

HOUSE OF REPRESENTATIVES

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17TH) CONGRESS
First Regular Session

2265
House Bill No.

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Introduced by: Rep. BERNADETTE R. HERRERA-DY

AN ACT CREATING THE PHILIPPINE AMUSEMENT AND GAMING COMMISSION, HENCEFORTH TO BE KNOWN AS PAGCOM, SEPARATING THE OPERATION AND REGULATION OF GAMING ACTIVITIES, DIRECTING THE PRIVATIZATION AND DISPOSITION OF ALL ASSETS PERTAINING TO THE OPERATION OF GAMING ACTIVITIES BY THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION, REPEALING PRESIDENTIAL DECREE NO. 1869 AND REPUBLIC ACT NO. 9487 FOR THESE PURPOSES, AND FOR OTHER PURPOSES.

EXPLANATORY NOTE

Gambling is a continuously difficult activity for regulation by governments. The challenge lies in striking a balance between curbing the social ills and reaping the fiscal benefits created by gambling revenues.

The Philippine Amusement and Gaming Corporation, the government agency tasked with the operation and regulation of gambling activities throughout the country, is currently among the larger contributors of revenue to the Philippine government. Legal gambling operations also do a double duty in this regard, providing a boon to the local tourism industry, which in turn further serves to increase the revenues available for such government-supported projects.

But while the revenues generated from legal gaming activities have been channeled to development and social infrastructure projects, providing a needed source of government income, still much remains to be desired in financial accountability. Despite attempts to consolidate and clarify the powers of PAGCOR in a manner which would give the government control and operation of the bulk of gaming activities in the Philippines, these measures have failed to adequately synergize and streamline the powers, duties and activities of the PAGCOR.

Hence this legislation aims to address the major concerns such as the lack of focus on proper regulation, avoiding conflicts of interests and moral hazards, increasing vulnerability of regulators to issues with prospective investors/capitalists, limiting government funding risk exposure in investments among others.

This bill proposes a number of fixes to PAGCOR, including converting the entity from a government owned and controlled corporation to a purely government agency to be called the

“Philippine Amusement and Gaming Commission,” or PAGCOM. PAGCOM would be burdened with the sole responsibility of regulation of gaming activities, including licensing and enforcement, without the power to engage in gaming operations. In short, the new PAGCOM, designed to be purely regulatory, cannot do gaming business.

By clearly delineating, severing or divorcing in no uncertain terms the operation of gaming activities, on one hand, and regulation on the other, this bill hopes to create distance between those in charge of regulating gambling and those who stand to benefit from the revenue generated. As a result, it is believed that through adequately delineating the authorities in operation and regulation, gambling activities under the authority and control of present-day PAGCOR will be better subjected to audit, economic and regulatory efficiency, neutral governance free from potential conflict of interest, institutional efficiency, and transparency.

In designing this bill, we draw from best practices primarily found in the US states of Washington, Nevada, and New Jersey, jurisdictions which are reputed to hold tighter, if not more effective regulatory frameworks where government and the private sector are made to interact in a sustainable manner and under a clearly defined gaming regime. The same pattern has likewise shown remarkable results for Singapore, Macau and in some European countries which follow the same separation of functions, that is, gaming business, on one hand, regulatory activity, on the other.

As a transitory measure, this bill includes a privatization scheme which aims to bring PAGCOR’s current gaming operations into the fold of the private sector. For these purposes the services of the Privatization Management Office of the Department of Finance may prove to be very useful in the interim. This bill also mandates PAGCOM finances to audit and having PAGCOM finances pass through the National Treasurer.

Furthermore, and along the lines of best practices of jurisdictions which we examined, a number of additional safeguards have been added in this bill, including rules concerning employment restrictions for PAGCOM members, a measure directed to reduce conflict of interest opportunities and additional oversight of PAGCOM activities by Congress through ex officio membership and Congressional oversight. Comparative legal and policy experiences have shown that Congressional oversight is needed to help insulate gaming activities from the entrenchment of partisan or political special interests.

Considering the large revenues from gaming activities is a vital source of economic development, it is out of duty and responsibility, as policy makers, to ensure that Filipinos enjoy the benefits of these funds by ensuring a gaming industry free from regulatory inefficiency and moral hazards. Hence, the urgent approval of this bill is earnestly sought.



BERNADETTE HERRERA-DY

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

SEC. 1. *Short Title.* This Act shall be known as the “*PAGCOM Act of 201*_____”

SEC. 2. *Acts Repealed in Entirety.* The Philippine Amusement and Gaming Corporation (PAGCOR) franchise granted under Presidential Decree No. 1869, otherwise known as the PAGCOR Charter, as amended by Republic Act No. 9487, is hereby repealed and in its place shall be the following:

TITLE I

GENERAL PROVISIONS

Section 1. Declaration of Policy. — It is hereby declared to be the policy of the State to centralize and delineate, on one hand, the regulation of all games of chance, games of cards, and games of numbers permitted by law, and the operation of the same, on the other, and thus create distance between those in charge of regulating gambling and those who stand to benefit from the revenue generated. In particular, it shall be the State's policy:

- (a) To centralize all forms of regulation, including licensing and enforcement, of gaming activities into one governmental entity;
 - (b) To clearly delineate and separate the operation of gaming activities, on one hand, and regulation, on the other;

- (c) To place the operation of gaming activities in the hands of the private sector by privatizing PAGCOR's current gambling operations, while regulatory and legal reform in the name of efficiency, transparency, and good governance, remain a continuing effort;
 - (d) To enhance congressional oversight over the gaming sector;
 - (e) To introduce additional safeguards in the regulation and operation of gaming activities; and,
 - (f) To reiterate the policy of the State as previously declared in Presidential Decree No. 1869, otherwise known as the PAGCOR Charter, as amended by Republic Act No. 9487, that is, to continue regulating the establishment and operation of clubs and casinos, for amusement and recreation, including sports gaming pools (basketball, football, lotteries, etc.) and such other forms of amusement and recreation including games of chance, which may be allowed by law within the territorial jurisdiction of the Philippines and which will: (1) generate sources of additional revenue to fund infrastructure and socio-civic projects, such as flood control programs, beautification, sewerage and sewage projects, and such other essential public services; (2) create recreation and integrated facilities which will expand and improve the country's existing tourist attractions; and (3) minimize, if not totally eradicate, the evils, malpractices and the incidence of corruption that are normally prevalent in the conduct and operation of gambling clubs and casinos without appropriate government oversight.

TITLE II

CREATION OF PHILIPPINE AMUSEMENT AND GAMING COMMISSION

Section 2. Philippine Amusement and Gaming Commission (PAGCOM); Creation and Purpose. — To implement State policy and pursue the objectives set forth in the preceding section, there is hereby created a quasi judicial governmental agency to be known as the Philippine Amusement and Gaming Commission, hereinafter referred to as the Commission, which shall have its principal office in Metropolitan Manila. This Commission has sole responsibility for the regulation of all gaming activities in the Philippines, including all games of chance, games of cards, and games of numbers, hereinafter referred to as “gaming activities.”

The mandate of the Commission shall include the authority over the following:

- a) Licensing of gaming activities as hereafter provided in Title IV;
 - b) Regulation of gaming activities as hereafter provided in Title V;
 - c) Enforcement of gaming policy, law and implementing rules, including the imposition of sanctions, as hereafter provided in Title VI;
 - d) Supervise the privatization of PAGCOR's gambling operations pursuant to Title VIII;
 - e) Engage in social and development projects according to best practices, as hereafter provided in Title IX; and
 - f) Exercise all necessary and incidental powers to ensure at all times the separation of and distinction between the operation of gaming activities on one hand, and regulation of the same, on the other, within the meaning and purpose of this Act.

62 Section 3. *Exceptions to the Commission's Authority and Jurisdiction.* —
63 Exceptions to the Commission's regulatory authority and jurisdiction shall pertain to: (a)
64 *Jai alai*, which is regulated pursuant to Presidential Decree No. 810; (b) gaming activities
65 within the vicinities defined under Republic Act 7922, otherwise known as the Cagayan
66 Special Economic Zone Act of 1995; (c) gaming activities within the vicinities defined
67 under Republic Act 9490, otherwise known as the Aurora Special Economic Zone Act of
68 2007; (d) activities regulated by the Philippine Charity Sweepstakes Office or PSO by
69 virtue of Republic Act 1169, Batas Pambansa Blg. 42, and Presidential Decree 1157; (e)
70 cockfighting and other gaming activities conducted by local government units pursuant to
71 Republic Act No. 7160, as amended, otherwise the Local Government Code of 1991; and
72 (f) horseracing, pursuant to Presidential Decree 420.

73 Section 4. *Prohibition to Engage in Gambling Operations.* — In no circumstance
74 shall the Commission operate, directly or indirectly, games of chance as defined herein, or
75 otherwise engage in any business falling under the Commission's regulatory and quasi
76 judicial powers.

77 Section 5. *Members: Eligibility.* — The Commission shall consist of five (5)
78 members who are eligible under the following criteria:

- 79 (a) Each member of the Commission shall be a citizen of the Philippines.
- 80 (b) No member of Congress, no person holding any elective office in the Government, nor
81 any officer or official of any political party is eligible for appointment to the
82 Commission.
- 83 (c) Not more than three members of the Commission shall be of the same major political
84 affiliation.
- 85 (d) No person actively engaged or having a direct pecuniary interest in gaming activities
86 shall be a member of the Commission.
- 87 (e) One member of the Commission must be a certified public accountant, have 5 years of
88 progressively responsible experience in general accounting, and have a comprehensive
89 knowledge of the principles and practices of corporate finance; or such person must
90 possess the qualifications of an expert in the fields of corporate finance and auditing,
91 general finance, gaming, or economics.
- 92 (f) One member of the Commission must be selected with special reference to his or her
93 training and experience in the fields of investigation, law enforcement, law, or gaming
94 law, and have 5 years of progressively responsible experience in said field.

95 Section 6. *Members: Appointment and Terms.*

- 96 (a) The term of office of each member of the Commission is six (6) years. The President
97 shall appoint the members of the Commission. The members of the Commission shall
98 be appointed within thirty days of approval of this Act and expiring as follows: one
99 member of the Commission for a term expiring two (2) years from the date of
100 appointment; one member of the Commission for a term expiring three (3) years from
101 the date of appointment; one member of the Commission for a term expiring four (4)
102 years from the date of appointment; one member of the Commission for a term expiring five (5)
103 years from the date of appointment; one member of the Commission for a term expiring six (6)
104 years from the date of appointment. Their successors, all of
105 whom shall be appointed by the President, shall serve six (6) year terms provided that
106 no member shall serve more than two (2) terms of six (6) years each. In case of a
107 vacancy, it shall be filled by appointment by the President for the unexpired portion of

108 the term in which said vacancy occurs. All members shall devote full time to their
109 duties of office and shall not pursue or engage in any other business, occupation, or
110 other gainful employment.

- 111 (b) In addition to the members of the Commission there shall be four (4) *ex officio*
112 members without vote from Congress consisting of: (1) Two members of the Senate,
113 one from the majority political party and one from the minority political party, both to
114 be appointed by the President of the Senate; (2) two members of the House of
115 Representatives, one from the majority political party and one from the minority
116 political party, both to be appointed by the Speaker of the House of Representatives;
117 such appointments shall be for the term of three (3) years or for the period in which the
118 appointee serves as a legislator, whichever expires first; members may be reappointed;
119 vacancies shall be filled in the same manner as original appointments are made. Such
120 *ex officio* members who shall collect data deemed essential to future legislative
121 proposals and exchange information with the Commission shall be deemed engaged in
122 legislative business while in attendance upon the business of the Commission.
- 123 (c) The President may remove any member of the Commission for misfeasance,
124 malfeasance, or nonfeasance in office. Removal may be made after: (a) The member
125 has been served with a copy of the charges against the member; and (b) A public
126 hearing before the Office of the President is held upon the charges, if requested by the
127 member charged. The request for a public hearing must be made within ten (10) days
128 after service upon such member of the charges. If a hearing is not requested, a member
129 is removed effective ten (10) days after service of charges upon the member. A record
130 of the proceedings at the public hearing must be kept on file with the Commission and
131 a certified true copy of the same shall be concurrently filed with the Office of the
132 President. Such record shall be made available to the public, upon request, subject only
133 to reasonable conditions the Commission may require. Removal of any member of the
134 Commission shall disqualify such member for reappointment. Notwithstanding the
135 provisions of this subsection, the President may preventively suspend the member
136 charged for a maximum period of six months.
- 137 (d) Notwithstanding any provision of this or any other Act, any Commissioner or
138 employee of the Commission shall automatically forfeit his office or position upon the
139 finality of conviction of any crime.

140 *Section 7. Organization and Employees.*

- 141 (a) Upon appointment of the initial membership, the Commission shall meet at a time and
142 place designated by the Office of the President and proceed to organize itself, electing
143 one (1) of such members as Chair and Chief Executive Officer of the Commission who
144 shall serve for one (1) year from the election; thereafter a Chair shall be elected
145 annually.
- 146 (b) The Commission shall appoint an executive secretary who shall serve at its pleasure
147 and shall be responsible for the conduct of its administrative affairs. No person shall
148 be eligible for such appointment unless he shall have at least 5 years of responsible
149 experience in public or business administration or possesses broad management skills.
- 150 (c) The Commission may establish, and from time to time alter, such plan of organization
151 as it may deem expedient, and may incur reasonably necessary expenses within the
152 limits of funds available to it.
- 153 (d) The Commission may employ such other personnel as it deems necessary. All
154 employees of the Commission shall be party to the provisions of the Civil Service

Law. Notwithstanding the provisions of any other law to the contrary, the Commission may employ legal counsel, including the Office of the Solicitor General, who may be called to represent the Commission in any proceeding to which it is a party, and who shall render legal advice to the Commission upon its request. The Commission may contract for the services of other professional, technical, and operational personnel and consultants as may be necessary to the performance of its responsibilities under this Act.

Section 8. *Compensation.* — Each member of the Commission shall receive an annual salary to be fixed and established by the President. It is hereby directed that, subject to the availability of funds, the amount of Fifty Million Pesos, or so much thereof as may be needed to carry out the purposes of this Act, be set aside out of the funds of the National Treasury and made available for expenditure by the Commission.

Section 9. Meetings.

- (a) A majority of the members shall constitute a quorum of the Commission provided that all actions of the Commission relating to the regulation of licensing under this Act shall require an affirmative vote by at least four members of the Commission.
 - (b) All meetings of the Commission are open to the public except for investigative hearings, which may be conducted confidentially at the discretion of the Commission.
 - (c) The Commission shall have the authority to conduct investigative hearings concerning the conduct of gaming activities and gaming operations as well as the enforcement of the provisions of this Act.
 - (d) Investigative hearings may be conducted by one or more members with the concurrence of a majority of the Commission.

TITLE III – EMPLOYMENT RESTRICTIONS

Section 10. Pre-employment Restrictions.

- (a) No person shall be appointed to or employed by the Commission if, during the period commencing three (3) years prior to appointment or employment, said person held any direct or indirect interest in, or any employment by, any person which is licensed as a gaming licensee or has an application for such a license pending before the Commission.
 - (b) Prior to appointment or employment, each member of the Commission and each employee of the Commission shall swear or affirm that he possesses no interest in any business or organization licensed by or registered with the Commission.
 - (c) Each member of the Commission shall file a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said member and said member's spouse and shall provide a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of the parents, brothers, sisters, and children of said member. Such statement shall be under oath and shall be filed at the time of appointment and annually thereafter.
 - (d) Each employee of the Commission, except for secretarial and clerical personnel, shall file a financial disclosure statement listing all assets and liabilities, property and business interests, and sources of income of said employee and said employee's

199 spouse. Such statement shall be under oath and shall be filed at the time of
200 employment and annually thereafter.

201 *Section 11. Employment Restrictions.*

202 (a) The Commission shall, no later than three (3) months after commencing activities,
203 promulgate a Code of Ethics. This Code of Ethics shall include, but not be limited to,
204 provisions that address the propriety of relationships and dealings between the
205 Commission and its staff, and licensees and applicants for licensure under this Act.

206 (b) The Codes of Ethics promulgated by the Commission shall not be in conflict with the
207 laws of the State, except, however, that said Codes of Ethics may be more restrictive
208 than any law of the State.

209 (c) The Codes of Ethics shall include, but not be limited to provisions that:

210 1. No Commission member or employee shall be permitted to gamble in any
211 establishment licensed by the Commission except in the course of his duties.

212 2. No Commission member or employee shall solicit or accept employment from any
213 person licensed by or registered with the Commission or from any applicant for a
214 period of four (4) years after termination of service with the Commission.

215 3. No Commission member or employee shall act in his official capacity in any
216 matter wherein he or his spouse, child, parent, or sibling has a direct or indirect
217 personal financial interest that might reasonably be expected to impair his
218 objectivity or independence of judgment.

219 4. No Commission employee shall act in his official capacity in a matter concerning
220 an applicant for licensure or a licensee who is the employer of a spouse, child,
221 parent, or sibling of said Commission when the fact of the employment of such
222 spouse, child, parent, or sibling might reasonably be expected to impair the
223 objectivity and independence of judgment of said Commission employee.

224 5. No spouse, child, parent, or sibling of a Commission member shall be employed in
225 any capacity by an applicant for a gaming license or a gaming licensee nor by any
226 holding, intermediary, or subsidiary company thereof.

227 6. No Commission member shall meet with any person, except for any other member
228 of the Commission or employee of the Commission, or discuss any issues
229 involving any pending or proposed application or any matter whatsoever which
230 may reasonably be expected to come before the Commission, or any member
231 thereof, for determination unless the meeting or discussion takes place on the
232 business premises of the Commission, provided, however, that Commission
233 members may meet to consider matters requiring the physical inspection of
234 equipment or premises at the location of the equipment or premises. All meetings
235 or discussions subject to this paragraph shall be noted in a log maintained for this
236 purpose and available for inspection.

237 (d) No Commission member or employee shall have any interest, direct or indirect, in any
238 applicant or in any person licensed by or registered with the Commission during his
239 term of office or employment.

240 (e) Each Commission member and employee of the Commission, including legal counsel,
241 shall devote his entire time and attention to his duties and shall not pursue any other
242 business or occupation or other gainful employment; provided, however, that
243 secretarial and clerical personnel may engage in such other gainful employment as

shall not interfere with their duties to the Commission or division; and provided further, however, that other employees of the Commission may engage in such other gainful employment as shall not interfere or be in conflict with their duties to the Commission, upon approval by the Commission.

(f) No member of the Commission or employee of the Commission shall:

1. Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
2. Directly or indirectly coerce, attempt to coerce, command or advise any person to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes; or
3. Take any active part in political campaigns or the management thereof; provided, however, that nothing herein shall prohibit a person from voting as he chooses or from expressing his personal opinions on political subjects and candidates.

(g) Any consultant or other person under contract for services to the Commission shall be deemed to be a special State employee for purposes of determining conflict of interest; such person and any corporation, firm, or partnership in which he has an interest or by which he is employed shall not represent any person or party other than the Commission before the Commission.

Section 12. Post-employment restrictions.

(a) No member of the Commission shall hold any direct or indirect interest in, or be employed by, any applicant or by any person licensed by or registered with the Commission for a period of four (4) years commencing on the date his membership on the Commission terminates.

(b) No employee of the Commission may acquire any direct or indirect interest in, or accept employment with, any applicant or any person licensed by or registered with the Commission, for a period of two (2) years commencing at the termination of employment with the Commission, except that a secretarial or clerical employee of the Commission may accept such employment at any time after the termination of employment with the Commission. At the end of two (2) years and for a period of two (2) years thereafter, a former employee or agent who held a policy-making management position at any time during the five (5) years prior to termination of employment may acquire an interest in, or accept employment with, any applicant or person licensed by or registered with the Commission upon application to and the approval of the Commission upon a finding that the interest to be acquired or the employment will not create the appearance of a conflict of interest and does not evidence a conflict of interest in fact.

(1) Notwithstanding the provisions of the above subsection, if the employment of a Commission employee, other than an employee or agent who held a policy-making management position at any time during the five (5) years prior to termination of employment, is terminated as a result of a reduction in the workforce at the Commission, the employee or agent may, at any time prior to the end of the two (2) year period, accept employment with any applicant or person licensed by or registered with the Commission upon application to and the approval of the

289 Commission upon a finding that the employment will not create the appearance of
290 a conflict of interest and does not evidence a conflict of interest in fact. The
291 decision of the Commission shall be final.

292

293 (c) No Commission member or person employed by the Commission shall represent any
294 person or party other than the State before or against the Commission for a period of
295 two (2) years from the termination of his office or employment with the Commission.

296

297 (d) No partnership, firm, or corporation in which a former Commission member or
298 employee has an interest, nor any partner, officer, or employee of any such
299 partnership, firm, or corporation shall make any appearance or representation which is
300 prohibited to said former member, employee, or agent; provided, however, that
301 nothing herein shall prohibit such partnership, firm, or corporation from making such
302 appearance or representation on behalf of a licensed gaming operator.

303

304 (e) Notwithstanding any post-employment restriction imposed by this section, nothing
305 herein shall prohibit a former Commission member or employee, at any time after
306 termination of such membership or employment, from acquiring an interest in, or
307 soliciting or obtaining employment with, any person licensed as a gaming operator or
308 any applicant for such licensure.

310 **TITLE IV – DUTIES**

311 Section 13. *Duties of the Commission.* — The Commission shall have general
312 responsibility for the implementation of this Act, as hereinafter provided, including,
313 without limitation, the responsibility:

- 314 (a) To hear and decide promptly and in reasonable order all license, registration,
315 certificate, and permit applications, and causes affecting the granting, suspension,
316 revocation, or renewal thereof, for the operation of gaming activities in such manner
317 and at such locations that the Commission may determine;
- 318 (b) To hear and decide promptly and in reasonable order all license, registration,
319 certificate, and permit applications, and causes affecting the granting, suspension,
320 revocation, or renewal thereof, to any person, association, or organization engaged in
321 the selling, distributing, or otherwise supplying or in the manufacturing of devices for
322 those activities authorized by this Act;
- 323 (c) To conduct all hearings pertaining to administrative and civil violations of this Act or
324 regulations promulgated hereunder;
- 325 (d) To promulgate such regulations as in its judgment may be necessary to fulfill the
326 policies of this Act;
- 327 (e) To collect all license and registration fees and taxes imposed by this Act and the
328 regulations issued pursuant hereto, including such fees as shall provide to the
329 Commission not less than an amount of money adequate to cover all costs incurred by
330 the Commission relative to licensing under this Act and the enforcement by the
331 Commission of the provisions of this Act and rules and regulations adopted pursuant
332 thereto;

- 333 (f) To levy and collect penalties for the violation of provisions of this Act and the
334 regulations promulgated hereunder;
- 335 (g) To prescribe the manner and method of payment of taxes, fees, and penalties to be paid
336 to or collected by the Commission;
- 337 (h) To be present through its inspectors and agents at all times, as deemed necessary,
338 during the operation of any gaming activities for the purpose of certifying the revenue
339 thereof, receiving complaints from the public relating to the conduct of gaming
340 activities, examining records of revenues and procedures, and conducting periodic
341 reviews of operations and facilities for the purpose of evaluating current or suggested
342 provisions of this Act and the regulations promulgated thereunder;
- 343 (i) To require that any license holder maintain records as directed by the
344 Commission and submit such reports as the Commission may deem necessary;
- 345 (j) To cooperate with and secure the cooperation of government agencies in investigating
346 any matter within the scope of its duties and responsibilities;
- 347 (k) To review and rule upon any complaint by a licensee regarding any investigative
348 procedures which are unnecessarily disruptive of gaming activities. The need to
349 inspect and investigate shall be presumed at all times. The disruption of a licensee's
350 operations shall be proved by clear and convincing evidence, which evidence shall
351 establish that: (1) the procedures had no reasonable law enforcement purpose, and (2)
352 the procedures were so disruptive as to inhibit unreasonably gaming activities; and
- 353 (l) To publish and make available at the office of the Commission or elsewhere to anyone
354 requesting it a list of the Commission licensees, including the name, address, type of
355 license, and license number of each licensee.
- 356 (m) To determine indicative sale or transfer valuations of assets identified for privatization
357 or disposition by the Privatization Management Office, in accordance with its duties
358 under Title VIII. Such appraisal assessments and valuations shall be based on the audit
359 report by the Commission on Audit or by a reputable third-party appraisal firm, in
360 accordance with Title VIII: *Provided*, that any valuations approved by the Commission
361 on Audit shall not be deemed a condonation, waiver, or extinguishment of any
362 obligation by any third party to such assets.

363

364 Section 14. *Denials and Sanctions.* — The Commission shall assure, to the extent
365 required by this Act, that licenses, approvals, certificates, or permits shall not be issued to
366 nor held by, nor shall there be any material involvement, directly or indirectly, with the
367 licensed gaming operation or the ownership thereof by, unqualified or disqualified persons
368 or persons whose operations are conducted in a manner not conforming with the
369 provisions of this Act and the regulations promulgated thereunder. In enforcing the
370 provisions of this Act, the Commission shall have the power and authority to deny any
371 application; limit or restrict any license, registration, certificate, permit, or approval;
372 suspend or revoke any license, registration, certificate, permit, or approval; and, impose a
373 penalty on any person licensed, registered, or previously approved for any cause deemed
374 reasonable by the Commission pursuant to rules and regulations promulgated thereby.

375 Section 15. *Reports and Recommendations.*

- 376 (a) The Commission shall carry on a continuous study of the operation and administration
377 of gaming control laws which may be in effect in other jurisdictions, literature on this

378 subject which may from time to time become available, laws which may affect the
379 operation of gaming activities, and the reaction of citizens to existing and potential
380 features of gaming under this Act. It shall be responsible for ascertaining any defects
381 in this Act or in the rules and regulations issued thereunder, formulating
382 recommendations for changes in this Act to prevent abuses thereof, guarding against
383 the use of this Act as a cloak for the carrying on of illegal gambling or other criminal
384 activities, and insuring that this Act and the rules and regulations shall be in such form
385 and be so administered as to serve the true purposes of this Act. The Commission shall
386 make to the Office of the President and Congress an annual report of all revenues,
387 expenses, and disbursements, and shall include therein such recommendations for
388 changes in this Act as the Commission deems necessary or desirable. The Commission
389 shall also report recommendations that promote more efficient operations of the
390 Commission. The Commission shall report immediately to the Office of the President
391 and Congress any matters which in its judgment require immediate changes in the laws
392 in order to prevent abuses and evasions of this Act or of rules and regulations
393 promulgated hereunder, or to rectify undesirable conditions in connection with the
394 operation and regulation of gaming activities.

- 395 (b) The Commission shall cause to be made and kept a record of all proceedings held at
396 public meetings of the Commission. A verbatim transcript of those proceedings shall
397 be prepared by the Commission upon the request of any Commissioner or upon the
398 request of any other person and the payment by that person of reasonable costs of
399 preparation. A copy of a transcript shall be made available to any person upon
400 reasonable request and payment of the costs of preparing the copy.
- 401 (c) A certified true copy of the minutes of every meeting of the Commission and of any
402 regulations finally adopted by the Commission shall be forthwith delivered to the
403 Office of the President and Congress.
- 404 (d) The Commission shall keep and maintain a list of all applicants for licenses and
405 registrations under this Act together with a record of all actions taken with respect to
406 such applicants, which file and record shall be open to public inspection; provided,
407 however, that the foregoing information regarding any applicant whose license or
408 registration has been denied, revoked, or not renewed shall be removed from such list
409 after five (5) years from the date of such action.
- 410 (e) The Commission shall maintain such other files and records as may be deemed
411 desirable.
- 412 (f) All information and data pertaining to an applicant's criminal record, family, and
413 background furnished to or obtained by the Commission from any source shall be
414 considered confidential and shall be withheld in whole or in part, except that any
415 information shall be released upon the lawful order of a court of competent jurisdiction
416 or to a duly authorized law enforcement agency.
- 417
- 418 (g) Notice of the contents of any information or data released, except to a duly authorized
419 law enforcement agency pursuant to subsection f. of this section, shall be given to any
420 applicant, registrant, or licensee in a manner prescribed by the rules and regulations
421 adopted by the Commission.
- 422 (h) The following information to be reported periodically to the Commission by a licensee
423 shall not be considered confidential and shall be made available for public inspection:

- 424 1. A licensee's gross revenue from all gaming activities; and
425 2. All quarterly and annual financial statements presenting historical data, which are
426 submitted to the Commission, including all annual financial statements which have
427 been audited by an independent certified public accountant.

428 Section 16. *Necessary and Incidental Powers.* The Commission may exercise any
429 proper power or authority necessary to ensure at all times the separation of and distinction
430 between the operation of gaming activities on one hand, and regulation of the same, on the
431 other, as well as perform the duties assigned to it by law. No specific enumeration of
432 duties in this Act shall be read to limit the authority of the Commission to administer this
433 Act.

434

435 **TITLE V – REQUIRED REGULATIONS**

436 Section 17. *Required Regulations.* — The Commission shall, without limitation on
437 the duties conferred in the preceding title, include within its regulations the following
438 specific provisions in accordance with the provisions of this Act:

- 439 (a) Prescribing the methods and forms of application which any applicant shall follow and
440 complete prior to consideration of his application by the Commission;
- 441 (b) Prescribing the methods, procedures, and form for delivery of information concerning
442 any person's family, habits, character, associates, criminal record, business activities,
443 and financial affairs;
- 444 (c) Prescribing procedures for the fingerprinting of an applicant, employee of a licensee,
445 or registrant, or other methods of identification which may be necessary in the
446 judgment of the Commission to accomplish effective enforcement of restrictions on
447 access to the restricted areas of the gaming facility;
- 448 (d) Prescribing the manner and procedure of all hearings conducted by the Commission,
449 including special rules of evidence applicable thereto and notices thereof;
- 450 (e) Prescribing the manner and method of collection of payments of taxes, fees, and
451 penalties;
- 452 (f) Defining and limiting the areas of operation, the rules of authorized games, odds, and
453 devices permitted, and the method of operation of such games and devices;
- 454 (g) Prescribing grounds and procedures for the revocation or suspension of operating
455 certificates and licenses;
- 456 (h) Governing the manufacture, distribution, sale, and servicing of gaming devices and
457 equipment;
- 458 (i) Prescribing for gaming operations the procedures, forms, and methods of management
459 controls, including employee and supervisory tables of organization and responsibility,
460 and minimum security standards, including security personnel structure, alarm, and
461 other electrical or visual security measures; provided, however, that the Commission
462 shall grant an applicant for a gaming license broad discretion concerning the
463 organization and responsibilities of management personnel who are not directly
464 involved in the supervision of gaming activities;
- 465 (j) Prescribing the qualifications of, and the conditions pursuant to which, engineers,
466 accountants, and others shall be permitted to practice before the Commission or to
467 submit materials on behalf of any applicant or licensee; provided, however, that no

468 member of Congress, nor any firm with which said member is associated, shall be
469 permitted to appear or practice or act in any capacity whatsoever before the
470 Commission regarding any matter whatsoever, nor shall any member of the family of
471 the President or of a member of Congress be permitted to so practice or appear in any
472 capacity whatsoever before the Commission regarding any matter whatsoever;

- 473 (k) Prescribing minimum procedures for the exercise of effective control over the internal
474 fiscal affairs of a licensee, including provisions for the safeguarding of assets and
475 revenues, the recording of cash and evidence of indebtedness, and the maintenance of
476 reliable records, accounts, and reports of transactions, operations and events, including
477 reports to the Commission;
- 478 (l) Providing for a minimum uniform standard of accountancy methods, procedures, and
479 forms; a uniform code of accounts and accounting classifications; and such other
480 standard operating procedures as may be necessary to assure consistency,
481 comparability, and effective disclosure of all financial information, including
482 calculations of percentages of profit by games, tables, gaming devices and slot
483 machines;
- 484 (m) Requiring quarterly financial reports and the form thereof, and an annual audit
485 prepared by a certified public accountant attesting to the financial condition of a
486 licensee and disclosing whether the accounts, records, and control procedures
487 examined are maintained by the licensee as required by this Act and the regulations
488 promulgated hereunder; and
- 489 (n) Governing the gaming-related advertising of licensees, their employees, and agents,
490 with the view toward assuring that such advertisements are in no way deceptive.

491

492 **TITLE VI**

493 **ENFORCEMENT**

494 Section 18. *Enforcement Powers.*— The Commission or its authorized
495 representative may:

- 496 (a) Make necessary public or private investigations to determine whether any person has
497 violated or is about to violate this Act or any rule or order hereunder, or to aid in the
498 enforcement of this Act or in the prescribing of rules and forms hereunder; and
- 499 (b) Inspect the books, documents, and records of any person lending money to or in any
500 manner financing any license holder or applicant for a license or receiving any income
501 or profits from the use of such license for the purpose of determining compliance or
502 noncompliance with the provisions of this Act or the rules and regulations adopted
503 pursuant thereto.

504 Section 19. *Hearings; Oaths; and Discovery.*— For the purpose of any
505 investigation or proceeding under this Act, the Commission may conduct hearings,
506 administer oaths or affirmations, or upon the Commission's motion or upon request of any
507 party may subpoena witnesses, compel attendance, take depositions, take evidence, or
508 require the production of any matter which is relevant to the investigation or proceeding,
509 including but not limited to the existence, description, nature, custody, condition, or
510 location of any books, documents, or other tangible things, or the identity or location of
511 persons having knowledge or relevant facts, or any other matter reasonably calculated to
512 lead to the discovery of material evidence.

513 Section 20. *Prosecution*.— Criminal violations of this Act or the rules and
514 regulations adopted pursuant thereto shall be referred to the public prosecutor.

515

516 **TITLE VII**

517 **APPLICANT RESPONSIBILITY**

518 Section 21. *Affirmative Duty on Applicant and Licensee*.—It shall be the
519 affirmative responsibility of each applicant and licensee to establish by clear and
520 convincing evidence the necessary qualifications for licensure of each person required to
521 be qualified under this Act, as well as the qualifications of the facility in which the
522 licensed activity will be conducted.

523 Section 22. *Consent to Inspection, Search, and Seizure*.—As a condition for
524 application and licensing, all applicants and licensees shall be deemed to consent to
525 inspections, searches, and seizures and the supplying of handwriting examples as
526 authorized by this Act and rules adopted hereunder.

527 Section 23. *Duty to Report*.— All licensees, and persons having any interest in
528 licensees, including but not limited to employees and agents of licensees, and other
529 persons required to be qualified under this Act or rules of the Commission shall have a
530 duty to inform the Commission or its staff of any action or omission which they believe
531 would constitute a violation of this Act or rules adopted pursuant thereto. No person who
532 so informs the Commission or the staff shall be discriminated against by an applicant or
533 licensee because of the supplying of such information.

534 Section 24. *Continuing Duty to Assist*.— All applicants, licensees, persons who are
535 operators or directors thereof and persons who otherwise have a substantial interest therein
536 shall have the continuing duty to provide any assistance or information required by the
537 Commission and to investigations conducted by the Commission. If, upon issuance of a
538 formal request to answer or produce information, evidence or testimony, any applicant,
539 licensee, or officer or director thereof, or person with a substantial interest therein, refuses
540 to comply, the applicant or licensee may be denied, revoked, or suspended, as the case
541 may be, by the Commission.

542 Section 25. *Waiver of Liability*.— All applicants and licensees shall waive any and
543 all liability as to the State, its agencies, employees, and agents for any damages resulting
544 from any disclosure or publication in any manner, other than a willfully unlawful
545 disclosure or publication, of any information acquired by the Commission during its
546 licensing or other investigations or inquiries or hearings.

547 Section 26. *Identification*.— Each applicant or licensee may be photographed for
548 investigative and identification purposes in accordance with rules of the Commission.

549

550 Section 27. *Character Determination; Confidentiality*.— An application to receive a
551 license under this Act or rules adopted pursuant thereto constitutes a request for
552 determination of the applicant's and those person's with an interest in the applicant,
553 general character, integrity, and ability to engage or participate in, or be associated with,
554 gaming or related activities impacting the State. Any written or oral statement made in the
555 course of an official investigation, proceeding, or process of the Commission by any
556 member, employee, or agent thereof or by any witness, testifying under oath, which is
557 relevant to the investigation, proceeding, or process, is absolutely privileged and shall not

impose any liability for slander, libel, or defamation, or constitute any grounds for recovery in any civil action.

Section 28. Financial Interests.— No applicant or licensee shall give or provide, or offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming activities, except as authorized by this Act, in consideration for obtaining any license, authorization, permission, or privilege to participate in any way in gaming or related operations.

TITLE VIII

PRIVATIZATION OF PAGCOR'S GAMING OPERATIONS

Section 29. Conduct of Audit and Accounting of Assets. — The Philippine Amusement and Gaming Commission, the Department of Finance, through its Privatization Management Office, and the Commission on Audit shall accomplish a complete inventory and account of all assets of PAGCOR for the purpose of determining the following:

1. Nature of the asset;
 2. Amount and value of the asset;
 3. Description of the asset;
 4. Purpose of use of the asset, and;
 5. Nature, description, amount and value, and purpose of any and all other rights and obligations pertaining to such assets;

Provided, that nothing in this Act shall be construed to prevent or preclude the engagement of a third party by the Privatization Management Office for the purpose of conducting appraisals of any of the aforesaid assets in the course of preparing the privatization or disposition plans as provided for by this Act; *provided further*, that the assets of PAGCOR shall refer to any and all assets owned and utilized in furtherance of the operation of all gaming activities of PAGCOR.

Section 30. Powers and Functions of the Privatization Management Office

Under this Act. — As provided for in the previous section, all the assets aforementioned shall be audited, accounted and appraised for the purpose of privatization and disposition in accordance with the provisions of this Act. Hence, the Privatization Management Office shall, pursuant to Executive Order No. 323, series of 2001, as amended, take possession of, conserve, provisionally manage, and dispose of all PAGCOR assets identified for privatization and disposition by the Commission.

The Privatization Management Office, pursuant to Executive Order No. 323, series of 2001, and the provisions of this Act, shall perform the following additional duties:

1. Create and put into practice a marketing program for the proper promotion and subsequent disposition of the assets designated for privatization and disposition by the Commission;
 2. Execute and deliver legal documents over such assets, including but not limited to, contracts of sale and contracts to sell, absolute deeds of sale, contracts of trust,

601 among others, for the purposes of conveying title to or taking possession of the
602 assets;

- 603 3. Engage and contract additional services from public or private individuals and
604 institutions as may be necessary in the fulfillment of its tasks under this Act;
605 4. Adopt internal rules and regulations in relation to the promotion and disposition of
606 the assets; and
607 5. Submit reports to the Commission on a monthly, quarterly and yearly basis on the
608 status, performance and achievements of the disposition program.

609

610 Any and all sales, transfers and conveyances of PAGCOR assets pursuant to the
611 privatization and disposition provided for by this Act, or any divestment or transmission of
612 any and all rights over such assets, until approved or ratified by the Commission, shall not
613 be considered final and executory and shall not convey any rights of ownership.

614 Section 31. *Remittance of Proceeds of Privatization.*—All proceeds or receipts
615 from the privatization, sale or disposition of the Assets, except portions thereof for
616 reasonably necessary operational expenses of the Commission, or such amount approved
617 by the Commission to be refunded to the PMO under the preceding section, shall be
618 remitted to the Gaming Revolving Fund as defined in Title IX hereunder.

619 Section 32. *Reporting Requirements.*—The Commission shall, on a semi-annual
620 basis, submit to the President and to Congress a report on the status of disposition of the
621 Assets, which shall include, among others, a description of the individual assets privatized
622 and disposed of, their purchasers, the consideration received, and the terms of payment as
623 agreed upon.

624 Section 33. *Reimbursement.* The Privatization Management Office shall be
625 reimbursed for any and all reasonable expenses incurred in the management and
626 disposition of the assets, subject to pertinent laws, rules and regulations.

627

TITLE IX

FUNDS

630 Section 34. *Gaming Revolving Fund.* — There is hereby created the gaming
631 revolving fund which shall consist of all moneys receivable for licensing, penalties,
632 forfeitures, and all other moneys, income, or revenue received by the Commission. All
633 moneys received by the Commission or any employee thereof shall be deposited each day
634 in a depository approved by the national treasurer and transferred to the national treasurer
635 to be credited to the gaming revolving fund. Disbursements from the revolving fund shall
636 be on authorization of the Commission or a duly authorized representative thereof. No
637 appropriation shall be required to permit expenditures and payment of obligations from
638 such fund. All expenses relative to Commission business, including but not limited to
639 salaries and expenses of Commission employees, shall be paid from the gaming revolving
640 fund. A five (5%) tax on gross revenue shall likewise be deposited in the gaming
641 revolving fund.

642 Section 35. *Development Fund.* — After deducting the five (5%) percent gross
643 revenue tax, a fifty (50%) percent tax shall be applied, with earnings immediately set aside

644 in the development fund and allocated to fund infrastructure and socio-civil projects
645 nationwide.

646 Development fund moneys shall be deposited in a depository approved by the
647 national treasurer and transferred to the national treasurer to be credited to the
648 development fund. The Commission holds the power to allocate and distribute, with the
649 approval of the Office of the President, the development fund.

650 The Commission shall submit to the Office of the President before the end of
651 February of each year a list of all the infrastructure and/or socio-civic projects that might
652 have been financed from the development fund, and submit such periodic or other reports
653 as may be required of it from time to time.

654

655 **TITLE X** 656 **GOVERNMENT AUDIT**

657 Section 35. *Auditor.* — The Commission of Audit may appoint a representative
658 who shall be the Auditor of the Commission and such personnel as may be necessary to
659 assist said representative in the performance of his duties. The salaries of the Auditor or
660 representative and his staff shall be fixed by the Chairman of the Commission on Audit,
661 with the advice of the Commission.

662

663 **TITLE XI** 664 **TRANSITORY PROVISIONS**

665

666 Section 36. *Early Retirement Plan; Separation Pay.* — All personnel of PAGCOR
667 who shall not be transferred to the Commission shall be governed by an early retirement
668 plan. For this purpose the Commission shall design and promulgate such early retirement
669 plan as soon as practicable and in no case beyond six (6) months from the date of
670 effectivity of this Act.

671

672 In the absence of an early retirement plan, severance pay of PAGCOR personnel
673 who shall not be transferred to the Commission shall be governed by applicable retirement
674 laws, notably, Republic Act 8291, Republic Act 660, Republic Act 1616, Republic Act
675 7699, or Presidential Decree 1146, as the case may be, and rules and regulations issued
pursuant to such laws.

676

677 **TITLE XII** 678 **ADMINISTRATIVE CODE OF 1987**

679

680 Section 37. *Applicability of the Administrative Code of 1987.* — Executive Order
681 No. 292 (1987), otherwise known as the Administrative Code of 1987, shall apply in
supplementary character.

682

683 **TITLE XIII** 684 **CRIMINAL, CIVIL, AND ADMINISTRATIVE LIABILITY**

685 Section 38. *Criminal, Civil, and Administrative Liability.* — Any person, natural
686 or juridical, foreign or domestic, found to have violated any of the provisions of this Act
687 shall be subject to the penalties of imprisonment of not less than six (6) months nor more
688 than five (5) years and a fine of not less than one hundred thousand pesos (P100,000.00)
689 but not exceeding two million pesos (P2,000,000.00), without prejudice to any civil or
690 administrative liability which may also arise therefrom, and without prejudice to the
691 applicability of special laws and offenses arising under the Revised Penal Code.

692 If the violator is a government official, he or she shall suffer absolute perpetual
693 disqualification from holding public office and from practicing any profession or calling
694 licensed by the government.

695 If the violator is a juridical entity as defined under Philippine laws, or defined
696 under the laws of its home state or place/s of business, including its representatives,
697 agents, or offices wherever situated, the penalty shall be imposed upon any person or
698 officer thereof who knows or ought to have known the commission or existence of the
699 violation of the provisions of this Act. Any person, natural or juridical, foreign or
700 domestic, who/which assists, cooperates, or conspires in the commission of violations as
701 defined in this Act shall be subject to the graduated penalties based on the aforementioned
702 penalties, taking into consideration their participation and culpability under the regime of
703 the Revised Penal Code.

704 In determining imposable penalty/ies, the Commission, courts, or appropriate
705 agency, as the case may be, shall consider the nature and extent of the business, its market
706 reach, and the extent to which it is syndicated or organized in its conduct of illegal
707 operations both foreign and domestic.

708

709 **SEC. 4. Separability Clause.** — In the event that any provision of this Act is declared
710 unconstitutional, invalid, or illegal, the constitutionality, validity, or legality of the remainder of
711 the provisions of this Act shall not be affected thereby.

712 **SEC. 5. Repealing Clause.** — Republic Act No. 9487 and Presidential Decree No. 1869
713 are repealed in their entirety. All other laws, decrees, executive, orders, administrative orders,
714 rules or regulations, inconsistent herewith are hereby repealed, amended or modified accordingly.

715 **SEC. 6. Effectivity.** — This Act shall take effect fifteen (15) days following the
716 completion of its publication in two (2) national newspapers of general circulation.

717 *Approved,*

718

719