

Republic of the Philippines
House of Representatives
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **6255**



Introduced by HONORABLE LUCY TORRES-GOMEZ

EXPLANATORY NOTE

By virtue of Republic Act No. 9593 otherwise known as the "Tourism Act of 2009," the former Philippine Tourism Authority was reorganized into the Tourism Infrastructure and Enterprise Zone Authority or TIEZA. Under this law, TIEZA is mandated among others, to designate, supervise, and regulate Tourism Enterprise Zones (TEZ) and administer fiscal and non-fiscal incentives to TEZ Operators and Registered Tourism Enterprises (RTEs). These incentives may be availed by the TEZs and RTEs within ten (10) years from the effectivity of the law in 2009 or until 2019. Seven (7) years have passed before the Bureau of Internal Revenue (BIR) finally released the necessary Revenue Regulations in order for TIEZA to effectively administer these incentives to investors in the tourism industry.

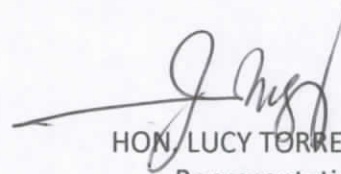
The Resorts World incident has underlined TIEZA's critical role in developing and regulating TEZs. The investigation revealed numerous instances that called for policies, administration and management that were specific and sensitive only to tourism enterprises and the Tourism Industry. Now, more than ever, TIEZA needs to fulfill its mandate of helping create and boost *"a favorable image of the Philippines within the international community, thereby strengthening the country's attraction as a tourism destination and eventually paving the way for other benefits that may result from a positive global view of the country."*

For TIEZA TEZs to fulfill its designed role in the growth of the Tourism Industry, it must: (1) enforce its sole jurisdiction as to the designation, regulation and supervision of TEZs, and (2) offer TEZs and RTEs competitive incentive packages, vis-à-vis other investment promotions agencies (IPAs) that are not focused on tourism. This applies to both fiscal and non-fiscal incentives.

Unless TIEZA's incentives package can be at least at par, or offer specific tourism-related advantages versus other IPAs, TIEZA will be compelled to compete for the Tourism Industry's buy-in, support, and participation, but with a handicap.

For this reason, this Act seeks to level the playing field and provide TIEZA an edge in attracting tourism enterprises to do business with TIEZA. Thus, this bill seeks to introduce amendments to R.A. 9593 to clarify certain provisions and strengthen the TIEZA's power in granting incentives on TEZs and RTEs.

With this purpose in mind, the immediate approval of this bill is earnestly sought.



HON. LUCY TORRES-GOMEZ
Representative
FOURTH DISTRICT, PROVINCE OF LEYTE

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HOUSE BILL NO. **6255**

Introduced by HONORABLE LUCY TORRES-GOMEZ

AN ACT IMPROVING THE INCENTIVES OF TOURISM ENTERPRISE ZONES AND REMOVING THE RESTRICTIONS IN THE INCENTIVE SCHEMES, THEREBY AMENDING FOR THE PURPOSE THE PROVISIONS OF REPUBLIC ACT NO. 9593 OTHERWISE KNOWN AS "THE TOURISM ACT OF 2009" AND FOR OTHER PURPOSES

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

SECTION 1. Section 4 of Republic Act No. 9593 otherwise known as the "Tourism Act of 2009" herein referred to as the Act, is amended to read as follows:

"SEC 4. Definition of Terms. – The following terms, as used in this Act, are defined as follows:

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(A) "Accommodation Establishments" shall include hotels, resorts, tourist inns, motels, apartelles, resorts, homestay, pension houses, and the accompanying facilities and services, as accredited by DOT.

(B) "Construction Materials" shall refer to articles or materials that shall form part of the buildings and facilities of the Tourism Operators/Developers whether built by the Tourism Operators/Developers or leased from TIEZA, including fixtures thereof, enclosures, driveways and other auxiliary items.

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(R) "Tourism enterprises" refers to facilities, services and attractions primarily engaged in whole or in part in tourism and for the purpose of attracting visitors to and within the Philippines such as but not limited to facilities, services and

attractions involved in tourism: travel and tour services; tourist transport services, whether for land, sea or air transportation; tour guides; adventure sports services involving such sports as mountaineering, spelunking, scuba diving, and other sports activities of significant tourism potential; convention centers, facilities and services, convention and exhibition organizers; accommodation establishments, including, but not limited to, hotels, resorts, apartment hotels or apartelles, condotels (that cater to tourists), tourist inns, motels, pension houses, and home stay operators; tourism estate management facilities and services, restaurants, shops and department stores, sports and recreational centers, spas, facilities offering health and wellness services, museums and galleries, theme parks, zoos, AND SUCH OTHER ENTERPRISES AS MAY BE IDENTIFIED BY THE TIEZA BOARD.

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(Y) "TOURISTS" SHALL REFER TO PEOPLE WHO TRAVEL TO AND STAY IN PLACES OUTSIDE THEIR USUAL ENVIRONMENT FOR MORE THAN TWENTY-FOUR (24) HOURS AND NOT MORE THAN ONE (1) CONSECUTIVE YEAR FOR LEISURE, BUSINESS AND OTHER PURPOSES NOT RELATED TO THE EXERCISE OF AN ACTIVITY REMUNERATED FROM WITHIN THE PLACE VISITED.

(Z) "CONVENTION AND EXHIBITION FACILITIES AND SERVICES" – SHALL REFER TO A PERSON OR ENTITY WHICH IS ENGAGED IN DEVELOPING MEETINGS, INCENTIVES, CONVENTIONS AND EXHIBITIONS (M.I.C.E.) CENTERS; AND REGULARLY MANAGING AND GATHERING FOR THE PURPOSE OF EXCHANGING OR DISEMINATING VIEWS, TECHNICAL EXPERTISE, EXPERIENCES, KNOWLEDGE, SKILLS, INFORMATION, POLICIES OR ANY OTHER RELATED ACTIVITY.

(AA) "TOURISM ESTATE MANAGEMENT FACILITIES AND SERVICES – SHALL REFER TO THE HANDLING OF A REAL PROPERTY BY DEVELOPING, OPERATING AND CONTROLLING IT AS WELL AS THE PROPER MAINTENANCE IN ORDER TO ACHIEVE OPTIMUM WORTH IN THE MARKET OF THE SUBECT PROPERTY. THE SUBJECT PROPERTY BEING INTENDED PARTLY OR IN WHOLE TO ATTRACT TOURISTS AND HOST TOTAL TOURIST EXPERIENCE.

(BB) "TRANSPORT FACILITIES AND SERVICES – SHALL REFER TO A PERSON OR ENTITY WHICH MAY EITHER BE A SINGLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION, REGULARLY ENGAGED IN PROVIDING FOR A FEE OR LAWFUL CONSIDERATION, TOURIST TRANSPORT SERVICES THROUGH ANY LAND BASED CARRIERS, WATERCRAFT, OR AIR CONVEYANCES.

(CC) TRAVEL AND TOURS FACILITIES AND SERVICES – SHALL REFER TO ENTITIES WHICH MAY EITHER BE A SINGLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION REGULARLY ENGAGED IN THE BUSINESS OF EXTENDING TO

INDIVIDUALS OR GROUPS, SUCH SERVICES PERTAINING TO ARRANGEMENTS AND BOOKINGS FOR TRANSPORTATION AND/ OR ACCOMMODATION, HANDLING AND/OR CONDUCT OF TOURS.

SEC. 2. Section 60 of the Act is hereby amended to read as follows:

SECTION 60. Designation of TEZs. – The TIEZA shall designate TEZs, upon the recommendation of any LGU or private entity, or through joint ventures between the public and the private sectors. Such designation shall be subject to the provisions of this Act and to minimum requirements AS MAY BE PROVIDED BY TIEZA.

TEZs shall not proliferate in a manner that diminishes their strategic economic and developmental value to the national economy.

SEC. 3. Section 61 of the Act is hereby amended to read as follows:

SECTION 61. Development Planning. – XXX

Lands identified as part of a TEZ shall BE EXEMPT from the coverage of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, and Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law, subject to the rules and regulations AND THE CRITERIA FOR EXEMPTION TO BE ISSUED BY TIEZA, IN COORDINATION WITH the Housing and Urban Development Coordinating Council and the Department of Agrarian Reform. FURTHERMORE, LANDS CONVERTED IN THIS MANNER MUST COMMENCE CONSTRUCTION AS A TEZ WITHIN A PERIOD DETERMINED IN THE CRITERIA AS ISSUED BY TIEZA.

SEC. 4. Section 62 of the Act is hereby amended to read as follows:

SECTION 62. Operation of TEZs. – XXX

The government shall encourage, facilitate and provide incentives for private sector participation in the construction and operation of public utilities and infrastructure in the TEZs using any of the PUBLIC-PRIVATE PARTNERSHIP schemes allowed under Republic Act No. 6957, as amended, otherwise known as the Build-Operate-and- Transfer Law, NEDA GUIDELINES ON JOINT VENTURE AGREEMENT, OR OTHER SCHEMES PERMITTED BY LAW.

TIEZA SHALL CONSTRUCT, OWN OR LEASE, OPERATE, MAINTAIN, ENTER INTO JOINT VENTURES, ISSUE THE CORRESPONDING PERMITS AND LICENSES, AND GRANT FRANCHISES FOR AND SUPERVISE THE OPERATION OF INFRASTRUCTURE FACILITIES INCLUDING PUBLIC UTILITIES WITH TEZs, IN COORDINATION WITH

LGUS AND AGENCIES CONCERNED. PROVIDED, THAT TIEZA SHALL TURN OVER THE INFRASTRUCTURE FACILITY OR PUBLIC UTILITY TO A PRIVATE OPERATOR OR LGU CONCERNED AFTER TWENTY (20) YEARS FROM START OF BUSINESS OPERATION.

SEC. 5. A second paragraph shall be inserted in Section 63 of this Act as follows:

TIEZA shall take the lead in setting the direction towards a more focused tourism related investment promotion on the development of sustainable TEZs and RTEs leading to a more competitive Philippine tourism. All development of tourism estate zones or enterprises shall be exclusively under TIEZA. Accordingly, PEZA, BCDA, BOI and other investment promotions agencies shall refer all tourism-related developments, whether as tourism zone or enterprise, to TIEZA. Furthermore, all existing tourism economic zones not currently registered under TIEZA should be transferred to TIEZA.

SEC. 6. Section 77 of the Act is hereby amended to read as follows:

SECTION 77. TIEZA ONE-STOP SHOP. - THE TIEZA ONE-STOP SHOP SHALL BE ESTABLISHED TO FACILITATE THE SERVICES OF TIEZA TO ITS CUSTOMERS INCLUDING BUT NOT LIMITED TO INQUIRIES, REGISTRATION OF PROSPECTIVE TEZ INVESTORS, ISSUANCE OF PERMITS AND LICENSES, COORDINATION WITH CONCERNED GOVERNMENT AGENCIES AND SUCH OTHER SERVICES PROVIDED TO IDENTIFIED CUSTOMERS OF TIEZA.

THE CONCERNED GOVERNMENT AGENCIES SHALL DESIGNATE THEIR CORRESPONDING PERSONNEL TO HOLD OFFICE AT THE TIEZA ONE-STOP SHOP AND ATTEND TO THE CONCERNS OF TIEZA CUSTOMERS OR INVESTORS.

SEC. 7. A new Section 77-A, shall be inserted after Section 77 of this Act, to read as follows:

SECTION 77-A. ISSUANCE OF CERTIFICATES, PERMITS AND LICENSES - ALL CERTIFICATES, PERMITS AND LICENSES IN CONNECTION WITH THE TOURISM ENTERPRISE ZONES (TEZs) SHALL BE ISSUED BY TIEZA. THE AUTHORITY SHALL COLLECT FEES NECESSARY FOR THE ISSUANCE OF THE CERTIFICATES, PERMITS AND LICENSES IN ACCORDANCE WITH THE RATES FIXED UNDER THE NATIONAL BUILDING CODE OF THE PHILIPPINES AND / OR THE SCHEDULE OF FEES THAT MAY BE ADOPTED BY THE TIEZA. ALL FEES AND DUES SHALL ACCRUE TO THE AUTHORITY.

SEC. 8. Section 85 of the Act, is hereby amended to read as follows:

SECTION 85. General Principles on the Grant and Administration of Incentives. –

(a) XXX

In the grant of incentives, it shall give equal preference to large investments, those with great potential for employment generation and those of local small and medium enterprises. Registered tourism enterprises owned and operated by overseas Filipino investors shall enjoy the same incentives granted to TEZ operators and registered enterprises in general. The amount of required investments shall be defined in the implementing rules and regulations of this Act. ~~[The incentive schemes set forth in Sections 86, 87 and 88 shall be in effect for a period of ten (10) years from the effectivity of this Act, which period is subject to review by the Joint Congressional Oversight Committee on Tourism.]~~

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(b) The Department and the DTI shall promulgate rules and regulations to govern the relationship between TEZs created under this Act, and NON TOURISM economic zones created under Republic Act No. 7227, otherwise known as the Bases Conversion and Development Act of 1992, and Republic Act No. 7916, as amended, otherwise known as the Special Economic Zone Act of 1995, where an area comprising a TEZ overlaps, falls within or encompasses that of A NON-TOURISM economic zone: *Provided*, That such rules and regulations shall consider the special nature and requirements of tourism in relation to other industries, establishments and operations in economic zones. TEZs proclaimed as such prior to the passage of this Act shall be transferred to the supervision of the TIEZA.

WHILE PEZA MAY HAVE ADMINISTRATIVE AND MONITORING AUTHORITY OVER NON TOURISM ECONOMIC ZONES, TIEZA MAY ADMINISTER INCENTIVES UNDER THIS ACT TO DESIGNATED TEZS INSIDE SUCH NON TOURISM ECONOMIC ZONES. ON THE OTHER HAND, WHILE TIEZA MAY HAVE ADMINISTRATIVE AND MONITORING AUTHORITY OVER TEZS, PEZA MAY ADMINISTER INCENTIVES TO NON-TOURISM ECONOMIC ZONES INSIDE A TEZ SUBJECT TO THE DELIENATION OF THE SCOPE OF SAID ADMINISTRATIVE AND MONITORING FUNCTIONS AS MAY BE PROVIDED IN THE RULES AND REGULATIONS MENTIONED IN THE PREVIOUS PARAGRAPH OF THIS SECTION. PROVIDED, THAT THERE WILL BE NO DOUBLE AVAILMENT OF INCENTIVES.

SEC. 9. Section 86 of the Act is hereby amended to read as follows:

SECTION 86. Fiscal Incentives Available to TEZ Operators and Registered Enterprises. – The following incentives may, in the discretion of the TIEZA Board, be granted to TEZ OPERATORS AND registered tourism enterprises within TEZs AS MAY BE APPLICABLE:

- (a) Income Tax Holiday. TEZ OPERATORS AND REGISTERED tourism enterprises in Greenfield and Brownfield Tourism Zones shall, from the start of business operations, be exempt from tax on income for a period of six (6) years. This income tax holiday may be extended if the enterprise undertakes a substantial expansion or upgrade of its facilities prior to the expiration of the first six years.

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An existing enterprise in a Brownfield Tourism Zone shall be entitled to avail of a non-extendible income tax holiday if it undertakes an extensive expansion or upgrade of facilities. Such an income tax holiday shall consider the cost of such expansion or upgrade in relation to the original investment, but shall in no case exceed six (6) years to be counted from the time of completion of the expansion or upgrade; *Provided*, That capital expenditures subject to income tax holiday shall be understood to mean money spent to acquire or upgrade physical assets, such as buildings, machinery and equipment, intended to extend the life of an asset or increase the capacity or efficiency of a tourism enterprise that benefit the current and future periods; *Provided further*, That in case of expansion, RENOVATION OR UPGRADE involving the improvement of existing structures or constructing new ones, such expansion shall consider the substantial amount infused, AND WHERE APPLICABLE, the substantial number of rooms added or constructed. ~~[and where applicable, their change in classification from three star to five star establishments.]~~

The provisions of this subsection shall likewise apply to tourism enterprises outside the zones.

- (b) Gross Income Taxation. AFTER AVAILING OF THE INCOME TAX HOLIDAY OR AFTER WAIVING THE RIGHT TO AVAIL OF THE INCOME TAX HOLIDAY, AND in lieu of all other national and local taxes, license fees, imposts and assessments, except real estate taxes and such fees as may be imposed by the TIEZA, THE TEZ OPERATORS AND new enterprises shall pay a tax of five percent (5%) on its gross income earned, which shall be distributed as follows: (1) One-third to be proportionally allocated among affected local government; (2) One-third to the National Government; and (3) One-third to the TIEZA for the funding of its operations and its programs in the TEZs, which shall include the protection, maintenance and enrichment of the environment, tangible cultural and historical heritage, and the intangible cultural heritage of communities within and surrounding the TEZs. Gross income as used herein is defined under Section 27(A) of the NIRC, and further defined under relevant rules and regulations.

AN EXISTING ENTERPRISE IN A BROWNFIELD TOURISM ENTERPRISE ZONE SHALL BE ENTITLED TO AVAIL OF THE GROSS INCOME TAX INCENTIVE IF IT UNDERTAKES AN EXTENSIVE EXPANSION OR UPGRADE OF FACILITIES.

THE TEZ OPERATORS AND REGISTERED TOURISM ENTERPRISES WITHIN THE TEZS ARE ENTITLED TO AVAIL OF THE INCENTIVES PROVIDED UNDER PARAGRAPH (B) FOLLOWING THE EXPIRATION OF THE PERIOD ALLOTTED FOR THE INCOME TAX HOLIDAY. HOWEVER, THE TEZ OPERATORS AND REGISTERED TOURISM ENTERPRISES WITHIN THE TEZS MAY EXERCISE THE OPTION OF WAIVING THEIR ENTITLEMENT TO THE INCOME TAX HOLIDAY AND NET OPERATING LOSS CARRY OVER INCENTIVES AND PROCEED DIRECTLY WITH THE GROSS INCOME TAXATION INCENTIVE.

(c) Capital Investment and Equipment. Subject to rules and regulations which properly define capital investments and equipment necessary for various kinds of tourism enterprises, THE TEZ OPERATOR, NEW TOURISM ENTERPRISES AND EXISTING TOURISM ENTERPRISES WHICH WILL UNDERGO EXTENSIVE EXPANSION OR UPGRADE OF ITS FACILITIES [~~registered enterprises~~] shall be entitled to an exemption of one hundred percent (100%) of all taxes and customs duties on importations of capital equipment.

(d) Transportation and Spare Parts – Importation of transportation and the accompanying spare parts of THE TEZ OPERATOR, NEW TOURISM ENTERPRISES AND EXISTING TOURISM ENTERPRISES WHICH WILL UNDERGO EXTENSIVE EXPANSION OR UPGRADE OF ITS FACILITIES [~~new and expanding registered enterprises~~] shall be exempt from customs duties and national taxes; Provided, That they are not manufactured domestically in sufficient quantity, of comparable quality and at reasonable prices, and that they are reasonably needed and will be used exclusively by an accredited tourism enterprise.

(e) Goods and Services. Subject to rules and regulations which properly define goods and services necessary for various kinds of tourism enterprises, THE TEZ OPERATOR, NEW TOURISM ENTERPRISES AND EXISTING TOURISM ENTERPRISES WHICH WILL UNDERGO EXTENSIVE EXPANSION OR UPGRADE OF ITS FACILITIES [~~registered enterprises~~] shall be entitled to the following:

(1) Importation of goods actually consumed in the course of services actually rendered by or through registered enterprises within a TEZ shall enjoy one hundred percent (100%) exemption from all taxes and customs duties: Provided, however, that no goods shall be imported for the purpose of operating a wholesale or retail establishment in competition with the DFPC; [and]

(2) ALL SALES AND LEASES TO THE TEZ OPERATORS OR RTEs BY LOCAL SUPPLIERS SHALL BE SUBJECT TO ZERO-RATED VAT. ALL SALES BY TEZ OPERATORS OR RTEs WITHIN THEIR RESPECTIVE TEZs SHALL BE TREATED AS EXPORT SALES.

ALL TAX AND DUTY FREE IMPORTATIONS BY TEZ OPERATORS AND RTEs SHALL BE EVALUATED AND ISSUED IMPORT PERMITS BY TIEZA, AND THEREFORE SHALL NO LONGER REQUIRE CLEARANCE OR EXEMPTION FROM THE DEPARTMENT OF FINANCE.

(g) Construction Materials – TEZ Operators shall be entitled to tax and duty free importation of construction materials and other articles that shall form part of its facilities or office building as a tourism enterprise, including fixtures thereof, enclosures, driveways and auxiliary structures.

(h) Importation of Specialized Equipment and Furniture - Specialized equipment and furniture may be imported by TEZ Operators and RTEs exempt from customs duties and taxes payable thereon, if the said equipment is not manufactured domestically in sufficient quantity, not of comparable quality and not sold at reasonable price. Otherwise, ordinary equipment and furniture, whenever applicable shall be procured locally.

(i) Importation of Professional Instruments and Household Effects - The professional instruments and implements, tools of trade, occupation or employment, wearing apparel and personal household effects of foreign nationals who shall settle in the Philippines in connection with their registered activity, may be imported exempt from the payment of import duties and taxes: Provided, (a) That the foreign national is an executive or is employed in TEZ or RTE; and (b) That the above-mentioned articles shall not be in commercial quantities nor for hire; and (c) That the approval of TIEZA is obtained before the purchase order is made or before the corresponding letters of credit are opened.

SEC. 10. Repealing Clause. - All laws, presidential decrees, executive orders, proclamations, issuances, agreements and administrative regulations inconsistent with the provisions of this Act are hereby amended, modified, superseded or repealed accordingly.

SEC. 11. Separability Clause. - In the event that any provision of this Act or parts thereof be declared unconstitutional, such declaration shall not affect the validity of the other provisions.

SEC. 12. Effectivity. – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,

A handwritten signature in black ink, appearing to be 'J. S. S. S.', is written over a horizontal line.