

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

000 348
House Bill No. _____

Introduced by HONORABLE DANILO E. SUAREZ

EXPLANATORY NOTE

It is of common knowledge that we desperately need more road and railway projects, especially since these greatly facilitate in decongesting heavily-saturated urban areas and in triggering development in rural areas. As such, the contribution of these types of projects to economic growth is universally accepted. Among other desired undertakings, these projects are imperative for national progress.

However, it is to be admitted that these projects require massive capital outlay, which the government can ill-afford at this time. Notwithstanding the various fiscal and non-fiscal incentives granted under Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the "BOT Law", it appears that government has been encountering obstacles in attracting even financially-sound multinational companies to underwrite road and railway projects. Thus, it is submitted that government should be willing to do more than just offering the BOT incentives, by lessening the burden of companies that have shown willingness to undertake these projects.

Among the concerns that the private sector has raised are the local government taxes ("LGT") and real property taxes ("RPT") imposed by local government units ("LGUs") pursuant to the Local Government Code of 1991 ("LGC"). It has been argued that the immense benefits to be derived from Private Sector Infrastructure and Development Projects, as defined in the BOT Law, more than compensate for the lost revenues that would otherwise accrue to the LGUs from the collection of local government taxes ("LGTs") and real property taxes ("RPTs").

In this regard, the foregoing concerns raised by the private sector appear to be reasonable. In fact, we are aware that there may be as there are in fact some LGUs that want to lessen (if not altogether remove) the LGT and RPT liabilities of those undertaking projects under the BOT Law. However, the Bureau of Local Government Finance – Department of Finance ("BLGF-DOF") has taken the following positions that have effectively deterred LGUs from passing the appropriate ordinances granting LGC and/or RPT incentives and/or exemptions even if they wanted to do so:

- a) Section 192 may only be exercised in cases of natural calamities, civil disturbance, general failure of crops, or adverse economic conditions (citing the Implementing Rules and Regulations of the LGC);
- b) Section 192 only applies to LGT, and not to RPT, and that Section 234 of the LGC provides an exclusive list of RPT-exempts persons/parties.

Thus, with respect to BOT projects involving roads and railways that would in fact be transferred to the government no later than the end of the concession period

therefore, this bill seeks to: (a) clarify that LGUs could pass the appropriate ordinances granting LGC incentives and/or exemptions even if they wanted to do so and (b) exempt said projects from RPT.

The approval of this bill is thus earnestly requested.



DANILO E. SUAREZ
Representative
Third District, Quezon Province

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Introduced by **HONORABLE DANILO E. SUAREZ**

AN ACT FURTHER AMENDING REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991 IN ORDER TO: (A) AUTHORIZE LOCAL GOVERNMENT UNITS TO GRANT TAX EXEMPTION PRIVILEGES FOR PRIVATE SECTOR INFRASTRUCTURE AND DEVELOPMENT PROJECTS INVOLVING ROADS AND RAILWAYS THAT WILL BE TRANSFERRED TO THE GOVERNMENT AND (B) EXEMPT SAID PROJECTS FROM REAL PROPERTY TAXES, AND FOR OTHER PURPOSES.

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

Section 1. Notwithstanding any law to the contrary, all local government units may, through ordinances duly approved, grant tax exemptions, incentives or relief for Private Sector Infrastructure and Development Projects involving roads and railways as defined under the Republic Act No. 6957, as amended, which would in fact be transferred to the government no later than the end of the concession period therefor. For this purpose, Section 192, Chapter 5, Title One, book II of Republic Act 7160, as amended, otherwise known as the Local Government code of 1991, is hereby amended to read as follows:

"Authority to Grant Tax Exemption Privileges – Local government units may through ordinances duly approved, grant tax exemptions, incentives or reliefs for, among others, Private Sector Infrastructure and Development Projects involving roads and railways as defined under Republic Act No. 6957, as amended, which would in fact be transferred to the government no later than the end of the concession period therefor, as well as in cases of natural calamities, civil disturbances, general failure of crops, adverse economic conditions, or other similar situations."

Section 2. Notwithstanding any law to the contrary, all components of Private Sector Infrastructure and Developments Projects involving roads and railways as defined under Republic Act No. 6957, as amended, which would in fact be transferred to the government no later than the end of the concession period therefore, are hereby exempted from the payment of real property tax. For this purpose, Section 234, Chapter

4, Title Two Book II of Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991, is hereby amended to read as follows:

"SEC. 234. *Exemptions from Real Property Tax* – The following are exempted from payment of the real property tax:

- (a) Real property owned by the Republic of the Philippines or any of its political subdivisions except when the beneficial use thereof has been granted, for consideration or otherwise, to a taxable person;
- (b) Charitable institutions, churches, parsonages or convents appurtenant thereto, mosques, nonprofit or religious cemeteries and all lands, buildings and improvements actually, directly and exclusively used for religious, charitable or educational purposes;
- (c) All machineries and equipment that are actually, directly and exclusively used by local water districts and government-owned or controlled corporations engaged in the supply and distribution of water and/or generation and transmission of electric power;
- (d) All real property owned by duly registered cooperatives as provided for under RA No. 6938;
- (e) Machinery and equipment used for pollutions control and environmental protection; and
- (f) All components of Private Sector Infrastructure and Development Projects involving roads and railways, as defined under Republic Act No. 6957, as amended, which would in fact be transferred to the government no later than the end of the concession period therefore.

Except as provided herein, any exemption from payment of real property tax previously granted to, or presently enjoyed by all persons, whether natural or juridical, including all government-owned or controlled –corporations are hereby withdrawn upon the effectivity of this Code."

Section 3. The Department of Finance shall promulgate the rules and regulations necessary to effectively implement the provisions of this Act.

Section 4. All laws, presidential decrees, executive orders, other executive issuances, or parts thereof, which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

Sec. 6. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.