

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Fifteenth Congress
First Regular Session

HOUSE BILL NO. 3398

**Introduced by Honorable Arnulfo P. Fuentebella,
Honorable Mark Llandro L. Mendoza and Honorable Rex Gatchalian**

EXPLANATORY NOTE

President Benigno Simeon "Noynoy" C. Aquino III has recently indorsed the privatization of the state-owned Philippine Amusement and Gaming Corporation (PAGCOR) which is in charge of casinos in the country as one of the targets of his administration following the strong and repeated calls of Catholic bishops for the government to clarify the state's policy towards gambling and more importantly, for the government to end its involvement in state-sponsored gambling casinos.

The fact that the government itself serves as the chief operator of casinos, games of chance and other betting activities while at the same time is the one tasked to regulate these activities is, indeed, irregular and anomalous.

This bill, therefore, proposes the privatization of PAGCOR and the establishment of the Philippine Amusement and Gaming Commission to maintain and strengthen the regulatory functions of the State over all casinos, other games of chance and betting activities authorized under existing laws.

As a rule, all forms of gambling are illegal, and Congress has been very strict in recognizing gambling as a necessary evil.

Starting with Articles 195 to 197 of the Revised Penal Code and the subsequent laws such as Presidential Decree (PD) No. 1602 (Prescribing Stiffer Penalties on Illegal Gambling which modified Articles 195 to 199 of the Revised Penal Code and repealed inconsistent provisions and prescribed stiffer penalties on illegal gambling), PD 449

(Cockfighting Law of 1974), Republic Act No. 309 (An Act to Regulate Horse-Racing in the Philippines), Republic Act No. 1169 (An Act Providing For Charity Sweepstakes Horse Races and Lotteries), Commonwealth Act No. 485 (An Act to Permit Betting on the Game of Basque Pelota), and PD 810, the policy has been to punish gambling and in exceptional cases where it is allowed, to strictly control its franchise.

It must be noted that then President Corazon C. Aquino repealed PD 810 with the intention not to grant any franchise for jai-alai as it was said that the Aquino government was grounded on a strong sense of morality and was very much against gambling.

The only form of gambling allowed by law is that stipulated under PD 1869, which gave PAGCOR its franchise to maintain and operate gambling casinos.

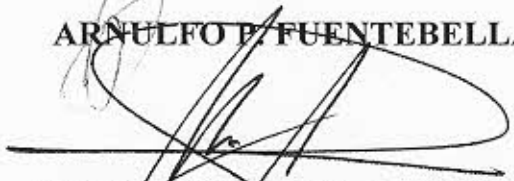
Under the leadership and administration of President Noyoy Aquino, there is hope that the government's role as a maintainer and operator of casinos will finally end.

A Philippine gaming commission should therefore be established to regulate the operation of existing and future casinos and other games of chance authorized under existing laws, with the end in view of ensuring that the efforts by the new government are geared towards clean and honest governance and *creation of conditions conducive to growth and competitiveness of private businesses.*

Hence, approval of this bill is urgently recommended.



ARNULFO P. FUENTEBELLA



MARK LLANDRO L. MENDOZA



REX GATCHALIAN

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AN ACT
CREATING THE PHILIPPINE AMUSEMENT AND GAMING
COMMISSION, PROVIDING FUNDS THEREFOR AND FOR
OTHER PURPOSES

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

TITLE I. GENERAL PROVISIONS

SECTION 1. *Declaration of Policy.* – It is hereby declared to be the policy of the State to regulate all games of chance authorized under existing laws in order to attain the following objectives:

- a) Integrate the right and authority of regulation under the administration and supervision of the government;
- b) Provide for strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming in order to maintain public confidence and trust;

- c) Restore public trust in the gaming industry of our country by institutionalizing policy reforms in the conduct of its regulation;
- d) Expand existing tourist attractions through these recreation and integrated facilities, promote employment and broaden opportunities for job creation; and
- e) Generate sources of additional revenue to fund infrastructure and socio-civic projects of the government.

TITLE II. CREATION OF THE PHILIPPINE AMUSEMENT AND GAMING COMMISSION

SEC. 2. *Philippine Amusement and Gaming Commission.* – To implement the policy of the State and to pursue the objectives set forth in the preceding section, there is hereby created the Philippine Amusement and Gaming Commission, hereinafter referred to as the Commission, which shall have its principal office in Metro Manila. The Commission may establish such offices in the Philippines as its operations would require and its Commissioners may determine.

The Commission shall act as an independent, quasi-judicial regulatory body which shall exercise supervision and control over all casinos, games of chance authorized under existing laws and other affiliated entities. Further, it shall set and enforce the franchise granted by Congress to private individuals or corporations to establish and

conduct casinos, other games of chance authorized under existing laws and other affiliated entities.

SEC. 3. *Appointment of the Commissioner.* – The President of the Philippines shall appoint the Commissioner who shall act as the Chief Executive Officer of the Commission and be responsible for the proper administration and management of the functions and affairs of the Commission in accordance with the policy of the State.

SEC. 4. *Deputy Commissioners.* – There shall be ten (10) Deputy Commissioners, five (5) of whom shall come from the government sector and five (5) from the private sector.

The Commissioner and Deputy Commissioners shall be of unquestioned integrity and proven competence. They shall have a term of five (5) years, and be eligible for reappointment to another five (5) years unless sooner removed for just cause under existing laws.

It is prohibited for the Commissioner or his Deputy Commissioners or any of their relatives within the fourth civil degree of consanguinity or affinity to hold any interest either as owner, investor, stockholder, officer or director in any of the gaming establishments authorized under existing laws and other affiliated entities or manufacturer of supplies which the Commission regulates.

The Commissioner and Deputy Commissioners shall be provided with a fixed salary, per diem and other emoluments as may be allowed by accounting and auditing rules and procedures.

SEC. 5. *Powers, Duties and Functions.* – The Commission shall:

- a) Supervise, administer and control the operation of casinos, games of chance authorized under existing laws and other affiliated entities;
- b) Act on applications by affiliated entities, suppliers of goods and manpower services for permits or licenses in accordance with its rules and guidelines, and revoke, review or modify the same in appropriate cases;
- c) Establish and prescribe rules, regulations, as well as standards related to the operation and administration of gaming, including guidelines in the hiring of casino personnel and employees and services of foreign technical consultants;
- d) Impose reasonable fees for permits and licenses, as well as fines and penalties for non-compliance or breach of any of the rules which it administers as well as monitor the correct reporting of earnings by these casinos and related entities;

e) Advise the President on policies relating to the supervision and inspection of games of chance, casinos authorized under existing laws and other affiliated entities;

f) Enter into contracts, and to sue and be sued; and

g) Employ such officers and personnel as may be necessary or proper to carry on its purpose;

SEC. 6. ***Other Duties.*** – For the accomplishment of any of the purposes and objectives of the Commission and in furtherance of any of the powers abovementioned, the Commission shall:

a) Supervise the operation of casinos, other games of chance authorized under existing laws and other affiliated entities, the persons responsible therefore and the conduct of gaming within the said casinos;

b) Prescribe the standards and regulations relative to the fitness and participation of local gaming players, ensuring that only those who can afford are given the opportunity to play and issue permits for such purpose, if necessary;

c) Detect offenses committed within casino premises or in relation thereto;

d) Adopt its internal rules of procedure in the exercise of its quasi-judicial function, to include the power to issue summons by *subpoena ad testificandum* or by *subpoena duces tecum*;

e) Receive and investigate complaints from casino patrons concerning the conduct of gaming in the casino;

f) Adjudicate cases arising from disputes between a casino operator or his employees, and the patrons of the casino, and if the action so warrants, suspend the operations of the franchise holder or impose other disciplinary measures like fines and penalties;

g) Investigate and determine the sustainability of applicants for franchises or licenses and provide Congress with recommendations thereon;

h) Examine or review casino books and other records, on its own or through duly authorized representatives, as may be required;

i) Inspect, test and approve gaming equipment and chips used in casinos;

j) Prepare and submit to the President periodic reports concerning the operation and conduct of gaming in casinos or as the Commission may see fit, or as the President may require;

k) Provide Congress with reports on culpable violations of the term or conditions of the franchise based on factual and investigative examinations;

l) If public interest or public welfare so requires, recommend to Congress that the franchise it had granted be revoked, canceled or modified; and

m) Perform such other functions and duties as are conferred upon the Commission as may be necessary for the effective implementation of this Act.

SEC. 7. *Responsibilities of the Commissioner and the Deputy Commissioners.* – In addition to the powers, duties and functions of the Commission enunciated in this Act, the Commissioner and the Deputy Commissioners shall:

a) Receive, allocate and distribute, with the approval of the Office of the President of the Philippines, the 30% share of the Government in the gross earnings of the games of chance, casinos authorized under existing laws and other affiliated entities earmarked to finance health, education, sports and for the maintenance of peace and order;

b) Designate the Landbank of the Philippines or the Development Bank of the Philippines as the depository bank of the Commission or trustee of the funds thereof;

c) Prepare and submit for approval to the Office of the President of the Philippines at the beginning of each calendar year the

proposed budget that may be necessary to ensure the smooth operation of the Commission;

d) Submit to the Office of the President of the Philippines before the end of February each year a list of all the health, education and sports projects and activities for the maintenance of peace and order that might have been financed from the earnings of the Commission, and to submit such periodic or other reports as may be required of it from time to time; and

e) Perform such other powers, functions and duties as may be directed and authorized by the President of the Philippines or as may be necessary or proper for the accomplishment of its purposes and objectives.

SEC. 8. *Government Audit.* – All revenues derived by the government from the operations of casinos and other establishments under the regulation by the Commission in accordance with laws shall be subject to relevant auditing and accounting guidelines of the Commission on Audit (COA).

SEC. 9. *Congressional Oversight Committee.* – There is hereby created a Joint Congressional Oversight Committee composed of five (5) Senators and five (5) Representatives to be appointed by the Senate

President and the Speaker of the House of Representatives, respectively.

The Oversight Committee shall have the following duties and functions:

- a) To set guidelines and overall framework to monitor and ensure the proper implementation of this Act;
- b) To ensure transparency, require the submission of reports from the PAGCOR Board of Directors and subsequently from the Commission with the Department of Finance on the conduct of the privatization;
- c) To oversee the enforcement of the specific regulatory mandate of the Commission;
- d) To determine weaknesses in the law and recommend the necessary remedial legislation or executive measures; and
- e) To perform such other duties, functions and responsibilities as may be necessary to attain its objectives.

The Oversight Committee shall adopt its internal rules of procedure, conduct hearings and receive testimonies, reports and technical advice, invite or summon by *subpoena ad testificandum* any public official or private citizen to testify before it, or require any person by *subpoena duces tecum* to produce documents or other materials as it may require consistent with the provisions of this Act.

The Oversight Committee shall organize its staff and technical panel, and appoint such personnel, whether on secondment from the Senate and the House of Representatives or on temporary, contractual, or on consultancy, and determine their compensation subject to applicable civil service laws, rules and regulations with a view to ensuring a competent and efficient secretariat.

The members of the Oversight Committee shall not receive additional compensation, allowances or emoluments for services rendered thereto except traveling, extraordinary, and other necessary expenses to attain its goals and objectives.

The Oversight Committee shall exist for a period of ten (10) years from the effectivity of this Act and may be extended by a joint concurrent resolution.

TITLE III. PRIVATIZATION OF THE OPERATION OF CASINOS UNDER THE PAGCOR

SEC. 10. *PAGCOR Privatization.* – The franchise previously granted to the Philippine Amusement and Gaming Corporation (PAGCOR) is hereby revoked: *Provided, however,* That it shall be allowed to continue its operation in a hold-over capacity but under the supervision of the Commission, for a period not to exceed five years. Within the said period, it shall transfer the ownership and operation of its

existing casinos, games of chance, authorized under existing laws and other affiliated entities to qualified individual or corporate investors. Such privatization shall be made through the sale of the shares of stock of the corporation and of the assets, properties and other equipment appurtenant to the operation of the casinos, other games of chance authorized under existing laws and other affiliated entities.

For purposes of this section, the President of the Philippines shall name and create a five (5) member Board of Trustees whose primary duty shall include, but not be limited to, the administration of the conduct of the sale and receiving the proceeds thereon which they shall hold in trust for developmental projects which the President of the Philippines may later on identify.

A privatization plan shall be developed within the first year from the effectivity of this Act, prepared by the Board of Directors of PAGCOR in coordination with the Department of Finance and the Board of Trustees and submitted to the President of the Philippines for approval. The rights and obligations under any subsisting contract with PAGCOR shall be respected and accorded the best terms possible to recover investments.

The sale of the assets, properties and other equipment of the PAGCOR shall be made in accordance with current auditing, inventory

and public auction guidelines and other applicable laws. The privatization value to the government of the assets of PAGCOR shall be optimized and the participation by Filipino citizens and corporations shall be ensured.

TITLE IV. GRANT OF FRANCHISE

SEC. 11. *Nature and Term of Franchise.* – The power to grant franchises to own and operate casinos, other games of chance authorized under existing laws and other affiliated entities shall be vested exclusively in the Congress of the Philippines. Subject to the terms and conditions established in this Act, the franchise to own and operate, as may be granted by Congress to games of chance and casinos shall be for a period not to exceed twenty-five (25) years.

The franchise granted by Congress is an assigned exclusive privilege, and as such, cannot be sold, alienated, transferred, conveyed, nor be made subject of a lease agreement.

SEC. 12. *Scope of the Franchise.* – In the interest of the public welfare, the scope of the gaming businesses throughout the country shall be limited to a specific locality in order to prevent its proliferation to the detriment of minors, vulnerable persons and the society at large. Thus, a franchise to operate a new casino may only be granted to the municipality

or city where there is already an existing and operating franchise granted by Congress.

SEC. 13. *Special Condition of Franchise.* – The franchise approved by Congress shall allocate five percent (5%) of its earnings as Franchise Tax, and thirty percent (30%) of its aggregate gross earnings shall be immediately set aside and allocated to fund health, education, sports and maintenance of peace and order throughout the country as may be directed and authorized by the President of the Philippines.

The Commission shall act as the trustee of these funds, subject to the reportorial and audit requirement by the Commission on Audit.

SEC. 14. *Income and Other Taxes.* – No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature, whether national or local, shall be assessed and collected under a franchise; nor shall any form of tax or charge attach in any way to the earnings of the Corporation, except a Franchise Tax of five percent (5%) of the gross revenue or earnings derived from its operation under the franchise. Such tax shall be due and payable quarterly to the National Government and shall be in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority.

SEC. 15. *Other Fiscal Incentives.* – The following incentives shall be granted to casino operators and other gaming establishments:

a) *Capital Investment and Equipment.* – Subject to rules and regulations which properly define capital investments and equipment necessary for various kinds of gaming, franchise holders shall be entitled to an exemption of one hundred percent (100%) of all taxes and customs duties on importations of capital investment and equipment.

b) *Goods and Services.* – Subject to rules and regulations which properly define goods and services necessary for various kinds of gaming, registered gaming establishments shall be entitled to the following:

1. Importation of goods actually utilized or of services actually rendered by or through casinos and other gaming establishments shall enjoy one hundred percent (100%) exemption from all taxes and customs duties; and

2. A tax credit equivalent to all national internal revenue taxes paid on all locally-sourced goods and services directly or indirectly used by the said establishments.

c) *Social Responsibility Incentive.* – A gaming establishment holding a franchise shall likewise be entitled to a tax deduction equivalent to a reasonable percentage, not exceeding fifty percent

(50%), of the cost of environmental protection or cultural heritage preservation activities, sustainable livelihood programs for local communities, and other similar activities.

SEC. 16. *Non-Fiscal Incentives.* – The following incentives shall also be granted to casino operators and other gaming establishments:

a) *Employment of Foreign Nationals.* – A casino or gaming establishment may employ foreign nationals in executive, supervisory, technical or advisory positions for such reasonable periods and under such terms as may be provided by the Commission, with due regard for the proper protection and representation of foreign investments in registered gaming establishments, and the need to ensure easy travel into and out of the Philippines by such nationals and their immediate families;

b) *Special Investor's Resident Visa.* – Under such terms as may be provided by the Commission, a foreign national who shall have made an investment with a value of at least Two hundred thousand dollars (\$200,000.00) in casinos or gaming establishments with a franchise shall be entitled to a special investor's resident visa. With such visa, the foreign national shall be entitled to reside in the Philippines while his or her investment subsists. Subject to regulations to be issued by the Bureau of Immigration (BI) and the Department of Labor and Employment

(DOLE), the Commission shall issue working visas renewable every two (2) years to foreign personnel of the casinos and gaming establishments.

c) *Foreign Currency Transactions.* – Subject to the provisions of Section 72 of Republic Act No. 7653, as amended, otherwise known as the New Central Bank Act:

1. *Repatriation of Investments.* – In the case of foreign investments, the right to repatriate the entire proceeds of the liquidation of the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of repatriation; and

2. *Remittance of Foreign Exchange.* – The right to remit earnings from a foreign investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance.

d) *Requisition of Investment.* – There shall be no requisition of the property of casinos and other gaming establishments, except in the event of war or national emergency, and only for the duration thereof. In any case, the affected person shall be entitled to just compensation, and shall have the right to repatriate such compensation as provided in paragraph (c) above.

SEC. 17. *Registration of Affiliated Entities.* – All persons primarily engaged in gambling, with existing contract or franchise from

the PAGCOR shall register anew with the Commission, which shall issue the corresponding license upon compliance with the promulgated rules and regulations relative thereto. The Commission shall maintain a registry of its affiliated entities, and shall exercise the powers, authority and the responsibilities vested in the Securities and Exchange Commission over them, including but not limited to amendments of the articles of incorporation and by-laws, changes in the corporate term, structure, capitalization and other matters concerning the operation of the affiliated entities, the provisions of Corporation Code of the Philippines to the contrary notwithstanding, except only with respect to original incorporation.

TITLE V. FINAL PROVISIONS

SEC. 18. *Appropriations.* – The amount of One Hundred Million Pesos (P100,000,000.00) as well as Twenty-Five Million Pesos (P25,000,000.00) are hereby allocated from the existing funds of PAGCOR for the initial operation of the Commission and the Congressional Oversight Committee, respectively. Thereafter, the amount necessary for the continued operation of the Commission and the Congressional Oversight Committee shall be included in the General Appropriations Act of the year immediately following the effectivity of this Act.

SEC. 19. *Transitory Provision.* – The Philippine Amusement and Gaming Corporation shall, subject only to the hold-over capacity provision under Section 10 of this Act, be absorbed by the Commission and its functions including its appropriation, funds, records, equipment, facilities, rights, other assets and personnel shall be transferred to the Commission within 120 days after the effectivity of this Act. Its liabilities, if any, shall be treated in accordance with the government auditing laws and other pertinent laws, rules and regulations.

The Commission shall effect the transfer herein provided in a manner that will ensure the least disruption of the absorbed offices. The qualified and the necessary personnel of the absorbed office shall be transferred to and absorbed by the Commission: *Provided,* That the tenure, rank, salaries and privileges of such personnel are not reduced or adversely affected. The personnel who shall be separated from the service shall be granted by the Commission, separation pay and retirement and other benefits provided under existing laws but in no case shall the separation pay be less than one (1) month for every year of service.

In the period prior to actual assumption of duties by the Commission, the PAGCOR shall continue to exercise its functions and discharge its duties and responsibilities.

SEC. 20. *Implementing Rules and Regulations.* – The Department of Finance, in consultation with the proper committees of Congress shall, within sixty (60) days after the effectivity of this Act, formulate the necessary rules and regulations for the effective implementation of this Act.

SEC. 21. *Separability Clause.* – If for any reason, any section or provision of this Act is declared unconstitutional or invalid, such parts or provisions not affected by such declaration shall remain in full force and effect.

SEC. 22. *Repealing Clause.* – All laws, orders, decrees, rules and regulations and other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 23. *Effectivity.* – This Act shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,