

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



SIXTEENTH CONGRESS
First Regular Session

House Bill No. 4645

Introduced by:
Hon. Ma. Georgina P. De Venecia and Hon. Marlyn L. Primicias-Agabas

EXPLANATORY NOTE

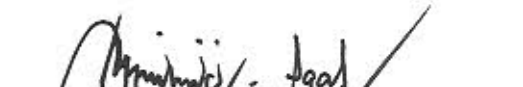
The Mabuhay Broadcasting System Inc. was granted a franchise to construct, install, operate and maintain radio broadcasting stations in Luzon effective April 13, 1992 under Republic Act 7395. The same law has given the grantee the rights, privileges, and authority to function for a period of twenty-five (25).

For twenty-two years now, the Mabuhay Broadcasting System Inc. serves as an important instrument in information dissemination that bridges communication gaps among the populace of Luzon. It was able to provide sound and balanced programming, as rendered by its broadcasting stations, making information easily accessible to the general public. It has also frequently communicated with the people on important issues that concern the public interest.

In three years time, the law that has given life and mandate to the Mabuhay Broadcasting System Inc.'s existence and operation will expire. Therefore, this bill seeks to extend the term of the franchise of the Mabuhay Broadcasting System, Inc., for another twenty five (25) years from its original expiration date, for radio and television broadcast in Luzon, Visayas, and Mindanao.

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


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AN ACT
AMENDING AND EXTENDING THE TERM OF FRANCHISE OF THE MABUHAY BROADCASTING SYSTEM, INC. FOR ANOTHER TWENTY FIVE (25) YEARS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7395, ENTITLED "AN ACT GRANTING THE MABUHAY BROADCASTING SYSTEM, INC. A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE, AND MAINTAIN RADIO BROADCASTING STATIONS IN THE ISLAND OF LUZON" AND FOR OTHER PURPOSES

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

Section 1. Section 1 of Republic Act No. 7395 is hereby amended to read as follows:

"Sec 1. Nature and Scope of Franchise. — Subject to the provisions of the Constitution and applicable laws, rules and regulations there is hereby granted to the Mabuhay Broadcasting System, Inc., hereunder referred to as the grantee, its successors or assigns, a franchise to construct, install, ESTABLISH, operate and maintain for commercial purposes and in the public interest, radio AND TELEVISION broadcasting stations in the [island of Luzon,] PHILIPPINES, INCLUDING DIGITAL RADIO AND TELEVISION SYSTEMS, INTERNET PROTOCOL (IP)-RELATED SERVICES AND IP VALUE-ADDED SERVICES, AND ANY NEW TECHNOLOGIES IN RADIO AND TELEVISION AS ARE PRESENTLY AVAILABLE OR WILL BE AVAILABLE THROUGH TECHNICAL ADVANCES OR INNOVATIONS IN THE FUTURE, with the corresponding technological auxiliaries or facilities FOR special broadcast and other program and distribution services, [including] AND relay stations, MICROWAVE, SATELLITE OR WHATEVER MEANS OF TRANSMISSION; and to install radio communication facilities for the grantee's private use in its broadcast services."

Sec. 2. Section 2 of Republic Act No. 7395 is hereby amended to read as follows:

"Sec. 2. Manner of Operation of Stations or Facilities. — The stations or facilities of the grantee shall be constructed and operated in a manner as will, at most, result only in the minimum interference on the wavelengths or frequencies [of the other existing stations or stations which may be established by law,] without in any way diminishing its own right to use its selected wavelengths or frequencies and the quality of transmission or reception there[of] ON as should maximize rendition of the grantee's service and/or availability [thereof]."

Sec. 3. Section 3 of Republic Act No. 7395 is hereby amended to read as follows:

"Sec. 3. Prior Approval of the National Telecommunications Commission. — The grantee shall secure from the National Telecommunications Commission the appropriate permits and licenses for its stations and shall not use any frequency in the radio/TELEVISION spectrum without having been authorized by the Commission. The Commission, however, shall not unreasonably withhold or delay the grant of any such authority OR IMPOSE UNNECESSARY REQUIREMENTS THAT WOULD IMPEDE IMMEDIATE START OF THE CONTEMPLATED SERVICE."

Sec. 4. Section 4 of Republic Act No. 7395 is hereby amended to read as follows:

"Sec. 4. Responsibility to the Public.— The grantee shall provide reasonable public service time to enable the government, through the said broadcasting stations, to reach the population on important public issues; provide at all times sound and balanced programming; [promote public participation such as in community programming;] assist in the functions of public information and education; conform to the ethics of honest enterprise; and not use its stations for the broadcasting of obscene and indecent language, speech, act or scene, or for the dissemination of deliberately false information or willful misrepresentation to the detriment of the public interest, or to incite, encourage, or assist in subversive or treasonable acts."

Sec. 5. Section 5 of Republic Act No. 7395 is hereby amended to read as follows:

"Sec. 5. Right of Government. — A SPECIAL RIGHT IS HEREBY RESERVED TO the President of the Philippines, in times of WAR, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order, TO [may] temporarily take over and operate the stations OR FACILITIES of the grantee, TO temporarily suspend the operation of any station OR FACILITY in the interest of public safety, security and public welfare, or TO authorize the temporary use and operation thereof by any agency of the government, upon due compensation to the grantee, for the use of said stations OR FACILITIES during the period when they shall be so operated."

Sec. 6. Section 6 of Republic Act No. 7395 is hereby amended to read as follows:

“Sec. 6. Term of Franchise. — This franchise shall be IN EFFECT for a term of twenty-five (25) years from the EXPIRY date of [effectivity of this Act] REPUBLIC ACT 7395, unless sooner revoked or cancelled. THIS FRANCHISE SHALL BE DEEMED *IPSO FACTO* REVOKED in the event that grantee, THROUGH ITS OWN FAULT, fails to [operate continuously for two (2) years, this franchise shall be ipso facto revoked.] COMPLY WITH ANY OF THE FOLLOWING CONDITIONS: (A) COMMENCE OPERATIONS WITHIN TWO (2) YEARS FROM THE APPROVAL OF ITS OPERATING PERMIT BY THE NTC; (B) OPERATE CONTINUOUSLY FOR TWO (2) YEARS; AND (C) COMMENCE OPERATIONS WITHIN THREE (3) YEARS FROM THE EFFECTIVITY OF THIS ACT.”

Sec. 7. Section 7 of Republic Act No. 7395 is hereby amended to read as follows:

“Sec. 7. Acceptance and Compliance. — Acceptance of this franchise shall be given in writing within sixty (60) days after approval of this Act. [Upon giving such acceptance, the grantee shall exercise the privileges granted under this act. Nonacceptance] REFUSAL OR FAILURE TO ACCEPT THE FRANCHISE OR TO OPERATE WITHIN THE PRESCRIBED PERIOD shall render this franchise void.”

Sec. 8. Section 8 of Republic Act No. 7395 is hereby amended to read as follows:

“Sec. 8. Tax Provisions. — The grantee, its successors or assigns, shall be liable to pay all the same taxes [on their real estate, buildings and personal property, exclusive of this franchise, as other persons or corporations are now or hereafter may be required by law to pay. In addition thereto, the grantee, its successors or assigns shall pay a franchise tax equivalent to three percent (3%) of all gross receipts of the radio business transacted under this franchise by the grantee, its successors or assigns and the said percentage shall be in lieu of all taxes on this franchise or earnings thereof: provided, that the grantee, its successors or assigns shall continue to be liable for income taxes payable under title 11 of the National Internal Revenue Code pursuant to Section 2 of Executive Order No. 72 unless the latter enactment is amended or repealed, in which case the amendment or repeal shall be applicable thereto.], DUTIES, FEES OR CHARGES AND OTHER IMPOSITIONS UNDER THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND OTHER APPLICABLE LAWS: PROVIDED, THAT NOTHING HEREIN SHALL BE CONSTRUED AS REPEALING ANY SPECIFIC TAX EXEMPTIONS, INCENTIVES OR PRIVILEGES GRANTED UNDER ANY RELEVANT LAW: PROVIDED, FURTHER, THAT ALL RIGHTS, PRIVILEGES, BENEFITS AND EXEMPTIONS ACCORDED TO

EXISTING AND FUTURE BROADCASTING STATIONS FRANCHISES SHALL LIKEWISE BE EXTENDED TO THE GRANTEE.

The grantee shall file the return WITH THE CITY OR PROVINCE WHERE ITS FACILITY IS LOCATED, and pay the taxES due thereon to the Commissioner of Internal Revenue or his duly authorized representatives in accordance with the National Internal Revenue Code and the return shall be subject to audit by the Bureau of Internal Revenue."

Sec. 9. Section 9 of Republic Act No. 7395 is hereby deleted and replaced as follows:

"SEC. 9. SELF-REGULATION BY AND UNDERTAKING OF GRANTEE. — THE GRANTEE SHALL NOT REQUIRE ANY PREVIOUS CENSORSHIP OF ANY SPEECH, PLAY, ACT OR SCENE, OR OTHER MATTER TO BE BROADCAST FROM ITS STATIONS: PROVIDED, THAT THE GRANTEE, DURING ANY BROADCAST, SHALL CUT OFF FROM THE AIR THE SPEECH, PLAY, ACT OR SCENE, OR OTHER MATTER BEING BROADCAST IF THE TENDENCY THEREOF IS TO PROPOSE OR INCITE TREASON, REBELLION OR SEDITION; OR THE LANGUAGE USED THEREIN OR THE THEME THEREOF IS INDECENT, OBSCENE OR IMMORAL; AND WILLFUL FAILURE TO DO SO SHALL CONSTITUTE A VALID CAUSE FOR THE CANCELLATION OF THIS FRANCHISE."

Sec. 10. Section 10 of Republic Act No. 7395 remains the same.

Sec. 11. Section 11 of Republic Act No. 7395 is hereby amended to read as follows:

"Sec. 11. [Sale, Lease, Transfer, Usufruct, etc.] NON-TRANSFERABILITY OF FRANCHISE. — The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise, or the rights and privileges acquired therein, to any person, firm, company, corporation OR OTHER COMMERCIAL or LEGAL entity, or merge with any other corporation or entity. Neither shall the controlling interest OF [in] the grantee be transferred, whether as a whole or in parts and whether simultaneously or contemporaneously, to any such person, firm, company, corporation or entity without the prior approval of the Congress of the Philippines. PROVIDED, THAT THE FOREGOING LIMITATIONS SHALL NOT APPLY TO: (1) ANY TRANSFER OR ISSUANCE OF SHARES TO ANY INVESTOR PURSUANT TO OR IN CONNECTION WITH ANY INCREASE IN THE GRANTEE'S AUTHORIZED CAPITAL STOCK WHICH SHALL RESULT IN THE DILUTION OF THE STOCKHOLDINGS OF THE GRANTEE'S THEN EXISTING STOCKHOLDERS; (2) ANY TRANSFER OR SALE OF SHARES OF

STOCK TO AN INVESTOR OR INVESTORS; (3) ANY SALE, TRANSFER, OR ASSIGNMENT BY THE STOCKHOLDERS OF THE GRANTEE IN FAVOR OF A HOLDING COMPANY WHOSE STOCKHOLDERS ARE IDENTICAL TO THE STOCKHOLDERS OF THE GRANTEE; (4) ANY COMBINATION THEREOF WHERE SUCH TRANSFER, SALE, OR ISSUANCE IS EFFECTED IN ORDER TO ENABLE THE GRANTEE TO RAISE THE NECESSARY CAPITAL OR FINANCING FOR THE PROVISION OF ANY OF THE SERVICES AUTHORIZED BY THIS ACT OR CARRY OUT ANY OF THE PURPOSES FOR WHICH THE GRANTEE HAS BEEN INCORPORATED OR ORGANIZED: PROVIDED, FURTHER, THAT ANY SUCH TRANSFER, SALE OR ISSUANCE IS IN ACCORDANCE WITH ANY APPLICABLE CONSTITUTIONAL LIMITATION. Any person or entity to which this franchise is sold, transferred or assigned, shall be subject to all the same conditions, terms, restrictions, and limitations of this Act."

Sec. 12. New Provision:

"DISPERSAL OF OWNERSHIP. — IN ACCORDANCE WITH CONSTITUTIONAL PROVISIONS TO ENCOURAGE PUBLIC PARTICIPATION IN PUBLIC UTILITIES, THE GRANTEE SHALL OFFER AT LEAST THIRTY PER CENTUM (30%) OF ITS OUTSTANDING CAPITAL STOCK, OR A HIGHER PERCENTAGE THAT MAY HEREAFTER BE PROVIDED BY LAW, IN ANY SECURITIES EXCHANGE IN THE PHILIPPINES WITHIN FIVE (5) YEARS FROM THE TIME IT HAS ACHIEVED THE STATUS OF A NATIONAL BROADCASTING NETWORK. A "NATIONAL BROADCASTING NETWORK" IS HEREBY DEFINED AS ONE THAT OPERATES TEN (10) OR MORE RADIO OR TELEVISION STATIONS. NON-COMPLIANCE THEREWITH THROUGH THE FAULT OF THE GRANTEE SHALL BE A GROUND FOR REVOCATION OF THIS FRANCHISE."

Sec. 13. New Provision:

"EQUALITY CLAUSE. — ANY ADVANTAGE, FAVOR, PRIVILEGE, EXEMPTION OR IMMUNITY GRANTED UNDER EXISTING FRANCHISES, OR WHICH MAY HEREAFTER BE GRANTED FOR RADIO OR TELEVISION BROADCASTING, SHALL *IPSO FACTO* BECOME PART OF THIS FRANCHISE AND SHALL BE ACCORDED IMMEDIATELY AND UNCONDITIONALLY TO THE HEREIN GRANTEE: PROVIDED, HOWEVER, THAT THE FOREGOING SHALL NEITHER APPLY TO NOR AFFECT PROVISIONS OF BROADCASTING FRANCHISES CONCERNING TERRITORY

COVERED BY THE FRANCHISE, THE LIFE SPAN OF THE FRANCHISE
OR THE TYPE OF SERVICE AUTHORIZED BY THE FRANCHISE.”

Sec. 14. Sections 12, 13, 14 and 16 of Republic Act No. 7395 remain the same.

Sec. 15. Section 15 of Republic Act No. 7395 is hereby deleted.

Sec. 16. This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) national newspapers and general circulation.

Approved,