



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

Sixteenth Congress
First Regular Session

HOUSE BILL NO. 2349



Introduced by : **Cong. George P. Arnaiz, Cong. Rene L. Relampagos,**
Cong. Pryde Henry A. Teves

EXPLANATORY NOTE

Presidential Decree No. 1869 which consolidated Presidential Decree Nos. 1067-A, 1067-C, 1399 and 1632, relative to the franchise and powers of the Philippine Amusement and Gaming Corporation (PAGCOR), was enacted on July 11, 1983 to enable the then Marcos Government to regulate and centralize thru an appropriate institution all games of chance authorized by existing franchise or permitted by law.

In this same decree, PAGCOR was given greater flexibility in its operation by limiting governmental audit only to the determination of the five percent (5%) franchise tax and the government's share of fifty percent (50%).

When President Cory Aquino took over the reins of government in 1986, PAGCOR was placed under full audit by the Commission on Audit through COA Resolution 86-13, which declared Section 15 of PD 1869 relative to the franchise and powers of PAGCOR, to be without force and effect insofar as the audit thereof is concerned.

Article IX, D. Section 2, paragraph 1 of the 1987 Constitution expressly provides that:

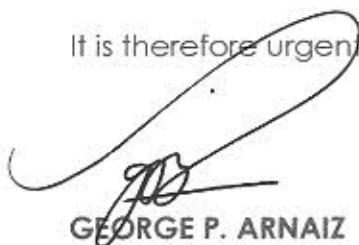
"The commission on Audit shall have the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of funds and property, owned or held in trust by, or pertaining to, the Government, or any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations with original charters, and on a post-audit basis: (a) constitutional bodies, commissions and offices that have been granted fiscal autonomy under this Constitution; (b) autonomous state colleges and universities; (c) other government-owned or controlled corporations and their subsidiaries; and (d) such non-government entities receiving subsidy or equity, directly or indirectly, from or through the Government, which are required by law or the granting institution to submit to such audit as a condition of subsidy or equity..."

Section 3 of Letter D. also provides that:

"No law shall be passed exempting any entity of the Government or its subsidiary in any guise whatever, or any investment of public funds, from the jurisdiction of the Commission on Audit."

This measure is not questioning whether COA is performing its audit function of PAGCOR but rather there is need to amend the law to conform with the Constitution. The COA circular cannot amend the existing law, which is PD 1869. If the proper amendment to the law is not done the Supreme Court may declare the law unconstitutional.

It is therefore urgently requested that this bill be approved by this Chamber.



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AN ACT

AMENDING PRESIDENTIAL DECREE NO. 1869, AS AMENDED, CONSOLIDATING AND AMENDING PRESIDENTIAL DECREE NOS. 1067-A, 1067-C, 1399 and 1632, relative to the franchise and powers of the Philippine Amusement and Gaming Corporation (PAGCOR), SUBJECTING PAGCOR TO THE AUDIT JURISDICTION OF THE COMMISSION ON AUDIT

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

SECTION 1. Section 15 of Presidential Decree No. 1869 is hereby amended to read as follows:

"Section 15. Auditor – The Commission on Audit [or any government agency that the office of the President may designate] shall appoint a representative who shall be the Auditor of the Corporation and such personnel as may be necessary to assist said representative in the performance of his duties. The salaries of the Auditor or representative and his staff be fixed by the Chairman of the Commission on Audit. [or designated government agency, with the advice of the Board, and said salaries and other expenses shall be paid by the Corporation. The funds of the Corporation to be covered by the audit shall be limited to the 5% franchise tax and the 50% of the gross earnings pertaining to the government as its share.] **FUNDS AND TRANSACTIONS, INCLUDING REVENUES, INCOME AND EXPENDITURES, OF THE CORPORATION, SHALL BE AUDITED PURSUANT TO EXISTING LAWS AND REGULATIONS.**"

SECTION 2. All laws, decrees, executive orders, instructions, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 3. This Act shall take effect thirty (30) days after its approval and its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,