

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 58



Introduced by : **REP. RAUL V. DEL MAR**

EXPLANATORY NOTE

If there is anything clear in the world market of investments and community of investors it is this: a country must look beyond the traditional way of doing things, must innovate to create opportunities where and by which it can give investors the maximum value for their investments.

This bill precisely seeks to achieve this by establishing the Cebu Free Port consisting of the City of Cebu, the component cities of Mandaue and Lapu-Lapu of the Province of Cebu and the Municipalities of Cordova in the Province of Cebu. The concept and the objective is to develop the Free Port area into a self-sustaining industrial, commercial and investment center that will put in place a wide-reaching employment and investment generation mechanism, all to strengthen the trading and foreign exchange position of the country. On the whole, it is looking at effectively complementing and announced aggressive export-oriented thrust of the country, thus enhancing the country's global competitiveness.

As envisioned, the Cebu Free Port shall be operated as a separate customs territory that will basically provide incentives to ensure the free flow and movement of goods and commodities within the Free Port area and their exportation therefrom. Likewise, it shall provide tax-based incentives for business activities and concerns locating and operating within the Free Port premises, not to mention other non-tax benefits like liberal foreign exchange policies and the grant of permanent resident status to investors.

The bill does away with an authority-type of office to run the Free Port but directly tasks a governing body composed of the elected chief executives of the localities involved and the private sector to do the job. It is felt that with the flexibilities already defined in the bill, creating the Free Port already as a body corporate, to institutionalize another office or authority for the purpose of running the Free Port would be unnecessary.

The competitive markets around us are moving fast, already leaving the country behind. The performance of South Korea, Hongkong, Taiwan and Singapore had always been a source of envy despite the limited resources they have compared to the abundance our country enjoys. And now, Thailand, Malaysia and Indonesia are surging ahead, outpacing even other western countries. Particularly because of the proposed Free Port are offers an environment that can match the capabilities and resources of a comparable area anywhere in the country, this Bill may help the country at least to keep pace with, not necessarily get ahead of the pack.

In the light of the foregoing, approval of the Bill is earnestly sought.


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**AN ACT
ESTABLISHING THE CEBU FREE PORT, PROVIDING FUNDS
THEREFOR AND FOR OTHER PURPOSES.**

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

1 **SECTION 1. Title.** - This Act shall be known as the "Cebu Free Port Act
2 of 2004".

3 **SEC. 2. Declaration of Policy.** - It is hereby declared the policy of the State to
4 actively encourage, promote, induce and accelerate a sound and balanced industrial,
5 economic and social development of the country in order to provide jobs to the people
6 especially those in the rural areas, increase productivity and individual and family
7 income, and thereby improve the level and quality of living condition through the
8 establishment, among others, of free ports in suitable and strategic locations in the
9 country and through measure that will attract legitimate and productive foreign
10 investments.

11 **SEC. 3. Creation of the Cebu Free Port Authority.** - There is hereby created a
12 body corporate to be known as the Cebu Free Port Authority, hereinafter referred to as
13 the CFPA, which shall cover the entire area embraced by the City of Cebu, the
14 component cities of Mandue and Lapu-Lapu, and the Municipality of Cordova, Province
15 of Cebu. Other cities and municipalities in the entire Province of Cebu shall be included
16 in the Free Port upon application by the said or municipality duly approved by two-thirds
17 (2/3) of all the members of the Board of Directors. The specific metes and bounds of the

Free Port shall be more particularly defined in a presidential proclamation that shall be issued for this purpose.

SEC. 4. *Governing Principles.* — The Cebu Free Port shall be managed and operated under the following principles:

(a) Within the framework and limitations of the Constitution and applicable provisions of the Local Government Code, the Cebu Free Port shall be developed into a self-sustaining, industrial, commercial, financial and investment center to generate employment opportunities in and around the Free Port and to attract and promote productive foreign investments;

(b) The Bangko Sentral ng Pilipinas (BSP), through the Monetary Board, shall supervise and regulate the operations of banks and other financial institutions within the Free Port. Banking and finance shall be liberalized with the establishment of foreign currency depository units of local commercial banks and offshore banking units of foreign banks with minimum BSP regulation;

(c) Any investor within the Free Port whose continuing investment shall not be less than One hundred fifty thousand United States dollars (US\$150,000.00), his/her spouse and dependent children under twenty-one (21) years of age, shall be granted permanent resident status within the Free Port territory. They shall have freedom of ingress and egress to and from the Free Port territory without any need of special authorization from the Bureau of Immigration. The names of aliens granted permanent resident status and working visas shall be reported to the Bureau of Immigration within thirty (30) days after issuance hereof; and

(d) The defense and security of the Cebu Free Port shall be the responsibility of the national government. The Free Port shall provide and establish its own internal security and firefighting forces or hire others to provide the same.

SEC. 5. *Fiscal Incentives.* —

(a) The Cebu Free Port shall be operated and managed as a separate customs territory ensuring free flow or movement of goods and capital within, into and exported out the Free Port premises, as well as provide incentives such as tax and duty-free importation of raw materials and capital equipment. However, exportation or removal of goods from the territory of the Free Port to the other parts of the Philippine territory shall

be subject to custom duties and taxes under the Tariff and Customs Code of the Philippines, as amended, and the National Internal Revenue Code of 1997, as amended;

(b) Business establishments operating within the Cebu Free Port shall be entitled to the existing fiscal incentives as provided for under Republic Act No. 7916, otherwise known as the "Special Economic Zone Act of 1995," as amended, or those provided under Book VI of Executive Order No. 226, as amended, otherwise known as the Omnibus Investments Code of 1987; and

(c) The provision of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local and national, shall be imposed on business establishments operating within the Free Port territory. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the Cebu Free Port shall be paid and remitted as follows: (a) two percent (2%) to the national government; (b) two percent (2%) which shall be directly remitted by the business establishments to the treasure's office of the municipality or city where the enterprise is located, and (c) one percent (1%) to the CFPA created under this Act.

It is understood that cities and municipalities shall continue to levy and collect real property tax on all real properties situated within the Free Port territory.

In case of conflict between national and local laws with respect to tax exemption privileges in the Cebu Free Port, the same shall be resolved in favor of the Free Port.

SEC. 6. Powers and Functions of the Cebu Free Port Authority. – The CFPA shall have the following powers and functions:

(a) To authorize or undertake on its own and regulate the establishment, operation and maintenance of public utilities, services and infrastructure in the Free Port such as shipping, barging, stevedoring, cargo, port services or concessions, piers, wharves, bulk heads, bulk terminals, mooring areas, storage areas, roads, bridges, terminals, conveyors, water supply and storage, drainage and such other services or concessions or infrastructure necessary or incidental to the accomplishment of the objectives of this Act;

(b) To construct, acquire, own, lease, or operate and maintain on its own or through others by virtue of contracts, franchise, licenses or permits under the build-operate-transfer scheme or under a joint venture with the private sector;

1 (c) To issue rules and regulations consistent with the provisions of the Act as may
2 be necessary to implement and accomplish the purpose, objectives and policies provided
3 herein;

4 (d) To adopt and use a seal;

5 (e) To acquire, own, hire, use, operate and dispose of personal property and to
6 acquire, own, use, lease, operate and dispose of real property and interests thereon and to
7 make improvements on such real property, including the reclamation for port purposes, of
8 foreshore submerged lands within its territorial jurisdiction;

9 (f) To make expenditures in foreign currencies to pay commission, and hire or
10 contract experts and consultants, both foreign and local, in accordance with existing laws,
11 rules and regulations;

12 (g) To make expenditures for promotion of the Free Port;

13 (h) To prescribe its by-laws and such rules and regulations as may be found
14 necessary to promote or enhance the business of the Free Port;

15 (i) To levy dues and import rates and charges for the use of the premises, works,
16 appliances, facilities, or for services provided by or belonging to the Free Port, the
17 proceeds of which shall be actually, directly and exclusively used for the operations of
18 the Free Port;

19 (j) To operate directly or indirectly or license tourism related activities subject to
20 priorities and standards set by the Free Port; and

21 (k) To exercise all the powers of a corporation under the Corporation Law insofar
22 as they are not inconsistent with the provisions of this Act.

23 **SEC. 7. Board of Directors.** – The powers and functions of the CFA shall be
24 vested in and exercised by a board of directors, hereinafter referred to as the Board,
25 which shall be composed of nine (9) members, to wit:

26 (1) Mayor of the City of Cebu;

27 (2) Mayors of the cities of Mandaue and Lapu-Lapu, Province of Cebu;

28 (3) Mayor of the Municipality of Cordova, Province of Cebu;

29 (4) Governor of the Province of Cebu; and

30 (5) Four (4) representatives of the private sector.

1 The *ex officio* members shall elect four (4) representatives of the private sector,
2 after which, all nine (9) members, including the four (4) representatives of the private
3 sector shall elect a chairman from among themselves. The members of the Board, except
4 the *ex officio* members, shall serve for a term of three (3) years, unless sooner removed
5 for cause or die or resign voluntarily. In case of death, resignation or removal for cause,
6 the replacement shall serve only the unexpired portion of the term.

7 The members of the Board shall receive *per diem* at rates to be determined by the
8 Department of Budget and Management pursuant to existing rules and regulations:
9 *Provided, however,* That the total *per diem* collected each month shall not exceed the
10 equivalent *per diems* for four (4) meetings.

11 **SEC. 8. Powers, Functions and Duties of the Board.** – In addition to the powers
12 vested in the Board under Section 6 hereof, the Board shall have the following powers,
13 functions and duties:

14 (a) To define and approve the programs, plans, policies, procedures and
15 guidelines of the Cebu Free Port for its development and operation;

16 (b) To approve the CFPA's organizational and administrative structure, staffing
17 pattern, operating and capital expenditures, and financial budgets, upon recommendation
18 of the administrator, subject to existing laws, rules and regulations;

19 (c) To approve salary ranges, benefits and other terms and conditions of the
20 service for all officers and employees of the CFPA, upon recommendation of the
21 administrator, in accordance with existing laws on compensation and position
22 classification;

23 (d) To fix the rate of dues, charges, fees or assessments for the use of the Free
24 Port premises, work, appliances, facilities, concessions, services, and other fees and
25 charges related to the activities of the Free Port upon recommendation of the
26 administrator; and

27 (e) Generally, to exercise all the functions and powers necessary or incidental to
28 attain the purposes and objectives of this Act.

29 **SEC. 9. Administrator.** – The Board shall appoint a full-time professional and
30 competent administrator for the CFPA whose compensation shall be in accordance with
31 existing laws on compensation and position classification. The administrator of the CFPA

1 shall be responsible to the Board for the efficient management and operation of the Free
2 Port.

3 The administrator shall be a Filipino citizen, of good moral character, with proven
4 probity and integrity, and a degree-holder in any of the following fields: economics,
5 business, public administration, law, management or their equivalent, and with at least
6 ten (10) years relevant working experience preferably in the field of management or
7 public administration.

8 **SEC. 10. Powers and Functions of the Administrator. –**

9 (a) To manage, direct and supervise the operations and internal administration of
10 the Free Port, subject to the control and supervision of the Board;

11 (b) To prepare all memoranda pertaining to each and every item in the agenda for
12 the meetings of the Board and to submit for the consideration thereof such proposals or
13 recommendation which he believes to be necessary to carry out effectively and
14 beneficially the business of the Free Port;

15 (c) To implement the policies and administer the measures approved by the
16 Board;

17 (d) To devise the executive organization pattern of the Board, submit from time to
18 time to the Board, the corresponding organizational and functional charts and enforce the
19 executive elements thereof;

20 (e) To appoint and employ the services of the subordinate officials and
21 employees, subject to the confirmation of the Board;

22 (f) To prepare and submit to the Board budget proposals of all kinds; and

23 (g) To perform such other duties and exercise such other powers as may be
24 directed or authorized specifically by the Board.

25 **SEC. 11. Capitalization. –** The CFPA shall have an authorized capital stock of
26 two billion (2,000,000.00) no par shares with a minimum issue of Ten pesos (P10.00)
27 each, the majority shares of which shall be subscribed and paid for by the national
28 government and the local government units (LGUs) embracing the CFPA. The Board of
29 Directors of the CFPA with the written concurrence of the Secretary of Finance, may sell
30 shares, representing not more than forty *percentum* (40%) of the capital stock of the
31 CFPA to the general public under such policy as the Board and the Secretary of Finance

1 may determine. The national government and the LGUs shall in no case own less than
2 sixty *percentum* (60%) of the total issued and outstanding capital stock of the CFPA.

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

7 **SEC. 12. *Relationship with Local Units.*** – The LGUs comprising the Free Port
8 shall retain their integrity, powers and function as such under the Local Government
9 Code of 1991. However, in case of any conflict between the Free Port and any of the
10 LGUs on matters affecting the operation of the Free Port, the decisions of the Free Port
11 shall prevail.

12 **SEC. 13. *Supervision.*** – The CFPA shall be under the control and supervision of
13 the Office of the President of the Philippines for the purposes of policy direction and
14 coordination.

15 **SEC. 14. *Auditing.*** – The Commission on Audit shall appoint a representative
16 who shall be a full-time auditor of the Free Port and assign such number of personnel as
17 may be necessary to assist said representative in the performance of his/her duties. The
18 salaries and emoluments of the assigned auditor and personnel shall be in accordance
19 with pertinent laws, rules and regulations.

20 **SEC. 15. *Ipsa Facto Clause.*** – All privileges, benefits, advantages and
21 exemptions granted to Special Economic and Free Port Zone under Republic Act No.
22 7277 shall *ipso facto* be accorded to the CFPA, created under this Act.

23 **SEC. 16. *Separability Clause.*** – If any provision of this Act shall be held
24 unconstitutional or invalid, the other provisions not otherwise affected under this Act.

25 **SEC. 17. *Repealing Clause.*** – All laws, executive orders or issuances, or any
26 parts thereof, which are inconsistent herewith are hereby repealed or amended
27 accordingly.

28 **SEC. 18. *Effectivity Clause.*** – This Act shall take effect upon its publication in at
29 least one (1) newspaper of general circulation.

Approve,