

S E N A T E

S. No. 1399

(In substitution of S. Nos. 340 and 855)

PREPARED BY THE COMMITTEE, WITH SENATORS MACAPAGAL, DRILON,
MAGSAYSAY, JR., ROMULO, GONZALES, ANGARA, WEBB, SOTTO III AND
THE MEMBERS OF THE COMMITTEE AS AUTHORS THEREOF

**AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042,
AND FOR OTHER PURPOSES**

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

1 SECTION 1. Section 3, paragraph (a), of Republic Act No. 7042, otherwise known
2 as the "Foreign Investments Act of 1991," is hereby amended to read as follows:

3 "Sec. 3. *Definitions.* - as used in this Act:

4 a) the term 'Philippine national' shall mean a citizen of the Philip-
5 pines; or a domestic partnership or association wholly owned by citizens of
6 the Philippines; or a corporation organized under the laws of the Philip-
7 pines of which at least sixty percent (60%) of the capital stock outstanding
8 and entitled to vote is owned and held by citizens of the Philippines; or a
9 trustee of funds for pension or other employee retirement or separation
10 benefits, where the trustee is a Philippine national and at least sixty percent
11 (60%) of the fund will accrue to the benefit of Philippine nationals: *Pro-*
12 *vided,* That where a corporation and its non-Filipino stockholders own
13 stocks in a Securities and Exchange Commission (SEC) registered enter-
14 prise, at least sixty percent (60%) of the capital stocks outstanding and
15 entitled to vote OF EACH of both corporation must be owned and held by
16 citizens of the Philippines and at least sixty percent (60%) of the members
17 of the Board of Directors OF EACH of both corporations must be citizens
18 of the Philippines, in order that the corporation shall be considered a Philip-

1 pine national[;]: *PROVIDED, FURTHER*, THAT FOR PURPOSES OF
2 THIS ACT, FORMER NATURAL BORN CITIZENS OF THE PHILIP-
3 PINES WHO LOST THEIR PHILIPPINE CITIZENSHIP BY ACQUI-
4 TION OF ANOTHER CITIZENSHIP, AND THEIR CHILDREN BY
5 RIGHT OF SUCCESSION, SHALL BE GRANTED THE SAME
6 RIGHTS OF A PHILIPPINE CITIZEN, EXCEPT IN ACTIVITIES RE-
7 SERVED BY THE CONSTITUTION, INCLUDING (1) THE EXER-
8 CISE OF A PROFESSION; AND (2) IN DEFENSE RELATED AC-
9 TIVITIES UNDER SEC. 8 (B) HEREOF, UNLESS SUCH ACTIVITIES
10 ARE SPECIFICALLY AUTHORIZED BY THE SECRETARY OF NA-
11 TIONAL DEFENSE.”

12 SEC. 2. Sec. 7 of Republic Act No. 7042 is hereby amended to read as
13 follows:

14 “Sec. 7. *Foreign Investments in Domestic Market Enterprises.* -
15 Non-Philippine nationals may own up to one hundred percent (100%) of
16 domestic market enterprises unless foreign ownership therein is prohibited
17 or limited by THE CONSTITUTION AND existing law or the Foreign
18 Investment Negative List under Section 8, hereof.

19 [A domestic market enterprise may change its status to export en-
20 terprise if ever a three (3) year period it consistently exports in each year
21 thereof sixty percent (60%) or more of its output.]

22 SEC. 3. Sec. 8 of the Foreign Investments Act of 1991 is hereby
23 amended to read as follows:

24 “Sec. 8. [List of] Investment Areas Reserved to Philippine Na-
25 tionals [(Foreign Investment Negative List)]. - THE FOLLOWING
26 INVESTMENTS AREAS ARE RESERVED TO PHILIPPINE NA-
27 TIONALS, NAMELY:

28 1. THOSE INCLUDED IN [T]the Foreign Investment Negative
29 List WHICH shall have three (3) component lists: A, B, and C[.], AS
30 FOLLOWS:

31 a) List A COVERING [shall enumerate] the areas
32 of the activities reserved to Philippine nationals by mandate
33 of the Constitution and specific laws.

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b) List B COVERING [shall contain] the areas of the activities and enterprises regulated pursuant to law[:], MORE SPECIFICALLY:

1) [which are] defense-related activities requiring prior clearance and authorization from Department of National Defense (DND) to engage in such activity, such as the manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials; unless such manufacturing or repair activity is specifically authorized with a substantial export component, to a non-Philippine national by the Secretary of National Defense; or

2) ACTIVITIES which have implications on public health and morals, such as the manufacture and distribution of dangerous drugs; all forms of gambling; nightclubs, bars, beer houses, dance halls; sauna and steam bathhouses and massage clinics.

C) LIST C COVERING THE AREAS OF INVESTMENT IN WHICH EXISTING ENTERPRISES ALREADY SERVE ADEQUATELY THE NEEDS OF THE ECONOMY AND THE CONSUMER AND DO NOT REQUIRE FURTHER FOREIGN INVESTMENTS, AS DETERMINED BY NEDA APPLYING THE CRITERIA PROVIDED IN SECTION 9 OF THIS ACT, APPROVED BY THE PRESIDENT AND PROMULGATED IN A PRESIDENTIAL PROCLAMATION.

2. Small and medium-sized domestic market enterprises, with paid-in equity capital less than the equivalent of TWO [five] hundred thousand

1 US dollars (\$200,000.00) [(US\$500,000.00)] [are reserved to Philippine
2 nationals], unless -

3 a) they involve advanced technology AND THE
3a APPLICATION OF WHICH WILL BENEFIT THE
3b FILIPINO PEOPLE as determined by the Department of Science
4 and Technology; OR

5 b) THEY ARE LISTED UNDER A PIONEER
6 STATUS IN THE CURRENT INVESTMENT PRIORI-
7 TIES PLAN PROMULGATED IN ACCORDANCE
8 WITH THE PROVISIONS OF EXECUTIVE ORDER NO.
9 226.

10 3. Export enterprises which utilize raw materials from depleting
11 natural resources, with paid-in equity capital of less than the equivalent of
12 TWO [five] hundred thousand US dollars (\$200,000.00)
13 [US\$500,000.00] are likewise reserved to Philippine nationals].

14 Amendments to List B may be made upon recommendation of the
15 Secretary of National Defense, or the Secretary of Health, or the Secretary
16 of Education, Culture and Sports, indorsed by the NEDA, or upon recom-
17 mendation *motu proprio* of NEDA, approved by the President, and prom-
18 ulgated by Presidential Proclamation.

19 [c) List C shall contain the areas of investment in which existing
20 enterprises already serve adequately the needs of the economy and the con-
21 sumer and do not require further foreign investments, as determined by
22 NEDA applying the criteria provided in Section 9 of this Act, approved by
23 the President and promulgated in a Presidential Proclamation.

24 The Transitory Foreign Investment Negative List established in Sec.
25 15 hereof shall be replaced at the end of the transitory period by the first
26 Regular Negative List to be formulated and recommended by NEDA, fol-
27 lowing the process and criteria provided in Sections 8 and 9 of this Act.
28 The first Regular Negative List shall be published not later than sixty (60)
29 days before the end of the transitory period provided in said section, and
30 shall become immediately effective at the end of the transitory period.
31 Subsequent] Foreign Investment Negative Lists shall become effective fif-
32 teen (15) days after publication in two (2) newspapers of general circula-
33 tion in the Philippines: *Provided, however,* That each Foreign Investment

1 Negative List shall be prospective in operation and shall in no way affect
2 foreign investments existing on the date of its publication.

3 Amendments to Lists B and C after promulgation and publication
4 of the first Regular Foreign Investment Negative List at the end of the
5 transitory period shall not be made often than once every two (2) years.

5a SEC. 4. THE FOREIGN INVESTMENT ACT IS FURTHER AMENDED BY
5b INSERTING A NEW SECTION DESIGNATED AS SECTION 10 TO READ AS
5c FOLLOWS:

5d "SEC. 10. OTHER RIGHTS OF NATURAL BORN CITIZEN
5e PURSUANT TO THE PROVISIONS OF SECTIONS 2 AND 3 OF
5f BATAS PAMBANSA BLG. 185 AND ARTICLE XII, SECTION 8 OF THE
5g CONSTITUTION. - ANY NATURAL BORN CITIZEN WHO HAS LOST
5h HIS PHILIPPINE CITIZENSHIP AND WHO HAS THE LEGAL CAPACITY
5i TO ENTER INTO A CONTRACT UNDER PHILIPPINE LAWS MAY BE
5j A TRANSFEREE OF A PRIVATE LAND UP TO A MAXIMUM AREA
5k OF ONE THOUSAND (1,000) SQUARE METERS IN THE CASE OF
5l URBAN LAND OR ONE (1) HECTARE IN THE CASE OF RURAL LAND
5m TO BE USED BY HIM AS HIS RESIDENCE. IN THE CASE OF MARRIED
5n COUPLES, ONE OF THEM MAY AVAIL OF THE PRIVILEGE HEREIN
5o GRANTED: *PROVIDED*, THAT IF BOTH SHALL AVAIL OF THE SAME,
5p THE TOTAL AREA ACQUIRED SHALL NOT EXCEED THE MAXIMUM
5q HEREIN FIXED.

5r IN THE CASE THE TRANSFEREE ALREADY OWNS URBAN
5s OR RURAL LAND FOR RESIDENTIAL PURPOSES, HE SHALL STILL
5t BE ENTITLED TO BE A TRANSFEREE OF ADDITIONAL URBAN OR
5u RURAL LAND FOR RESIDENTIAL PURPOSES WHICH WHEN ADDED
5v TO THOSE ALREADY OWNED BY HIM SHALL NOT EXCEED THE
5w MAXIMUM AREAS HEREIN AUTHORIZED.

5x A TRANSFEREE UNDER THIS ACT MAY ACQUIRE NOT MORE
5y THAN TWO (2) LOTS WHICH SHOULD BE SITUATED IN DIFFERENT
5z MUNICIPALITIES OR CITIES ANYWHERE IN THE PHILIPPINES:
5aa *PROVIDED*, THAT THE TOTAL LAND AREA THEREOF SHALL NOT
5bb EXCEED ONE THOUSAND (1,000) SQUARE METERS IN THE CASE
5cc OF URBAN LAND OR ONE (1) HECTARE IN THE CASE OF RURAL
5dd LAND FOR USE BY HIM AS HIS RESIDENCE. A TRANSFEREE WHO

5ee HAS ALREADY ACQUIRED URBAN LAND SHALL BE DISQUALIFIED
5ff FROM ACQUIRING RURAL LAND AND VICE VERSA.”

6 SEC. 5. [4] The National Economic and Development Authority, in consultation
7 with the Board of Investments, the Department of Trade and Industry and the Securities
8 and Exchange Commission, shall prepare and issue the necessary primer and other infor-
9 mation campaign materials regarding the Foreign Investments Act and the amendments
10 introduced thereto, with copies of said materials furnished all the Philippine embassies,
11 consulates and other diplomatic offices abroad and disseminated to Filipino citizens, for-
12 mer natural-born Filipino citizens, and foreign investors, within sixty (60) days after the
13 effectivity hereof.

14 SEC. 6. [5] Sec. 10 of Republic Act No. 7042 and all references thereto in said
15 law are hereby repealed or modified accordingly. All other laws, rules, regulations and/or
16 parts thereof inconsistent with the provisions of this Act are likewise hereby repealed or
17 modified accordingly.

18 SEC. 7. [6] If any part or section of this Act is declared unconstitutional for any
19 reason whatsoever, such declaration shall not in any way affect the other parts or sections
20 of this Act.

21 SEC. 8. [7] This Act shall take effect fifteen (15) days afer publication in TWO
22 NEWSPAPERS [a newspaper] of general circulation in the Philippines.

Approved,