

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

FIFTEENTH CONGRESS

Second Regular Session

HOUSE BILL NO. 5359



Introduced by Representative Pedro P. Romualdo

EXPLANATORY NOTE

The Supreme Court has stated that gambling should be repressed as “an evil that undermines the social, moral and economic growth of the nation¹.” For this reason, various laws have been enacted prohibiting and punishing gambling and the operation of gambling enterprises, among them Republic Act No. 9287, Presidential Decree No. 1602, and Articles 195 to 198 of the Revised Penal Code.

The State has seen fit to authorize the conduct of gambling activities by centralizing and integrating the right and authority to operate and conduct games of chance into one corporate entity to be controlled, administered and supervised by the Government for the purpose of raising much needed revenue for the Government. For this purpose, the State created the Philippine Amusement and Gaming Corporation (PAGCOR) through the issuance of Presidential Decree No. 1869, as amended.

However, Presidential Decree No. 1869, as amended, authorizes PAGCOR to grant and issue franchises, licenses, and contracts whereby private persons and entities are authorized to establish, maintain and operate gambling casinos, gaming clubs, online gaming, and other similar recreation or amusement places devoted to gambling and the playing of games of chance. As a consequence, many gambling casinos, gaming clubs, internet/online gaming, and other places where slot machines and other gambling paraphernalia and equipment are owned and operated by private persons and entities.

In his Separate Opinion in the consolidated cases of *Del Mar v. Philippine Amusement and Gaming Corporation, et al.* and *Sandoval II vs. Philippine Amusement and Gaming Corporation, et al.*², former Chief Justice Reynato S. Puno stated:

¹ *People v. Pantoja*, 68 Phil. 481)

² G.R. Nos. 138298 and 138982, June 19, 2001.

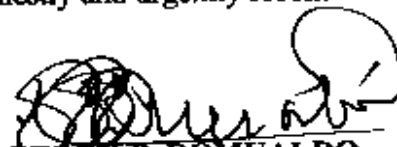
"Our moral fiber is in tatters. There is greater reason to insist on the principle that gambling can only be allowed by express mandate of Congress. The world over, gambling is recognized as a vice and a social ill which government must minimize, if not eradicate, in pursuit of social and economic development. In all its forms, gambling is generally proscribed as offensive to the public morals and the public good."

The ownership and operation of gambling casinos, gaming clubs, internet/online gaming, and other similar gambling enterprises must rest with Government or government owned and/or controlled entities. Ownership of these establishments should not be left to private persons and entities.

This House Bill seeks to prohibit the ownership and operation of gambling casinos, gaming clubs, internet/online gaming, and other similar gambling enterprises by private persons or entities. It also seeks to disallow PAGCOR from granting franchises, licenses, contracts or similar arrangements to private persons or entities for the ownership and operation of gambling casinos, gaming clubs, and other similar gambling enterprises.

So as not to violate the non-impairment clause of the Constitution, this House Bill provides that franchises, licenses, contracts or similar arrangements granted by PAGCOR to private persons or entities shall be respected, but shall not, however, be renewed or extended.

Approval of this House Bill is earnestly and urgently recommended.



PEDRO P. ROMUALDO

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AN ACT

PROHIBITING THE OWNERSHIP OR OPERATION OF GAMBLING CASINOS, GAMING CLUBS AND OTHER SIMILAR RECREATION OR AMUSEMENT PLACES EXCEPT BY THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION AND, FOR THIS PURPOSE, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1869, AS AMENDED.

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

Section 1. *Declaration of National Policy.* - It is hereby the declared policy of the State that only the Government, through the Philippine Amusement and Gaming Corporation, shall establish, operate and maintain gambling casinos, gaming clubs and other similar recreation or amusement places devoted to gambling and the playing of games of chance.

Section 2. *Withdrawal of Authority to Grant or Renew Franchises and Licenses Granted to Private Persons.* - Any provision of law to the contrary notwithstanding, the Philippine Amusement and Gaming Corporation shall, upon the effectivity of this Act, be prohibited from granting, renewing or extending franchises, licenses, contracts or other similar arrangements to private persons or entities for the establishment, operation and maintenance of gambling enterprises. Further, the Philippine Amusement and Gaming Corporation shall, upon the effectivity of this Act, be prohibited from entering into or concluding any

1 investment agreement, joint venture agreement, management agreement, agency
2 agreement, or any other form of contract or agreement which would authorize any
3 private person or entity, whether directly or indirectly, to engage in a gambling
4 enterprise.

5
6 For purposes of this Act a gambling enterprises shall include:

7
8 (a) Gambling casinos, gaming clubs, internet/online gaming,
9 and other similar recreation or amusement places devoted to gambling
10 and the playing of games of chance; and

11
12 (b) The operation of slot machines and other gambling
13 paraphernalia and equipment.

14
15 Section 3. *Respect for Existing Franchises, Licenses and Contracts.* -
16 Franchises, licenses, contracts or other similar arrangements granted by, or entered
17 into, with private individuals or entities for the establishment, operation and
18 maintenance of gambling casinos, gaming clubs and other similar recreation or
19 amusement places devoted to gambling and the playing of games of chance before
20 the effectivity of this Act shall be respected and shall remain in force until their
21 expiration. Such franchises, licenses, contracts or other similar arrangements shall
22 not be renewed or extended.

23
24 Section 4. *Amendments to Presidential Decree No. 1869, as amended.* -

25 (a) Section 3 of Presidential Decree No. 1869, as amended, is hereby
26 further amended to read, as follows:

27
28 "Section 3. *Corporate Powers.* - The Corporation shall have
29 the following powers and functions, among others:

30
31 "a. to prescribe its By-Laws;

32 "b. to adopt, alter and use a corporate seal;

- 1 “c. to own real or personal property, and to sell,
2 alienate, mortgage, encumber or otherwise dispose
3 of the same;
- 4 “d. to make contracts, and to sue and be sued;
- 5 “e. to employ such officers and personnel as may be
6 necessary or proper to carry on its business;
- 7 “f. to acquire, lease or maintain, whether on land,
8 water or air, personal property and such other
9 equipment and facilities as may be necessary or
10 proper to carry out its purposes;
- 11 “g. to import, buy, sell, or otherwise trade or deal in
12 merchandise, goods, wares and objects of all kinds
13 and descriptions that may be necessary or proper
14 to carry out the purposes for which it has been
15 created;
- 16 “h. to enter into, make, conclude, perform, and carry
17 out contracts of every kind and nature and for any
18 lawful purpose which are necessary, appropriate,
19 proper or incidental to any business or purpose of
20 the [Corporation] **PAGCOR**, [including but not
21 limited to investment agreements, joint venture
22 agreements, management agreements, agency
23 agreements, whether as principal or as an agent,
24 manpower supply agreements, or any other similar
25 agreements or arrangements with any person, firm,
26 association or corporation]."
- 27 “i. to borrow money from local or foreign sources as
28 may be necessary or proper for its operations;
- 29 “j. to invest its funds as the Corporation may deem
30 necessary or proper in any activity related to its
31 principal operation, (including in any bonds or

1 securities issued or guaranteed by the Government
2 of the Philippines

3 "k. to perform such other powers and functions as
4 may be provided by law; and

5 "l. to do anything and everything necessary, proper,
6 desirable, convenient or suitable for the
7 accomplishment of any of the purpose or the
8 attainment of any of the objects or the furtherance
9 of any of the powers herein stated, [either alone or
10 in association with other corporations, firms or
11 individuals,] and to do every other act or thing
12 incidental, pertaining to, growing out of, or
13 connected with, the aforesaid purposes, objects or
14 powers, or any part thereof.

15
16 **"PROVIDED, THAT, NONE OF THE POWERS STATED**
17 **ABOVE SHALL BE UNDERSTOOD AS A GRANT OF**
18 **AUTHORITY TO THE CORPORATION TO GRANT**
19 **FRANCHISES, LICENSES, CONTRACTS OR OTHER**
20 **SIMILAR ARRANGEMENTS TO PRIVATE PERSONS OR**
21 **ENTITIES FOR THE ESTABLISHMENT OR OPERATION OF**
22 **ANY GAMBLING ENTERPRISE."**

23
24 (b) Section 10, Title IV of Presidential Decree No. 1869 is hereby
25 amended to read, as follows:

26
27 **"Section 10. Nature and Term of Franchise.** - Subject to the
28 terms and conditions established in this Decree, the Corporation is
29 hereby granted from the expiration of its original term on July 11,
30 2008, another period of twenty-five (25) years, renewable for another
31 twenty-five (25) years, the rights, privileges and authority to operate
32 [and license] gambling casinos, gaming clubs and other similar

1 recreation or amusement places, gaming pools, i.e. basketball,
2 football, bingo, etc. except jai-alai, whether on land or sea, within the
3 territorial jurisdiction of the Republic of the Philippines: *Provided*,
4 That the corporation shall obtain the consent of the local government
5 unit that has territorial jurisdiction over the area chosen as the site for
6 any of its operations.

7 The operation of slot machines and other gambling
8 paraphernalia and equipment, shall not be allowed in establishments
9 open or accessible to the general public unless the site of these
10 operations are three-star hotels and resorts accredited by the
11 Department of Tourism authorized by the corporation and by the local
12 government unit concerned.

13 The authority and power of the PAGCOR to [authorize, license
14 and regulate] **OPERATE**, games of cards and games of numbers
15 shall not extend to: (1) games of chance authorized, licensed and
16 regulated or to be authorized, licensed and regulated by, in, and under
17 existing franchises or other regulatory bodies; (2) games of chance,
18 games of cards and games of numbers authorized, licensed, regulated
19 by, in, and under special laws such as Republic Act No. 7922; and (3)
20 games of chance, games of cards and games of numbers like
21 cockfighting, authorized, licensed and regulated by local government
22 units. The conduct of such games of chance, games of cards and
23 games of numbers covered by existing franchises, regulatory bodies
24 or special laws, to the extent of the jurisdiction and powers granted
25 under such franchises and special laws, shall be outside the
26 [licensing] authority [and regulatory powers] of the PAGCOR
27
28

29 (c) Section 11 of Presidential Decree No. 1869, as amended, is hereby
30 amended to read, as follows and renumbered accordingly:
31

1 **Section 11. *Scope of Franchise.*** - In addition to the rights and
2 privileges granted it under the preceding Section, this Franchise shall
3 entitle the Corporation to do and undertake the following:
4

5 [1. Enter into operating and/or management contracts with any
6 registered and accredited company possessing the knowledge, skill,
7 expertise and facilities to insure the efficient operation of gambling
8 casinos; provided, that the service fees of such management and/or
9 operator companies whose services may be retained by the
10 Corporation shall not be in the aggregate exceed ten (10 %) percent
11 of the gross income;]
12
13

14 [2.] 1. Purchase foreign exchange that may be required for the
15 importation of equipment, facilities and other gambling
16 paraphernalia indispensably needed or useful to insure the
17 successful operation of gambling casinos;
18

19 [3.] 2. Acquire the right of way or access to or thru public land,
20 public waters or harbors, including the Manila Bay Area; such
21 right shall include but not be limited to the right to lease and/or
22 purchase public lands, government reclaimed lands, as well as
23 lands of private ownership or those leased from the Government.
24 This right shall carry with it the privilege of the Corporation to
25 utilize piers, quays, boat landings, and such other pertinent and
26 related facilities within these specified areas for use as landing,
27 anchoring or berthing sites in connection with its authorized
28 casino operations;
29

30 [4.] 3. Build or construct structures, buildings, castways, piers,
31 decks, as well as any other form of landing and boarding facilities
32 for its floating casinos;
33

1 [5.] 4. To do and perform such other acts directly related to the
2 efficient and successful operation and conduct of games of chance
3 in accordance with existing laws and decrees.
4

5 (d) Paragraph 3, Section 13 of Presidential Decree No. 1869 is hereby
6 amended to read, as follows and renumbered accordingly:
7

8 "3. Dividend Incomes. - Notwithstanding any provision of law to the
9 contrary, in the event the Corporation should declare a cash dividend,
10 that portion of the dividend income corresponding to the participation
11 of the private sector shall, as an incentive to the beneficiaries, be
12 subject only to a final income tax rate of ten (10%) percent in lieu of
13 the regular income tax rates. The dividend income shall not in such
14 case be considered as part of beneficiaries' taxable income; provided,
15 however, that such dividend income shall be totally exempted from
16 income or other forms of taxes if invested within six (6) months from
17 the date the dividend income is received, in the following:
18

19 [a. operation of the casino(s) or investments in any affiliate
20 activity that will ultimately redound to the benefit of the Corporation
21 or any other corporation with whom the Corporation has any existing
22 arrangements in connection with or related to the operations of the
23 casino(s);]
24

25 [b.] a. Government bonds, securities, treasury notes, or
26 debentures; or
27

28 [c.] b. BOI registered or export-oriented corporation(s)."
29
30

31 Section 5. *Repealing Clause.* - Sections 8 and 9, Title III, are hereby
32 repealed. Further, all laws, decrees, executive orders or rules and regulations
!

1 contrary to or inconsistent with the provisions of this Act are hereby repealed or
2 modified accordingly.

3

4 Section 6. *Separability Clause.* – If any provision of this Act is declared
5 invalid or unconstitutional, the other provisions not affected thereby shall continue
6 to be in full force and effect.

7

8 Section 7. *Effectivity.* – This Act shall take effect fifteen (15) days after its
9 publication in at least two (2) newspapers of general circulation.

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