwise known as the Build-Operate-Transfer Law, as amended, or joint venture, adequate facilities and infrastructure required or needed for the operation and development of the Surigao del Sur Ecozone, in coordination with the appropriate national and local government authorities and in conformity with applicable laws thereon;
- f) To approve plans, programs and projects of the Surigao del Sur Ecozone pursuant to Chapter II, Section 3 of this Act, to be submitted to the Regional Development Council for inclusion and inputs to the overall regional development plan;
- g) To operate on its own, either directly or through licenses to others, tourism-related activities, including games, amusements, recreational and sports facilities;
- h) To raise or borrow, within the limitation provided by law, and subject to the approval or opinion of the Monetary Board of the Bangko Sentral ng Pilipinas (BSP), as the case may be, adequate and necessary funds from local or foreign sources, to finance its projects and programs under this Act and for this 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;

- i) To protect, preserve, maintain and develop the forests, beaches, coral and coral reefs, and maintain ecological balance within the Surigao del Sur Ecozone. Notwithstanding the authority of the SDSEZA to create rules for such purpose, the rules and regulations of the Department of Environment and Natural Resources (DENR) and other government agencies involved in the above functions shall be implemented by the SDSEZA;
- j) To create, operate and/or contract to operate such functional units or offices of the SDSEZA as it may deem necessary.
- k) To adopt , alter and use a corporate seal; contract, lease, buy, acquire, own or otherwise dispose of personal and/or real property of whatever nature; sue and be sued; and otherwise carry out its functions and duties as provided for in this Act;
- l) To issue certificates of origin for products manufactured or processed in the Surigao del Sur Ecozone in accordance with prevailing rules of origin and the pertinent regulations of the PEZA, the DTI and/or the Department of Finance (DOF);
- m) To establish one-stop shops for the issuance of all necessary permits, clearances, licenses, and other similar certifications to conduct such activities intended to improve the ease of doing business within the Surigao del Sur Ecozone, in coordination with government agencies having jurisdiction over activities therein: *Provided*, That all government agencies are directed to provide and extend utmost and full cooperation to the Surigao del Sur Ecozone in the establishment of such one-stop shops;
- n) To provide internal security to the Surigao del Sur Ecozone in coordination with the National government and affected LGU. For this purpose, the SDSEZA shall provide and establish its own internal security and firefighting forces or hire others to provide the same. Military forces to be assigned by the National Government for national defense purposes shall not interfere in the internal affairs of the Surigao del Sur Ecozone and expenditures for these military forces shall be borne by the National Government;
- o) 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
- p) 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.

SECTION 9. *Board of Directors of the SDSEZAB.* - The powers of the SDSEZA 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 Chairperson, who shall at the same time be the administrator of the SDSEZA;
- b) Four (4) members consisting of:
 - 1) The Governor or a representative from the provincial Government of Surigao del Sur;
 - 2) One of the mayors of the municipalities covered by the ecozone;
 - 3) One (1) representative from the investors' group;
 - 4) One (1) representative from among the workers stationed in the Surigao del Sur Ecozone.

The Vice-Chairperson shall be selected from among the members of the Board.

The representative from the Provincial Government and the mayors of the municipalities covered by the ecozone shall serve as ex-officio members of the Board, whose term in the Board corresponds to their term as elected officials.

The Chairperson 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, their replacement shall serve only the unexpired portion of the respective terms.

The Chairperson of the Board must be 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, except the ex-officio members, shall each receive *per diem* at rates to be determined by the Department of Budget and Management (DBM) 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.

SECTION 10. Organization and Personnel. – The Board of Directors of the SDSEZA shall provide for its organization and staff. 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. The Board shall have exclusive and final authority to promote, transfer, assign, reassign, or remove officers of the SDSEZA, any provision of existing law to the

contrary notwithstanding. The Chairperson-Administrator shall execute the decisions of the Board.

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

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

SECTION 11. Powers and Duties of the Chairperson-Administrator. – The Chairperson-Administrator shall have the following powers and duties:

- a) To direct and manage the affairs of the SDSEZA in accordance with the policies of the Board;
- b) To establish the internal organization of the SDSEZA 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 Surigao del Sur Ecozone;
- f) To recommend to the Board the remuneration and other emoluments of its officers and employees in accordance with existing laws on compensation and position classification;
- g) 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 Surigao del Sur Ecozone; and
- h) To perform such other duties as may be assigned by the Board pr which are necessary or incidental to the office.

SECTION 12. Legal Counsel. – The SDSEZA shall have its own internal legal counsel under the supervision of the government corporate counsel. When the exigencies of its businesses and operations demand it, the SDSEZA may engage the services of an outside counsel either on a case to case or on a fixed retainer basis.

CHAPTER III

INCENTIVES TO ECOZONE ENTERPRISES/INVESTORS

SECTION 13. *Investor's Visa.* – Any foreign national who invests an amount of two hundred thousand US dollars (US\$200,000.00) either in cash and/or equipment, in a registered enterprise shall be entitled to an investor's visa: *Provided*, That the foreign national has the following qualifications:

- a) Must be at least eighteen (18) years old;
- b) Must not have been convicted by final judgment of a crime involving moral turpitude;
- c) Must not be afflicted with any loathsome, dangerous or contagious disease;
- d) Must not have been institutionalized fore any mental disorder or disability; and
- e) Must establish by verifiable and credible evidence one's financial capability and capacity.

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

The authority to issue visas and work permits shall remain with the Bureau of Immigration (BI) and the Department of Labor and Employment (DOLE), respectively; *Provided*, That the BI and the DOLE shall implement the measures to expedite the processing of such visas and permits for workers in the Surigao del Sur Ecozone and coordinate with the SDSEZA for the purpose of improving ease of doing business.

SECTION 14. *Fiscal Incentives.* – Registered enterprises operating within the Surigao del Sur Ecozone may be entitled to the existing pertinent fiscal incentives as provided for under Republic Act No. 7916, as amended by Republic Act No. 8748, also known as the Special Economic Zone Act of 1995, or those provided under Executive Order No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987; and/or those that may be further granted as the need and necessity arises by the appropriate government department, agency or office: *Provided*, That in the administration, implementation and monitoring of incentives, the SDSEZA may impose its own conditions not otherwise prohibited by this Act: *Provided further*, That the SDSEZA shall not be limited to the conditions provided under Republic Act No. 7916, Republic Act No. 8748 or any other related issuance, rule, or regulation.

SECTION 15. *Imposition of a Tax Rate of Five Percent (5%) on Gross Income Earned.* – No taxes, local and national, shall be imposed on business

establishments operating within the Surigao del Sur Ecozone, including income, withholding, donor's, percentage, and documentary stamp taxes. In lieu thereof, and subject to Section 18 of this Act, said business establishments shall pay a five percent (5%) final tax on their gross income earned; *Provided*, That the proceeds from such final tax shall be shared by instrumentalities of the government in accordance with the following percentages:

- a) Three per centum (3%) to the National Government;
- b) Two per centum (2%) shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

The SDSEZA shall have the authority to grant income tax holiday and net operating loss carry over subject to Section 17 of this Act and conditions as it may have imposed pursuant to Section 14 of this Act.

SECTION 16. Administration, Implementation and Monitoring of Incentives. – For the proper administration, implementation and monitoring of tax incentives provided under this law, the following are herein mandated:

- a) The SDSEZA shall be responsible for the administration, management, enforcement and implementation of the incentives granted to registered enterprises: *Provided*, That the BOC shall set up and establish a customs controlled area outside the gate of the Surigao del Sur Ecozone to facilitate payment of taxes on goods entering the Philippine customs territory: *Provided further*, That notwithstanding the limitations in this Act, the SDSEZA and BOC may coordinate and jointly implement measures on border protection; and
- b) In the interest of enhancing transparency in the management and accounting of tax incentives in the Surigao del Sur Ecozone, the SDSEZA shall comply with the provisions of Republic Act No. 10708, otherwise known as "The Tax Incentives Management and Transparency Act (TIMTA)" and its implementing rules and regulations.

SECTION 17. Duration of Incentives. – Fiscal incentives under this Act shall be terminated after a cumulative period of twenty (20) years from 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 and interest. The industries exempted from this provision shall be determined by the SDSEZA, in consultation with other government agencies.

SECTION 18. Sequential Availment of Incentives. – Registered enterprises may enjoy the income tax holiday (ITH) granted by the SDSEZA prior to the availment of the five percent (5%) final tax on gross income earned incentive, such registered enterprise shall be barred from availing the ITH incentive.

Registered enterprises, if eligible, may register for incentives with other

investment promotion agencies: *Provided*, That registered enterprises electing to avail of the incentives of other promotion agencies shall not be able to avail of the incentives of the Surigao del Sur Ecozone until the expiration of the incentives with such other investment promotion agencies.

SECTION 19. *Extension of Period Availment.* – In the event that a registered enterprise has suffered cessation or suspension of operations due to force majeure, which has impaired its viability or profitability, the SDSEZA may extend the period of validity of the incentives extended to such registered enterprise.

SECTION 20. *Banking Rules and Regulations.* – Banks and financial institutions to be established in the Surigao del Sur Ecozone shall be under the supervision of the BSP and subject to existing banking laws, rules and regulations.

SECTION 21. *Remittances.* – In the case of foreign investments, a duly registered entity or enterprise within the Surigao del Sur Ecozone 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 Republic Act No. 7653, otherwise known as "The New Central Bank Act."

CHAPTER IV NATIONAL GOVERNMENT AND OTHER ENTITIES

SECTION 22. *Supervision and Control.* – For purposes of policy direction and coordination, the SDSEZA shall be under the direct supervision and control of the Office of the President of the Philippines.

SECTION 23. *Development Goals for the Surigao del Sur Ecozone.* – The SDSEZA shall determine the development goals for the Surigao del Sur Ecozone within the framework of national development plans, policies and goals. The Chairperson-Administrator shall, upon the approval by the Board submit the Surigao del Sur Ecozone plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

SECTION 24. *Relationship with Local Government Units.* – Except as herein provided, the LGUs comprising the Surigao del Sur Ecozone shall retain their basic autonomy and identity. The Municipalities of Carrascal, Cantilan, Madrid, Carmen, and Lanuza , Province of Surigao del Sur, shall operate and function in accordance with the framework of the 1987 Constitution, Local Government Code of 1991, and this Act.

In case of any conflict between the SDSEZA and the LGUs and the National Government on matters affecting the Surigao del Sur Ecozone, other than national defense and security matters, the decision of the SDSEZA shall prevail.

SECTION 25. Interpretation/Construction. – The powers, authorities and functions that are vested in the SDSEZA are intended to establish national self-sufficiency and self-reliance in the advancement of and protection of the national integrity, enhancement of national security, decentralization of governmental functions and authority, and promote an efficient and effective working relationship among the SFSEZA, the National Government and the LGUs. Any interpretation of this Act shall consider such intentions. In the event of conflict of interpretation and provided the intentions cannot be harmonized, the provisions of this Act shall be construed in favor of an interpretation that would tend to protect national security.

SECTION 26. Audit. – The Commission on Audit shall appoint a full-time auditor in the SDSEZA or may assign such number of personnel as may be necessary in the performance of their functions.

CHAPTER V **MISCELLANEOUS**

SECTION 27. Applicability. - Insofar as these are consistent with the provisions of this Act, the provisions of Sections 30 to 41 of Republic Act No. 7916 shall likewise apply to the Surigao del Sur Ecozone.

SECTION 28. Implementing Rules and Regulations. – The DTI, DOF and the National Economic Development Authority (NEDA) shall formulate the implementing rules and regulations of this Act within ninety (90) days after its approval. Such rules and regulations shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

SECTION 29. Separability Clause. – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise effected shall remain in full force and effect.

SECTION 30. Repealing Clause. – All laws, executive orders or issuances or any part thereof, which are inconsistent herewith, are hereby repealed or amended accordingly.

SECTION 31. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.