

AUTHORIZING THE ESTABLISHMENT OF TOLL FACILITIES ON PUBLIC IMPROVEMENTS, CREATING A BOARD FOR THE REGULATION THEREOF AND FOR OTHER PURPOSES

PRESIDENTIAL DECREE NO. 1112, March 31, 1977

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WHEREAS, the huge financial requirements of the Government's development programs have made it necessary to seek out alternative sources of financing to ensure the prosecution of certain desirable infrastructure projects that complement the over-all national development effort;

WHEREAS, the potential resources of the private sector could be tapped to the maximum benefit by the government dispensing to a great extent the availment of additional domestic and foreign borrowings as well as the utilization of government guarantee or security; and

WHEREAS, in order to attract private sector investment in the government's infrastructure projects, the collection of toll fees for the use of certain public improvements, that would allow a reasonable rate of return on investments, should be authorized; Provided that, the collection of toll fees and operation of toll facilities by the private sector should be loosely supervised and regulated in the public interest;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and decree:

SECTION 1. This shall be known as "Toll Operation Decree".

SECTION 2. Toll Regulatory Board. — There is hereby created the Toll Regulatory Board hereinafter referred to as the "Board" composed of the Minister of Transportation and Communications as Chairman, the Deputy Director-General for Program and Projects of the National Economic and Development Authority, the Deputy Minister of Public Highways, the Deputy Minister of Finance and a representative from the private sector preferably a lawyer or an economist with adequate experience in public utilities regulation to be appointed by the President as Members.

SECTION 3. Powers and Duties of the Board. — The Board shall have in addition to its general powers of administration the following powers and duties:

- (a) Subject to the approval of the President of the Philippines, to enter into contracts in behalf of the Republic of the Philippines with persons, natural or juridical, for the construction, operation and maintenance of toll facilities such as but not limited to national highways, roads, bridges, and public thoroughfares. Said contract shall be open to citizens of the Philippines and/or to corporations or associations qualified under the Constitution and authorized by law to engage in toll operations;
- (b) Determine and decide the kind, type and nature of public improvement that will be constructed and/or operated as toll facilities;
- (c) Condemn private property for public use subject to the provisions of existing law;
- (d) Issue, modify and promulgate from time to time the rates of toll that will be charged the direct users of toll

facilities and upon notice and hearing, to approve or disapprove petitions for the increase thereof. Decisions of the Board on petitions for the increase of toll rate shall be appealable to the Office of the President within ten (10) days from the promulgation thereof. Such appeal shall not suspend the imposition of the new rates, Provided however, that pending the resolution of the appeal, the petitioner for increased rates in such case shall deposit in a trust fund such amounts as may be necessary to reimburse toll payers affected in case a reversal of the decision;

(e) To grant authority to operate a toll facility and to issue therefore the necessary "Toll Operation Certificate" subject to such conditions as shall be imposed by the Board including inter alia the following:

- 1) That the Operator shall desist from collecting toll upon the expiration of the Toll Operation Certificate.
 - 2) That the entire facility operated as a toll system including all operation and maintenance equipment directly related thereto shall be turned over to the government immediately upon the expiration of the Toll Operation Certificate.
 - 3) That the toll operator shall not lease, transfer, grant the usufruct of, sell or assign the rights or privileges acquired under the Toll Operation Certificate to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other company or corporation organized for the same purpose, without the prior approval of the President of the Philippines. In the event of any valid transfer of the Toll Operation Certificate, the Transferee shall be subject to all the conditions, terms, restrictions and limitations of this Decree as fully and completely and to the same extent as if the Toll Operation Certificate has been granted to the same person, firm, company, corporation or other commercial or legal entity.
 - 4) That in time of war, rebellion, public peril, emergency, calamity, disaster or disturbance of peace and order, the President of the Philippines may cause the total or partial closing of the toll facility or order to take over thereof by the Government without prejudice to the payment of just compensation.
 - 5) That no guarantee, Certificate of Indebtedness, collateral, securities, or bonds shall be issued by any government agency or government-owned or controlled corporation on any financing program of the toll operator in connection with his undertaking under the Toll Operation Certificate.
 - 6) The Toll Operation Certificate may be amended, modified or revoked whenever the public interest so requires.
- (f) The Board shall promulgate rules and regulations governing the procedures for the grant of Toll Certificates. The rights and privileges of a grantee under a Toll Operation Certificate shall be defined by the Board.
- (g) To issue rules and regulations to carry out the purposes of this Decree.

SECTION 4. Technical Staff. — The Board is hereby authorized to create a Technical Staff including administrative or support staff as may be necessary to assist the Board in the fulfillment of its responsibilities and functions under this Decree. The Board is hereby authorized to grant honoraria, allowances or overtime pay in such amount as it may fix, any provision of law, rules or regulations to the contrary notwithstanding.

SECTION 5. Publication of Toll Rates. — No new rates shall be collected unless published in a newspaper of general publication at least once a week for three consecutive weeks.

SECTION 6. Exemption. — Government vehicles on official business shall be exempted from the payment of toll fees under such procedures and circumstances as will be promulgated by the Board.

SECTION 7. Appropriation, Operational Expenses. — The sum of THREE HUNDRED THOUSAND PESOS (P300,000.00) shall be set aside each year for the first three years from such fees or other obligations due from toll

operators of existing toll facilities to defray operational expenses of the Board. Thereafter, such sums as may be necessary for the operational expenses of the Board in the succeeding fiscal years shall be included in the Annual General Appropriations Decree.

SECTION 8. Separability. — All laws, decrees and orders inconsistent with the provisions of this Decree are hereby repealed and/or modified accordingly.

SECTION 9. Effectivity. — This Decree shall take effect immediately.

DONE in the City of Manila, this 31st day of March, in the year of Our Lord, Nineteen Hundred and Seventy-Seven.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JACOBO C. CLAVE
Presidential Executive Assistant

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