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TITLE : AN ACT GRANITING TO SILANGAN AIRWAYS, INC., A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN TRANSPORT SERVICES FOR CARRIAGE OF PASSENGERS, MAILS, GOODS AND PROPERTY BY AIR BOTH DOMESTIC AND INTERNATIONAL

TEXT :

H. No. 28804

Republic of the Philippines
Congress of the Philiippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, twenty-second day of July, nineteen hundred and ninety-one.

[REPUBLIC ACT NO. 7349]

AN ACT GRANITING TO SILANGAN AIRWAYS, INC., A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN TRANSPORT SERVICES FOR CARRIAGE OF PASSENGERS, MAILS, GOODS AND PROPERTY BY AIR BOTH DOMESTIC AND INTERNATIONAL

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

SECTION 1. Nature and Scope of Franchise. - Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to the Silangan Airways, Inc., hereunder referred to as the grantee, its successors or assigns a franchise to establish, operate and maintain transport services for carriage of passengers, mails, goods and property by air both domestic and international.

Air transport services shall include the maintenance and operation of hangars and aircraft service stations and facilities and other services of similar nature which may be necessary, convenient or useful as an auxiliary to aircraft transportation.

The grantee shall have the right at its terminals and landing fields, as well as in its aircraft, to construct, operate and maintain stations or transmitting sets for wireless telegraphy and direction finding, and other radio aids to air navigation, using wavelengths in accordance with the rules and regulations made from time to time by the proper agencies of the Government. The wireless communication facilities shall be used solely for receiving and transmitting weather forecasts and other matters in connection with the grantee's services.

SEC. 2. Prior Approval of the Civil Aeronautics Board. - The grantee shall secure from the Civil Aeronautics Board the appropriate permits and licenses for its operations.

All aircraft used by the grantee and the flight-crew members operating such aircraft shall be licensed by the Government of the Philippines and together with its accessories and equipment shall at all times be in airworthy condition. They shall be equipped with radio communications, safety and other equipment and shall be operated and maintained in accordance with the regulations and technical requirements of the Air Transportation Office or such other regulatory body as the Government may prescribe for this purpose.

The grantee's equipment and the operation of such equipment shall at all times be subject to inspection and regulation by the Air Transportation Office.

The grantee shall comply with the provisions of Republic Act Numbered Seven hundred and seventy-six, and the regulations promulgated thereunder from time to time.

SEC. 3. Responsibility to the Public. - Excepting cases of force majeure and whenever weather conditions permit, the grantee shall maintain scheduled and/or non-scheduled and/or charter air transport services to any and all points and places throughout the Philippines and between the Philippines and other countries at such frequencies as traffic needs may require: Provided, however, That at least twenty-five percent (25%) of all its frequencies shall be for the domestic market.

SEC. 4. Rates for Services. - The grantee shall fix just and reasonable rates for the transportation of passengers, mails, goods and freight, subject to the regulations and approval of the Civil Aeronautics Board and other proper regulatory agencies of the Government.

SEC. 5. Term of Franchise. - This franchise shall be for a term of forty (40) years from the date of the approval of this Act, unless sooner revoked or cancelled. In the event that the grantee falls to operate continuously for two (2)

years, this franchise shall be deemed ipso facto revoked.

SEC. 6. Landing Facilities. - The grantee may use the landing and other airport facilities on land and water as may be maintained or owned by the Government within the Philippines on the grantee's lines subject to such terms and conditions, restrictions and national policy considerations as the Philippine Government may prescribe, and reciprocally, the Philippine Government shall have the right to use the landing and other airport facilities as may be maintained or owned by the grantee in the Philippines.

SEC. 7. Contracts. - The grantee is authorized to enter into transportation contracts with the Philippine Government, including the carrying of mail, upon terms and conditions to be mutually agreed upon. The grantee shall give preferential consideration to contracts with the Philippine Government. The grantee may likewise enter into transportation maintenance and/or servicing contracts, and such other contracts relating to air transport with other foreign-owned airlines particularly with those who have international routes.

SEC. 8. Right of Government. - In case of war, insurrection, domestic trouble, public calamity, or national emergency, the Philippine Government, upon order of the President, shall have the right to take over and operate the equipment of the grantee, paying for its use or damages.

SEC. 9. Public Equity Participation. - In compliance with the constitutional mandate to democratize ownership of public utilities, the herein grantee shall make public offering through the stock exchange of at least thirty percent (30%) of its common stock within a period of ten (10) years from the date of effectivity of this Act: Provided, That no single person or entity shall be allowed to own more than five percent (5%) of the stock offerings.

SEC. 10. Warranty in Favor of National and Local Governments. - The grantee shall hold the national, provincial and municipal governments of the Philippines harmless from all claims, accounts, demands or actions arising out of accidents or injuries, whether to property or to persons, caused by the operation of the services under the franchise hereby granted.

SEC. 11. Tax Provisions. - The grantee shall pay to the Philippine Government during the life of this franchise, a franchise tax of five percent (5%) of the gross revenues derived by the grantee from transport operations.

In the event any competing individual, partnership and corporation receives and enjoys tax privileges which tend to place the grantee herein at any disadvantage, then such

provisions shall be deemed part hereof and shall operate equally in favor of the grantee.

The grantee shall, however, be subject to income tax levied under Title II of the National Internal Revenue Code, as amended, and tax on its real property under existing laws on revenues earned from activities other than air transportation.

SEC. 12. Interpretation of Franchise. - This franchise shall not be interpreted to mean as an exclusive grant of the privileges herein provided for. However, in the event that any competing individual, partnership, or corporation shall receive a similar permit or franchise with terms and/or provisions more favorable than those herein granted or which tend to place the herein grantee at any disadvantage, then such term and/or provision shall be deemed part hereof and shall operate equally in favor of the grantee herein.

SEC. 13. Sale, Lease, Transfer, Assignment, Usufruct, etc. - The grantee shall not lease, transfer, grant the usufruct of, sell or assign this franchise and the rights and privileges acquired thereunder to any person, firm, company, corporation, or legal entity, nor the controlling interest in the grantee be transferred to any such private person, firm, company, corporation or entity at a time the corporation is not in operation without the prior approval of the Congress of the Philippines.

Any person or entity to which this franchise is sold, transferred, or assigned shall be subject to all conditions, terms, restrictions and limitations of this Act.

SEC. 14. Legislative Amendment. - This franchise is subject to amendment or repeal by the Congress of the Philippines when the common good so requires.

SEC. 15. Separability Clause. - If any section or provision of this franchise, as amended, is held or declared unconstitutional or invalid by a competent court in final judgment, the other sections or provisions hereof shall continue to be in force as if the section or provision so annulled or voided had never been incorporated in this franchise.

SEC. 16. Repealing Clause. - All laws, decrees, orders, instructions, and rules and regulations or parts thereof which are inconsistent herewith are hereby repealed or modified accordingly.

SEC. 17. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

NEPTALI A. GONZALES
MITRA
President of the Senate

RAMON V.
Speaker of the House
of Representatives

This Act which originated in the House of Representatives was finally passed by the House of Representatives and the Senate on February 6, 1992 and February 4, 1992, respectively.

ANACLETO D. BADOY, JR.
Secretary of the Senate

CAMILO L. SABIO
Secretary General
House of Representatives

Approved: APR 02 1992

CORAZON C. AQUINO
President of the Philippines

