

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

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5816**



Introduced by Rep. Pantaleon D. Alvarez, Rep. Rodolfo C. Fariñas and Rep. Danilo E. Suarez

EXPLANATORY NOTE

Article XII Section 11 of the Philippine Constitution states that no franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted, except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires.

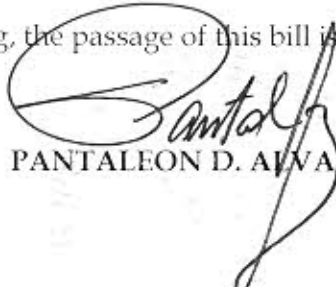
Article 1733 of the Civil Code on the other hand provides that common carriers are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all circumstances of each case.

It is in this regard that Philippine Airlines (PAL) was granted a legislative franchise through Presidential Decree 1590 on June 11, 1978, with the express provision that it will charge just and reasonable rates and provide efficient service to the riding public.

Unfortunately, numerous complaints have been made by PAL passengers regarding its poor service, specifically exorbitant fees charged during peak season, inordinate delays in flights, overbooking, and worse, unilateral cancellation of flights, causing severe inconvenience to the people. These practices of PAL are detrimental to the common good and do not fall within the purview of "extraordinary diligence."

In fact, these are grounds for the amendment and alteration of the franchise of PAL, something that this bill seeks to achieve to make its franchise more advantageous to the riding public.

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


PANTALEON D. ALVAREZ


DANILO E. SUAREZ


RODOLFO C. FARINAS

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Seventeenth Congress
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House Bill No. **5816**

Introduced by Honorable Pantaleon D. Alvarez, Honorable Rodolfo C. Fariñas and
Honorable Danilo E. Suarez

AN ACT
FURTHER AMENDING PRESIDENTIAL DECREE NO. 1590, OTHERWISE KNOWN AS
"AN ACT GRANTING A NEW FRANCHISE TO PHILIPPINE AIRLINES, INC. TO
ESTABLISH, OPERATE, AND MAINTAIN AIR-TRANSPORT SERVICES IN THE
PHILIPPINES AND OTHER COUNTRIES", AS AMENDED

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

1 **SECTION 1.** Section 3 of Presidential Decree No. 1590, otherwise known as "An Act
2 Granting a new Franchise to Philippine Airlines, Inc. to Establish, Operate and Maintain Air
3 Transport Services in the Philippines and other Countries" is hereby amended to read as
4 follows:

5 "Section 3. The grantee shall fix just and reasonable rates for the transportation of
6 passengers, mail, and freight, subject to the regulations and approval of the Civil
7 Aeronautics Board or such other regulatory agency as the Government may
8 designate for this purpose. Any order of the Civil Aeronautics Board made under
9 this Sections shall be subject to review by the courts. PROVIDED HOWEVER, THAT
10 ANY INCREASE IN RATES THAT IS A NATURAL CONSEQUENCE OF THE
11 INCREASE IN DEMAND DURING PEAK-SEASON, SHALL BE SUBJECT TO A
12 CAP OF 20% OVER THE REGULAR OFF-PEAK RATES."

13
14 **SECTION 2.** Section 13 of P.D. 1590 is hereby amended to read as follows:

1 **"Section 13.** [In consideration of the franchise and rights hereby granted, the grantee
2 shall pay to the Philippine Government during the life of this franchise whichever of
3 subsections (a) and (b) hereunder will result in a lower tax:

4 (a) The basic corporate income tax based on the grantee's annual net taxable
5 income computed in accordance with the provisions of the National Internal
6 Revenue Code; or

7 (b) A franchise tax of two per cent (2%) of the gross revenues derived by the
8 grantee from all sources, without distinction as to transport or non-transport
9 operations; provided, that with respect to international air-transport service,
10 only the gross passenger, mail, and freight revenues from its outgoing flights
11 shall be subject to this tax.

12 The tax paid by the grantee under either of the above alternatives shall be in
13 lieu of all other taxes, duties, royalties, registration, license, and other fees and
14 charges of any kind, nature, or description, imposed, levied, established, assessed, or
15 collected by any municipal, city, provincial, or national authority or government
16 agency, now or in the future, including but not limited to the following:

17 1. All taxes, duties, charges, royalties, or fees due on local purchases
18 by the grantee of aviation gas, fuel, and oil, whether refined or in crude form,
19 and whether such taxes, duties, charges, royalties, or fees are directly due
20 from or imposable upon the purchaser or the seller, producer, manufacturer,
21 or importer of said petroleum products but are billed or passed on the
22 grantee either as part of the price or cost thereof or by mutual agreement or
23 other arrangement; provided, that all such purchases by, sales or deliveries of
24 aviation gas, fuel, and oil to the grantee shall be for exclusive use in its
25 transport and non-transport operations and other activities incidental thereto;

26 2. All taxes, including compensating taxes, duties, charges, royalties,
27 or fees due on all importations by the grantee of aircraft, engines, equipment,
28 machinery, spare parts, accessories, commissary and catering supplies,
29 aviation gas, fuel, and oil, whether refined or in crude form and other articles,
30 supplies, or materials; provided, that such articles or supplies or materials are
31 imported for the use of the grantee in its transport and transport operations
32 and other activities incidental thereto and are not locally available in
33 reasonable quantity, quality, or price;

1 3. All taxes on lease rentals, interest, fees, and other charges payable to
2 lessors, whether foreign or domestic, of aircraft, engines, equipment,
3 machinery, spare parts, and other property rented, leased, or chartered by the
4 grantee where the payment of such taxes is assumed by the grantee;

5 4. All taxes on interest, fees, and other charges on foreign loans
6 obtained and other obligations incurred by the grantee where the payment of
7 such taxes is assumed by the grantee;

8 5. All taxes, fees, and other charges on the registration, licensing,
9 acquisition, and transfer of aircraft, equipment, motor vehicles, and all other
10 personal and real property of the grantee; and

11 6. The corporate development tax under Presidential Decree No. 1158-

12 A.

13 The grantee, shall, however, pay the tax on its real property in conformity with
14 existing law.

15 For purposes of computing the basic corporate income tax as provided herein, the
16 grantee is authorized:

17 (a) To depreciate its assets to the extent of not more than twice as fast the
18 normal rate of depreciation; and

19 (b) To carry over as a deduction from taxable income any net loss incurred in
20 any year up to five years following the year of such loss.]

21
22 **TAX PROVISIONS.** - THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, SHALL
23 PAY TO THE PHILIPPINE GOVERNMENT DURING THE LIFE OF ITS
24 FRANCHISE, THE VALUE-ADDED TAX UNDER REPUBLIC ACT NO 7716, AS
25 AMENDED, OR A FRANCHISE TAX OF FIVE PERCENT (5%) PER ANNUM OR
26 AT SUCH PERCENTAGE AS MAY BE PRESCRIBED BY LAW ON ALL GROSS
27 RECEIPTS OF ITS TRANSPORT BUSINESS TRANSCTED UNDER THIS
28 FRANCHISE, WHICHEVER IS HIGHER; PROVIDED THAT THE GRANTEE, ITS
29 SUCCESSORS OR ASSIGNEES, SHALL CONTINUE TO BE LIABLE FOR INCOME
30 TAXES PAYABLE UNDER TITLE II OF THE NATIONAL INTERNAL REVENUE
31 CODE PURSUANT TO SEC. 2 OF EXECUTIVE ORDER NO. 72, UNLESS THE
32 LATTER ENACTMENT IS AMENDED OR REPEALED, IN WHICH CASE, THE
33 AMENDMENT OR REPEAL SHALL BE APPLICABLE THERETO.
34

1 THE GRANTEE, ITS SUCCESSORS OR ASSIGNEES, SHALL BE LIABLE TO PAY
2 THE SAME TAXES ON THEIR REAL ESTATE, BUILDINGS AND PERSONAL
3 PROPERTY, EXCLUSIVE OF THIS FRANCHISE, AS OTHER PERSONS OR
4 CORPORATIONS ARE NOW OR HEREAFTER MAY BE REQUIRED BY LAW TO
5 PAY.

6
7 **SECTION 3.** Section 17 of Presidential Decree No. 1590, PAL Franchise is hereby amended
8 to read as follows:

9 "Section 17. The term of this franchise shall be fifty (50) years from the date of the
10 acceptance of this franchise by the grantee. THE REMAINING TERM OF THIS
11 FRANCHISE SHALL BE SUBJECT TO REVIEW BY CONGRESS EVERY FIVE
12 YEARS FROM THE EFFECTIVITY OF THIS AMENDATORY ACT.

13
14 **SECTION 4.** A new Section 18 is hereby inserted in P.D. 1590, to read as follows:

15 "SECTION 18. COMPLIANCE WITH APPLICABLE LAWS. - THE GRANTEE SHALL
16 COMPLY WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS,
17 PARTICULARLY REPUBLIC ACT NO. 7432, AS AMENDED BY REPUBLIC ACT
18 NO. 9994, OTHERWISE KNOWN AS THE "EXPANDED SENIOR CITIZENS ACT
19 OF 2010" AND REPUBLIC ACT NO. 7277, AS AMENDED BY REPUBLIC ACT NO.
20 10754, OTHERWISE KNOWN AS "AN ACT EXPANDING THE BENEFITS AND
21 PRIVILEGES OF PERSONS WITH DISABILITY (PWD)".

22 All other sections are hereby renumbered accordingly.

23
24 **SECTION 5.** *Repealability and Non-exclusivity Clause.* - This franchise shall be subject
25 to amendment, alteration, or repeal by the Congress of the Philippines when the
26 public interest so requires and shall not be interpreted as an exclusive grant of the
27 privileges herein provided for.

28
29 **SECTION 6.** *Separability Clause.* - Any portion or provisions of this Act that may be
30 declared unconstitutional or invalid shall not have the effect of nullifying other portions or
31 provisions hereof as long as such remaining portions or provisions can still subsist and be
32 given effect in their entirety.

1 **SECTION 7. *Repealing Clause.*** - All laws, ordinances, rules, regulations, and other
2 issuances or parts thereof, which are inconsistent with this Act are hereby repealed or
3 modified accordingly.

4
5 **SECTION 8. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days from the date of
6 its publication in at least two (2) newspapers of general circulation.

Approved,