



SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
SECOND REGULAR SESSION)

14 DEC 16 P6:17

SENATE

SENATE BILL NO. 2517

INTRODUCED BY **SENATOR JOSEPH VICTOR G. EJERCITO**

**AN ACT
REMOVING/AMENDING INVESTMENT RESTRICTIONS IN SPECIFIC
LAWS GOVERNING ADJUSTMENT COMPANIES, LENDING
COMPANIES, AND FINANCING COMPANIES CITED IN THE FOREIGN
INVESTMENT NEGATIVE LIST, EXCEPT THOSE IN THE
CONSTITUTION**

EXPLANATORY NOTE

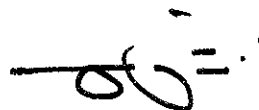
The Foreign Investment Negative List (FINL) identifies the activities/areas where foreign investments are limited by mandate of the Constitution and/or specific laws to maximum of 40% (For transparency purposes, activities where more than 40% foreign equity participation is allowed are also included in the list.) It is formulated in accordance with Republic Act No. 7042, otherwise known as the Foreign Investments Act of 1991 as amended by Republic Act No. 8179.

Since 1991, nine (9) FINLSs (excluding the Transitory FINL) have been issued. From the 1st to 9th FINL, only few major changes have been made. Private construction contract in List A was deleted; and limitations on retail trade in List A and domestic market enterprises and gambling in List B were reduced. On the other hand, new areas/activities were added in List A due to new laws on the practice of profession and other investment activities/areas.

With the government aiming to attract, promote and welcome more foreign direct investments into the country, removing or reducing the limitations on foreign investments or participation in certain activities/areas listed in the FINL as provided for in specific laws, becomes necessary.

Therefore, this bill seeks to amend investment restrictions in specific laws governing adjustment companies, lending companies, financing companies and investment houses cited in the FINL to liberalize investment activities/areas which significantly contribute to industrialization and socioeconomic development.

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

A handwritten signature in black ink, appearing to read 'JOSEPH VICTOR EJERCITO', with a horizontal line extending to the left of the first few letters.

JOSEPH VICTOR EJERCITO

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RECEIVED BY *JW*

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AN ACT
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EXCEPT THOSE IN THE CONSTITUTION

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

1 **SECTION 1. Title.** This Ach shall be known as Foreign Investment
2 Liberalization Act of 2014.

3

4

5 **SECTION 2. Declaration of Policy.** It is the policy of the State to attract,
6 promote and welcome productive investments from foreign individuals,
7 partnerships, corporations, and governments, including their political
8 subdivisions, in activities which significantly contribute to
9 industrialization and socioeconomic development.

10

11 It is also a policy of the State to improve investment liberalization and
12 facilitation in the country to comply with our ASEAN Economic
13 Community commitments.

14

15 Given the country's development objectives/thrusts and the need to
16 increase investments to achieve these, removing or reducing the
17 limitations on foreign investments or participation in certain
18 activities/areas listed in the Foreign Investment Negative List as provided
19 for in specific laws, becomes necessary.

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22 **SECTION 3. Definition of Terms.** As used in this Act:

23

24 a) **Foreign Investment Negative List** shall mean a list of areas of
25 economic activity whose foreign ownership is limited to a

1 maximum of forty percent (40%) of the outstanding capital stock in
2 the case of a corporation or capital in the case of partnership;
3

4 b) **Investment** shall mean equity participation in any enterprise
5 organized or existing under the laws of the Philippines. It includes
6 both original and additional investments, whether made directly as
7 in stock subscription, or indirectly through the transfer of equity
8 from one investor to another in stock purchase. Ownership of
9 bonds (including income bonds), debentures, notes or other
10 evidences of indebtedness does not qualify as investments.
11

12 The purchase of stock options or stock warrants is not an
13 investment until the holder thereof exercises his option and
14 actually acquires stock from the corporation;
15

16 c) **Foreign Investment** shall mean an equity investment made by a
17 non-Philippine national; *Provided*, however, that for purposes of
18 determining foreign ownership, peso investments made by a non-
19 Philippine nationals shall be considered; *Provided, further*, that
20 only foreign investments in the form of foreign exchange and/or
21 other assets actually transferred to the Philippines and duly
22 registered with the Bangko Sentral ng Pilipinas and profits derived
23 therefrom can be repatriated; and *Provided, finally*, That,, for
24 purposes of Section 8 of Republic Act No. 7042, as amended by
25 Republic Act No. 8179, and Rule VIII, Section 6 of its Implementing
26 Rules and Regulations, Existing Foreign Investment shall mean an
27 equity investment made by a non-Philippine national duly
28 registered with the Securities and Exchange Commission (SEC) or
29 the Bureau of Trade Regulation and Consumer Protection in the
30 form of foreign exchange and/or other assets transferred to the
31 Philippines.
32

33 d) **Philippine national** shall mean a citizen of the Philippines or a
34 domestic partnership or association wholly owned by citizens of
35 the Philippines; or a corporation organized under the laws of the
36 Philippines of which at least sixty percent (60%) of the capital
37 stock outstanding and entitled to vote is owned and held by
38 citizens of the Philippines; or a corporation organized abroad and
39 registered as doing business in the Philippines under the
40 Corporation Code of which 100% of the capital stock outstanding
41 and entitled to vote is wholly owned by Filipinos; or a trustee of
42 funds for pension or other employee retirement or separation
43 benefits, where the trustee is a Philippine national and at least
44 sixty percent (60%) of the fund will accrue to the benefits of
45 Philippine nationals; *Provided*, that where a corporation and its
46 non-Filipino stockholders own stocks in SEC registered enterprise,
47 at least sixty percent (60%) of the capital stock outstanding and
48 entitled to vote of each of both corporations must be owned and
49 held by citizens of the Philippines and at least sixty percent (60%)
50 of the members of the Board of Directors of each of both
51 corporations must be citizens of the Philippines, in order that the
52 corporation must be citizens of the Philippines, in order that the

1 corporation shall be considered Philippine national. The control
2 test shall be applied for this purpose.

3
4 Compliance with the required Filipino ownership of a corporation
5 shall be determined on the basis of outstanding capital stock
6 whether fully paid or not, but only such stocks which are generally
7 entitled to vote are considered.

8
9 For stocks to be deemed owned and held by Philippine citizens or
10 Philippine nationals, mere legal title is not enough to meet the
11 required Filipino equity. Full beneficial ownership of the stocks,
12 coupled with appropriate voting rights is essential. Thus, stocks,
13 the voting rights of which have been assigned or transferred to
14 aliens cannot be considered held by Philippine citizens or
15 Philippine nationals.

16
17 Individual or juridical entities not meeting the aforementioned
18 qualifications are considered as non-Philippine nationals.
19

20 **SECTION 4. Lifting of Nationality Requirements.** All statutory laws
21 and implementing rules and regulations that impose nationality
22 requirements or foreign investment limitations on adjustment
23 companies, lending companies and financing companies are hereby
24 repealed, except as otherwise provided in this Act, and subject to the
25 provisions of the Constitution.

26
27 **SECTION 5. Adjustment companies.** Section 332 of Presidential Decree
28 612, otherwise known as "The Insurance Code" as amended by Republic
29 Act No. 10607 is hereby amended to read as follows:

30 "Section 332. No person, partnership, association, or corporation
31 shall act as an adjuster, as hereinafter defined, unless authorized
32 so to act by virtue of a license issued or renewed by the
33 Commissioner pursuant to the provisions of this Code."

34
35 **SECTION 6. Lending companies.** Section 6 of Republic Act No. 9474,
36 otherwise known as the "Lending Company Regulation Act of 2007", is
37 hereby amended to read as follows:

38
39 "Section 6. Citizenship Requirements.

40
41 A lending company may be owned up to 100% by foreign nationals;
42 Provided, however, that where the loan is secured by land, a
43 lending company, more than 40% of whose capital is owned by
44 foreign nationals, shall not bid or take part in any sale of such
45 land as a consequence of such mortgage.

46
47 No foreign national may be allowed to own stocks unless the
48 country of which he is a national accords reciprocal rights to
49 Filipinos."

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SECTION 7. Financing companies. Section 6 of Republic Act No. 8556, otherwise known as the "Financing Company Act of 1998" is hereby amended to read as follows:

"Section 6. Form of organization and capital requirements. Financing companies shall be organized in the form of stock corporations, may be owned up to 100% by foreign nationals, and shall have a paid-up capital of not less than Ten million pesos (Php10,000,000.00) in case the financing company is located in Metro Manila and other first class cities, Five Million Pesos (Php5,000,000.00) in other classes of cities and Two Million Five Hundred Thousand Pesos (Php2,500,000.00) in municipalities: Provided, however, that no foreign national may be allowed to own stock in any financing company unless the country of which he is a national accords the same reciprocal rights to Filipinos in the ownership of financing companies or their counterpart entities in such country: and Provided, further, that financing companies duly existing and in operation before the effectivity of this Act shall comply with the minimum capital requirement within one (1) year from the date of the said effectivity; and Provided finally, that where land is concerned, the financing company with the Constitutional provision on foreign ownership of land."

SECTION 8. Repealing Clause. All statutory laws, orders, issuances, rules and regulations and/or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 9. Effectivity. This Act shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Approved,