

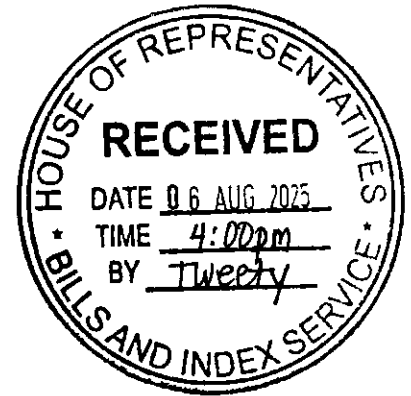


Republic of the Philippines

HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Twentieth Congress
First Regular Session

HOUSE BILL NO. 3298



Introduced by Honorable Roger G. Mercado

EXPLANATORY NOTE

In line with our thrust to reduce poverty incidence in the Province of Southern Leyte we deemed it proper to initiate measures that will generate employment at the said province. Since special economic zones has been proven by time to generate sizable employment in other areas of the country, it is in our best interest to replicate the success of ecozones in other places for our economic benefits.

The industrial activities that the proposed ecozone will bring to our constituents will not only benefit Southern Leyte but the entire country as well in terms of added revenue and national economic output.

Therefore, passage of this bill is hereby being earnestly sought.

ROGER GAVIOLA MERCADO



Republic of the Philippines

HOUSE OF REPRESENTATIVES

Quezon City, Metro Manila

Twentieth Congress

First Regular Session

HOUSE BILL NO. 3298

Introduced by Honorable Roger G. Mercado

**AN ACT
ESTABLISHING THE ECONOMIC ZONE AND FREEPORT IN THE PROVINCE OF
SOUTHERN LEYTE CREATING FOR THIS PURPOSE THE SOUTHERN LEYTE
ECONOMIC ZONE AND FREEPORT AUTHORITY APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES**

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

CHAPTER I

GENERAL PROVISIONS

1 SECTION 1. *Short Title.* — This Act shall be known as the "Southern Leyte
2 Economic Zone and Freeport Act of 2017".

3 SECTION 2. *Declaration of Policy.* — It is hereby declared the policy of the State to
4 actively encourage, promote, induce and accelerate the sound and balanced industrial,
5 economic and social development of the country in order to provide jobs to the people
6 especially those in the rural areas, increase productivity and individual and family
7 income, and thereby improve the level and quality of living conditions through the
8 establishment among others, of special economic zones and free ports in suitable and

1 strategic locations in the country and through measures that will attract legitimate and
2 productive foreign investments.

CHAPTER II

CREATION OF THE ECOZONE

3 SECTION 3. *Creation of the Southern Leyte Economic Zone and Freeport.* — In
4 pursuit of the foregoing declared policy and subject to the concurrence of the concerned
5 local government units (LGUs) of Southern Leyte by the zone, there is hereby established
6 a special economic zone and free port in the Province of Southern Leyte to be known as
7 the Southern Leyte Economic Zone and Freeport hereinafter referred to as the Southern
8 Leyte Ecozone. The Southern Leyte Ecozone shall cover an area as much as necessary in
9 the City of Maasin at Barangay Guadalupe or any barangay in Maasin City, Municipality of
10 Bontoc, San Francisco, Hinundayan and other municipalities that may be declared by an
11 ordinance of the local government of the Province of Southern Leyte.

12 SECTION 4. *Governing Principles.* — The Southern Leyte Ecozone shall be
13 managed and operated by the Southern Leyte Economic Zone and Freeport Authority,
14 hereinafter as the SLEZFA created under Section 5 of this Act. under the following principles:

15 (a) Within the framework and limitations of the Constitution and applicable provisions
16 of the Local Government Code, the Southern Leyte Ecozone shall be developed into and
17 operated as a decentralized, self-reliant and self-sustaining industrial, commercial/trading,
18 agro-industrial, tourist, banking, financial and investment center with suitable residential
19 areas;

20 (b) The Southern Leyte Ecozone shall be provided with transportation,
21 telecommunications and other facilities needed to attract legitimate and productive
22 investments, generate linkage industries and employment opportunities for the people of
23 the Province of Southern Leyte and its neighbouring towns and cities;

24 (c) The Southern Leyte Ecozone may establish mutually beneficial economic relations
25 with other entities or enterprises within the country or subject to the administrative guidance
26 or the Department or Foreign Affairs (DEA), the Philippine Economic Zone Authority
27 (PEA) and/or the Department of Trade and Industry (DTI) with foreign entities or
28 enterprises;

1 (d) Foreign citizens and companies owned by non-Filipinos in whatever proportion may
2 set up enterprises in the Southern Leyte Ecozone, either by themselves or in Joint venture
3 with Filipinos in any sector of industry, international trade and commerce within the
4 Southern Leyte Ecozone;

5 (e) The Southern Leyte Ecozone shall be managed and operated as a separate
6 customs territory, thereby ensuring the free flow or movement of goods and capital within,
7 into and out of the Southern Leyte Ecozone, and shall likewise provide incentives such as
8 tax- and duty-free importations of raw materials and capital equipment to registered
9 enterprises located therein. However, exportation or removal of goods from the territory of
10 the Southern Leyte Ecozone to the other parts of the Philippine territory shall be subject to
11 customs duties and taxes under the Tariff and Customs Code of the Philippines, as
12 amended, and the National Internal Revenue Code (NIRC) Of 1997, as 15 amended.

13 (f) The areas comprising the Southern Leyte Ecozone may be expanded or reduced
14 when necessary. For this purpose, the SLEZFA, in consultation with the LGUs, shall have
15 the power to acquire either by purchase, negotiation condemnation proceedings, any private
16 land within or adjacent to the Southern Leyte Ecozone for the following purposes: (1)
17 consolidation of lands for Southern Leyte Ecozone development; (2) acquisition of right-of-
18 way to the Southern Leyte Ecozone; and (3) the protection of watershed areas and natural
19 assets valuable to the prosperity of the Southern Leyte Ecozone;

20 (g) Goods manufactured by a Southern Leyte Ecozone enterprise shall be made
21 available for retail sale in the domestic market, subject to the payment of corresponding
22 taxes on raw materials and other regulations that may be formulated by the SLEZFA,
23 together with the PEZA, the Bureau of Customs (BOC) and the DTI in accordance with the
24 NIRC of 1997, as amended, and the Tariff and Customs Code of the Philippines, as
25 amended. However, in order to protect domestic industries, a Negative List of industries
26 shall be drawn up and regularly updated by the PEZA. Enterprises engaged in industries
27 included in such Negative List shall not be allowed to sell their products locally; and

28 (h) The defense of the Southern Leyte Ecozone and the security of its perimeter fence
29 shall be the responsibility of the national government in coordination with the Southern Leyte

1 Ecozone and the LGUs. For this purpose, a special defense team shall be organized to
2 define its power, duties and responsibilities.

3 CHAPTER III

4 GOVERNING STRUCTURES

5 SECTION 5. *Creation of the Southern Leyte Economic Zone and Freeport Authority.* —

6 There is hereby created a body corporate to be known as the Southern Leyte Economic
7 Zone and Freeport Authority hereinafter referred to as the SLEZFA, which shall manage
8 and operate the Southern Leyte Ecozone in accordance with the provisions of this Act. This
9 corporate franchise shall expire in fifty (50) years counted from the first year after the
10 effectivity of this Act, unless otherwise extended by Congress. It shall be organized within
11 one hundred eighty (180) days after the effectivity of this Act.

12 SECTION 6. *Capitalization.* — The SLEZFA shall have an authorized capital stock of

13 two billion (2,000,000,000) no-par shares with a minimum issue of Ten pesos(P10.00) each.
14 The majority shares of which shall be subscribed and paid for by the national government
15 and the LGUs embracing the Southern Leyte Ecozone. The Board of Directors or the
16 SLEZFA may with the written concurrence of the Secretary of Finance, sell shares,
17 representing not more than forty per centum (40%) of the capital stock of the SLEZFA to the
18 general public under such policy as the Board and the Secretary or Finance may determine.
19 The national government and the LGUs shall in no case, own less than sixty per centum
20 (60%) of the total issued and outstanding capital of the SLEZFA.

21 The amount necessary to subscribe and pay for the shares of the national government
22 to the capital stock of the SLEZFA shall be included in the annual General Appropriations
23 Act. For LGUs, the funds shall be taken from their internal revenue allotment and other local
24 funds.

25 SECTION 7. *Principal Office of the SLEZFA.* — The SLEZFA shall maintain its principal
26 office in the City of Maasin, Province of Southern Leyte but it may establish branches within
27 the Philippines as may be necessary for the proper conduct of its business.

1 SECTION 8. *Powers and Functions of the SLEZFA.* — The SLEZFA shall have the
2 following functions:

3 (a) Operate, administer, manage and develop the Southern Leyte Ecozone according
4 to the principles and provisions set forth in this Act;

5 (b) Recommend to the President of the Philippines or the Governor of the Province of
6 Southern Leyte the issuance of a proclamation to fix and delimit the site of the Southern
7 Leyte Ecozone;

8 (c) Register, regulate and supervise the enterprises in the Southern Leyte Ecozone
9 in an efficient and decentralized manner, subject to existing laws;

10 (d) Coordinate with LGUs and exercise general supervision over the development
11 plans, activities and operations of the Southern Leyte Ecozone;

12 (e) Authorize or undertake, on its own or through others, and regulate the
13 establishment, operation and maintenance of public utilities, services and infrastructure in
14 the Southern Leyte Ecozone such as shipping, barging, stevedoring, cargo handling,
15 hauling, warehousing, storage or cargo, port services or concessions, piers, wharves,
16 bulkheads, bulk terminals, mooring areas, storage areas, roads, bridges, terminals,
17 conveyors, water supply and storage, sewerage, drainage, airport operations in coordination
18 with the Civil Aeronautics Board, and such other services or concessions or infrastructure
19 necessary or incidental to the accomplishment of the objectives of this Act: Provided,
20 however, That the private investors in the Southern Leyte Ecozone shall be given priority in
21 the awarding of contracts, franchises, licenses, permits for the establishment, operation
22 and maintenance of utilities, services and infrastructure in the Southern Leyte Ecozone;

23 (f) Regulate and undertake the establishment, operation and maintenance of utilities,
24 other services and infrastructure in the Southern Leyte Ecozone such as but not limited to,
25 heat, light and power, water supply, telecommunications, transport, toll roads and bridges,
26 port services, etc. and to fix just, reasonable and competitive rates, charges and prices
27 thereof;

28 (g) Construct, acquire, own, lease, operate and maintain, on its own or through
29 contracts, franchises, licenses, bulk purchases from the private sector or permits under any

1 or the schemes allowed in Republic Act No. 6957 known as the Build- Operate-Transfer
2 Law as amended, or joint ventures. adequate facilities and infrastructure required or needed
3 for the operation and development of the Southern Leyte Ecozone in coordination with the
4 appropriate national and local government authorities and in conformity with applicable laws
5 thereon;

6 (h) Operate on its own, either directly or accredited license other entities, recreational
7 and sports facilities, other tourism-related activities and subject to a grant of franchise by
8 Congress, gaming activities such as horse racing, dog racing, gambling casinos, internet
9 and inter-active gaming and other games of chance: Provided, That registered locator
10 enterprises shall not operate gaming activities unless granted a franchise by Congress;

11 (i) Subject to the approval of the President of the Philippines or the Governor of the
12 Province of Southern Leyte and the Monetary Board of the Bangko Sentral ng Pilipinas
13 (BSP), upon the recommendation of the DOF to raise or borrow adequate and necessary
14 funds from local or foreign sources to finance its projects and programs under this Act and
15 for that purpose- to issue bonds, promissory notes and other forms of securities, and to
16 secure the same by a guarantee, pledge, mortgage, deed of trust or an assignment of all or
17 part of its property or assets;

18 (j) Provide security for the Southern Leyte Ecozone in coordination with the national
19 and local governments. Military forces sent by the national government for the purpose or
20 defense shall not interfere in the internal affairs or the Southern Leyte Ecozone and
21 expenditures for these military forces shall be borne by the national government. For this
22 purpose the SLEZFA may establish and maintain its security forces and firefighting
23 capability or hire others to provide the same:

24 (k) Protect, preserve, maintain and develop the virgin forests, beaches, coral and
25 coral reefs, and maintain ecological balance within the Southern Leyte Ecozone;

26 (l) Create, operate and/or contract operate such functional units or offices of the
27 SLEZFA as it may deem necessary;

28 (m) Adopt, alter and use a corporate seal; contract, lease, buy, acquire, own or
29 otherwise dispose personal and/or real property of whatever nature; sue and be sued; and
30 otherwise carry out its functions and duties as provided for in this Act;

1 (n) Issue certificates of origin for products manufactured or processed in the Southern
2 Leyte Ecozone in accordance with prevailing rules of origin and the pertinent regulations of
3 the PEZA, the DTI and/or the DOE;

4 (o) Issue working visas renewable every three (3) years to foreign executives and
5 foreign technicians with highly specialized skills which no Filipino possesses ascertified by
6 the Department of Labor and Employment (DOLE);

7 (p) Report to the Bureau of Immigration (BI) the names of the foreigners who have
8 been granted permanent status and working visas within thirty (30) days after the issuance
9 such grant;

10 (q) Exercise such powers as may be essential, necessary or incidental to the powers
11 granted to it hereunder, as well as those that shall enable it to carry out, implement and
12 accomplish the purposes, objectives and policies of this Act; and

13 (r) Issue rules and regulations consistent with the provision or this Act as may be
14 necessary to accomplish and implement the purposes, objectives and policies provided
15 herein.

16 SECTION 9. *Applicability Clause.* — the provisions of Sections 30 to 41 of Republic
17 Act No. 7916. (The Special Economic Zone Act of 1995) as amended, on leases of lands
18 and buildings, land conversion, shipping and shipping register, protection of environment,
19 termination of business, registration of business enterprises, one-stop shop center and on
20 industrial harmony in the ecozones shall apply to the SLEZFA.

21
22 SECTION 10. *Tax Exemptions.* — The SLEZFA is hereby declared exempt from the
23 payment of all taxes, duties, fees, imports, charges, costs and service fees in any court or
24 administrative proceedings entirely or partially lifted by the President of the Philippines upon
25 the recommendation of the Secretary of Finance, not earlier than five (5) years from the
26 effectivity of this Act, if the President shall find the SLEZFA be self-sustaining and financially
27 capable by then to pay such taxes, customs duties, fees and other charges after providing
28 for debt service requirements of SLEZFA and of its projected capital and operating
29 expenditures.

Furthermore, all donations made by any person or entity in favor of the SLEZFA shall be exempt from the payment of the donor's tax and the same shall be considered as deductible from the gross income of the donor, pursuant to the NIRC of 1997, as amended.

SECTION 11. *Administration, Implementation and Monitoring of Incentives.* —The SLEZFA shall be responsible for the administration and implementation of the incentives granted to its respective registered enterprises, provided, That any incentive administration policy adopted by the BOI for incentives common to all registered enterprises shall be uniformly applied by the SLEZFA.

The following are the duties and responsibilities of the SLEZFA in the administration of incentives:

(a) Adopt consistent procedures of administering incentives in accordance with the guidelines established by the BOI and to amend the same when necessary;

(b) Adopt and implement systems and procedures affecting trade and customs policies in accordance with the requirements established by the DOF and the BOI and to amend the same when necessary;

(c) Submit data and information to the DOF and the BOI as required by any of these agencies to ascertain consistency or investment policies and incentives, including their implementation as provided in (a) and to ensure proper implementation of systems and procedures affecting trade and customs policies as provided in (b); and

(d) Perform all other duties and responsibilities as may be required by the President or the Philippines.

For proper monitoring, the BOI shall create a single database of all incentives provided by all incentives-granting agencies, including the SLEZFA and all information thereto. Double-entry accounting shall be done by the BOI in recording all incentives granted by the government for transparency purposes.

SECTION 12. *Board of Directors of the SLEZFA.* — The powers of the SLEZFA shall be vested in and exercised by a board of directors, hereinafter referred to as the Board, which shall be composed of the following:

1 (a) The chairperson who shall, at the same time be the administrator of the
2 SLEZFA;

3 (b) A vice chairperson who shall come from among the members of the Board:

4 (c) The Members consisting of:

5 (1) The governor or the Province of Southern Leyte:

6 (2) The congressional representative of the district covering the site of the
7 Southern Leyte Ecozone:

8 (3) The mayor of any of the city or municipality covered by the Ecozone;

9 (4) One (1) representative from the domestic investors;

10 (5) One (1) representative front the foreign investors; and

11 (6) Two (2) representatives from labor from among the workers in the Southern
12 Leyte Ecozone;

13
14 The governor, the congressional representative and the mayor of the City of Maasin
15 shall serve as ex officio members of the Board, whose terms in the Board correspond their
16 term as elected officials. The chairperson and the members of the Board, except the ex-
17 officio members, shall be appointed by the
18 President of the Philippines or the Governor of Southern Leyte to serve for a term of six (6)
19 years unless sooner removed for cause or dies or resigns voluntarily. In case of death,
20 resignation or removal for cause, the replacement shall serve only the unexpired portion of
21 the term.

22 Except for the representatives of the business and labor sectors, no person shall be
23 appointed by the President or the Philippines as a member of the Board unless he is a
24 Filipino citizen, of good moral character, of proven probity and integrity, and a degree holder
25 in any of the following fields: economics, business, public administration, law, management
26 or their equivalent, and with at least ten (10) years relevant working experience preferably
27 in the field of management or public administration.

1 The members of the Board shall each receive per diem at rates to be determined by
2 the Department of Budget and Management (DBM) in accordance with existing rules and
3 regulations: Provided, however, that the total per diem collected each month shall not
4 exceed the equivalent per diem for four (4) meetings. Unless and until the President of the
5 Philippines or the Governor of Southern Leyte has fixed a higher per diem for the members
6 of the Board, such per diem shall not be more than Ten thousand pesos (P10,000.00) for
7 every Board meeting.

8 **SECTION 13. *Powers and Duties of the Chairperson-Administrator.*** The chairperson-
9 administrator shall have the following powers and duties:

10 (a) Direct and manage the affairs of the SLEZFA in accordance with the
11 policies of the Board;

12 (b) Establish the internal organization of the SLEZFA under such conditions that the
13 Board may prescribe;

14 (c) Submit an annual budget and necessary supplemental budget to the Board for
15 its approval:

16 (d) Submit within thirty (30) days after the close of each fiscal year an annual report
17 to the Board and such other reports as may be required;

18 (e) Submit to the Board for its approval policies, systems, procedures, rules and
19 regulations that are essential to the operation of the Southern Leyte Ecozone:

20 (f) Create a mechanism in coordination with relevant agencies for the promotion of
21 industrial peace, the protection of the environment and the advancement or the quality of
22 life; and

23 (g) Perform such other duties as may be assigned to him/her by the Board or which
24 are necessary or incidental to his/her office.

25 **SECTION 14. *Organization and Personnel.*** — The Board of Directors of the
26 SLEZFA shall provide for an organization and staff of its officers and employees. Upon
27 recommendation of the chairperson administrator, the Board shall appoint and fix the
28 remuneration and other emoluments of its officers and employees in accordance with

1 existing laws on compensation and position classification: *Provided*, that the Board shall
2 have exclusive and final authority to promote, transfer, assign or reassign officers of the
3 SLEZFA, any provision of existing law to the contrary notwithstanding: *Provided*. Further,
4 that the chairperson-administrator may carry out removal of such officers and employees.

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

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

10 SECTION 15. *General Manager*. — The Board of Directors of the SLEZFA shall
11 appoint a full-time professional and competent administrator and chief executive officer for
12 the SLEZFA whose compensation shall be determined by its Board of Directors and shall
13 be in accordance with the revised compensation and position classification system. The
14 administrator as chief executive officer of the SLEZFA shall be responsible to the Board and
15 to the President of the Philippines and/or the Governor for the efficient management and
16 operation of the SLEZFA.

17 SECTION 16. *Legal Counsel*. - The SLEZFA shall have its own internal legal counsel
18 under the supervision of the Office or the Government Corporate Counsel(OGCC). When
19 the exigencies or its businesses and operations demand it, the SLEZFA may engage the
20 services of an outside counsel either on a case to case or on a fixed retainer basis.

21 CHAPTER IV

22 INCENTIVES TO ECOZONE ENTERPRISES/INVESTORS

23 SECTION 17. *Incentives to Registered Enterprises*. — The SLEZFA shall provide the
24 following incentives to the registered enterprises located therein to the extent of the
25 activity/project:

(a) Income Tax Holiday (ITA) — Registered enterprises shall be entitled to an ITH from the start of their commercial operations to the extent of their activity under the following categories:

(1) Category A - Registered domestic enterprises producing/rendering new products/services or having strong backward or forward linkages shall be entitled to a six (6)-year ITH.

(2) Category B — Registered export enterprises shall be entitled to a six (6)-year ITH: Provided, the export enterprise shall be entitled to all eight (8)-year ITH if it complies with the following:

(i) Large capital investments or sizeable employment generation; or

(ii) Use of high level of technology.

Registered enterprises embarking on new investments that are listed in the current Investment Priorities Plan (IPP) shall be entitled to incentives provided herein pertaining the new investments and subject to such terms and conditions as the Board of Investments (BOI) may determine.

Additional investments in the project shall be entitled the ITH corresponding to such investments as may be determined by the BOI.

Additional ITH may be granted for as long as the investment is made on the same project: Provided, That the project is listed in the IPP at the same time the additional investment in the project is made: Provided further that the entitlement period additional investments shall not exceed three (3) times the period provided under this subsection; Provided, however, that the total ITH period an export enterprise availing of an eight (8)-year ITH shall not exceed twenty (20) years. Any unused incentives shall therefore be deemed forfeited if not used during the incentive period.

Enterprises registered with the SLEZFA are required to share in the special development fund of the BOI for investment promotion projects of the government equivalent to one percent of the ITH granted for every application.

The Bureau of Internal Revenue (BIR) shall require a registered enterprise availing of the ITH or the net operating loss carryover (NOLCO) to secure a certificate of eligibility from the SLEZFA before submitting its income tax return (ITR) with the SLEZFA for validation.

Failure to Secure certification and/or to file the ITH or the NOLCO availment for validation by the SLEZFA within forty-five (45) days from the last day of statutory filing date for ITR shall cause the forfeiture of the availment for the taxable period.

(b) Net Operating Loss Carryover (NOLCO) — net operating loss of the business or enterprise during the first three (3) years from the start of commercial operations which have not been previously offset as a deduction from the gross income shall be carried over as a deduction from the gross income for the next five (5) consecutive years immediately following the year of such loss: Provided, however, That operating loss resulting from availment of incentives provided in this Code shall be entitled to the NOLCO.

Registered enterprises availing of the ITH as herein provided shall not be entitled to avail of the NOLCO.

(c.) Imposition of a Tax Rate of Five Percent (5%) on Gross Income Earned (GIE) — Except for real property tax on land, no local and national taxes as prescribed under Republic Act No. 8424, also known as "the National Internal Revenue Code of 1997, As Amended", such as the income tax, the excise tax and the franchise taxes shall be imposed on business establishments operating within the Southern Leyte Ecozone. In lieu thereof, there shall be imposed a tax of five percent (5%) of the gross income earned by all the business enterprises within the SLEZFA and remitted as follows:

(1) Two per centum (2%) to the national government;

(2) Two per centum (2%) to the Province of Southern Leyte;

(3) One-half per centum (1/2%) to be shared by the municipalities affected by the declaration of the SLEZFA in proportion to their income from business activities of the zone; and

1 (4) One-half per centum (1/2 %) to the SLEZFA.

2 All persons and service establishments in the Southern Leyte Ecozone that are not
3 covered by Section 17 hereof shall be subject to national and local taxes under the NIRC
4 of 1997, as amended, and the Local Government Code.

5 (d) Accelerated Depreciation — Accelerated depreciation of plant, machinery and
6 equipment that are reasonably needed and actually used for the production and transport
7 of goods and services may be allowed using a rate not exceeding twice the rate which would
8 have been used had the annual allowance been computed in accordance with the rules and
9 regulations prescribed by the Secretary of Finance and the provisions or the NIRC of 1997,
10 as amended.

11 (e) Capital Equipment Incentives — Importations of capital equipment, spare parts,
12 tools and dye, or those required for pollution abatement and control, cleaner production and
13 waste reduction including consignment thereof by registered enterprises upon the effectivity
14 of this Act shall be exempted to the extent of one hundred percent (100%) or the taxes and
15 customs duties: Provided, That the importation thereof shall be used exclusively by the
16 registered enterprise in its registered activity within the Southern Leyte Ecozone: Provided
17 further. That the importation of machinery and equipment and accompanying parts shall
18 comply with the following conditions:

19 (1) These are not manufactured domestically in sufficient quantity, of comparable
20 quality and at reasonable prices:

21 (2) These are reasonably needed and will be used exclusively by the registered
22 enterprise in the manufacture of its products, unless prior approval of the SLEZFA is secured
23 for the part-time utilization of said equipment in a non-registered activity to maximize usage
24 thereof or the proportionate taxes and duties are paid on a specific equipment and
25 machinery being permanently used for non-registered activities: and

26 (3) Approval or the SLEZFA was obtained by the registered enterprise for the
27 importation of such machinery, equipment and spare parts.

1 Approval of the SLEZFA must be secured before any sale, transfer or disposition of
2 the imported capital equipment, machinery or spare parts is made: Provided That if such
3 sale, transfer or disposition is made within the first five (5) years from, the date of
4 importation, any of the following conditions must be present:

5 (i) If made to another enterprise enjoying tax and duty exemption on imported capital
6 equipment;

7 (ii) If made to another enterprise not covered by part (i) hereof. Upon payment of the
8 taxes and duties on the net book value of the capital equipment to be sold;

9 (iii) Exportation of the capital equipment, machinery, spare parts or source documents
10 or those required for pollution abatement and control; and

11 (iv) For reasons of proven technical obsolescence.

12 When the aforementioned sale, transfer or disposition is made under any of the
13 conditions provided for in the foregoing paragraphs other than paragraph (ii), the registered
14 firm shall not pay the taxes and duties waived on such items: provided, further, That if the
15 registered enterprise sells, transfers or disposes the aforementioned imported items without
16 prior approval within five (5) years from the date of importation, the registered enterprise
17 and the vendee, transferee or assignee shall be solidarily liable to pay twice the amount of
18 the tax and duty exemption given it: Provided, finally, That even if the sale, transfer or
19 disposition of the capital equipment, machinery or spare parts is approved after five (5) years
20 from the date of importation, the registered enterprise is still liable to pay the taxes and
21 duties based on the net book value of the capital equipment, machinery or spare parts if it
22 has violated any of its registration terms and conditions. Otherwise, it shall no longer be
23 subject to the payment of the taxes and duties waived thereon.

24 The purchase of machinery, capital equipment, raw materials, supplies, parts and
25 semi-finished products used in the fabrication of machinery and capital equipment by a
26 registered export-oriented enterprise from a domestic manufacturer shall be subject to zero
27 percent (0%) value-added tax.

28 The registered export-oriented enterprise shall be granted a tax credit equivalent to
29 the amount of duties that would have been waived on the machinery, capital equipment, raw

1 materials, supplies, parts and semi-finished products used in the fabrication of machinery
2 and capital equipment had these items been imported, upon its submission to the
3 Department of Finance (DOF) of the bill of materials evidencing the transaction value or
4 such and other pertinent documents, for verification and proper endorsement.

5 The registered export enterprise availing of the incentive provided under the
6 immediately preceding two (2) paragraphs shall be subject to the following: (i) that said
7 capital equipment, machinery and spare parts will be used exclusively by the registered
8 enterprise in its registered activity; (ii) that the capital equipment or machinery where the
9 raw materials, supplies, parts and semi-finished products were used would have qualified
10 for tax- and duty-free importation; and (iii) that the approval or the SLEZFA is obtained by
11 the registered enterprise. If the registered enterprise sells, transfers or disposes of these
12 machineries, capital equipment and spare parts, the provision in the preceding paragraphs
13 for such disposition shall apply.

14
15 This incentive shall be deemed waived if application for tax credit under this subsection
16 was not filed within one (1) year from the date of delivery.

17 (f) Tax-and-Duty Free Importation-The importation of source documents by
18 information technology registered enterprises shall be eligible for tax- and duty-free
19 importation.

20 (g) Raw Materials Incentives — Every registered export-oriented enterprise shall enjoy
21 a tax credit equivalent to the internal revenue taxes and customs duties paid on the supplies,
22 raw materials and semi-manufactured products: Provided, That the same are not sufficient
23 in quantity, quality or are not competitively priced which are used in the manufacture,
24 processing or production of its export products forming part thereof, exported directly and
25 indirectly by the registered export-oriented enterprise based on the actual taxes and duties
26 paid for such materials/supplies/semi-manufactured products by the registered enterprise.

27 This incentive shall be deemed waived if application for tax credit under this subsection
28 was not filed within one (1) year from the date of exportation of the final product.

29 (h) Incentives on Breeding Stocks and Genetic Materials — Importation of breeding
30 stocks and genetic materials within ten (10) years from the date of registration of

1 commercial operations of the enterprise shall be exempt from all taxes and duties: Provided,
2 That such breeding stocks and genetic materials are reasonably needed in the registered
3 activity and approved by the SLEZFA.

4 The availment or the incentives by a registered enterprise shall be subject to the
5 following: (1) that said breeding stocks and genetic materials would have been qualified for
6 tax- and duty-free importation under the preceding paragraph; (2) that the breeding stocks
7 and genetic materials are reasonably needed in the registered activity; (3) that approval of
8 the SLEZFA has been obtained by the registered enterprise; and (4) that the purchase is
9 made within ten (10) years from the date of registration of commercial operations of the
10 registered enterprise.

11
12 This incentive shall be deemed waived if application for tax credit under this subsection
13 is not filed within one (1) year from the date of delivery.

14 (i) Exemption from Wharfage Dues- the provision of law to the contrary
15 notwithstanding, exports by a registered enterprise shall be exempted from wharfage dues.

16 (j) Deferred Imposition of the Minimum Corporate Income Tax — The minimum
17 corporate income tax (MCIT) of two percent (2%) of the gross income as of the end of the
18 taxable year shall be imposed when the MCIT is greater than the income tax computed
19 under the NIRC of 1997, as amended, for the taxable year: Provided, however, That said
20 MCIT shall be imposed only after the enterprise's entitlement period to the income tax-
21 based incentives.

22 (k) Tax Treatment of Goods and Services in the Southern Leyte Ecozone.

23 (a) Tax Treatment of Merchandise in the Southern Leyte Ecozone — The free
24 trade/free port zone shall be operated and managed as a separate customs territory
25 ensuring free flow or movement of goods within, into and exported out of the free trade/free
26 port zone. Importations of raw materials and capital equipment are tax- and duty free.
27 However, exportations or removal of goods the free trade/free port zones the other parts of
28 the Philippine territory shall be subject to customs and internal revenue regulations.

29 (i) Except as otherwise provided in this Act, foreign and domestic merchandise ,raw
30 materials, supplies, articles, equipment, machineries, spare parts and wares of every

1 description, except those prohibited by law, brought into the zone to be sold, stored, broken
2 up, repacked, assembled, installed, sorted, cleaned, graded or otherwise processed,
3 manufactured, mixed with foreign or domestic merchandise, whether directly or indirectly
4 related in such activity, shall not be subject to customs and internal revenue laws and
5 regulations nor to local tax ordinances, any provision of law to the contrary notwithstanding.

6 (ii) Merchandise purchased by a registered Southern Leyte Ecozone enterprise from
7 the Customs territory and subsequently brought into the export processing zone, shall be
8 considered as export sales and exportation thereof shall be entitled to the benefits allowed
9 by law for such transaction.

10 (iii) Domestic merchandise sent from the Southern Leyte Ecozone to the customs
11 territory shall whether or not combined with or made part of other articles likewise of local
12 origin or manufactured in the Philippines while in the export processing zone be subject to
13 internal revenue laws or the Philippines as domestic goods sold transferred or disposed of
14 for local consumption.

15 (iv) Merchandise sent from the Southern Leyte Ecozone to the customs territory shall,
16 whether or not combined with or made part of other articles while in the zone, be subject to
17 rules and regulations governing imported merchandise. The duties and taxes shall be based
18 on the value of said imported materials (except when the final product is exempt).

19 (v) Domestic merchandise on which all internal revenue taxes have been paid, if
20 subject thereto. and foreign merchandise previously imposed on which taxes have been
21 paid, or which have been admitted free of duty and tax, may be taken into the Southern
22 Leyte Ecozone from the customs territory of the Philippines and be brought back thereto
23 free of quotas, duty or tax.

24 (vi) Subject to such regulations respecting identity and safeguarding of revenue as the
25 SLEZFA may deem necessary, when the identity of an article entered into the export
26 processing zone under the immediately preceding paragraph has been lost, such article
27 when removed from the zone and taken to the customs territory shall be treated as foreign
28 merchandise entering the country for the first time under the provisions of the Tariff and
29 Customs Code of the Philippines, as amended.

1 (vii) Articles produced or manufactured in the Southern Leyte Ecozone and exported
2 therefrom shall on subsequent importation into the customs territory, be subject to the import
3 laws applicable to like articles manufactured in a foreign country.

4 (viii) Unless the contrary is shown, merchandise taken out of the export processing
5 zone shall be considered for tax purposes to have been sent to customs territory.

6 (b) Tax Treatment of Services - (i) Sale of service by an entity from the customs
7 territory to a registered ecozone or free trade enterprise, or by a registered ecozone or
8 freeport enterprise to another ecozone or freeport enterprise shall be treated as indirect
9 export and hence, entitled to the benefits allowed by law for such transaction; and (ii) Sale
10 or service by a registered ecozone or Freeport enterprise to the customs territory shall be
11 subject to applicable internal revenue laws, and regulations.

12
13 (l) Bonded Warehousing System- Registered export-oriented enterprise shall have
14 access to the utilization of the bonded warehousing system in accordance with the rules
15 and regulations of the BOC.

16 (m) Employment of Foreign Nationals — Subject to the provisions of Section 29
17 of Commonwealth Act No. 613, otherwise known as "The Philippine Immigration Act of
18 1940", as amended, a registered enterprise may employ foreign nationals in supervisory or
19 technical positions for a period not exceeding ten (10) years from its registration: Provided,
20 That when the majority of the capital stock or a registered enterprise is owned by foreign
21 investors, the positions of the president, treasurer and general manager or their equivalents
22 may be retained by foreign nationals beyond the period set forth herein and such officer is
23 the owner or a stockholder owning at least ten percent (10%) of the outstanding capital
24 stock of the registered enterprise and he/she remains the owner or maintains his/her
25 stockholdings therein.

26 Foreign nationals under employment contract within the purview of this incentive, their
27 spouses and unmarried children under twenty-one (21) years or age, who are not excluded
28 by Section 29 or Commonwealth Act No, 613, as amended, shall be permitted to enter and
29 reside in the Philippines during the period of employment of such foreign nationals. They
30 shall be issued multiple-entry visas, renewable every two

(2) years, and shall be allowed to enter and leave the Philippines without further documentary requirements other than valid passports or other travel documents in the nature of passports.

The foreign nationals admitted herein as well as their respective spouses and dependents shall be exempt from (1) obtaining alien certificates of registration and emigration clearance certificates; and (2) securing alien employment permits (AEP) and all types of clearances, permits, licenses or their equivalents required by any government department or agency.

SECTION 18. *Extension of Period Availment.* — The availment period of the incentives provided herein may be extended by the SLEZFA in the event that the registered enterprise suffers operational *force majeure* or any event equivalent thereto, impairing its viability.

SECTION 19. *Duration of Incentives.* — Enterprises registered with the SLEZFA may enjoy ITH or NOLCO granted by the latter prior to the availment of the five percent (5%) Gross Income Earned (GIE).

Fiscal incentives under this Act shall be terminated after a cumulative period of twenty (20) years from the date of registration or the start of commercial operations, whichever is applicable, except that it could be extended with regard to industries deemed indispensable to national development as determined by the SLEZFA.

The industries exempted from this provision shall be recommended by the BOI or the Governor of the Province of Southern Leyte with the concurrence of the secretary of the DOF.

SECTION 20. *Incentive to Investors.* — Any foreign national covered under subsection (m) or Section 17 of this Act, who invests an amount of One hundred fifty thousand US Dollars (US\$150,000.00) either in cash and/or equipment in a registered enterprise shall be entitled to an investor's visa: provided, that:

(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:

Provided, further, that in securing the investor's visa, the alien applicant shall be entitled to the same privileges provided for under Section 17, last paragraph.

As a holder of an investor's visa, an alien shall be entitled to reside in the Philippines while his investment subsists. For this purpose, he shall 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.

SECTION 21. *Banking Rules and Regulations.* — Existing banking laws and rules/regulations of the Banko Sentral ng Pilipinas (BSP) shall apply to banks and financial institutions to be established in the Southern Leyte Ecozone, such as those governing foreign exchange and other current account transactions (trade and nontrade), local and foreign borrowings, foreign investments, establishment and operation of local and foreign banks, foreign currency deposit units, offshore banking units and other financial institutions under the supervision of the BSP.

SECTION 22. *Remittance of Earnings.* — In the case of foreign investments, are gistered enterprise in the SLEZFA 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 Section 74 of Republic Act No. 265, (The New Central Bank Act), as amended.

CHAPTER V

NATIONAL GOVERNMENT AND OTHER ENTITIES

SECTION 23. *Interpretation/Construction.* — The powers, authorities and functions that are vested in the SLEZFA are intended to decentralize governmental functions and authority and promote an efficient and effective working relationship among the Southern Leyte Ecozone, the national government and the LGUs.

SECTION 24. *Supervision and Coordination of Development Plans.* — For purposes of policy direction and coordination, the Southern Leyte Ecozone shall be under the direct

control and supervision of the Office of the President thru the Governor of the Province of Southern Leyte.

SECTION 25. *Authority of the Bureau Customs (BOC) Examine the Entry and Exit of Imported Articles in the SLEZFA.* — The BOC, in coordination with the appropriate government agencies such as, but not limited to, the Departments of Trade and Industry, Agriculture, Transportation and Communications, and Health shall have the authority to examine the entry and exit of imported articles in the SLEZFA for the 1 purpose of determining: (a) the quantity and description of imported articles; and (b) compliance with the sanitary and agricultural requirements.

SECTION 26. *Relationship with the Regional Development Council*– The SLEZFA shall determine the development goals for the Southern Leyte Ecozone within the framework of national development plans, policies and goals. The administrator shall, upon approval by the Board, submit the Southern Leyte Ecozone plans, programs and projects to the Regional Development Council inclusion and inputs to the overall regional development plan.

SECTION 27. *Relationship with LGUs.* — Except as herein provided, the LGUs comprising the Southern Leyte Ecozone shall retain their basic autonomy and identity. The City of Maasin, Municipality of Bontoc, San Francisco, Hinundayan, Southern Leyte shall operate and function in accordance with the Local Government Code of 1991. In case of any conflict among the SLEZFA and City of Maasin, Municipality of Bontoc, San Francisco, Hinundayan, Province of Southern Leyte on matters affecting the Southern Leyte Ecozone other than defense and security matters, the decision of the SLEZFA shall prevail.

SECTION 28. *Auditing.* — The Commission on Audit shall appoint a representative who shall be a full-time auditor of the SLEZFA 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.

CHAPTER VI

MISCELLANEOUS

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

4 SECTION 30. *Repealing Clause.* — All laws, executive orders or issuances or any
5 part thereof which are inconsistent herewith are hereby repealed or amended accordingly.

6 SECTION 31. *Effectivity Clause.* — This Act shall take effect fifteen (15) days after its
7 publication in at least two (2) national newspapers of general circulation.

8 Approved,