

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1940



Introduced by REPRESENTATIVES ENRICO A. PINEDA and
MICHAEL ODYLON L. ROMERO, PhD.

EXPLANATORY NOTE

The recent boom in the gaming industry and the increasing interest of the private sector in investing has made it irrelevant for the government to compete and continue to invest in casino operations.

Most of the casinos operated by the Philippine Amusement and Gaming Corporation (PAGCOR), the government corporation mandated to operate casinos nationwide, cannot anymore cope up with the competition brought about by the highly capitalized private casinos which have proved to be more efficient in running the business. Further, the government can be better off investing its money and efforts on other worthwhile activities and instead concentrate on the more important role of regulation rather than dip its hands on the pie that can better be managed by the private sector.

In this light, this bill seeks to release the PAGCOR from its role as a player in the casino industry and refocus its sight on regulating the industry which has seen a tremendous improvement in recent years. This is also seen as a move that will address the seeming conflict of interest that PAGCOR as being a regulator and at the same time an operator of an industry that it regulates. Relative to this, the Privatization and Management Office (PMO) will be mandated to dispose of the assets of the PAGCOR related with gaming and casino operations which is seen to generate much needed funds for the government.

Immediate passage of this bill is earnestly prayed for.



ENRICO A. PINEDA
1PACMAN



MICHAEL ODYLON L. ROMERO, PhD
1PACMAN

REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
QUEZON CITY

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 1940

Introduced by REPRESENTATIVES ENRICO A. PINEDA and
MICHAEL ODYLON L. ROMERO, PhD.

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

**AN ACT REORGANIZING THE PHILIPPINE AMUSEMENT AND GAMING
CORPORATION THEREBY CREATING THE PHILIPPINE AMUSEMENT AND
GAMING COMMISSION AND APPROPRIATING FUNDS THEREFOR AND FOR
OTHER PURPOSES**

**Chapter 1
GENERAL PROVISIONS**

SECTION 1. Short Title. This Act shall be known as the "Philippine Amusement and Gaming Commission (PAGCOM) Act".

SECTION 2. Declaration of Policy. It is hereby declared policy of the State to integrate a centralized and efficient regulatory mechanism that would govern the conduct of all games of chance in casinos and other related establishments including similar games conducted online and in the country by providing for the creation of a Commission that will promote transparency through an efficient licensing system and effective regulations which may thereby translate to additional revenues for the government. Accordingly, this Act shall endeavor to pursue the following objectives:

- a. To insulate the government of any involvement in the conduct of gaming and amusement operations and focus its efforts on regulations;
- b. To eliminate confusion and effectively transfer the operation of gaming activities to the private sector by privatizing PAGCOR's current gaming operations;
- c. To establish, regulate and issue license to operate business activities of all games of chance and such other similar forms of amusement and recreation, within the territorial jurisdiction of the Philippines;
- d. To ensure that such businesses will generate sources of additional revenue for the national government;

- e. To eradicate the evils, malpractices and incidence of corruption that are prevalent in the conduct and operation of gaming clubs and casinos which operate in the absence of governmental supervision;
- f. To expand and improve the tourism industry by enhancing regulations that would effectively tie up tourism initiatives with gaming; and
- g. To introduce additional safeguards in the regulation and operation of gaming activities.

SECTION 3. Definition of Terms. For the purposes of this Act, the following terms are defined as follows:

- a. *"Commission"* shall refer to the Philippine Gaming Commission created under this Act.
- b. *"President"* shall refer to the President of the Republic of the Philippines.
- c. *"PAGCOR"* shall refer to the Philippine Amusement and Gaming Commission created under Presidential Decree No. 1869, as amended by Republic Act No. 9487.
- d. *"PMO"* shall refer to the Privatization and Management Office organized under Chapter 4 of Executive Order No. 323 (S. 2001).
- e. *"Gaming"* shall refer to gambling activities conducted inside casinos and other related establishment, including but not limited to table and card games, and similar games of chance conducted online.

Chapter II

PHILIPPINE AMUSEMENT AND GAMING COMMISSION

THE COMMISSION

SECTION 4. Creation. There is hereby created and established an independent, quasi-judicial regulatory body to be named the Philippine Amusement and Gaming Commission (PAGCOM), hereinafter referred to as the Commission. For this purpose, the Commission shall be attached to the Office of the President for supervision and control.

SECTION 5. Powers and Function. The Commission shall have the following powers and functions:

- a. To provide comprehensive policy guidance for the promotion and development of the Commission, as provided in this Act;
- b. To ensure that the Commission performs its functions in a proper, efficient and effective manner;

- c. To determine the organizational structure and staffing pattern of the Commission in accordance with the provisions of this Act, subject to existing Department of Budget and Management (DBM) and Civil Service Commission (CSC) rules and regulations; Provided, That the PAGCOM compensation plan including a performance incentive scheme for officials and employees shall be exempted from the Salary Standardization Law but subject to the recommendation of the Department of Budget and Management and approval of the President of the Philippines;
- d. To decide on all matters relating to licenses, certificates, and permits for the operation of gaming activities and prescribe appropriate terms and conditions thereof;
- e. To establish and maintain linkages with international gaming commissions, associations or organizations of other countries, and international non-governmental organizations whose main objective is regulation and supervision of games of chance and other similar recreation and amusement activities;
- f. To coordinate and cooperate with other government agencies and entities concerned with any aspect involving the provisions of this Act;
- g. To prescribe rules governing proceedings before it;
- h. To issue provisional remedies and interlocutory orders, including preliminary injunction, whether prohibitory or mandatory, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;
- i. To punish for contempt in accordance with the pertinent provisions of the Rules of Court;
- j. To issue *subpoena duces tecum* and *testificandum* and summon witnesses to appear in any proceedings of the Commission;
- k. To administer oaths and affirmations in the transaction and performance of their official duties;
- l. To conduct investigations and hearings of complaints for violation of gaming laws and of the Commission's rules and regulations, orders, decisions, and/or penalties for such violations;
- m. To determine, prescribe, approve and periodically review and adjust the manner and method of payment of fees, cost and penalties for such violations;

- n. To formulate policies, directives, programs and projects, as well as the rules and regulations and guidelines to implement the provisions of this Act; and
- o. To exercise such other acts that are incidental to or are appropriate and necessary in connection with the creation of the Commission.

SECTION 6. Composition, Qualification and Tenure. The Commission shall be headed by a Commissioner as Chairman and four (4) Deputy Commissioners as members, all of whom shall be appointed by the President for a term of three (3) years and may be reappointed for another term unless removed for cause. They must be citizens of the Philippines, of good moral character, holder of a college degree and with at least five (5) years actual and distinguished experience in their respective fields.

The President, upon the recommendation of the Commission shall appoint an Executive Director. He must be a citizen of the Philippines and of good moral character. The Executive Director shall have the following powers and functions:

- a. Advise and assist the Commission in the formulation and implementation of the objectives, policies, plans and programs of the Commission;
- b. Direct and supervise officials and employees of the Commission;
- c. Prepare an annual report on the activities of the Commission at the end of each fiscal year, and to submit a copy thereof to the President and Congress;
- d. Keep and maintain official records and reports of the proceedings of the Commission;
- e. Oversee all the operational activities of the Commission;
- f. Coordinate the programs and projects of the Commission and be responsible for its economical, efficient and effective administration;
- g. Administer oaths in all matters relating to the business of the Commission; and
- h. Perform such other duties as may be assigned by the Commission.

Any appointment to fill by the vacancy in the foregoing provision arising from death, removal, retirement or resignation shall be made only for the unexpired term.

SECTION 7. Meetings and Quorum. In all cases, the Commission shall convene and act as a collegial body in all matters referred to in Section 5 of this Act. The Commission shall meet at least once a month, or as determined by the Commission. The presence of at least three (3) members shall constitute a quorum.

SECTION 8. Decision and Appeal. In all cases or proceedings before the Commission, the decision of the majority shall prevail. Decisions of the Commission shall become final

and executory fifteen (15) days from receipt thereof. Only one (1) motion for consideration shall be filed with the Commission.

The decision, order, resolution of the Commission shall be appealable to the Office of the President within thirty (30) days from receipt. The decision of the President shall be final and executory unless stayed by an order of the Court of Appeals.

CHAPTER III LICENSING REGULATIONS

SECTION 9. Registration and Licensing of Gaming Operators. The Commission shall register and issue license, authority, privilege or permit to gaming operators, subject to such rules, guidelines, procedures and other issuances as the Commission may promulgate: *Provided*, That licenses shall be issued to gaming operators only in municipalities and cities with tourist arrivals of one hundred thousand (100,000) or more foreign tourist annually as certified by the Department of Tourism (DOT) unless the gaming facility will be located in a new entertainment resort facility and the DOT certifies as to the potential tourist arrivals equivalent to or more than the required number: *Provided further*, That the PAGCOM shall require gaming operators to collect an entrance fee of not less than one thousand pesos (Php 1,000.00) for local players.

The Commission shall also ensure that the granting and revocation of licenses, authority, privilege or permits are carried out fairly, transparently, and without discrimination.

SECTION 10. Special Condition on License-Holders. After deducting five percent (5%) gross revenue tax, the Commission shall collect twenty-five percent (25%) of the aggregate gross earnings of License-Holders, which shall be remitted to the National Treasury: *Provided*, That the equivalent amount shall be included in the General Appropriations Act (GAA) as a Special Purpose Fund with the following breakdown: ten percent (10%) for the administrative cost of PAGCOM; five percent (5%) for the Local Government Unit hosting the gaming facilities; ten percent (10%) for the Department of Social Welfare and Development (DSWD) intended for the establishment and operation of rehabilitation centers; ten percent (10%) to the Department of Tourism (DOT) for the improvement of critical tourism-related facilities; and sixty-five percent (65%) for the K-12 Program of the Department of Education (DepEd): *Provided further*, that a Trust Fund is hereby created in the DSWD for the operation of the rehabilitation centers for all forms of addiction including compulsive gambling, drug dependency and alcoholism: *Provider even further*, That the 65% allocation for the K-12 Program of the DepEd shall be in addition to the amount appropriated in the General Appropriations Act.

CHAPTER IV ABOLITION OF PAGCOR

SECTION 11. Abolition of the Philippine Amusement and Gaming Corporation (PAGCOR). The PAGCOR, created under Presidential Decree No. 1869, as amended by Republic Act No. 9847, is hereby repealed.

All powers, duties and rights vested by law and exercised by PAGCOR in performance of its regulatory powers, is hereby transferred to the Commission.

All assets, real and personal properties, except those that may be privatized under Chapter V of this Act, including funds and revenues owned by or vested in the different offices of PAGCOR, are transferred to the Commission.

All contracts, records and documents relating to the powers and functions of the abolished agency, its offices and branches are likewise transferred to the Commission.

CHAPTER V

PRIVATIZATION OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)

SECTION 12. Privatization of PAGCOR's Operations. All assets pertaining to the operations of gaming activities of PAGCOR shall be privatized and disposed of in accordance with this Act, and as soon as practicable, the Commission on Audit (COA) and the Privatization Management Office (PMO) shall conduct a complete accounting and inventory of such assets to determine and ascertain their nature, description, amount and value, as well as other rights and obligations pertaining thereto, if any.

Nothing herein shall be construed as preventing the PMO from causing appraisal by a third party or any of the assets prior to or in the course of preparing the privatization or disposition plans for the said assets.

SECTION 13. Additional Mandate of the PMO. In addition to its powers, duties and functions under Executive Order No. 323 (s. 2001), as amended, the PMO shall for and in behalf of the National Government, take possession of, conserve, provisionally manage, and dispose of the assets which have been identified for privatization and disposition by the Commission.

In the discharge of its mandate under Executive Order No. 323 (s. 2001) and this Section, the PMO is hereby empowered to implement a specific marketing and disposition program for privatization and disposition; to execute and deliver, on behalf of the National Government, deeds of sale, contracts, trust instruments, and other legally operative documents as may be necessary or appropriate to convey title to, take possession of, and conserve such assets; to engage external expertise as may be necessary in the fulfillment of its tasks under this Act; to adopt internal rules and regulations in relation to the marketing and disposition of the assets; and to submit periodic reports to the Commission on the status of the disposition program.

Any and all sales and other modes of privatization or disposition or any form of divestment or transmission of rights over these assets shall not be considered final unless approved or ratified by the Commission.

SECTION 14. Powers of the Privatization and Management Office. The PMO is hereby accorded discretionary powers with regard to the preparation of the privatization plans and policies of the assets transferred to it. The PMO is empowered to enter into sales through public bidding, negotiated sale, lease or any form of divestment or transmission of rights over assets: *Provided*, That operations of these assets or a partnership with a private sector in the management of operation thereof prior to actual sale or disposition shall remain with PAGCOM.

SECTION 15. Commission to Determine Transfer Value. The Commission is hereby vested with full and complete powers and prerogatives to determine the indicative sale

or transfer valuations of the assets identified for privatization or disposition by the PMO, which valuations shall be based on COA's audit report or listing as adverted to or those made by a reputable third party appraisal firm: *Provided*, That any valuations approved by the Commission shall not be deemed condonation, waiver, or extinguishment of any obligation by any third party to such assets.

SECTION 16. Reimbursement and Retention. In order to fulfill its additional mandate under this Section, the PMO shall be reimbursed for reasonable expenses incurred in the management and disposition of these assets, subject to pertinent laws, rules and regulations.

SECTION 17. Remittance of Proceeds of Privatization. All proceeds or receipts from the privatization, sale or disposition of the assets, except portions thereof for the operational expenses of the Commission, or such amount approved by the Commission to be refunded to the PMO under the preceding section, shall be remitted to the Bureau of Treasury (BTr).

SECTION 18. Reporting Requirements. The Commission shall, on a semi-annual basis, submit to the President and to Congress a report on the status of disposition of the assets, which shall include, among others, a description of the individual assets privatized and disposed of, their purchasers, the consideration received, and the terms of payment as agreed upon.

CHAPTER V SEPARATION AND RETIREMENT BENEFITS

SECTION 19. Separation and Retirement Benefits. Officials and employees of the PAGCOR who chose to separate from government service or who shall choose to retire, if eligible, shall be given a Severance Mitigation Package (SMP) in addition to other separation and retirement benefits to which they may be entitled under existing laws and regulations, and based on the recommendations of the Governance Commission for Government Owned and Controlled Corporations (GCG) created under R.A. 10019 and approval of the President. *Provided*, That no affected employee who opt to retire/separate from service shall receive less than an aggregate of Two Hundred Thousand Pesos (Php 200,000.00) as his retirement or separation benefit: *Provided further*, That those who availed of the benefits under the foregoing provisions shall not qualify for re-employment to the Commission within five (5) years from the date of retirement or separation from the service.

CHAPTER VI FINAL PROVISIONS

SECTION 20. Funding. The budgetary requirements for the operation of the Commission shall be charged against the income of the PAGCOM. The cost of retirement and separation benefits of officers and employees of the abolished PAGCOR shall be charged to the funds of PAGCOR before its privatization.

SECTION 21. Auditor. The COA may appoint a representative who shall be the Auditor of the Commission and such personnel as may be necessary to assist said representative in the performance of his duties.

SECTION 22. Interim Period. All incumbent officials and personnel of PAGCOR whose positions are vital for the purposes, for which this Act was created, shall continue to discharge the functions of their positions until the Commission has been organized.

SECTION 23. Saving Clause. Unless otherwise provided in this Act, rights and privileges vested or acquired under the provisions of Presidential Decree No. 1869, as amended by Republic Act No. 9847, its nature and term of franchise, prior to the effectivity of this Act shall remain in full force and effect.

SECTION 24. Implementing Rules and Regulations. Within ninety (90) days from the date of effectivity of this Act, the Commission, the PMO, the Social Security System (SSS), and the DBM, shall formulate the rules and regulations for the proper implementation of this Act.

SECTION 25. Separability Clause. If any part or provision of this Act shall be declared unconstitutional, the other parts or provisions hereof which are not affected thereby, shall continue in full force and effect.

SECTION 26. Repealing Clause. Presidential Decree No. 1869, otherwise known as the PAGCOR Charter, as amended by Republic Act 9847, is hereby repealed.

All laws, executive issuance, orders, and rules and regulations contrary to or inconsistent with the provisions of this Act or any part thereof are hereby repealed, amended, and modified accordingly.

Notwithstanding the foregoing, nothing in this Act shall diminish the powers and functions of agencies relative to the operation and regulation of gaming activities provided under Republic Act Nos. 7922, 9490, 1169, as amended, and Presidential Decree Nos. 420 and 810.

SECTION 27. Effectivity. This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved.