

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

SEVENTEENTH (17th) CONGRESS
FIRST REGULAR SESSION



HOUSE BILL NO. 5031

INTRODUCED BY: REPRESENTATIVE FERJENEL G. BIRON, M.D.

EXPLANATORY NOTE

The 1987 Constitution, particularly Section 20 of Article II recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments. Pursuant thereto, the State as a policy aims to (1.) provide a business environment that is conducive to the establishment and operation of businesses in the country, (2.) simplify business permit and licensing system procedures and streamline the requirements at the national and local levels, and (3.) promote transparency in government with regard to business registrations and other manner of transacting with the public to reduce red tape and expedite permitting, licensing and other similar transactions in government. It is in this light to that this representation has filed this bill, which will be known as the *"Ease of Doing Business Act of 2017"*.

The purpose of this bill is to provide an easy, simple, straightforward and trouble-free avenue for entrepreneurs, micro, small and medium businesses and ordinary citizens who would like to venture into business by introducing business permitting and licensing reforms, the institutionalizing of structures and strategies by establishing a national policy on ease of doing business with the creation of the Ease of Doing Business Commission and by providing for penalties and criminal liability for violation thereof.

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


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4th District, Iloilo

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AN ACT
ESTABLISHING A NATIONAL POLICY ON EASE OF DOING BUSINESS,
CREATING FOR THE PURPOSE THE EASE OF DOING BUSINESS COMMISSION,
AND FOR OTHER PURPOSES

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

ARTICLE I

BASIC PRINCIPLES AND POLICIES

SECTION 1. *Short Title.* – This law shall be known as the “*Ease of Doing Business Act of 2017*”.

SEC. 2. *Declaration of Policy.* – The State recognizes the indispensable role of the private sector, encourages private enterprise, and provides incentives to needed investments. Pursuant thereto, it is hereby declared the policy of the State to:

- a) Provide a business environment that is conducive to the establishment and operation of businesses in the country;
- b) Simplify business permit and licensing system procedures and streamline the requirements at the national and local levels; and
- c) Promote transparency in government with regard to business registrations and other manner of transacting with the public to reduce red tape and expedite permitting, licensing and other similar transactions in government.

SEC. 3. Definition of Terms.— For the purpose of this Act, the following terms shall mean:

- a) *Applicant* – any natural or juridical entity set to engage or engaged in business who is applying for a license, clearance or permit;
- b) *Business Entity* – any individual or juridical entity engaged in business in the Philippines;
- c) *Business One-Stop Shop* – an arrangement where a single common site or location is designated for all concerned agencies in the Business Permit and Licensing System to receive and process applications for license, clearance or permit;
- d) *Business Permit*- a document issued by the Office of the Local Chief Executive of a city or municipality to a business entity allowing it to legally operate in the locality within a prescribed period;
- e) *Business Registration* – a set of regulatory requirements that a start-up or business entity must comply with to engage in business, such as but not limited to, collection or preparation of a number of documentation, submission to government authorities, approval of application submitted, and receipt of a formal certificate or certificates, licenses, clearances, permits and similar documents which confirm the eligibility to operate as a legitimate business entity;
- f) *Central Business Portal* - a dedicated business Web portal that allows start-up and business entities to access a one-stop or single-entry point to submit applications and access business registration-related information;
- g) *Charges* – a pecuniary liability, as rents or fees against persons or property;
- h) *Clearance* – a document in a form of a certificate issued by a government agency or instrumentality to a business entity, which is a requisite for their business operations or transactions as required by law;
- i) *Complex application* – application which necessitates inter-agency collaboration or multi-department involvement in the resolution of complicated issues by a business licensing, regulatory or permitting office as required by law;
- j) *Fee* – a reasonable charge fixed by law or local ordinance for the regulation or inspection of a business or activity;
- k) *License* – a permit or document issued by national government agencies necessary for starting and pursuing a business such as but not limited to primary license and secondary license;

- l) *Primary license or primary franchise* – an initial issuance, authority or certification accorded by a government agency or instrumentality conferring a right to a business entity to engage in business transactions or activities as required by law;
- m) *Processing Time* – the time spent by an applicant from the submission of an application with complete requirements, accompanying documents and payment of fees to the receipt of a certification or such similar documents approving or disapproving the application for a license, clearance or permit;
- n) *Red tape* - describes regulations and rules, administrative procedures and systems that are not effective in achieving their intended objectives and as a result produces suboptimal and undesired social outcomes;
- o) *Regulation* - any legal instrument that gives effect to a government policy intervention and includes licensing, imposing information obligation, compliance to standards or payment of any form of fee, levy, charge or any other statutory and regulatory requirements necessary to carry out any business activity;
- p) *Secondary license or permit* – a certification, authority or accreditation issued to a registered business entity which authorizes them to engage in business activities as required by regulatory laws; and
- q) *Simple application* – application which only requires ministerial actions on the part of the business licensing or permitting office, or that which presents only inconsequential issues for resolution by the concerned office.

SEC. 4. Coverage. – Other laws notwithstanding, this Act shall apply to all national government agencies or instrumentalities, and local government units involved in the issuance of licenses, clearances or permits to business entities.

ARTICLE II

BUSINESS PERMITTING AND LICENSING REFORMS

SEC. 5. Requirements for License, Clearance and/or Permit Application.– All national government agencies and local government units issuing licenses, clearances or permit to business entities shall post a comprehensive checklist of requirements for every type of license, clearance or permit being issued. A uniform checklist of requirements required by

licensing and permitting offices issuing a similar license, clearance or permit shall be established when applicable.

The checklist of requirements, step-by-step procedure and schedule of fees for the issuance of a license, clearance or permit shall be conspicuously posted in the premises of national and local government licensing and permitting agencies and in the Business One Stop Shop or in areas designated by cities and municipalities. The same information shall likewise be posted online in the official website of national government agencies and local government units and shall be linked to the Central Business Portal.

Business entities shall be limited to submitting only the requirements provided in the checklist in the processing of an application: *Provided*, That in cases where additional documents are required, the business licensing or permitting office shall notify the applicant of the reasons he must comply with the submission of such documents.

SEC.6. *Prescribed Processing time for License, Clearance or Permit Applications.* –

National government agencies and local government units involved in the processing and issuance of licenses, clearances or permits to business entities shall process the application of business entities and communicate the decision regarding approval or if the application has been disapproved, along with comments or reasons for such disapproval, within the prescribed processing time.

For business entities classified as Micro, Small and Medium Enterprises (MSMEs) as defined in Section 3 of Republic Act No. 9501, the prescribed processing time shall in no case be longer than three (3) working days for simple applications and ten (10) working days for complex applications from the time the application is received.

For special type of businesses that require clearances, accreditation or licenses issued by government agencies including regulatory agencies as provided for by law where technical evaluation or such necessary condition is required in the processing of licenses, clearances or permits, the prescribed processing time shall in no case be longer than thirty (30) working days or as determined by the government agency or instrumentality concerned, whichever is shorter.

A national government agency or instrumentality or local government unit shall assign a unique identification number to an applicant that shall become the identifying number for all subsequent business registration-related transactions between the agency and the business entity. A reference number for each business registration related transaction shall also be provided to the applicant to track the status of an application, whether manually or electronically submitted.

SEC.7. *Automatic Approval of License, Clearance or Permit Applications.* – An application for a license, clearance or permit shall be deemed approved upon failure or inaction of the concerned national government agency or local government unit to process and issue the license, clearance or permit after the prescribed processing time has lapsed without informing the applicant of the error, omissions or additional documents required for submission: *Provided*, That all required documents have been submitted and all required fees and charges have been paid:

Provided, further, That in cases where the cause of delay is due to force majeure or natural or man-made disaster which may result to damage or destruction of documents, the prescribed processing time in the preceding Section shall be suspended and appropriate adjustments shall be made:

Provided finally, That if the application for license, clearance or permit shall require the approval of the Sangguniang Bayan in the case of a municipality, Sangguniang Panlungsod in the case of a city or Sangguniang Panlalawigan in the case of a province, and the respective Sanggunian has denied the application, such case shall be exempt from the operation of Sections 6 and 7 of this Act.

SEC.8. *Extension of License, Clearance or Permit Applications.* –The prescribed processing time for license, clearance or permit applications may be extended for a reasonable period when extraordinary due diligence in reviewing the qualifications and merit of the application is required: *Provided*, That the processing time shall only be extended once: *Provided further*, That the concerned national government agency or local government unit shall inform the applicant prior to the lapse of the prescribed processing time that an extension is required in evaluating the application.

SEC.9. *Requirements for Business Permit Application.* – A single or unified business application form shall be used in processing new applications for business permits and business renewals which consolidates all the information of the applicant by various local government departments, such as but not limited to the local taxes and clearances, building clearance, sanitary permit, zoning clearance, and other specific local government unit requirements as the case may be, including the fire clearance from the Bureau of Fire Protection.

The unified form shall be made available online using technology-neutral platforms such as but not limited to the Central Business Portal or the city or municipality's website and various channels for dissemination.

SEC. 10. *Validity of Business Permit.* – Business permits shall be valid for a period of one (1) year. The city or municipality may have the option to renew business permits within the first month of the year or on the anniversary date of the issuance of the business permit.

SEC.11. *Computerized or Software-enabled Business Permit and Licensing System.*– Within a period of one (1) year upon the effectivity of this Act, cities or municipalities shall, as far as practicable, automate their business permitting and licensing system (BPLS) or set up an electronic-Business One Stop Shop for a more efficient business registration.

The Department of Information and Communications Technology (DICT) shall make available to qualified local government units the software for the computerization of the BPLS. The DICT, the Department of Interior and Local Government (DILG) and the Department of Trade Industry (DTI) shall provide technical assistance in the planning and implementation of a computerized or software-enabled BPLS.

SEC. 12. *Business One Stop Shop* – A one-stop business facilitation service, hereinafter referred to as the Business One Stop Shop (BOSS), shall be established for the city or municipality's business permitting and licensing system to receive and process manual or electronic submission of license, clearance or permit applications.

Municipalities and cities without electronic mechanism for submission and processing of permit, license and clearance applications shall set up a BOSS. There shall be a queuing mechanism in the BOSS to better manage the flow of applications among the local

government units' departments receiving and processing applications, including the Bureau of Fire Protection (BFP).

Cities and municipalities with online mechanism for submission and processing of license, clearance or permit applications shall receive and process applications electronically. Downloadable and unified application form, comprehensive checklist of requirements, step-by-step procedures, and schedule of fees shall be made available online in the cities or municipalities' websites:

Provided, That to lessen the transaction requirements, other local clearances such as but not limited to sanitary permits, environmental and agricultural clearances shall be issued together with the business permit: *Provided, further*, That cities or municipalities which use manual signatures shall designate alternative signatories in the absence of the authorized approving authority: *Provided, finally*, That cities or municipalities with e-BOSS shall develop electronic versions of licenses, clearances or permits with the same level of authority, which may be printed by businesses in the convenience of their offices.

SEC. 13.*Streamlined Procedures for Securing Fire Safety Clearance.*– The following procedure shall be adopted for the issuance of the Fire Safety Inspection Certificate (FSIC), to make business permitting more efficient:

- a. Issuance of Fire Safety Clearance shall in no case be longer than thirty (30) working days;
- b. For new business permit application, the FSIC already issued during the Occupancy Permit stage shall be sufficient as basis for the issuance of the FSIC for a business entity as a requirement for the business permit;
- c. For renewal of business permit, the BFP shall present the FSIC to the city or municipality, either thru the copy of the FSIC or the negative/positive list. *Provided*, That the business entity shall inform the BFP and submit the necessary documentary requirements if renovations, modifications or any form of alterations are made to the original building structure thirty (30) days before the expiration of the business permit;
- d. If the BFP fails to furnish the city or municipality with the FSIC or inform the same thru the negative/positive list, the business entity shall be deemed to have a valid FSIC and therefore, the basis for the renewal of the business permit;

- e. The BFP or any of its officials or employees shall not sell, offer to sell, or recommend specific brands of fire extinguishers and other fire safety equipment;
- f. The BFP shall co-locate with the BOSS or in an appropriate area designated by the city or municipality within its premises to assess and collect the fire safety inspection fees;
- g. The BFP may enter into agreements with cities/municipalities allowing the latter to be deputized as assessors or collecting agents for the fire safety inspection fees; and
- h. The BFP may develop and adopt an online or electronic mechanism in assessing fees, collecting/accepting payments and sharing or exchange of other relevant data on business permit processing.

The pertinent provisions of Republic Act No. 9514, otherwise known as the Revised Fire Code of the Philippines of 2008, are hereby amended accordingly.

SEC.14. *Central Business Portal.*– To promote transparency and sustain ease in doing business, the DICT shall establish, through the Government Infrastructure, a cloud-native Central Business Portal or other similar technology as the DICT may prescribe, which shall serve as a central system to receive application and capture application data from business entities.

The Central Business Portal shall securely connect government agencies, such as but not limited to the DTI, the Securities and Exchange Commission (SEC), the Cooperative Development Authority (CDA), regulatory agencies, and local government units to receive base or common business applicant data or information required for each agency to process applications, respectively, and through which each respective agency shall securely generate and issue digitally signed business license document.

SEC. 15. *Philippine Business Registry Databank.* – Business licensing or permitting agencies such as but not limited to the DTI, SEC, CDA, BIR, and local government units shall access the Philippine Business Registry Databank to verify the validity, existence and other information relevant to a business entity.

The concerned national government agencies and all local government units shall periodically submit to the system updates relative to the information registered with them. The DICT, in consultation with the concerned agencies, shall develop and manage the

Philippine Business Registry Databank and prescribe the data to be submitted by national government agencies and local government units.

Submission of documents already provided by an applicant to an agency with access to the Philippine Business Registry Databank shall no longer be required by other agencies having similar access. The concerned agency shall crosscheck and retrieve the required information or document in the Philippine Business Registry Databank.

At the local government level, the City or Municipal BPLO shall not require the same documents already provided by the applicant to the local government departments in connection with other business-related license, clearance or permits such as but not limited to tax clearance, occupancy permit and barangay clearance.

SEC. 16. *Regulatory Impact Assessment.* – All proposed regulations of national government agencies and local government units shall undergo regulatory impact assessment to establish if the proposed regulation does not add undue regulatory burden and cost to business entities and national and local government agencies.

The Ease of Doing Business Commission, created under this Act, in coordination with other national government agencies and local government units, shall continue the review and repeal of existing executive issuances, and recommend the repeal of existing laws and local ordinances which are outdated, redundant, and adds undue regulatory burden to business entities.

ARTICLE III

INSTITUTIONAL STRUCTURES AND STRATEGIES

SEC. 17. *National Policy on Ease of Doing Business.*– There is hereby established a National Policy on Ease of Doing Business which shall refer to a comprehensive business registration and regulatory management policy to improve competitiveness and ease undue bureaucratic and regulatory burden to business entities.

SEC. 18. *Ease of Doing Business Commission.* – Within sixty (60) days after the effectivity of this Act, there is hereby created the Ease of Doing Business Commission, herein referred to as the Commission, to ensure the attainment of the objectives of this Act. The Commission shall be the policy-making body on business registration and regulatory management and shall set the overall direction for the implementation of the National Policy on Ease of Doing Business.

The Commission shall be the lead agency in the implementation of this Act and it shall be an attached agency to the Office of the President.

SEC. 19. *Powers and Functions.* - The Commission shall have the following powers and functions:

- a) Plan, implement, and oversee a national policy on ease of doing business;
- b) Receive complaints, institute investigations for violations of this Act;
- c) Assist complainants in filing necessary cases without prejudice to the jurisdiction of the Civil Service and the Ombudsman as the case may be;
- d) Facilitate the issuance of licenses, clearances or permit deemed approve by virtue of Section 7 of this Act;
- e) Compel or petition any government agency, instrumentality or local government to issue the permit, license or clearance of business entities deemed approved by virtue of Section 7 of this Act;
- f) Periodically review and assess the country's competitiveness performance, challenges and issues;
- g) Recommend policies, processes and systems to improve regulatory management to increase the productivity, efficiency, and effectiveness of permitting and licensing agencies;
- h) Conduct regulatory management training programs to capacitate national government agencies and local government units to comply with sound regulatory management practices;
- i) Prepare regulatory management manuals for all government agencies or instrumentalities and LGUs;
- j) Provide technical assistance, advisory opinions in the review of proposed national or local legislation, regulations or procedures;

- k) Ensure the dissemination of and public access to information on regulatory management system and changes in laws and regulations relevant to the public by establishing the Philippine Business Regulations Information System;
- l) Enlist the technical assistance of other national government agencies in the implementation of the powers and function provided for in this Act;
- m) Propose legislation, amendments or modifications to Philippine laws related to ease of doing business;
- n) Monitor and review the implementation of this Act including compliance of all concerned agencies and LGUs with the policies set herein;
- o) Formulate and amend when necessary the Implementing Rules and Regulations and the corresponding standards for good regulatory discipline; and
- p) Generally perform such acts as may be necessary, to attain the objectives of this Act.

SEC. 20. *Composition of the Commission.*– The Commission shall be composed of a Chairperson, the Secretary of the DTI and the Secretary of the Department of Finance (DOF) as ex-officio members, and one (1) private sector representative each for the MSME sector and large industry sector.

The private sector representatives who shall be appointed by the President, shall be citizens and residents of the Philippines, of good moral character, of recognized probity and independence and must have distinguished themselves in the business sector they represent.

The *ex-officio* members of the Commission may designate their respective alternates in a permanent capacity who shall be at least an Undersecretary in rank and their acts shall be considered the acts of their principals.

SEC. 21. *Term of Office.* - The term of the Chairperson and the two (2) private sector representatives shall be three (3) years and may be reappointed once.

SEC. 22. *Chairperson of the Commission.*–The Chairperson of the Commission who shall be appointed by the President of the Philippines shall be the head of the agency with the rank of a cabinet secretary. The Chairperson shall be a citizen and resident of the Philippines, of good moral character, of recognized probity and independence and must have distinguished himself professionally in the fields of commerce, domestic and international trade, management and other economic disciplines. He shall preside over the meetings of the

Commission. He shall be the appointing authority of the employees and other officials of the Commission as provided for in existing laws, rules and regulations.

Sec. 23. *Secretariat of the Commission.* — The Commission shall establish a Secretariat to assist them in the implementation of this Act and in the performance of their duties.

The Commission shall establish an organizational structure including regional offices, as may be required to effectively carry out its powers and functions. The staffing pattern and compensation schedule of the Commission shall be drawn up in accordance with existing laws, rules and regulations.

SEC. 24. *Executive Director.* — The Secretariat of the Commission shall be headed by an Executive Director. He shall be appointed by the President of the Philippines from the list of nominees submitted by the Commission. He shall serve for a term of three (3) years, and may be reappointed once. The Executive Director shall be a citizen and resident of the Philippines and must possess executive and management experience of at least three (3) years and with considerable exposure in the fields of commerce, domestic and international trade, and other economic disciplines.

ARTICLE IV

PROHIBITED ACTS AND PENALTIES

SEC.25. *Prohibited Acts.* — The following shall constitute a violation of this Act:

1. Refusal to accept application within the prescribed period or any document being submitted by the applicant, Provided that all required documents have been submitted and the necessary fees have been paid;
2. Failure to refer back to the applicant an application which, cannot be acted upon due to lack or incomplete requirements or non-payment of required fees and/or charges within the prescribed period;
3. Failure to act on an application despite the complete submission of requirements and payment of required fees or charges within the prescribed period;

4. Failure to give the applicant a written notice on the disapproval of an application within the prescribed period or inform the applicant of any error, omission or deficiency in the application;
5. Imposition of additional irrelevant requirements other than those provided by the concerned agency or local government unit.

SEC.26. *Penalty.* - Penalties for the violations of the preceding section shall be as follows:

1. First offense – Thirty (30) days suspension without pay;
2. Second Offense – Three (3) months suspension without pay; and
3. Third Offense – Dismissal and perpetual disqualification to hold public office, cancellation of Civil Service eligibility, forfeiture of retirement benefits and one (1) to six (6) years imprisonment;.

Criminal liability will also attach once the violation was done deliberately and maliciously with the purpose of harassing the applicant and/or to solicit favor in cash or in kind. In such case, the provisions of the Revised Penal Code shall apply and such other applicable penal laws.

SEC 27. *Liability.* –The head of office or agency or supervising officer designated to be the authorized or final signatory to the issuance of a license, permit or clearance shall be held liable and accountable in the implementation of this Act.

SEC. 28. *Jurisdiction.* – The administrative jurisdiction on any violation of the provisions of this Act shall be vested either in the Civil Service Commission (CSC) and the Office of the Ombudsman whereas the criminal jurisdiction shall be vested with the appropriate courts as specified under applicable laws.

ARTICLE V

MISCELLANEOUS PROVISIONS

SEC. 29. *Congressional Oversight Committee.* – To oversee implementation of this Act, there shall be created a Congressional Oversight Committee on Ease of Doing Business (COC-EDB), to be composed of five (5) members from the Senate, which shall include the Chairpersons of the Senate Committees on Trade and Commerce and Entrepreneurship, Civil

Service Government Reorganization and Professional Regulation, and Economic Affairs; and five (5) members from the House of Representatives which shall include the Chairpersons of the House Committees on Trade and Industry, Civil Service Government Reorganization and Professional Regulation, and Economic Affairs. The COC-EDB shall be jointly chaired by the Chairpersons of the Senate Committee on Trade and Commerce and Entrepreneurship and the House of Representatives Committee on Trade and Industry.

The COC-EDB shall cease to exist five (5) years after its organization. Its functions, duties and responsibilities together with all of its records, shall be transferred to the Commission: *Provided*, That the Commission shall periodically submit reports on the implementation of this Act to Congress through the Senate Committee on Trade and Commerce and Entrepreneurship and the House Committee on Trade and Industry.

The Secretariat of the COC-EDB shall be drawn from the existing personnel of the Senate and House of Representatives committees comprising the COC-EDB.

SEC. 30. Appropriations. — The amount of Twenty million pesos (P20,000,000) as initial funding for the Commission is hereby appropriated to be charged against the unexpended Contingency Funds of the Office of the President. Thereafter, the amount necessary for the operation and maintenance of the Commission shall be included in the annual General Appropriations Act.

SEC. 31. Transitory Provision. – All business regulatory management programs and business-related anti-red tape initiatives across government agencies shall be rationalized and the management thereof shall be transferred to the Commission. The DTI, the National Competitiveness Council (NCC), the DOF, the Development Academy of the Philippines (DAP), and the National Economic Development Authority (NEDA) shall submit to the Commission a report of the status of their respective projects related to business regulatory management.

The Commission, in consultation with the Competitiveness Bureau of the DTI, shall determine the composition of the temporary Secretariat of the Commission. The teams or units involved in regulatory improvement or ease of doing business-related programs of the DTI-Competitiveness Bureau shall serve as temporary Secretariat of the Commission until such time that its organizational structure is determined: *Provided*, That the DTI-

Competitiveness Bureau shall serve as Secretariat to the Commission for no longer than six (6) months upon the effectivity of this Act.

SEC. 32. *Transition from Manual to Software-Enabled Business Registration.* - Within one (1) year after the effectivity of this Act, the DICT, in coordination with the members of the Commission, local government units and other concerned agencies shall, develop the necessary software and technology-neutral platforms and secured infrastructure for the implementation of this Act.

SECTION 33. *Implementing Rules and Regulations.* - Within ninety (90) days after the effectivity of this Act the Commission, in consultation with concerned government agencies, private sector, and other stakeholders, shall issue the implementing rules and regulations of this Act.

SECTION 34. *Separability Clause.* - If any part or provision of this Act is declared as unconstitutional or invalid, the other provisions which are not affected shall continue to be in full force and effect.

SECTION 35. *Repealing Clause.* - All laws, executive orders, decrees, rules and regulations, or any part thereof inconsistent with the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SECTION 36. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,