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SENATE
P.S. Res 697

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Joy

Introduced by Senator Poe

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON TRADE, COMMERCE AND ENTREPRENEURSHIP AND THE OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN OMNIBUS STUDY AND EVENTUAL UPDATING, IN AID OF LEGISLATION, OF THE PRESENT FOREIGN INVESTMENTS ACT (RA 7042, AS AMENDED) CONSIDERING THE CONTINUING EMERGING GLOBAL TRENDS IN DEVELOPMENT WITH THE INTENTION OF MAKING THE PHILIPPINES A COMPETITIVE HAVEN FOR INVESTMENTS AND PLACE OF OPERATION FOR MULTI-NATIONAL COMPANIES

WHEREAS, the Constitution, in Article 2, Section 7 provides that: "The State shall pursue an independent foreign policy. In its relations with other states the paramount consideration shall be nation sovereignty, territorial integrity, national interest, and the right to self-determination";

WHEREAS, the Constitution, Article 12, Section 2 states that: "xxx 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 corporations, joint venture, or production sharing agreements with Filipino citizens, or corporations or associations at least sixty *per centum* of whose capital is owned by such citizens. xxx In case 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. The State shall protect the nation's marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.xxx The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. xxx ";

WHEREAS, the Constitution, Article 12, Section 10 provides that: "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;

WHEREAS, the Constitution, Article 16, Section 11 states that: "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. xxx Only Filipino citizens or corporations or associations at least seventy *per centum* of which is owned by such citizens shall be allowed to engage in the advertising industry. The participation of foreign investors in the governing body of entities 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.";

WHEREAS, Republic Act 7042, as amended, serves as the main policy governing productive investments from foreign individuals, partnerships, corporations and governments;

WHEREAS, the statute provides the framework, incentives, recognition, special treatment and areas of investments for foreign entities and multi-national companies;

WHEREAS, Republic Act No. 7157, also known as "Philippine Foreign Service Act of 1991", prescribes additional procedure and policies for foreign investments in the Philippines;

WHEREAS, Republic Act No. 7157 requires the publication of the Foreign Investment Negative List (FINL), which outlines the sectors in which foreign investment are restricted or limited. This list must be updated every two years. The ninth FINL was published in October 2012;

WHEREAS, the FINL is comprised of two parts: Part A provides for the specific sectors in which foreign equity participation is restricted based on the Constitution or laws. Part B lists areas in which foreign ownership is limited (generally 40%) for reasons of national security, defense, public health, morals, and the protection of small and medium enterprises (SMEs);

WHEREAS, recent reports¹ showed that although the Philippines' GDP growth is the fastest in the region, our country still lags behind its Southeast Asian neighbors in attracting foreign direct investments (FDI);

WHEREAS, as reported foreign direct investment (FDI) inflows in the Philippines went up by twenty percent (20 %) to 3.9 billion dollars (USD 3.9) in 2013²

¹ Lowe, A. (2013). What is holding back Philippine FDI? Rappler. Retrieved from: <http://www.rappler.com/nation/special-coverage/sona/2013/34253-what-holding-back-fdi-philippines>;
Wilson, K. (2013). Asia Weekly: Investors deterred by Philippine laws. Retrieved from: http://www.chinadailyasia.com/business/2013-10/04/content_15091097.html

² www.philstar.com/March_10, 2014, citing data from the Bangko Sentral ng Pilipinas

WHEREAS, the country's biggest investment opportunities are in manufacturing, real estate, agriculture, mining, infrastructure, retail and tourism. These areas of investment are largely untapped by foreign investors due to restrictions imposed by law;

WHEREAS, in an article by *Asia Weekly*³, investors from Sweden, Australia, and the United States have been sizing up the Philippines' booming BPO industry, while the country's rich land resources have been attracting the attention of British investors looking to invest in renewable energy and the Canadians are looking to enter the country with their mining expertise and equipment;

WHEREAS, foreign investors are reluctant to commit serious money while the 60:40 rule is still in place and as long as the broad scope of FINL remains;

WHEREAS, there is a need for the Philippines to review and revise its laws on foreign investments policies and limitations to accommodate the demand of foreign direct investments; Now therefore be it

RESOLVED BY THE PHILIPPINES SENATE to direct the Senate Committee on Trade, Commerce and Entrepreneurship and the other appropriate committee/s to conduct an omnibus study and eventual updating, in aid of legislation, of the present Foreign Investments Act (RA 7042, as amended) considering the continuing emerging global trends in development with the intention of making the Philippines a competitive haven for investments and place of operation for multi-national companies.

Adopted,


GRACE POE

³ Wilson, K. (2013). *Asia Weekly*: Investors deterred by Philippine laws. Retrieved from: http://www.chinadailyasia.com/business/2013-10/04/content_15091097.html