

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

House Bill No. **9293**



Introduced by Hon. Robert Ace S. Barbers

**AN ACT ESTABLISHING THE SURIGAO CITY SPECIAL ECONOMIC ZONE AND
FREEPORT, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

This bill seeks to create a special economic zone and freeport in the city of Surigao to be known as the Surigao City Special Economic Zone and Freeport (Surigao City Ecozone) which shall be managed and operated by the Surigao City Special Economic Zone and Freeport Authority (SCEZA).

Special economic zones or ecozones remain an effective development tool in the global marketplace. They increase trade balance, generate employment, increase foreign investments, integrate local firms into global value chains, promote export oriented-growth and effective administration.

Surigao City, as part of the fast growing CARAGA Region, is rich in mineral deposits and marine fishing ground. It also serves as a vital transportation link bound for Luzon and other parts of the country. Given its strategic position, it is now popular for its eco-tourism and surfing destination.

Considering the city's economic promise, Surigao City will no doubt be a self-reliant and self-sustaining ecozone and the establishment thereof will open windows and more opportunities for both local and foreign investors. It will contribute to economic development not only in the city but in the entire region as well.

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

HON. ROBERT ACE S. BARBERS
2nd District, Surigao del Norte

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

SECTION 1. *Short Title.* – This Act shall be known as the “Surigao City Special
Economic Zone and Freeport Act”.

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
actively encourage, promote, induce and accelerate the sound and balanced
industrial, economic and social development of the country in order to provide jobs to
the people, especially those in rural areas, increase their productivity and their
individual and family income, and thereby improve the level and quality of their living
conditions through the establishment, among others, of special economic zones in
suitable and strategic locations in the country and through measures that shall
effectively attract legitimate and productive foreign investments.

SEC. 3. *Creation of Surigao City Special Economic Zone and Freeport.* – In
pursuit of the foregoing declared policy and subject to the concurrence of the
concerned local government unit affected zone, there is hereby established a special
economic zone and freeport in the City of Surigao to be known as the Surigao City
Special Economic Zone and Freeport, hereinafter referred to as the Surigao City
Ecozone. The specific metes and bounds of the Surigao City Ecozone shall be more
particularly defined in a presidential proclamation that shall be issued for this purpose.

SEC. 4. *Governing Principles.* – The Surigao City Ecozone shall be managed
and operated by the Surigao City Special Economic Zone and Freeport Authority,
hereinafter referred to as the SCEZA, created under Section 12 of this Act, under the
following principles:

- (a) Within the framework and limitations of the Constitution and applicable
provisions of the Local Government Code, the Surigao City Ecozone shall
be developed into and operated as a decentralized, self-reliant and self-
sustaining industrial, commercial trading, agro-industrial, tourist, banking,
financial and investment center with suitable residential areas;
- (b) The Surigao City Ecozone shall be provided with transportation,
telecommunications and other facilities needed to attract legitimate and

productive investments, generate linkage industries and employment opportunities for the people of Surigao City and its neighboring towns and cities;

- (c) The Surigao City Ecozone may establish mutually beneficial economic relations with other entities or enterprises within the country or, subject to the administrative guidance of the Department of Foreign Affairs (DFA), the Philippine Economic Zone Authority (PEZA) and/or the Department of Trade and Industry (DTI), with foreign entities or enterprises;
- (d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may set up enterprises in the Surigao City Ecozone, either by themselves or in joint venture with Filipinos in any sector of industry, international trade and commerce within the Surigao City Ecozone;
- (e) The Surigao City Ecozone shall be managed and operated as a separate customs territory thereby ensuring the free flow or movement of goods and capital within, into, and out of its territory, and shall likewise provide incentives such as tax and duty free importations of raw materials, capital and equipment to registered enterprises located therein. However, exportation or removal of goods from the territory of the Surigao City Ecozone to other parts of the Philippine territory shall be subject to customs duties and taxes under the Customs and Tariff Code and other relevant tax laws of the Philippines;
- (f) The areas comprising the Surigao City Ecozone may be expanded or reduced when necessary. For this purpose, the SCEZA, in consultation with the LGU, shall have the power to acquire either by purchase, negotiation or condemnation proceedings, any private land within or adjacent to the Surigao City Ecozone for the following purposes: (1) consolidation of lands for Surigao City Ecozone development; (2) acquisition of right of way to the Surigao City Ecozone; and (3) the protection of watershed areas and natural assets valuable to the prosperity of the Surigao City Ecozone;
- (g) Goods manufactured by the Surigao City Ecozone enterprise shall be made available for immediate retail sale in the domestic market, subject to the payment of corresponding taxes on raw materials and other regulations that may be formulated by the SCEZA, together with the PEZA, the Bureau of Customs (BOC) and the DTI. However, in order to protect domestic industries, a Negative List of industries shall be drawn up and regularly updated by the PEZA. Enterprises engaged in industries included in such Negative List shall not be allowed to sell their products locally;
- (h) The defense of the Surigao City Ecozone and the security of its perimeter fence shall be responsibility of the national government in coordination with the SCEZA and the LGU.

SEC. 5. Fiscal Incentives. - The registered enterprises operating within the Surigao City Ecozone may be entitled to the existing pertinent fiscal incentives as provided for under Republic Act No. 7916, as amended by Republic Act No. 8748,

also known as the Special Economic Zone Act of 1995, or those provided under Executive Order No. 226, as amended, otherwise known as the Omnibus Investment Code of 1987; and/or those that may be further granted as the need and necessity arises by the appropriate government department, agency or office: *Provided*, That in the administration, implementation, and monitoring of incentives, the SCEZA may impose its own conditions not otherwise prohibited by this Act: *Provided, further*, That the SCEZA shall not be limited to the conditions provided under Republic Act No. 7916, Republic Act No. 8748 or any other related issuance rule or regulation.

SEC. 6. *Imposition of a Tax Rate of Five Percent (5%) on Gross Income Earned.*— No taxes, local and national, shall be imposed on registered business establishments operating within the Surigao City Ecozone, including income, withholding, donor's, percentage, and documentary stamp taxes. In lieu thereof, and subject to Section 10 of this Act, said business establishments shall pay a five percent (5%) final tax on their gross income earned in the following percentages:

- (a) Three per centum (3%) to the National Government; and
- (b) Two per centum (2%) to the City of Surigao.

The SCEZA shall have the authority to grant income tax holiday (ITH) and net operating loss carry over (NOLCO) subject to Section 9 of this Act and the conditions as it may have imposed pursuant to Section 5 of this Act.

SEC. 7. *Incentive to Investors.*— Any foreign national who invests an amount of One Hundred Thousand US dollars (US\$100,000.00), either in cash and/or equipment, in a registered enterprise shall be entitled to an investor's visa: *Provided*, That he has the following qualifications:

- (a) He is at least eighteen (18) years of age;
- (b) He has not been convicted of a crime involving moral turpitude;
- (c) He is not afflicted with any loathsome, dangerous or contagious disease; and
- (d) He has not been institutionalized for any mental disorder or disability.

As a holder of investor's visa, an alien shall be entitled to reside in the Philippines while his investment subsists. For this purpose, he should submit an annual report, in the form duly prescribed for the purpose, to prove that he has maintained his investment in the country, should said alien withdraw his investments from the Philippines, then the investor's visa issued to him shall automatically expire.

The authority to issue visas and work permits shall remain with the Bureau of Immigration (BI) and the Department of Labor and Employment (DOLE), respectively; *Provided*, That the BI and the DOLE shall implement measures to expedite the processing of such visas and permits for workers in the Surigao City Ecozone and coordinate with SCEZA for the purpose of improving ease of doing business.

SEC. 8. Administration, Implementation and Monitoring of Incentives. – For proper administration, implementation and monitoring of tax incentives provided under this law, the following are herein mandated:

- (a) The SCEZA shall be responsible for the administration, management, enforcement and implementation of the incentives granted to registered enterprises; *Provided*, That the BOC shall set up and establish a customs controlled area outside the gate of the Surigao City Ecozone to facilitate payment of taxes on goods entering the Philippine customs territory: *Provided, further*, That notwithstanding the limitations in this Act, the SCEZA and the BOC may coordinate and jointly implement measures on border protection; and
- (b) In the interest of enhancing transparency in the management and accounting of tax incentives in the Surigao City Ecozone, the SCEZA shall comply with the provisions of Republic Act No. 10708, otherwise known as The Tax Incentives Management and Transparency Act (TIMTA)” and its implementing rules and regulations.

SEC. 9. Duration of Incentives. – Fiscal incentives under this Act shall be terminated after a cumulative period of twenty (20) years from the date of registration or start of commercial operation, whichever is applicable, except that it could be extended with regard to industries deemed indispensable to national development and interest.

The industries exempted from this provision shall be determined by the SCEZA, in consultation with other government agencies..

SEC. 10. Sequential Availment of Incentives. – Registered enterprises may enjoy the income tax holiday granted by the SCEZA prior to the availment of the five percent (5%) final tax on gross income earned incentive: *Provided*, That in the event a registered enterprise elects to avail of the final tax incentive, such registered enterprise shall be barred from availing the ITH incentive.

Registered enterprises, if eligible, may register with other investment promotion agencies to avail of the incentives they offer: *Provided*, That registered enterprises electing to avail of the incentives of other promotion agencies shall not be able to avail of the incentives of the Surigao City Ecozone until expiration of the incentives extended by other investment promotions agencies.

SEC. 11. Extension of Period of Availment. – The SCEZA may extend the period of validity of the incentives extended to a registered enterprise in the event that it suffers, due to force majeure, a cessation or suspension of operations that impairs its viability or profitability.

SEC. 12. Creation of the Surigao City Special Economic Zone and Freeport Authority. – There is hereby created a body corporate to be known as the “Surigao City Special Economic Zone and Freeport Authority”, hereinafter referred to as the SCEZA which shall manage and operate the Surigao City Ecozone, in accordance with the provisions of this Act. This corporate franchise shall expire in fifty (50) years

counted from the first year after the effectivity of this Act, unless otherwise extended by Congress. It shall be organized within one hundred eighty (180) days after the effectivity of this Act.

SEC. 13. Capitalization. – The SCEZA shall have an authorized capital stock of Two Billion (2,000,000,000) no par shares with a minimum issue of Ten pesos (P10.00) each, the majority shares of which shall be subscribed and paid for by the National Government and the city government of Surigao. The board of directors of the SCEZA may, with the written concurrence of the Secretary of Finance, sell shares, representing not more than forty *per centum* (40%) of the capital stock of the SCEZA to the general public under such policy as the Board and the Secretary of Finance may determine. The National Government and the LGUs shall, in no case, own less than sixty *per centum* (60%) of the total issued and outstanding capital of the SCEZA.

The amount necessary to subscribe and pay for the shares of the National Government to the capital stock of the SCEZA shall be included in the annual General Appropriations Act. For LGUs concerned, the funds shall be taken from their internal revenue allotment and other local funds.

SEC. 14. Principal office of the SCEZA. – The SCEZA shall maintain its principal office in the City of Surigao, but it may establish branches within the Philippines as may be necessary for the proper conduct of its business.

SEC. 15. Powers and Functions of SCEZA. – The SCEZA shall have the following powers and functions:

- (a) To operate, administer, manage and develop the Surigao City Ecozone according to the principles and provisions set forth in this Act;
- (b) To register, regulate and supervise the enterprises in the Surigao City Ecozone in an efficient and decentralized manner, subject to existing laws;
- (c) To coordinate with local government units and exercise general supervision over the development plans, activities and operations of the Surigao City Ecozone;
- (d) To regulate and undertake the establishment, construction, operation and maintenance of public utilities, other services and infrastructure in the Surigao City Ecozone such as but not limited to light and power, shipping, barging, stevedoring, cargo handling, hauling, warehousing, storage of cargo, port services or concessions, piers, wharves, bulkheads, bulk terminals, mooring areas, storage areas, roads, telecommunications, transport, bridges, terminals, conveyors, water supply and storage, sewerage, drainage, airport operations in accordance with the Civil Aviation Authority of the Philippines (CAAP) and other such other services or concessions or infrastructures necessary or incidental to the accomplishment of the objectives of this Act;
- (e) To construct, acquire, own, lease, operate and maintain on its own or through contracts, franchise, licenses, bulk purchase from the private sector

or permits under any of the schemes allowed in Republic Act No. 6957, otherwise known as the Build-Operate-Transfer Law, as amended, or joint venture, adequate facilities and infrastructures required or needed for the operation and development of the Surigao City Ecozone, in coordination with appropriate national and local government authorities and in conformity with applicable laws thereon;

- (f) To approve plans, programs and projects of the Surigao City Ecozone to be submitted to the Regional Development Council for inclusion and inputs to the overall regional development plan;
- (g) To operate on its own, either directly or through a license to other tourism-related activities, including games, amusements, recreational and sports facilities;
- (h) To raise or borrow, within the limitation provided by law, and subject to the approval or opinion of the Monetary Board of the *Bangko Sentral ng Pilipinas* (BSP), as the case may be, adequate and necessary funds from local or foreign sources, to finance its project and programs under this Act and for this purpose, to issue bonds, promissory notes and other forms of securities, and to secure the same by guarantee, pledge, mortgage, deed of trust or an assignment of all or parts of its property or assets;
- (i) To protect, preserve, maintain and develop the forests, beaches, or coral and coral reefs, and maintain ecological balance within the Surigao City Ecozone. Notwithstanding the authority of the SCEZA to create rules for such purpose, the rules and regulations of the Department of Environment and Natural Resources (DENR) and other government agencies involved in the above mentioned functions shall be implemented by the SCEZA;
- (j) To create, operate and/or contract to operate such functional units of offices of the SCEZA as it may deem necessary;
- (k) To adopt, alter and use a corporate seal; contract, lease, buy, acquire, own, or otherwise dispose of personal and/or real property of whatever nature; sue and be sued; and otherwise carry out its functions and duties as provided for in this Act;
- (l) To issue certificates of origin for products manufactured or processed in the Surigao City Ecozone in accordance with prevailing rules of origin, and the pertinent regulations of the PEZA, the DTI and/or the Department of Finance (DOF);
- (m) To establish one-stop shops for the issuance of all necessary permits, clearances, licenses, and other similar certifications to conduct such activities intended to improve the ease of doing business within the Surigao City Ecozone, in accordance with the government agencies having jurisdiction over activities therein: *Provided, That* all government agencies are directed to provide and extend utmost and full cooperation to the Surigao City Ecozone in the establishment of such one-stop shops;

- (n) To provide internal security to the Surigao City Ecozone in coordination with the National Government and the affected LGU. For this purpose, the SCEZA shall provide and establish its own internal security and firefighting forces or hire others to provide the same. Military forces to be assigned by the National Government for national defense purposes shall not interfere in the internal affairs of the Surigao City Ecozone and expenditures for these military forces shall be borne by the National Government;
- (o) To exercise such powers as may be essential, necessary or incidental to the powers granted to it hereunder as well as those that shall enable it to carry out, implement and accomplish the purposes, objectives and policies of this Act; and
- (p) To issue rules and regulations consistent with the provisions of this Act as may be necessary to accomplish and implement the purposes, objectives and policies provided herein.

SEC. 16. Board of Directors of the SCEZA. – The powers of the SCEZA shall be vested in and exercised by a Board of Directors, hereinafter referred to as the Board, which shall be composed of the following;

- (a) The Chairperson, who shall, at the same time be the administrator of the SCEZA;
- (b) The Vice Chairman, who shall be elected from among the members of the Board;
- (c) Members consisting of:
 - (1) The City's Congressional Representative;
 - (2) The mayor of the City of Surigao;
 - (3) One (1) representative of the city council;
 - (4) One (1) representative from the registered domestic investors;
 - (5) One (1) representative from the registered foreign investors; and
 - (6) Two (2) representatives from the workers stationed in the Surigao City Ecozone.

The city's congressional representative, the mayor of the city of Surigao, and the representative of the city council shall serve as *ex officio* members of the Board, whose term in the Board corresponds to their terms as elected officials.

The Chairperson and the members of the Board, except the *ex officio* members, shall be appointed by the President of the Philippines to serve for a term of six (6) years, unless sooner separated from service due to death, voluntary

resignation or removal for cause. In case of death, resignation or removal for cause, the replacement shall serve only the unexpired portion of the term.

The Chairperson of the Board must be a Filipino citizen of good moral character, of proven probity and integrity, and a degree-holder in any of the following fields: economics, business, public administration, law, management or their equivalent, and with at least ten (10) years relevant working experience preferably in the field of management or public administration.

The members of the Board, except the *ex-officio* members, shall each receive *per diem* at a rate to be determined by the Department of Budget and Management (DBM) in accordance with existing rules and regulations: *Provided, however,* That the total per diem collected each month shall not exceed the equivalent *per diem* for four (4) meetings. Unless and until the President of the Philippines has fixed a higher *per diem* for the members of the Board, such *per diem* shall not be more than Ten thousand pesos (P10,000.00) for every Board meeting.

SEC. 17. Powers and Duties of the Chairperson-Administrator. – The Chairperson-Administrator shall have the following powers and duties:

- (a) To direct and manage the affairs of the SCEZA in accordance with the policies of the Board;
- (b) To establish the internal organization of the SCEZA under such conditions that the Board may prescribe;
- (c) To submit an annual budget and necessary supplemental budget to the Board for its approval;
- (d) To submit within thirty (30) days after the close of each fiscal year an annual report to the Board and such other reports as may be required;
- (e) To submit to the Board for its approval policies, systems, procedures, rules and regulations that are essential to the operation of the Surigao City Ecozone;
- (f) To create a mechanism in coordination with relevant agencies for the promotion of industrial peace, the protection of the environment, and the advancement of the quality of life in the Surigao City Ecozone; and
- (g) To perform such other duties as may be assigned to him by the Board or which are necessary or incidental to his office.

SEC. 18. Organization and Personnel. – The Board of Directors of the SCEZA shall provide for an organizational structure and appoint employees, subject to the Civil Service Law. Upon the recommendation of the Chairperson-Administrator, the Board shall appoint and fix the remuneration and other emoluments of its officers and

employees in accordance with existing laws on compensation and position classification. The Board shall have exclusive and final authority to promote, transfer, assign, reassign, or remove officers of the SCEZA, any provision of existing law to the contrary notwithstanding. The Chairperson-Administrator shall execute the decisions of the Board

The officers and employees of the SCEZA, including all members of the Board, shall not engage directly or indirectly in partisan activities nor take part in any election, except to vote.

No officer or employee of the SCEZA, subject to civil service laws and regulations, shall be removed or suspended except for cause, as provided by law.

SEC. 19. *Legal Counsel.* - The SCEZA shall have its own internal legal counsel under the supervision of the Government Corporate Counsel. When the exigencies of its businesses and operations demand, the SCEZA may engage the services of an outside counsel either on a case-to-case basis or on a fixed retainer basis.

SEC. 20. *Banking Rules and Regulations.* – Existing banking rules and regulations of the BSP shall apply to banks and other financial institutions to be established in the Surigao City Ecozone.

SEC. 21. *Remittance of Earnings.* – In the case of foreign investments, a duly registered entity or enterprise within the Surigao City Ecozone shall have the right to remit earnings from the investment in the currency in which the investment was originally made and at the exchange rate prevailing at the time of remittance, subject to the provisions of Republic Act No. 7653, otherwise known as the “New Central Bank Act”.

SEC. 22. *Supervision and Control.* – The Surigao City Ecozone shall be under the direct control and supervision of the Office of the President of the Philippines for purposes of policy direction and coordination.

SEC. 23. *Relationship with the Regional Development Council.* – The SCEZA shall determine the development goals for the Surigao City Ecozone within the framework of national development plans, policies and goals, The Chairperson-Administrator shall, upon approval by the Board, submit the Surigao City Ecozone plans, programs and projects to the Regional Development Council for inclusion and inputs to the overall regional development plan.

SEC. 24. *Relationship with Local Government Unit.* – Except as herein provided, the city government of Surigao shall retain its basic autonomy and identity. It shall operate and function in accordance with the framework of the 1987 Constitution, Local Government Code of 1991, and this Act.

In case of any conflict between the SCEZA and the city government of Surigao on matters affecting the Surigao City Ecozone other than defense and security matters, the decision of the SCEZA shall prevail.

SEC. 25. *Interpretation/Construction.* – The powers, authorities and functions that are vested in the SCEZA are intended to establish national self-sufficiency and self-reliance in the advancement of the protection of the national integrity, enhancement of national security, decentralization of governmental functions and authority, and promote an efficient and effective working relationship among the Surigao City Ecozone, the national government, and the local government units. Any interpretation of this Act shall consider such intentions. In the event of conflict of interpretation and provided the intentions cannot be harmonized, the provisions of this Act shall be construed in favor of an interpretation that would tend to protect national security.

SEC. 26. *Auditing.* – The Commission on Audit shall appoint a representative who shall be a full time auditor of the SCEZA and assign such number of personnel as may be necessary to assist said representative in the performance of his/her duties. The salaries and emoluments of the assigned auditor and personnel shall be in accordance with pertinent laws, rules and regulations.

SEC. 27. *Applicability Clause.* – Insofar as these are consistent with the provisions of this Act, the provisions of Sections 30 to 41 of Republic Act No. 7916, shall ipso facto apply to the Surigao City Ecozone.

SEC. 28. *Implementing Rules and Regulations.* – The DTI, DOF and the National Economic Development Authority (NEDA) shall formulate the implementing rules and regulations of this Act within ninety (90) days after its approval, Such rules and regulations shall take effect fifteen (15) days after its publication in a newspaper of general circulation in the Philippines.

SEC. 29. *Separability Clause.* – If any provision of this Act shall be held unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force and effect.

SEC. 30. *Repealing Clause.* – All laws, orders, issuances, circulars, rules and regulations or parts thereof, which are inconsistent with the provisions of this Act are hereby repealed, modified, or amended accordingly.

SEC. 31. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.