

H. No. 5957
S. No. 2684

Republic of the Philippines
Congress of the Philippines
Metro Manila

Twelfth Congress

Third Regular Session

—■—

Begun and held in Metro Manila, on Monday, the twenty-eighth day
of July, two thousand three.

[REPUBLIC ACT NO. 9280]

AN ACT REGULATING THE PRACTICE OF CUSTOMS
BROKERS PROFESSION IN THE PHILIPPINES,
CREATING FOR THE PURPOSE A PROFESSIONAL
REGULATORY BOARD FOR CUSTOMS BROKERS, AND
APPROPRIATING FUNDS THEREFOR

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

ARTICLE I

TITLE, DECLARATION OF POLICY, OBJECTIVES,
AND DEFINITION OF TERMS

SECTION I. *Short Title.* — This Act shall be known as the
"Customs Brokers Act of 2004."

SEC. 2. *Declaration of Policy.* — It is hereby declared the
policy of the State to give priority attention and support to

professionalizing the practice of customs brokers profession in the Philippines which will be beneficial to the country in general and to the economy in particular.

Pursuant to the national policy, the government shall provide a program to set up a climate conducive to the practice of the profession and maximize the capability and potential of our Filipino customs brokers.

SEC. 3. Objectives. – This Act provides for and shall govern:

- (a) The standardization and regulation of customs administration education;
- (b) The examination and registration of customs brokers;
and
- (c) The supervision, control and regulation of the practice of customs broker profession.

SEC. 4. Definition of Terms. – For purposes of this Act, the following terms are hereby defined:

- (a) "Customs Broker" – is any person who is a bona fide holder of a valid Certificate of Registration/Professional Identification Card issued by the Professional Regulatory Board and the Professional Regulation Commission.
- (b) "Commission" – as used in this Act shall refer to the Professional Regulation Commission.
- (c) "Board" – as used in this Act shall refer to the Professional Regulatory Board for Customs Brokers.

ARTICLE II

PROFESSIONAL REGULATORY BOARD FOR CUSTOMS BROKERS

SEC. 5. Creation and Composition of the Professional Regulatory Board for Customs Brokers. – There is hereby created

a Professional Regulatory Board for Customs Brokers, hereinafter referred to as the Board, under the supervision and administrative control of the Professional Regulation Commission, hereinafter referred to as the Commission, to be composed of a chairman and two (2) members who shall be appointed by the President of the Philippines from among a list of three (3) recommendees for each position submitted by the Commission from a list of five (5) nominees for each position submitted by the accredited professional organization of customs brokers. The new Board shall be constituted within three (3) months from the effectivity of this Act.

SEC. 6. *Scope of the Practice of Customs Brokers.* – Customs Broker Profession involves services consisting of consultation, preparation of customs requisite documents for imports and exports, declaration of customs duties and taxes, preparation, signing, filing, lodging and processing of import and export entries; representing importers and exporters before any government agency and private entities in cases related to valuation and classification of imported articles and rendering of other professional services in matters relating to customs and tariff laws, its procedures and practices.

A customs broker shall be considered in the practice of the profession if the nature and character of his/her employment in private enterprises requires professional knowledge in the field of customs and tariff administration. He/she is also deemed in the practice of customs broker profession if he/she teaches customs and tariff administration subjects in any university, college or school duly recognized by the government.

SEC. 7. *Powers and Functions of the Board.* – The Board shall have the following powers and functions:

(a) Promulgate, administer and enforce rules and regulations, including the Code of Ethics and Code of Technical Standards for customs brokers necessary for carrying out the provisions of this Act;

(b) Supervise and regulate the licensure, registration and practice of customs brokers profession;

(c) Determine and evaluate the qualifications of the applicants for registration with or without the prescribed licensure examinations and for the issuance of special or temporary permits;

(d) Prepare and modify the questions for examination and prescribe the syllabi of the subjects for examination and their relative weight;

(e) Register successful examinees in the licensure examination and issue the corresponding Certificate of Registration and Professional Identification Card;

(f) Issue special or temporary permits to foreign customs brokers for specific projects and for a specific duration of time;

(g) Look into the conditions affecting the practice of customs brokerage, adopt measures for the enhancement of the profession and the maintenance of high professional, technical, and ethical standards, and conduct ocular inspection of places where customs brokers practice their profession;

(h) In coordination with the Commission on Higher Education (CHED), examine the prescribed facilities of universities or colleges seeking permission to open the course or program of customs administration in order to ensure that standards and essential requirements for a qualified dean and faculty and adequate budget are properly complied with and maintained;

(i) Investigate violations of this Act, its implementing rules and regulations, and the Code of Ethics for Customs Brokers;

(j) Issue *subpoena* and *subpoena duces tecum* to secure the attendance of respondents or witnesses or the production of documents relative to the investigation conducted by the Commission;

(k) Prepare guidelines for the continuing professional education (CPE) in coordination with the accredited professional organization; and

(l) Perform such other powers, functions and duties as may be necessary to effectively implement this Act.

The policies, resolutions, rules and regulations, orders or decisions issued or promulgated by the Board shall be subject to the review and approval of the Commission. However, the Board's decisions, resolutions or orders which are not interlocutory, rendered in an administrative case, shall be subject to review only if on appeal.

SEC. 8. *Qualifications of the Chairman and Members of the Board.* – The chairman and members of the Board must, at the time of their appointment:

- (a) Be a citizen and resident of the Philippines;
- (b) Be of good moral character and must not have been convicted of any crime involving moral turpitude;
- (c) Be a member in good standing of the accredited professional organization of customs brokers;
- (d) Be a graduate of Bachelor's Degree in Customs Administration or a holder of a Master's Degree in Customs Administration conferred by a college or university duly recognized by the government, or a registered and licensed customs broker before the effectivity of this Act;
- (e) Be a registered and licensed customs broker with a valid Certificate of Registration and Professional Identification Card, with at least ten (10) years of experience prior to his appointment;
- (f) Not be a member of the faculty, whether full-time or part-time, of any school, college or university where a regular and/or review course in customs administration is taught, nor shall have any pecuniary interest in such institution; and
- (g) Not be an incumbent officer of the accredited national organization of customs brokers.

SEC. 9. *Term of Office.* – The members of the Board shall hold office for a term of three (3) years or until their successors shall have been appointed and qualified. They may, however, be reappointed for a second term. Any vacancy in the Board shall be filled for the unexpired portion of the term only. Each member shall take an oath of office prior to the assumption of duties.

The incumbent chairman and members shall continue to serve until their replacements shall have been appointed and qualified.

SEC. 10. *Compensation and Allowances of the Chairman and Members of the Board.* – The chairman and members of the Board shall receive compensation and allowances comparable to the compensation and allowances received by the chairman and members of other professional regulatory boards.

SEC. 11. *Suspension and Removal of the Chairman and Members of the Board.* – The chairman or any member of the Board may be suspended or removed by the President of the Philippines upon recommendation of the Commission for neglect of duty, abuse of power, oppression, incompetence, unprofessional, unethical, immoral or dishonorable conduct, commission or toleration of irregularities in the conduct of examination or tampering of the grades therein, or for any final judgment or conviction of any criminal offense involving moral turpitude by the court after having been given the opportunity to defend himself in a proper administrative investigation.

SEC. 12. *Supervision of the Board, Custodian of its Records, Secretariat and Support Services.* – The Board shall be under the general supervision and administrative control of the Commission. All records of the Board, including applications for examination, examination papers and results, minutes of deliberations, administrative and other investigative cases involving customs brokers, shall be kept by the Commission.

The Commission shall designate the secretary of the Board and shall provide the secretariat and other support services to implement the provisions of this Act subject to the usual government accounting and auditing rules and regulations.

SEC. 13. *Annual Report.* – The Board shall, at the close of each calendar year, submit an annual report to the Commission, giving a detailed account of its proceedings and accomplishments during the year and recommending measures to be adopted with the end in view of upgrading and improving the conditions affecting the practice of customs broker profession in the Philippines.

ARTICLE III

“ LICENSURE EXAMINATION AND REGISTRATION ”

SEC. 14. *Licensure Examination.* – Every applicant seeking to be registered and licensed as professional customs broker shall undergo an examination as provided for in this Act. Examinations for the practice of customs broker profession in the Philippines shall be given by the Board at least once every year in such places and dates as the Commission may designate in accordance with the provisions of Republic Act No. 8981.

SEC. 15. *Scope of Examination.* – A written examination shall be given to the licensure applicants for customs broker profession, which shall include but not limited to the following:

- (a) Customs Laws and Implementing Rules and Regulations;
- (b) Tariff Laws and International Trade Agreements;
- (c) Practical Computation of Customs Duties, Taxes and Other Charges;
- (d) Documentations, Professional Ethics, Customs Procedures and Practices; and
- (e) Warehousing and Cargo Handling Operations.

To conform with technological and modern changes, the Board may recluster, rearrange, modify, add or exclude any of the foregoing subjects as the need arises.

SEC. 16. *Qualifications of Applicants for Examinations.* – In order to be admitted to the licensure examination for customs broker profession, a candidate shall, at the time of filing his/her application, establish to the satisfaction of the Board that:

(a) he/she is a citizen of the Philippines or of a foreign country qualified to take the examination as provided in the reciprocity provision of this Act;

(b) he/she is a holder of a Bachelor's Degree in Customs Administration: *Provided*, That a holder of a master's degree in Customs Administration shall be allowed to qualify within five (5) years from the effectivity of this Act; and

(c) he/she is of good moral character and must not have been convicted of any crime involving moral turpitude.

SEC. 17. *Ratings in the Examination.* – In order that a candidate may be deemed to have successfully passed the examination, he/she must have obtained an average of at least seventy-five percent (75%) in all subjects, with no rating below sixty percent (60%) in any subject.

SEC. 18. *Release of the Results of Examination.* – The results of the Licensure Examination shall be released by the Board within ten (10) days from the last day of the examination.

SEC. 19. *Issuance of the Certificate of Registration and Professional Identification Card.* – A Certificate of Registration shall be issued to examinees who pass the licensure examination for customs broker profession subject to payment of fees prescribed by the Commission. The Certificate of Registration shall bear the signature of the Chairperson of the Commission and the Chairman and members of the Board, stamped with the official seal of the Commission, indicating that the person named therein is entitled to practice the profession as customs broker with all the benefits and privileges appurtenant thereto: *Provided*, That he/she shall be allowed to practice the profession in any collection district without the need of securing another license from the Bureau of Customs. The Certificate of Registration shall remain in full force and effect until revoked or suspended in accordance with this Act.

A Professional Identification Card bearing the registration number, date of issuance, expiry date, duly signed by the Chairperson of the Commission, shall likewise be issued to every registrant upon payment of the required fees. The Professional Identification Card shall be renewed every three (3) years and upon satisfying the requirements of the Board.

SEC. 20. *Refusal to Register.* – The Board shall not register and issue a Certificate of Registration to any successful examinee who has been convicted by a court of competent jurisdiction of any criminal offense involving moral turpitude or has been found guilty of immoral or dishonorable conduct after investigation by the Board, or has been declared to be of unsound mind. The reason for the refusal shall be set forth in writing.

SEC. 21. *Revocation or Suspension of the Certificate of Registration, Professional Identification Card or Cancellation of Temporary/Special Permit.* – The Board may, after giving proper notice of hearing to the party concerned, revoke the Certificate of Registration and Professional Identification Card of a professional customs broker or suspend him/her from the practice of the profession or cancel his/her temporary/special permit for any of the causes or grounds under Section 20 or for unprofessional or unethical conduct, malpractice, or violation of any of the provisions of this Act, its implementing rules and regulations, and the Code of Ethics for Professional Customs Brokers.

SEC. 22. *Reinstatement, Reissuance or Replacement of Certificate of Registration, Professional Identification Card and Temporary/Special Permit.* – The Board, may, after two (2) years from the date of revocation of Certificate of Registration reinstate any revoked Certificate of Registration and reissue a suspended Professional Identification Card.

A new Certificate of Registration or Professional Identification Card or temporary/special permit may be issued to replace lost, destroyed or mutilated ones subject to such rules as may be promulgated by the Board.

SEC. 23. *Roster of Professional Customs Brokers.* – The Board, in coordination with the accredited professional

organization, shall prepare, update and maintain a roster of professional customs brokers which shall contain the names of registered professional customs brokers, their residence and office addresses, dates of registration or issuance of certificates, and other data which the Board may deem pertinent.

The roster shall be open to the public, copies of which shall be made available to any party as may deemed necessary.

SEC. 24. *Issuance of Special or Temporary Permit.* – Upon application and payment of the required fees, and subject to the approval of the Commission, the Board may issue special or temporary permits to professional customs brokers from foreign countries whose services are urgently needed in the absence or inadequacy of local professional customs brokers for the purpose of promoting or enhancing the practice of the profession in the Philippines.

SEC. 25. *Foreign Reciprocity.* – No foreign professional customs broker shall be admitted to the licensure examination or be given a Certificate of Registration or Professional Identification Card and be entitled to any of the privileges under this Act unless the country of which he/she is a citizen specifically allows Filipino professional customs brokers to practice within its territorial limits on the same basis as the citizens of such foreign country.

ARTICLE IV

PRACTICE OF CUSTOMS BROKER PROFESSION

SEC. 26. *Oath.* – All successful examinees qualified for registration shall be required to take an oath of profession before any member of the Board or any government official authorized by the Commission or any person authorized by law to administer oaths prior to entering into the practice of customs broker profession.

SEC. 27. *Acts Constituting the Practice of Customs Broker Profession.* – Any single act or transaction embraced within the provision of Section 6 hereof shall constitute an act of engaging in the practice of customs broker profession. Import and export entry

declarations shall be signed only by a customs broker under oath based on the covering documents submitted by the importers.

SEC. 28. *Prohibition Against the Unauthorized Practice of Customs Broker Profession.* – No person shall practice or offer to practice the customs broker profession in the Philippines or offer himself/herself as customs broker, or use the title, word, letter, figure, or any sign tending to convey the impression that one is a customs broker, or advertise or indicate in any manner whatsoever that one is qualified to practice the profession unless he/she has satisfactorily passed the licensure examination given by the Board, except as otherwise provided in this Act, and is a holder of a valid Certificate of Registration and Professional Identification Card or a valid special/temporary permit duly issued to him/her by the Board and the Commission.

SEC. 29. *Prohibition Against Corporate Practice.* – The practice of customs broker is a professional service, admission to which shall be determined upon the basis of individual and personal qualifications. No firm, company, or association may be registered or licensed as such for the practice of customs broker profession.

SEC. 30. *Prohibition Against Financing Activities By Customs Brokers.* – No customs broker shall advance and finance on behalf of their client-importers the payment of duties and taxes, arrastre charges, wharfage dues, storage fees and other port charges.

SEC. 31. *Accredited Professional Organization.* – All professional customs brokers shall have one national organization, which shall be recognized by the Board and by the Commission as the one and only accredited professional organization of customs brokers. A professional customs broker duly registered with the Board shall automatically become a member of the accredited professional organization of customs brokers and shall receive the benefits and privileges appurtenant thereto. Membership in the accredited professional organization of customs brokers shall not be a bar to membership in other associations of customs brokers.

SEC. 32. *Code of Ethics for Customs Broker Profession.* – The Board shall adopt and promulgate the Code of Ethics and

Code of Technical Standards which shall be prescribed and issued by the accredited professional organization of customs brokers.

SEC. 33. *Vested Rights: Automatic Registration of Customs Brokers.* – All customs brokers who are registered and licensed at the time this Act takes effect shall automatically be registered.

ARTICLE V

PENAL AND FINAL PROVISIONS

SEC. 34. *Penal Provisions.* – Any violation of this Act, including violations of implementing rules and regulations, shall be meted the penalty of a fine of not less than Fifty thousand pesos (P50,000.00) nor more than Five hundred thousand pesos (P500,000.00), or imprisonment of not less than six (6) months nor more than six (6) years, or both such fine and imprisonment upon the discretion of the court.

SEC. 35. *Appropriations.* – The Chairperson of the Professional Regulation Commission shall immediately include in the Commission's programs the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act and thereafter.

SEC. 36. *Transitory Provision.* – The existing Board of Customs Brokers shall continue to function in the interim until such time that the new Board shall be constituted pursuant to this Act.

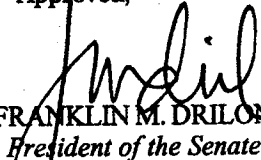
SEC. 37. *Implementing Rules and Regulations.* – The Board, subject to the approval by the Commission, in coordination with the accredited professional organization, shall issue and promulgate the rules and regulations, including the Code of Ethics for customs broker profession needed to implement the provisions of this Act.

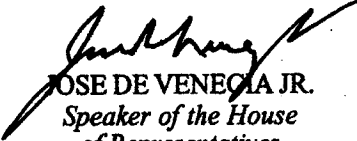
SEC. 38. *Separability Clause.* – If any clause, sentence, paragraph or part of this Act shall be declared unconstitutional or invalid, such judgment shall not affect, invalidate or impair any other part of this Act.

SEC. 39. *Repealing Clause.* – Section 3401 to Section 3409 of Republic Act No. 1937 are hereby repealed and all laws, decrees, executive orders, memorandum orders, and other administrative issuances and parts thereof which are inconsistent with the provisions of this Act are hereby modified, superseded or repealed accordingly.

SEC. 40. *Effectivity.* – This Act shall take effect fifteen (15) days following its publication in the *Official Gazette* or in a major newspaper of general circulation in the Philippines.

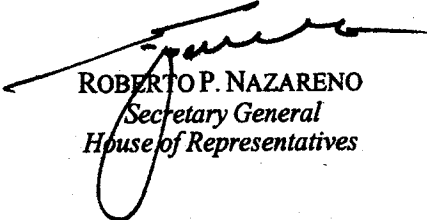
Approved,


FRANKLIN M. DRILON
President of the Senate



JOSE DE VENECIA JR.
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 5957 and Senate Bill No. 2684 was finally passed by the House of Representatives and the Senate on February 2, 2004 and January 30, 2004, respectively.


OSCAR G. YABES
Secretary of the Senate


ROBERTO P. NAZARENO
*Secretary General
House of Representatives*

Approved: MAR 3 0 2004


GLORIA MACAPAGAL-ARROYO
President of the Philippines



0

