

**Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila**

**FIFTEENTH CONGRESS
First Regular Session**

House Bill No. 4818

Introduced by the Hon. Jeci A. Lapus

EXPLANATORY NOTE

A legislative franchise is a special privilege granted by the state to corporations. It is a privilege of public concern which cannot be exercised at will and pleasure, but should be reserved for public control and administration, either by the government directly, or by public agents, under such conditions and regulations as the government may impose on them in the interest of the public. It is Congress that prescribes the conditions on which the grant of the franchise may be made. Thus the manner of granting the franchise, to whom it may be granted, the mode of conducting the business, the charter and the quality of the service to be rendered and the duty of the grantee to the public in exercising the franchise are almost always defined in clear and unequivocal language (*Jaworski vs. PAGCOR*, January 14, 2004).

In year 2007, Philippine Games and Amusement Board (PAGCOR) had its most significant piece of legislation with the passage of Republic Act No. 9487 granting the state-run gaming firm another 25 years to regulate and operate games of chance, license gambling casinos, and to enter into joint venture, management, or investment agreements with private entities. Under the old charter, Presidential Decree no. 1869, PAGCOR had no authority to sub-franchise its legislative franchise.

The grant of power by Republic Act no. 9487 to PAGCOR in the establishment and operation of casinos to private entities is an invalid delegation since the power to grant a gambling franchise was clearly a legislative power belonging solely to the Congress unless delegated to an agency under express terms and clear standards. It is the author's belief that the delegation does not fall from the exceptions since the law does not explicitly set the safeguards and procedures in the establishment and operation of casinos by private entities. The delegation

pave way to the absence of uniformity in the terms and conditions of the casino licensing contracts entered into by PAGCOR and the private entities resulting to abuses and corruption. There is no Implementing Rules and Regulations (IRR) as of the moment and IRR is very important since it is a grant of privilege which cannot be exercised at will and pleasure and was only a delegated power granted by the Congress to the PAGCOR.

In view of the foregoing, the approval of this proposed measure is earnestly sought.


JECI A. LAPUS

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AN ACT
FURTHER AMENDING PRESIDENTIAL DECREE NO. 1869, OTHERWISE
KNOWN AS PHILIPPINE GAMES AND AMUSEMENTS BOARD (PAGCOR)
CHARTER, AS AMENDED BY REPUBLIC ACT NO. 9487

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

Section. 1. The Philippine Amusement and Gaming Corporation (PAGCOR)
Charter, as amended by Republic Act no. 9487 is hereby further amended to
read as follows:

- (1) Section 10, Nature and Term of Franchise, is hereby amended to
read as follows:

"SEC. 10. *Nature and Term of Franchise.* - Subject to the terms
and conditions established in this Decree, the Corporation is hereby
granted from the expiration of its original term on July 11, 2008,
another period of twenty-five (25) years, renewable for another
twenty-five (25) years, the rights, privileges and authority to operate
and **MAINTAIN ("LICENSE"- PHRASE DELETED)** gambling
casinos, gaming clubs and other similar recreation or amusement
places, gaming pools, i.e. basketball, football, bingo, etc. except jai-
alai, whether on land or sea, within the territorial jurisdiction of the
Republic of the Philippines: *Provided*, That the corporation shall
obtain the consent of the local government unit that has territorial

jurisdiction over the area chosen as the site for any of its operations.

"x x x

"The authority and power of the PAGCOR to (**"AUTHORIZE AND LICENSE"-PHRASE DELETED**) regulate games of chance, games of cards and games of numbers shall not extend to: (1) games of chance authorized, licensed and regulated or to be authorized, licensed and regulated by, in, and under existing franchises or other regulatory bodies; (2) games of chance, games of cards and games of numbers authorized, licensed, regulated by, in, and under special laws such as Republic Act No. 7922; and (3) games of chance, games of cards and games of numbers like cockfighting, authorized, licensed and regulated by local government units. The conduct of such games of chance, games of cards and games of numbers covered by existing franchises, regulatory bodies or special laws, to the extent of the jurisdiction and powers granted under such franchises and special laws, shall be outside the (**"LICENSING AUTHORITY AND"-PHRASE DELETED**) regulatory powers of the PAGCOR."

(2) Section 3 (h) is hereby amended to read as follows:

"SEC. 3. Corporate Powers.-

"x x x

"(h) TO ENTER INTO, MAKE, PERFORM, AND CARRY OUT CONTRACTS OF EVERY KIND AND FOR ANY LAWFUL PURPOSE PERTAINING TO THE BUSINESS OF THE CORPORATION, OR IN ANY MANNER INCIDENT THERETO, AS PRINCIPAL, AGENT OR OTHERWISE, WITH ANY PERSON, FIRM, ASSOCIATION, OR CORPORATION. THE AUTHORITY AND LICENSING OF GAMBLING CASINOS TO PRIVATE ENTITIES SHALL BE THE SOLE PREROGATIVE OF THE CONGRESS IN THE EXERCISE OF ITS POWER TO GRANT FRANCHISE TO CORPORATIONS.

Section 2. Repealing Clause. - All laws, decrees, executive orders, proclamations, rules and regulations and other issuances, or parts thereof, which

are inconsistent with the provisions of this Act, are hereby repealed, modified or amended accordingly.

Section 3. Effectivity.- This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,