

TWENTIETH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

*Introduced by Representative Rufus B. Rodriguez and
Representative Maximo B. Rodriguez, Jr.*

House Bill No. 8183

EXPLANATORY NOTE

The Philippines, being an archipelago, is the perfect venue for shipbuilding. The country is widely regarded as the 4th biggest shipbuilding nation. Despite, there is still tremendous potential for the ship building industry to grow. Hence this bill which seeks to advance and improve the nation's shipbuilding and ship repair sector.

Additionally, this bill seeks to accomplish several objectives, including promoting the shipbuilding and ship repair sector, luring private capital investment, offering support and incentives for sector expansion, enhancing the abilities of Filipino shipyard workers, and ensuring compliance with safety regulations.

This bill also provides incentives such as exemption from value-added tax on the acquisition and importation of machinery, equipment, supplies, and replacement parts for shipbuilding and repair, to attract investments. Additionally, registered shipbuilding and repair businesses are eligible for tax rebates on domestic capital equipment as well as increased deductions for labor costs.

This bill will regulate the building of ships for the armed forces, government agencies, and other uses, exempting them from national internal revenue taxes if they meet certain criteria.

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


RUFUS B. RODRIGUEZ


MAXIMO B. RODRIGUEZ, JR.

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AN ACT

**PROMOTING THE DEVELOPMENT OF PHILIPPINE SHIPBUILDING AND SHIP REPAIR
INDUSTRY ORDAINING REFORMS IN GOVERNMENT POLICIES TOWARDS
SHIPBUILDING AND REPAIR IN THE PHILIPPINES, AND FOR OTHER PURPOSES**

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

**CHAPTER I
GENERAL PROVISIONS**

SECTION 1. *Short Title.* – This Act shall be known as the “Shipbuilding Development Act”.

SECTION 2. *Declaration of Policy.* – The state recognizes the role of the shipbuilding and ship repair industry as one of the vital components of the maritime sector and that it plays a key role in the economic growth of the country.

As such, it is important that the Philippine maritime industry also develops and enhances the quality of its capacity and capability for mass water transportation as well as for its maritime and naval forces. The Philippines needs continues modernization and expansion of its domestic shipping fleet to attain more growth and competitive advantage in the domestic sphere.

To attain these objectives, it is hereby declared the policy of the State to: (a) promote all Philippine shipbuilding ship repair industry; (b) attract private capital to invest in the shipbuilding industry by creating a healthy and competitive investment and operating environment; (c) provide necessary assistance and incentives for the continued growth of the Philippine shipbuilding and naval fleet; (d) enhancement of the Filipino shipyard workers’ skills to meet international standards; (e) encourage the development of a viable shipbuilding and ship repair industry to support the expansion and modernization of the Philippine shipping and naval fleet and its strict adherence to safety standards which will ensure the seaworthiness of all sea-borne structures.

SECTION 3. *Definition of Terms.* – As used in and for purposes of this Act, the following terms, whether in singular or plural, are hereby defined as follows:

- (a) “Act” refers to the Shipbuilding Development Act of 2021;
- (b) “MARINA” refers to the Maritime Industry Authority;
- (c) “MARINA-registered shipbuilding and ship repair entities” refer to shipyards owned;
- (d) “Ship” or “Vessel” may be used interchangeably and shall mean any kind, class, or type of craft or artificial contrivance capable of floating in water, designed to be used, or capable of being used, as a means of floating in water transport in the domestic trade for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another;

- (e) "Shipbuilding" shall mean the design, construction, launching, and outfitting of all types of ships and watercraft;
- (f) "Ship repair" shall mean the overhaul, refurbishment, renovation, improvement, or alternation of the hull, machineries, equipment, outfits, and components of all types of ships;
- (g) "Shipbuilding and Ship Repair Entities" refer to the citizens of the Philippines, or a commercial partnership owned by majority of Filipinos, or a corporation incorporated under the laws of the Philippines, the capital of which is owned or controlled in any proportion by Filipinos or foreign nationals, or by both such Filipinos or foreign nationals, or by corporations whether Filipino or foreign-owned, which is duly authorized by the Administration to engage in the business of shipbuilding and/or ship repair or to otherwise operate a shipyard, graving dock, or marine repair yards;
- (h) "Shipyard" refers to the shipbuilding or repair facilities which have the capability to put vessels out of water in a drydock or to put vessels above the water surface in order to effect ship work on vessels, appendages, structure, machinery, and equipment;
- (i) "Spare parts" shall mean the replacement parts or components of a vessel, including but not limited to, its hull, engines, machineries, equipment, appurtenances, necessities, accessories, articles, supplies, materials, steel plates, aluminum plates, other metal plates, communications equipment, and other parts or components thereof, installed aboard the ship necessary for its safe and efficient navigation and operation;
- (j) "Tax incentives" refers to fiscal incentives such as those which come from in the form of Income Tax Holidays (ITYH), exemptions, deductions, credits, or exclusions from the tax base, as provided by law, to RBEs;
- (k) "Technologically Improved hull material" refers to a combination of two or more constituent materials with significantly different physical and chemical properties that when combined, produce a material that is stronger, lighter, or resistant to corrosion or electricity such as FRP, carbon fiber (graphite), Kevlar, quartz, polyester, and other similar materials.

CHAPTER II INVESTMENT INCENTIVES

SECTION 4. *Incentives to Shipbuilding and Ship Repair Industry.* – To promote investments and to ensure the development of a viable shipbuilding and ship repair industry in the Philippines, this incentive is hereby granted:

Exemption from Value-Added Tax on the domestic purchase and/or importation of capital equipment, machinery, spare parts, life-saving and navigational equipment, raw materials such as steel plates and other metal plates including marine-grade aluminum plates or steel or other technologically improved hull material to be used in the construction, repair, renovation, alteration, modification, conversion, or maintenance of the hull of any vessel operated or to be operated in the domestic trade. Unless the domestic purchase and/or importation of capital equipment, machinery, spare parts, life-saving and navigational equipment and/or any materials are to be used in the construction, repair, renovation, alteration, modification, conversion, or maintenance of the hull of any marine vessel operated or to be operated within the Philippine waters or the high seas, or in the construction, repair, expansion, renovation, alteration, modification, or rehabilitation of its shipyard facilities, such

exemption from VAT shall be availed of within five (5) years from the effectivity of this Act.

The domestic purchase and/or importation of this article under Sec. 4(a) of this Act shall be granted exemption from VAT subject to the following conditions:

- a. That said articles are not manufactured domestically in sufficient quantity of comparable quality and at reasonable prices;
- b. That said articles are directly imported by MARINA-registered shipbuilding and ship repair entities;
- c. That said articles are reasonably needed and will be used exclusively by the MARINA-registered shipbuilding and ship repair entities in its transport operations;
- d. That the approval of MARINA was obtained prior to the domestic purchase and/or importation of articles under Sec. 4(a) shall be granted to all MARINA-registered shipbuilding and ship repair entities unless otherwise stated by law; and
- e. That exemption from VAT on any sale, transfer, or disposal of a ship built domestically to a registered shipowner or operator, provided that such transaction was granted prior approval from the MARINA.

SECTION 5. Incentives for Board of Investments-Registered Shipbuilding and Ship Repair Entities. – Pursuant to the requirements set forth under Executive Order (EO) No. 226, otherwise known as “The Omnibus Investments Code of 1987,” registered shipbuilders shall be granted the following incentives to the extent engaged in a preferred area of investment:

(a) Income Tax Holiday.

1. For four (4) years from the operation of shipbuilding and ship repair entities, the newly registered shipbuilding company shall be fully exempt from income taxes levied by the National Government. Subject to such guidelines as may be prescribed by the Board, the income tax exemption will be extended for another year in each of the following causes:

- i. the project meets the prescribed ratio of capital equipment to number of workers set by the Board;
- ii. utilization of indigenous raw materials at rates set by the Board;
- iii. the net foreign exchange savings or earnings amount to at least USD 500,000.00 annually during the first 4 years of operation. The preceding paragraph notwithstanding, no registered pioneer shipbuilding companies may avail of these incentives for a period exceeding five (5) years.

2. For a period of two (2) years from operation, registered expanding shipbuilding companies shall be entitled to an exemption from income taxes levied by the National Government proportionate to their expansion under such terms and conditions as the Board may determine: *Provided*, however, that during the period within which this incentive is availed of by the expanding company it shall not be entitled to additional deduction for incremental labor expenses.

3. The provision of Article 7 (14) of EO 226 notwithstanding, registered shipbuilding companies shall not be entitled to any extension of this incentive.

4. For a period of 4 years for new or existing registered shipbuilding and ship repair entities with at least four thousand (4,000) employees and produce vessels with a minimum of seven hundred (700) gross tonnage and seventy percent (70%) of such vessels produced are for export.

5. For a period of 4 years for new or existing shipbuilding and ship repair entities with at least one thousand (1,000) employees and produce vessels with a minimum of two hundred fifty (250) gross tonnage and for domestic sale.

(b) Additional Deduction for Labor Expense.

For the first five (5) years from registration, a registered shipbuilding and ship repair entities shall be allowed an additional deduction from taxable income of fifty percent (50%) of the wages corresponding to the increment in the number of direct labor for skilled and unskilled workers if the project meets the prescribed ratio of capital equipment to number of workers set by the Board; *Provided*, That this additional deduction shall be doubled if the activity is located in less developed areas as defined in Article 40 of Executive Order No. 226 (EO 226).

(c) Tax Credit on Domestic Capital Equipment.

A tax credit equivalent to one hundred percent (100%) of the value of the national internal revenue taxes and custom duties that would have been waived on machinery, equipment, and spare parts, had these items been imported shall be given to the new and expanding registered shipbuilder which purchases machinery, equipment and spare parts from a domestic manufacturer: *Provided*, that:

- 1) the said equipment, machinery, and spare parts are reasonably needed and will be used exclusively by the registered shipbuilder in the manufacture of its products, unless prior approval of the Board is secured for the part-time utilization of said equipment in a non-registered activity to maximize usage thereof;
- 2) the equipment would have qualified for tax and duty-free importation under paragraph (c) hereof;
- 3) the approval of the Board was obtained by the registered enterprises; and
- 4) the purchase is made within five (5) years from the date of effectivity of the Code. If the registered shipbuilder sells, transfers, or disposes of these machinery, equipment, and spare parts, the provisions in the preceding paragraph for such disposition shall apply.

(d) Employment of Foreign Nationals.

Subject to the provisions of Sec. 29 of Commonwealth Act (C.A.) 613, as amended, a registered shipbuilder may employ foreign nationals in supervisory, technical or advisory positions for a period not exceeding five (5) years from its registration, extendible for limited period at the discretion of the Board: *Provided*, however, That when the majority of the capital stock of a registered shipbuilder is owned by foreign investors, the position of president, treasurer, and general manager or their equivalents may be retained by foreign nationals beyond the period set forth herein.

Foreign nationals under employment contract within the purview of this incentive, their spouse and unmarried children under twenty-one (21) years of age, who are not excluded by Sec. 29 of C.A. 613, as amended, shall be permitted to enter and reside in the Philippines during the period of employment of such foreign nationals.

A registered shipbuilding and ship repair entities shall train Filipinos as understudies of foreign nationals in administrative, supervisory, and technical skills and shall submit annual reports on such training to the Board.

SECTION 6. Incentives for Registered (BOI) Shipbuilding and Ship Repair Entities Located in SBSR ECO Park. –

- (a) Income Tax Holiday for 4-8 years
- (b) Special 5% tax rate on gross income after the lapse of ITH
- (c) Tax and duty exemption on imported capital equipment

- (d) Exemption from 12% input VAT on allowable local purchase of goods and services (e.g., communication charges)
- (e) Unregistered use of consigned equipment
- Employment of foreign nationals

CHAPTER III SBSR FINANCING PROGRAM

SECTION 7. MARINA, in partnership with government financial institutions, shall provide financial and technical assistance, training and consultancy services, which will promote, develop, and foster sustainable and progressive maritime industry.

CHAPTER IV SBSR COMPLIANCE TECHNICAL COUNCIL

SECTION 8. *Standards and Regulations Compliance.* – MARINA shall promulgate a set of standards and regulations which all MARINA-registered shipbuilding and ship repair entities are required to comply with in order to avail of the incentives granted under this Act.

MARINA shall have the power to promulgate the set of standards and regulations for compliance, which shall be revised every three (3) years. Such standards shall be formulated by MARINA in coordination with all necessary government agencies.

SECTION 9. *SBSR Compliance Technical Council.* – Pursuant to the immediately preceding section, there shall be created, for purposes of this Act, a Shipbuilding and Ship Repair (SBSR) Compliance Technical Council, which shall accredit the shipyard facilities and materials used by registered shipbuilding and ship repair entities. The coordinating council shall be comprised of ten (10) members that shall include representatives from the private and public sector. The following shall be *de facto* members of the coordinating council:

- Department of Finance (DOF)
 - Bureau of Internal Revenue (BIR)
- Department of Transportation (DOTr)
 - Maritime Industry Authority (MARINA)
 - Philippine Ports Authority (PPA)
 - Philippine Coast Guard (PCG)
- Department of Trade and Industry (DTI)
 - Bureau of Incentives (BOI)
- Department of Labor and Employment (DOLE)
- Department of Science and Technology (DOST)
- Department of Environment and Natural Resources (DENR)
 - Environmental Management Bureau (EMB)

SECTION 10. *Powers and Functions of the SBSR Compliance Technical Council.* – The standards SBSR Compliance Technical Council shall have the power and authority to:

1. Act as chair of the SBSR Compliance Technical Council in coordination with other concerned Agencies;
2. Set guidelines on the establishment of an SBSR ECO Industrial Park;
3. Supervise, inspect, and evaluate all registered shipyard facilities to ensure and enforce compliance with the safety standards and other regulations in accordance with applicable conventions and regulations;
4. Implement standards for the evaluation and inspection of shipyard facilities and vessels;
5. Require all domestic shipbuilders or repairers to comply with the operational and safety standards for shipyards set by applicable conventions and regulations, maintain

their respective shipyards in updated and serviceable order in accordance with the standards of the International Maritime Organization (IMO);

6. Set off safety standards for all existing and new shipyard facilities in accordance with applicable conventions and regulations;
7. Submit to the MARINA its findings and recommendations on the compliance of the shipyard to the standards; and
8. Promulgate such rules of procedures for the availment of the incentives provided for under this Act: *Provided*, That such rules and regulations cannot change or in any way amend or be contrary to the intent and purposes of this Act.

SECTION 11. Shipyard Facility Safety Standards. – All new and existing Philippine shipbuilding or repair yard facilities shall undergo a safety standard compliance test prior to commencing operations. The committee, in coordination with MARINA, shall have the power to inspect the shipyard facilities of registered shipbuilding and ship repair entities. The MARINA shall adopt the findings of the Committee during the shipyard evaluation and use the same as basis to recommend further operation, renovation or closure of a shipyard facility. The committee shall promulgate such safety standards for the test in accordance with those set by the IMO. Such standards shall be published in newspapers of general circulation.

SECTION 12. Shipbuilding and Ship Repair Safety Standards. – All ships built by or commissioned from registered shipbuilding and ship repair entities shall undergo a safety and seaworthiness test prior to departing from the shipyard facility. MARINA shall have the power to inspect all such vessels and all equipment on board to ensure compliance with the safety standards.

MARINA shall promulgate such safety and seaworthiness standards for the test in accordance with those set by the international organizations related to shipbuilding. Such standards shall be published in newspapers of general circulation.

CHAPTER V RESTRICTIONS ON SHIP IMPORTATION

SECTION 13. – Three (3) years from the effectivity of this Act, and every three (3) years therefrom, MARINA shall evaluate the capability of domestic shipbuilders and the capacity of registered shipyards to construct new vessels, including larger classed vessels for operation within the Philippine territorial waters.

After every evaluation, MARINA shall provide an assessment evaluation to the domestic shipbuilder or domestic shipyard indicating its capability and capacity level in accordance with the rules and regulations promulgated by MARINA.

In the first year of evaluation, the MARINA shall determine the capability of MARINA-registered shipyards to build new vessels below 500 Gross Tonnage (GT). If upon evaluation, the capability of MARINA-registered shipyards to build classed vessels below 500 GT in quantities sufficient to meet domestic demand is proven, then all domestic shipowners/operators shall be discouraged from importing new or previously owned vessels that are less than 500 GT for the domestic trade and vessels built in MARINA-registered shipyards shall be given priority for entry in the Philippines Registry and allowed to operate in the domestic trade.

CHAPTER VI SBSR RESEARCH AND DEVELOPMENT

SECTION 14. The development and prototyping of noble type vessels using alternative source of energy and other emerging technologies related to maritime activities such as, but not limited to, maritime safety shall be in coordination with the Philippine Council for Industry, Energy and Emerging Technology Research and Development (PCIEERD) of the Department of Science and Technology (DOST). The vessel (prototype) produced shall be registered as

shipbuilding and ship repair entities for such purposes shall be registered as classified exclusively for marine research production. Prototype vessels (for definition) is under the ownership of its Research and Development (R&D) agency/ies and shall likewise be granted Pioneer Status in accordance with the provisions of the Omnibus Investments Code in case produced and commercialized by a local ship builder.

SECTION 15. *Incentives on SBSR Research and Development.* –

1. R&D initiatives of the DOST are exempted from the regulatory guidelines to the ship registration and classification provided that the plans are duly reviewed and approved by the SBSR staff.
2. The prototype vessel produced through DOST-GIA (Department of Science and Technology-Grants-in-Aid Program) and tagged as marine research production, may operate for a period of one (1) year as part of its performance testing related to research, development, and demonstration.
3. MARINA-SBSR through the cooperation of the DOST-GIA will craft a policy that will provide a clear adoption policy on the use of locally developed R&D marine research production, one (1) month after the completion of the vessel.
4. The technology adaptors (ship operators/manufacturers) that will adopt locally developed R&D marine research through a duly notarized technology transfer agreement/technology licensing are entitled to research tax break for a period of five (5) years.

**CHAPTER VII
SBSR RESEARCH AND DEVELOPMENT**

SECTION 16. – MARINA, in partnership with TESDA and CHED, shall spearhead the development of training programs such as competency standards, training regulations, competency assessment tools and competency-based curriculum development in the SBSR.

**CHAPTER VIII
NATIONAL DEFENSE AND ARMED FORCES AND OTHER GOVERNMENT VESSELS**

SECTION 17. *National Defense and Armed Forces and Other Government Vessels.* – Vessels built exclusively for the use of any branch of the Armed Forces and other government vessels of the Philippines shall be treated as a sale to government and shall be exempt from national internal revenue taxes: *Provided*, That the vessels meet the standards and requirements of the specific branch of the Armed Forces of the Philippines (AFP): *Provided, further*, That the registered shipbuilding and ship repair entities is awarded or granted the Project or commission in accordance with the rules and regulations for the bidding purposes.

**CHAPTER VIII
FEES, FINES, AND PENALTIES**

SECTION 18. *Fees, Fines, and Penalties.* – MARINA, upon notice and hearing and a determination of the existence of any breach or violation of the provision of this Act or any rules and regulations issued pursuant thereto, shall have the power and authority to:

- (1) Suspend or revoke any certificates of public convenience, license, permit, accreditation, or other form of authority issued to any domestic shipowner/operators who shall violate any provision of this Act or any rules and regulations issued pursuant thereto or any condition imposed on such certificate of public convenience, license, permit, or accreditation;
- (2) Impose a fine on domestic shipowner/operator who shall operate without a valid certificate of public convenience, license, permit, accreditation, or other form of

authority;

- (3) Impose a fine on a domestic shipowner/operator in an amount to be determined by the MARINA for refusing to accept, or to carry passenger or cargo without just cause, or for engaging in any prejudicial, discriminatory, or disadvantageous act towards any class of passengers or shippers;
- (4) Impose a fine on any domestic shipowner/operator in an amount to be determined by the MARINA or suspend, revoke the certificate of public convenience of such domestic shipowner/operator or both, who shall fail to meet the standards of such safety or who refuses to comply with or violates safety regulations imposed by the MARINA or fails to maintain its vessel in safe and serviceable condition;
- (5) Impose a fine on any domestic shipowner/operator in an amount to be determined by the MARINA or impose such other penalty including the revocation of any certificate or license who fails to procure or renew required insurance policies;
- (6) Impose a fine on any domestic shipowner/operator in an amount to be determined by the MARINA or impose such penalty including the revocation of any certificate of license who fails to meet or maintain safe manning requirements; and
- (7) Impose such other fines and penalties the MARINA may deem necessary and appropriate in order to enforce the provision of this Act.

CHAPTER X IMPLEMENTING RULES AND REGULATIONS

SECTION 19. *Implementing Rules and Regulations.* – MARINA shall promulgate the necessary rules and regulations and issuances for the implementation of this Act within one (1) year from its effectivity.

MARINA shall likewise coordinate with the necessary administrative agencies for the full implementation of this Act. *Provided*, That such rules and regulations and issuances cannot amend or contradict the intent of any of the provisions and purposes of this Act.

MARINA shall convene every year and assess the need for any amendments to the implementing rules and regulations.

CHAPTER XI FINAL PROVISIONS

SECTION 20. *Separability Clause.* – If, for any reason, any section, subsection, sentence, clause, or term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

SECTION 21. *Repealing Clause.* – The provisions of C.A. 146, insofar as the same applies to the operation, management control and regulation of vessels, lines, ferries, watercraft, and the like, as well as the provisions of Presidential Decree (PD) 474, EO 125/125A, R.A. No. 9295 and such other laws, PDs, Eos, issuances, rules, and regulations or parts thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended, or modified accordingly.

SECTION 22. *Effectivity.* – This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,