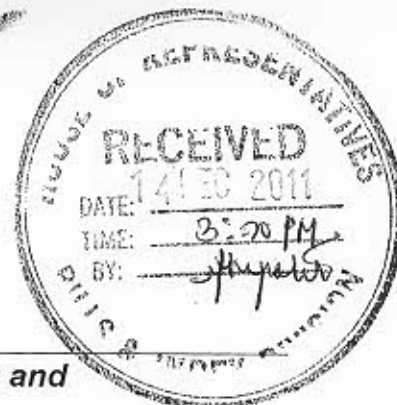


FIFTEENTH CONGRESS
REPUBLIC OF THE PHILIPPINES
First Regular Session

HOUSE OF REPRESENTATIVES



*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. 5631

EXPLANATORY NOTE

Section 6 of R.A. No. 9280 which covers the scope of practice of customs broker profession in its present form does not consider employment in government as practice of profession. This is unlike in the case of other professional regulatory laws as for example R. A. No. 9298 or practice of accountancy and R.A. No. 8495 or the practice of mechanical engineering. The proposed amendment will not only make R.A. No. 9280 in harmony with other professional regulatory laws but will make customs brokers in government more aware of their professional accountability in the discharge of their official functions.

The proposed amendment of Section 6 which seeks to make exclusive the Customs Broker Licensure Examination (CBLE) and Bar Examination converted into professional level civil service eligibility under R. A. No. 1080 for second level positions requiring expertise in customs and tariff administration will serve as an impetus to professionalize the Bureau of Customs. Currently, there are many Customs Operations Officers (COO) whose educational and professional background did not prepare them to discharge their functions technically and professionally.

Section 16 of R.A. No. 9280 provides that graduates of the two-year Master of Customs Administration (MCA) were qualified to take the Customs Broker Licensure Examinations (CBLE) for a period of five (5) years from the effectivity of the law which was in 2004. Extending the five (5) year period under RA 9280 for another eight (8) years period will encourage current customs employees occupying positions in the first and second level to take up MCA to qualify for the licensure examination for promotion purposes.

The Philippines' accession to the International Convention on Simplification and Harmonization of Customs Procedures otherwise known as the Revised Kyoto Convention (RKC) necessitates the amendment of some local laws among them R.A. No. 9280 otherwise known as the Customs Brokers Act of 2004.

Chapter 3.7 of the General Annex of RKC provides that "any person who has the right to dispose of the goods shall be entitled to act as declarant." However, Section 27 of R. A. No. 9280 provides that "any single act or transaction embraced within the provision of Section 6 hereof shall constitute an act of engaging in the practice of customs broker profession. Import entry shall be signed by a customs broker and the consignee/owner/importer under oath based on the covering documents submitted by the importer. Provided, That export declarations shall be signed by the exporter or, at

his option, delegate the signing and processing of the document to his designated customs broker or authorized representative." Section 27 of R. A. No. 9280 must therefore be amended to allow any person who has the right to dispose of the goods to be entitled as declarant.

The proposed amendment while ensuring that the Philippines' commitment to the international community is complied with likewise institutes safeguard to protect lawful government revenue by adopting the concept of an independent customs broker in the concept of an independent certified public accountant under the provisions of the National Internal Revenue Code (NIRC), as amended to quote:

"Section 232. Keeping of Books of Accounts. (A) Corporations, Companies, Partnerships or persons required by law to pay internal revenue taxes shall keep a journal and a ledger or their equivalents... Provided, further, That corporations, companies, partnerships or persons whose gross quarterly sales, earnings, receipts or output exceed one hundred fifty thousand pesos (P150,000.00) shall have their books of accounts audited and examined yearly by independent Certified Public Accountants..."

Thus, while persons having the right to dispose the goods shall be entitled to act as declarant and shall be allowed to make, lodge and process their import entries provided that if the Free on Board (FOB) or Free Carrier (FCA) value of a consignment is more than fifty thousand pesos (Php 50,000.00) shall be reviewed and signed by an independent customs broker. Further, such declarants can only delegate the making and processing of import entries to customs brokers.

The concept is that the Bureau of Customs cannot review all the import entry declarations and that customs brokers as professionals would serve as government first line of defense against unlawful acts against customs.

The proposed amendment of Section 32 of R. A. No. 9280 seeks to inculcate in the minds of customs brokers that the primary function as professionals is the collection of rightful revenue due the government and not the pecuniary interest of their clients when making import and export declarations and representing them before the Bureau of Customs. This is similar to the primary responsibility of lawyers of administering justice in their advocacy when representing clients before the courts of justice.

The proposed amendments to R. A. No. 9280 which seek to professionalize the Bureau of Customs, safeguard government revenue while complying with commitment with treaty commitment and put emphasis on professional responsibility of customs broker and in this regard the approval of the bill is highly solicited.

In view of the foregoing, immediate passage of this bill is earnestly requested.



RUFUS B. RODRIGUEZ



MAXIMO B. RODRIGUEZ, JR.

FIFTEENTH CONGRESS)
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AN ACT

TO PROFESSIONALIZE THE BUREAU OF CUSTOMS, COMPLY WITH COMMITMENT OF THE PHILIPPINES' ACCESSION TO THE INTERNATIONAL CONVENTION ON THE SIMPLIFICATION AND HARMONIZATION OF CUSTOMS PROCEDURES OTHERWISE KNOWN AS THE REVISED KYOTO CONVENTION, TO MAKE CUSTOMS BROKERS MORE AWARE OF THEIR RESPONSIBILITY AND ACCOUNTABILITY AS A PROFESSIONAL THEREBY AMENDING FOR THE PURPOSE R.A. NO. 9280 OTHERWISE KNOWN AS THE CUSTOMS BROKERS ACT OF 2004

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

SECTION 1. Section 6 of Republic Act No. 9280 is hereby amended to read as follows:

SECTION. 6. *Scope of Practice of Customs Brokers* - Customs Broker Profession involves services consisting of consultation, preparation of customs requisite documents for imports and exports, declarations of customs duties and taxes, preparation, signing, filing, lodging and processing of import and export entries, representing importers and exporters before any government agency and private entities in cases related to valuation and classification of imported articles and rendering of other professional services in matters relating to customs and tariff laws, its procedures and practices.

A customs broker shall be considered in the practice of the profession if the nature and character of his/her employment in private enterprises **AND IN GOVERNMENT** requires professional knowledge in the field of customs and tariff administration. **AS SUCH, FOR SECOND LEVEL POSITIONS REQUIRING PROFESSIONAL KNOWLEDGE IN THE FIELD OF CUSTOMS AND TARIFF ADMINISTRATION, THE CIVIL SERVICE ELIGIBILITY SHALL BE THE CUSTOMS BROKER LICENSURE EXAMINATIONS OR THE BAR EXAMINATIONS CONVERTED INTO PROFESSIONAL LEVEL UNDER THE PROVISIONS OF**

REPUBLIC ACT NO. 1080. He/she is also deemed in the practice of customs broker profession if he/she teaches customs and tariff administration subjects in any university, college or school duly recognized by government.

SECTION 2. Paragraph (f), Section 8 of RA 9280 is hereby amended to read as follows:

SEC. 8. Qualification of the Chairman and Members of the Board. – The chairman and members of the Board must, at the time of their appointment:

(f) Not be a member of the faculty, whether full-time or part-time, of any school, college or university **OR A REVIEW OR TRAINING CENTER** where a regular and/or review course in customs administration is taught, nor shall have any pecuniary interest in such institution; and

SECTION 3. Section 16 of RA 9280 is hereby amended to read as follows:

"SECTION 16 - *Qualification of Applicants for Examinations.* – In order to be admitted to the licensure examination for customs broker profession, a candidate shall, at the time of filing his/her application, establish to the satisfaction of the Board that:

x x x x x x

... (b) he/she is a holder of a Bachelor's Degree in Customs Administration. Provided, **That CURRENT EMPLOYEES OF THE BUREAU OF CUSTOMS WHO ARE HOLDERS** [a holder] of a master's degree in Customs Administration shall be allowed to qualify within [five (5) years] **FIFTEEN (15) YEARS** from the effectivity of this Act; and

SECTION 4. Section 27 of RA 9280 is hereby amended to read as follows:

"SECTION 27 - Acts Constituting Practice of Customs Broker Profession. - Any single act or transaction embraced within the provision of Section 6 hereof shall constitute an act of engaging in the practice of customs broker profession. Import entry shall be signed by a customs broker and the consignee/owner/importer under oath based on the covering documents submitted by the importers: Provided, That export declaration shall be signed by the exporter or, at his option, delegate the signing and processing of the document to his designated customs broker or authorized representative. **PROVIDED, FURTHER, THAT IMPORTERS MAY PERSONALLY MAKE DECLARATIONS WHILE IN THE CASE OF JURIDICAL PERSONS A RESPONSIBLE OFFICER MAY MAKE DECLARATIONS IF THE FREE ON BOARD (FOB) OR FREE CARRIER (FCA) VALUE OF A CONSIGNMENT IS FIFTY THOUSAND PESOS (Php50,000.00) OR LESS. OTHERWISE, AN**

INDEPENDENT CUSTOMS BROKER MUST COUNTERSIGN THE IMPORT ENTRY THOUGH THE IMPORT ENTRY MAY PERSONALLY BE PROCESSED BY THE PERSON MAKING THE DECLARATION.

SECTION 5. Section 30 of RA 9280 is hereby amended to read as follows:

SECTION 30. Prohibition Against Financing Activities By Customs Brokers. – No Customs Brokers shall advance and finance on behalf of their client-importers the payment of duties and taxes, arrastre charges, wharfage dues, storage fee and other port **AND WAREHOUSE** charges.

SECTION 4. Section 32 is hereby amended to read as follows:

SECTION 32. Code of Ethics for Customs Broker Profession. – **THE BASIC FOUNDATION OF THE CODE OF ETHICS FOR CUSTOMS BROKERS IS THE PREMISE THAT THEY ARE QUASI-CUSTOMS OFFICIALS AND THE PRIMARY FUNCTION OF THEIR OFFICE IS COLLECTION OF RIGHTFUL REVENUE DUE THE GOVERNMENT. ANY ACT BY A CUSTOMS BROKER WHICH IS CONTRARY TO HIS PRIMARY FUNCTION SHALL BE CONSTRUED AS VIOLATION OF THE CODE OF ETHICS AND SHALL SUBJECT HIM TO ADMINISTRATIVE SANCTIONS AND THE PENAL PROVISIONS OF THIS ACT.** The Board shall adopt and promulgate the Code of Ethics and Code of Technical Standards which shall be prescribed and issued by the accredited professional organization of customs brokers.

SECTION 5. Implementing Rules and Regulations (IRR) – Within three (3) months from effectivity of this Act, the Professional Regulatory Commission, through the Professional Regulatory Board for Customs Brokers with due consultation to the accredited professional organization shall promulgate the IRR of this Act.

SECTION 6. Separability Clause – If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

SECTION 7. Repealing Clause – All laws, presidential decrees, letters of instruction, executive orders, rules and regulations, or any part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 8. Effectivity – This Act shall take effect after fifteen (15) days following its publication in two (2) newspapers of general circulation.

Approved,