

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS

FIRST REGULAR SESSION

HOUSE BILL NO. 458



Introduced by REP. MARCELINO R. TEODORO

EXPLANATORY NOTE

This bill seeks to amend the charter of the Civil Aeronautics Board (CAB) and in the process return the inherent right of Congress to regulate public utilities including public transportation.

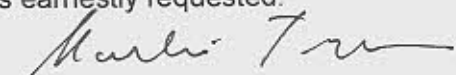
Due to the rapid ascent of globalization where companies merge with one another; including public utilities like telecoms, power, transport and broadcast; there is an emerging threat of a creeping monopoly that could endanger the interest of the public.

There is a clamor from lawmakers and the public alike that the right of the State to regulate public utilities be restored to its former status since it is a legitimate exercise to assure the protection of the public from these emerging company mergers.

Sec. 11, Article 12 of the 1987 Constitution is explicit in its provision regarding the power of Congress to amend, alter, repeal franchises and takes precedence over and above any law as such a review should be undertaken of Section 8, Article III, Chapter I, Part X of the 1972 Integrated Reorganization Plan which gave authority to the CAB to issue, deny, amend, revise, alter, modify, cancel, suspend or revoke, in whole or in part, upon petition or complaint, or upon its own initiative, any temporary operating permit or Certificate of Public Convenience and Necessity.

In view of the aforementioned emerging global trends, the State should revoke its delegation to public service agencies the power to give licenses and permits to operate without prior approval of Congress.

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


MARCELINO "MARCY" R. TEODORO
Representative
1st District, City of Marikina

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HOUSE BILL NO. 458

INTRODUCED BY REP. MARCELINO "MARCY" R. TEODORO

AN ACT AMENDING SECTIONS 10, 11, 22 AND 24 OF REPUBLIC ACT NO. 776, OTHERWISE KNOWN AS "THE CIVIL AERONAUTICS ACT OF THE PHILIPPINES", AS AMENDED

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

SECTION 1. Section 10 of Republic Act No. 776, otherwise known as "The Civil Aeronautics Act of the Philippines", is hereby amended to read as follows:

"SEC. 10. *Powers and Duties of the Board.* – (A) Except as otherwise provided herein, the Board shall have the power to regulate the economic aspect of air transportation, and [shall have the] **EXERCISE** general supervision and regulation of, [the] jurisdiction and control over air carriers, general sales agents, cargo sales agents, and airfreight forwarders as well as their property, property rights, equipment, **AND** facilities, [and franchise,] insofar as may be necessary for the purpose of carrying out the provisions of this Act.

"x x x

"(C) The Board shall have the following specific powers and duties:

"(1) In accordance with the provisions of Chapter IV of this Act, to issue, deny, amend, revise, alter, modify, cancel, suspend or revoke, in whole or in part, upon petition or complaint, or upon its own initiative, any temporary operating permit or Certificate of Public Convenience and Necessity (**CPCN**): *Provided, however, THAT NO CPCN SHALL BE ISSUED PRIOR TO A GRANT OF VALID LEGISLATIVE FRANCHISE TO THE AIRLINE COMPANY AND* [T]That in the case of foreign air carriers, the permit shall be issued with the approval of the President of the Republic of the Philippines.

"x x x

"(4) To approve or disapprove increase and/or decrease of capital, lease, purchase, sales [or] **OF** aircraft of air carrier engage[s]**D** in air commerce; consolidation, merger, purchase, lease and acquisition and control of operating contracts between domestic air carriers, between domestic and foreign air carriers, or between domestic air carriers or any person[s] engaged in any phase of aeronautics **AND INFORM CONGRESS OF THE SAME WITHIN THIRTY (30) DAYS.**

"x x x.

SEC. 2. Section 11 of the same Act is hereby amended to read as follows:

“SEC. 11. *Nature, Terms and Conditions.* - Certificate of Public Convenience and Necessity (**CPCN**) is a permit issued by the Board authorizing a person to engage in air commerce and/or air transportation, foreign and/or domestic. No person shall engage in air commerce **WITHOUT THE PRIOR GRANT OF A LEGISLATIVE FRANCHISE BY CONGRESS AND** unless there is in force a permit issued by the Board.

“No general sales agent, cargo sales agent or airfreight forwarder shall engage in any of the activities mentioned in Section 3 paragraphs (jj), (kk), and (ll) respectively, unless there is in force a permit or any other form of authorization issued by the Board.

“X X X

“There shall be attached to the exercise of the privileges granted by the **LEGISLATIVE FRANCHISE AND THE** permit, or amendment thereto, such reasonable terms, conditions or limitations as, in the judgment of the Board, the public interest may require.

“X X X.”

SEC. 3. There shall be incorporated after Section 11 of Republic Act No. 776, as amended, a new section to read as follows:

“SEC. 11-A. *LEGISLATIVE FRANCHISE.* – ALL DOMESTIC AIRLINE CARRIERS, AIRFREIGHT FORWARDERS AND AIR TAXIS OPERATING WITHOUT A LEGISLATIVE FRANCHISE WHICH HAVE BEEN ISSUED A CPCN OR OTHER PERMITS TO OPERATE BY THE CIVIL AERONAUTICS BOARD PRIOR TO THE APPROVAL OF THIS ACT MAY CONTINUE TO OPERATE UNTIL THE END OF THE TERM OF THE OPERATIONAL PERMITS: *PROVIDED*, THAT THE CPCN OR OTHER PERMITS ISSUED BY THE CAB GRANTING THE DOMESTIC AIRLINE CARRIERS, AIRFREIGHT FORWARDERS AND AIR TAXIS SHALL NOT BE EXTENDED OR RENEWED WITHOUT A LEGISLATIVE FRANCHISE: *PROVIDED, FURTHER*, THAT THESE CARRIERS SHALL BE REQUIRED TO APPLY FOR LEGISLATIVE FRANCHISE WITHIN THREE(3) YEARS FROM THE EFFECTIVITY OF THIS ACT.

“EXISTING FRANCHISES THAT ARE NOT OPERATED OR ARE WITHOUT PENDING APPLICATION FOR CPCN AT THE TIME OF THE EFFECTIVITY OF THIS ACT ARE DEEMED REVOKED.”

SEC. 4. Section 22 of the same Act is hereby amended to read as follows:

“SEC. 22. *Modification, suspension or revocation.* – The Board, upon petition or complaint or upon its own initiative, may, by order entered after notice and opportunity for hearing, alter, amend, modify or suspend any permit, in whole or in part, if public

convenience and necessity so require; or may revoke any permit, in whole or in part, for intentional failure to comply with any provision of this Act or any order, rule or regulation issued thereunder, or any term, condition or limitation of such permit: **PROVIDED, THAT THE BOARD SHALL NOTIFY CONGRESS PRIOR TO ANY ACTION IT SHALL MAKE:** *Provided, FURTHER,* That the Board, for good cause, may, by order, without notice and hearing suspend, for a period not to exceed thirty days, any permit or the exercise of any privilege or authority issued or granted under this Act whenever such step shall, in the judgment of the Board, be necessary to avoid serious or irreparable damage or inconvenience to the public. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of any permit.”

SEC. 5. Section 24 of the same Act is hereby amended to read as follows:

“SEC. 24. *Effective date and duration of permit.* – Each permit shall be effective from the date specified therein and shall continue in effect until suspended or revoked or until the Board shall certify that operation thereunder has ceased: *Provided,* That, if any service authorized by a permit is not inaugurated within a period of ninety (90) days after the date of authorization as shall be fixed by the Board or after such other period as may be designated by the Board, the Board may by order direct that such permit shall thereupon cease to be effective to the extent of such service: **PROVIDED, FURTHER, THAT THE BOARD SHALL NOTIFY CONGRESS WITHIN THIRTY (30) DAYS OF ANY CHANGE IN THE STATUS OF THE FRANCHISE GRANTED TO THE AIRLINE COMPANY:** *Provided, [further] FINALLY,* That no permit shall be issued for a period of more than twenty-five (25) years **OR THAT WOULD EXCEED THE TENURE OF THE FRANCHISE.”**

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

SEC. 7. *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, amended or modified accordingly.

SEC. 8. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation in the Philippines.

Approved,