AN ACT
PROVIDING BENEFITS AND INCENTIVES TO OVERSEAS FILIPINO
WORKERS INVESTING IN BUSINESS IN THE PHILIPPINES

EXPLANATORY NOTE

Article II, Section 18 of the 1987 Philippine Constitution provides:

"The State affirms labor as a primary social economic force. It
shall protect the rights of workers and promote their welfare."

Article II, Section 20 of the 1987 Philippine Constitution provides:

"The State recognizes the indispensable role of the private
sector, encourages private enterprise, and provides incentives to
needed investments."

Overseas Filipino Workers (OFWs) choose to work hard abroad and live
thousands of miles away from their families in exchange for providing their loved
ones the financial support they need with the purpose of sending their children
or family members to school in order to create a better life for them. In addition,
providing their families a comfortable home.

Nevertheless, the government must not allow our OFWs, who are considered as
today's heroes, to remain working abroad and endure being away from their
families. We need to offer them opportunities to come back home by generating
livelihood so they can be with their loved ones and look out for their children and watch them grow.

This proposed bill seeks to grant OFWs benefits and incentives when they decide to invest in businesses in the Philippines by providing them access to financial literacy trainings and seminars as well as to capital to start their own businesses.

In view of the foregoing, the passage of this measure is earnestly sought.

MARIA LOURDES NANCY S. BINAY
Senator
AN ACT
PROVIDING BENEFITS AND INCENTIVES TO OVERSEAS FILIPINO WORKERS INVESTING IN BUSINESS IN THE PHILIPPINES

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

Section 1. Short Title. – This Act shall be known as the "Business Incentives for OFWs Act."

Sec. 2. Declaration of Policy. – It is the policy of the State to promote, at all times, the welfare of its citizens whether in country or overseas. Further, the State recognizes the significant contribution of Overseas Filipino Workers (OFWs) to the national economy through their foreign exchange remittances and their valuable role as a partner of our nation's progress. At the same time, the State recognizes the role of business enterprises for employment generation resulting in economic growth and a strong development foundation for the country.

Pursuant to these policies, it is likewise hereby declared to be the policy of the State to pioneer and develop innovative means to provide incentives and other benefits to returning migrants who shall engage in business and invest in the Philippines, in order to effectively aid their reintegration through the productive use of remittances and at the same time contribute towards the development of national and local economies and skills-transfer.
Sec. 3. Definition of Terms. — As used in this Act the following terms shall mean:

(a) "Overseas Filipino Worker (OFW)" is a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which the person is not a citizen or on board a vessel navigating the foreign seas other than a government ship used for military or non-commercial purposes or on an installation located offshore or on the high seas: Provided, That one whose employment overseas has ceased, by reason of expiration of such contract or otherwise, shall still be considered an OFW under this Act if the cessation took place not more than five (5) years before the filing of an application for the registration provided for in Section 5 hereof;

(b) "Business Enterprise" is a duly registered business engaged in industry, agribusiness and/or services, whether a single proprietorship, cooperative, partnership or corporation. A business engaged in services shall exclude those rendered by (i) natural persons who are duly licensed by the government after having passed a government licensure examination, in connection with the exercise of their profession, and (ii) juridical persons such as partnerships or corporations engaged in consultancy, advisory and similar services where the performance of such services are essentially carried out through licensed professionals, likewise in the connection with the exercise of their profession.

(c) "OFW-owned Business Enterprise" is a business enterprise that falls under one of the following categories: (i) a Sole Proprietorship owned by an OFW; (ii) Partnerships, more
than fifty percent (50%) of the capital of which was
contributed by one or more partners who are OFWs; or (iii)
a Stock Corporation, more than fifty percent (50%) of the
outstanding capital stock of which is held by one or more
OFWs.

Sec. 4. *Tax Exemption.* — An OFW-owned business enterprise shall be
exempt from the payment of income tax for a non-extendable period of five (5)
years following registration. This exemption is without prejudice to any other
benefit or tax exemption granted to the enterprise by any other laws.

All Local Government Units (LGUs) are encouraged either to reduce the
amount of local taxes, fees and charges imposed or to exempt an OFW-owned
business enterprise from local taxes, fees and charges.

Sec. 5. *Other Benefits and Incentives.* — An OFW-business enterprise may
also avail of the following incentives:

(a) Fifty Percent (50%) reduction on real property taxes
imposed on real property for the operation of the OFW-owned business enterprise;
(b) Tax and duty free importation of raw materials, capital
equipment, machineries and spare parts exclusively used in
the operation of the OFW-owned business enterprise;
and/or
(c) Preferential access to financing from government financial
institutions at rates below the market rates;

Provided, That an OFW-owned business enterprise may avail of these
incentives for a period of five years following registration.
Sec. 6. *Eligibility of OFW-owned business enterprises.* – To qualify for the benefits and incentives provided to OFW-owned business enterprises under this Act, a business enterprise must fall under one of the following categories:

(i) A Sole Proprietorship owned by an OFW;

(ii) A Partnership, more than fifty percent (50%) of the capital of which was contributed by one or more partners who are OFWs; or

(iii) A Stock Corporation, more than fifty percent (50%) of the outstanding capital stock of which is held by one or more OFWs.

Sec. 7. *Registration and Issuance of Certificate.* – To qualify for the benefits and incentives under this Act, a business enterprise must apply for registration with the Bureau of Internal Revenue (BIR) as an OFW-owned business enterprise. Any such application shall be processed by the BIR free of charge within fifteen (15) working days upon submission of complete documents as provided in Section 8 of this Act. Otherwise, the OFW-owned business enterprise shall be deemed registered.

Sec. 8. *Documentary Requirements.* – The BIR shall require an OFW-owned business enterprise to submit the following requirements in its application for the Certificate of Registration:

(a) Certificate from the POEA or the Overseas Workers Welfare Administration (OWWA) that the person seeking registration hereunder of their business entity or enterprise are OFWs as defined in Section 3(a) of this Act or a copy of their overseas employment contract duly approved by the POEA;

(b) Taxpayer Identification Number (TIN);
(c) Documents of registration as a business entity or enterprise issued by the appropriate government agencies such as the Security and Exchange Commission (SEC) for corporations and partnerships and the Department of Trade and Industry (DTI) for sole proprietorships; *Provided,* That in the case of micro enterprises as defined herein, registration with the office of the municipal or city treasurer shall be deemed sufficient compliance with this requirement;

(d) Articles of Incorporation in the case of new corporations;

(e) Partnership Agreement in the case of new partnerships;

(f) General Information Sheet (GIS) in the case of existing corporations and partnerships.

No other document shall be required for the processing of this application.

Sec. 9. *Financial Literacy Program for OFWs; Information Dissemination.* — To ensure that the incentives and benefits provided for under this Act shall be effectively harnessed and maximized, the Commission on Filipinos Overseas (CF), the Overseas Workers Welfare Administration (OWWA), and the National Reintegration Center of OFWs (NCRO) shall institutionalize the conduct of financial literacy programs and capacity building seminars on entrepreneurship and investment programs for Overseas Filipino Workers.

*Provided,* That in the conduct of pre-employment/pre-departure orientation seminars, post-arrival/reintegration seminars, the financial literacy programs shall likewise be incorporated as an integral part thereof.

*Provided, further,* That the Department of Foreign Affairs (DFA), CFO, Philippine Overseas Employment Administration (POEA), OWWA, and all other relevant government agencies with respect to overseas Filipinos, including all local government units, shall extensively carry out information dissemination on the benefits and program provided for in this Act.
Sec. 10. Fraud or Misrepresentation. — Any business entity found to have
committed fraud or misrepresentation for the purpose of qualifying for the
benefits hereunder shall be immediately disqualified as a beneficiary hereof and
its Certificate of Registration cancelled, without prejudice to the assessment and
collection of back taxes for the period corresponding to its exemption, as well as
to any administrative, criminal or civil liability under existing laws.

Sec. 11. Non-Transferability. — The benefits and incentives provided in this
Act cannot be transferred to any other person, association or business entity.

Sec. 12. Cessation of Operations or Retirement of Business. — Any
enterprise registered hereunder that retires or otherwise ceases its business
operations shall thereupon be excluded from the coverage of this Act. Within
thirty (30) days therefrom the enterprise shall report the fact of such retirement
or cessation to the BIR, which shall then cancel the enterprise's Certificate of
Registration.

Sec. 13. Implementing Rules and Regulations. — The BIR in coordination
with the POEA, DTI, and SEC shall promulgate not later than sixty (60) days
upon the effectivity of this Act the necessary rules and regulations for its
effective implementation.

Sec. 14. Separability Clause. — If any provision of this Act is subsequently
declared invalid or unconstitutional, other provisions hereof which are not
affected thereby shall remain in full force and effect.

Sec. 15. Repealing Clause. — All laws, presidential decrees, executive
order, issuances, presidential proclamations, rules and regulations or parts
thereof which are contrary to and inconsistent with any provisions of this Act are
hereby repealed, amended or modified accordingly.
Sec. 16. **Effectivity Clause.** – This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines.

Approved,