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SENATE

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RESOLUTION OF BOTH HOUSES NO. 1

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Introduced by Senator Ralph G. Recto

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**A RESOLUTION  
OF BOTH HOUSES OF CONGRESS PROPOSING AMENDMENTS TO  
CERTAIN RESTRICTIVE ECONOMIC PROVISIONS IN THE 1987  
CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES SPECIFICALLY  
ON ARTICLES XII, XIV AND XVI THEREOF**

**WHEREAS**, the Constitution has provided mechanisms for its revision or amendment to meet new challenges and conform to the needs of the society;

**WHEREAS**, the Constitution, among others, aims to achieve economic prosperity but most Filipinos are still mired in poverty and millions remain jobless since it was ratified in 1987;

**WHEREAS**, the Philippines, as a signatory to trade and investment liberalization treaties, is committed to provide suitable business environment to secure foreign investments and foster economic cooperation among contracting nations;

**WHEREAS**, under the Constitution, foreigners cannot have more than 40% share in certain areas of investment and ineligible to own any land as their capital;

**WHEREAS**, these economic provisions are perceived to be trade and investment barriers responsible for the continuous decline of foreign investments and restrictive by global standard;

**WHEREAS**, the Philippines, with its complicated investment regulations, is now lagging behind other ASEAN countries in foreign direct investment registry despite its offer of tax holidays and other fiscal incentives;

**WHEREAS**, to accelerate economic growth and fulfill its international commitment, the Philippines must amend its Constitution by removing these restrictive economic provisions and allowing foreign businesses to breeze in a more conducive investment landscape. Now therefore be it-

*Resolved by the Senate and the House of Representatives, upon a vote of three-fourths (3/4) of all its Members, with each House voting separately, to propose amendments to Articles XII, XIV and XVI of the 1987 Constitution of the Republic of the Philippines, with the following proposals:*

**SECTION 1.** Paragraph 1, Section 2 of Article XII (National Economy and Patrimony), is amended to read as follows:

“SEC. 2. All lands of the public domain, water, minerals, coal, petroleum and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporation or associations at least sixty *per centum* of whose capital is owned by such citizens, **UNLESS OTHERWISE PROVIDED BY LAW.** Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.”

“xxx”

**SEC. 2** Paragraph 1, Section 3 of Article XII (National Economy and Patrimony), is amended to read as follows:

“SEC. 3. Lands of the public domain are classified into agricultural, forest or timber, mineral lands and national parks. Agricultural lands of the public domain may be further classified by law according to the uses to which they may be devoted. Alienable lands of the public domain shall be limited to agricultural lands. Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area, **UNLESS OTHERWISE PROVIDED BY LAW.** Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof, by purchase, homestead, or grant, **UNLESS OTHERWISE PROVIDED BY LAW.**”

“xxx.”

**SEC. 3.** Paragraph 1, Section 10 of Article XII (National Patrimony and Economy), is amended to read as follows:

“SEC. 10. The Congress shall, upon recommendation of the economic and planning agency, when the national interest dictates, reserve to citizens of the Philippines or to corporations or associations at least sixty *per centum* of whose capital is owned by such citizens, or such higher percentage as Congress may prescribe, certain areas of investments, **UNLESS OTHERWISE PROVIDED BY LAW.** The Congress shall enact measures that will encourage the formation and operation of enterprises whose capital is wholly owned by Filipinos.”

“xxx.”

**SEC. 4.** Paragraph 1, Section 11 of Article XII (National Economy and Patrimony), is amended to read as follows:

“SEC. 11. No franchise, certificate, or any other form of authorization for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or associations organized under the laws of the Philippines, at least sixty *per centum* of whose capital is owned by such citizens, **UNLESS OTHERWISE PROVIDED BY LAW**; nor shall such franchise, certificate, or authorization be exclusive in character or for a longer period than fifty years. Neither shall any such franchise or right be granted except under the condition that it shall be subject to amendment, alteration, or repeal by the Congress when the common good so requires. The State shall encourage equity participation in public utilities by the general public. [The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all executive and managing officers of such corporation or association must be citizens of the Philippines].

**SEC. 5.** Paragraph 2, Section 4 of Article XIV (Education, Science and Technology, Arts, Culture and Sports) is amended to read as follows:

“SEC. 4 (1) xxx

“(2) Educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, **UNLESS OTHERWISE PROVIDED BY LAW**. [The Congress may, however, require increased Filipino equity participation in all educational institutions.]

[“The control and administration of educational institutions shall be vested in citizens of the Philippines.]

“No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school, **UNLESS OTHERWISE PROVIDED BY LAW**. The provisions of this subsection shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.

“(3) xxx”

**SEC. 6.** Paragraph 1, number 1, Section 11 of Article XVI (General Provisions), is amended to read as follows:

“**SEC. 11.** (1) The ownership and management of mass media shall be limited to citizens of the Philippines, or to corporations, cooperatives or associations, wholly owned and managed by such citizens, **UNLESS OTHERWISE PROVIDED BY LAW**.

“xxx

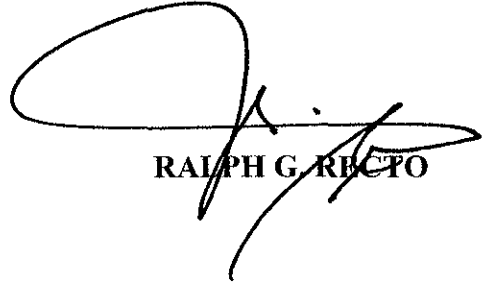
“(2) xxx

“Only Filipino citizens or corporations or associations at least seventy *per centum* of the capital of which is owned by such citizens shall be allowed to engage in the advertising industry, **UNLESS OTHERWISE PROVIDED BY LAW.**”

[“The participation of foreign investors in the governing body of entities in such industry shall be limited to their proportionate share in the capital thereof, and all the executive and managing officers of such entities must be citizens of the Philippines.”]

**SEC. 7. *Transitory Provision*** - Following the ratification of this Resolution of Both Houses amending Articles XII, XIV and XVI of the Constitution, all provisions of existing laws, rules and regulations imposing protectionist or nationality prohibitions on the exploration, development and utilization of natural resources, grant of congressional franchises, ownership and operation of public utilities, ownership of educational institutions, ownership and management of mass media and advertising, shall remain in full force and effect unless otherwise provided by law.

*Adopted,*



**RALPH G. RECTO**