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SENATE

Senate Bill No. 418

RECEIVED BY: _____



Introduced by Senator FRANCIS N. PANGILINAN

AN ACT
AMENDING REPUBLIC ACT NO. 7042, OTHERWISE KNOWN AS THE FOREIGN
INVESTMENTS ACT OF 1991, AS AMENDED BY REPUBLIC ACT NO. 8179, AND
FOR OTHER PURPOSES

EXPLANATORY NOTE

Republic Act No. 7042, otherwise known as the Foreign Investments Act of 1991 (FIA), as amended, was passed in order to attract, promote, and welcome foreign investments in activities which contribute to the national industrialization and socioeconomic development. After almost three decades since its passage, the FIA must be amended in order to keep up with technological and economic advancements in the region and the world.

In a study done by the National Tax Research Center (NTRC), the Philippines ranks only 6th in the ASEAN region in foreign direct inflows from 2005 to 2016 behind Singapore, Indonesia, Malaysia, Vietnam, and Thailand. The NTRC recommended that the Philippines "needs [] to continually develop and improve its current position in terms of [] factors affecting the investment climate in order to achieve its social and economic goals."

This bill proposes several amendments to the FIA with a view to improving these investment climate factors.

Transparency and Ease of Business. This bill seeks to create a joint web portal which contains relevant information (e.g., investment policies, industry information, potential Filipino partners, and information needed to establish a business in the Philippines) to guide investors on potential areas of investment in the Philippines.

Dynamism and Flexibility. Currently, the FIA requires the review of the Foreign Investment Negative List once every two years. However, to keep up with technological and economic developments, this bill proposes the review of the Foreign Investment Negative List once a year. The bill also seeks to update FIA's declaration of policy to recognize these technological and economic developments.

Practice of Profession. By expressly excluding the practice of profession from the scope of the FIA, there shall be no question that the relevant laws governing each profession apply to foreign professionals seeking to practice their profession in the Philippines - not the FIA.

A version of this measure was filed by Senator Gatchalian in the 17th Congress.

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

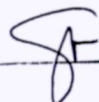
A handwritten signature in black ink, appearing to be 'Francis N. Pangilinan', written over a horizontal line. The signature is stylized and somewhat illegible due to the cursive nature of the handwriting.

FRANCIS N. PANGILINAN

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

1 **SECTION 1.** Section 2 of Republic Act No. 7042 (R.A. 7042), as amended by
2 Republic Act No. 8179, otherwise known as the Foreign Investments Act of 1991, is
3 hereby amended to read as follows:

4 Section 2. Declaration of Policy. - **RECOGNIZING THAT INCREASED**
5 **CAPITAL AND TECHNOLOGY BENEFITS THE PHILIPPINES AND**
6 **THAT GLOBAL AND REGIONAL ECONOMIES AFFECT THE**
7 **PHILIPPINE ECONOMY, [i]t is the policy of the State to attract, promote**
8 and welcome productive investments from foreign individuals,
9 partnerships, corporations, and governments, including their political
10 subdivisions, in activities which significantly contribute to [~~national~~
11 ~~industrialization and socioeconomic development~~] **SUSTAINABLE**
12 **INCLUSIVE ECONOMIC GROWTH, PRODUCTIVITY, GLOBAL**
13 **COMPETITIVENESS, EMPLOYMENT CREATION, TECHNOLOGICAL**
14 **ADVANCEMENT, AND COUNTRYWIDE DEVELOPMENT** to the
15 extent that foreign investment is allowed in such activity by the
16 Constitution and relevant laws. Foreign investments shall be encouraged in

1 enterprises that significantly expand livelihood and employment
2 opportunities for Filipinos; enhance economic value of [farm]
3 **AGRICULTURAL** products; promote the welfare of Filipino consumers;
4 expand the scope, quality and volume of exports and their access to foreign
5 markets; and/or transfer relevant technologies in agriculture, industry and
6 support services. Foreign investments shall be welcome as a supplement to
7 Filipino capital and technology in those enterprises serving mainly the
8 domestic market. xxx”

9 **SEC 2.** Section 3 of R.A. 7042 is hereby amended to read as follows:

10 “Section 3. Definitions. - As used in this Act:

11 X X X

12 b) The term "investment" shall mean equity participation in any enterprise
13 organized or existing under the laws of the Philippines **AND DULY**
14 **RECORDED IN THE ENTERPRISE' STOCK AND TRANSFER BOOK,**
15 **OR ITS EQUIVALENT;**”

16 **SEC. 3.** Section 4 of R.A. 7042 is hereby amended to read as follows:

17 “Section 4. Scope. - This Act shall not apply to banking and other financial
18 institutions which are governed and regulated by the General Banking Act
19 and other laws under the supervision of the [~~Central Bank~~] **BANGKO**
20 **SENTRAL NG PILIPINAS, AND THE PRACTICE OF PROFESSIONS.**”

21 **SEC. 4.** The National Economic and Development Authority (NEDA), in
22 cooperation and consultation with the Board of Investments (BOI), the Department of
23 Trade and Industry (DTI), the Securities and Exchange Commission (SEC), the
24 Department of Information and Communications Technology (DICT), investment
25 promotion agencies (IPAs), and other pertinent government agencies, shall conduct an
26 annual review of the Foreign Investment Negative List and submit to Congress every
27 April 30 of the year the output of the stakeholders' analysis on the contribution to the

1 economy of the investment areas, industries or sectors that will be liberalized and
2 excluded in the Foreign Investment Negative List. It shall likewise recommend to
3 Congress investment-related matters requiring necessary legislation.

4 **SEC. 5.** In order to effectively guide investors on potential areas of investments in
5 the Philippines, the BOI, in coordination and cooperation with the other government
6 agencies and IPAs, shall make available for public access a joint web portal that shall
7 contain the following: (a) all information pertinent to investment policies, programs,
8 and procedures; (b) information on relevant industries and services that will be
9 promoted for investment purposes; (c) a database of Filipino small and medium
10 enterprises that could be potential partners of foreign investors; (d) regional investment
11 information; and (e) such other relevant information needed in setting up businesses in
12 the Philippines.

13 **SEC. 6.** The NEDA is hereby directed to make the necessary amendments to the
14 implementing rules and regulations of R.A. 7042, as amended, in order to reflect the
15 changes embodied in this Act.

16 **SEC. 7. *Repealing Clause.*** - All statutory laws, orders, issuances, rules and
17 regulations, and/or parts thereof which are inconsistent with the provisions of this Act
18 are hereby repealed or modified accordingly.

19 **SEC. 8. *Separability Clause.*** - If any portion or provision of this Act is declared
20 invalid or unconstitutional, the portions or provisions which are not affected shall
21 remain valid and effective.

22 **SEC. 9. *Effectivity.*** - This Act shall take effect after fifteen (15) days following the
23 publication in the Official Gazette and in two (2) newspapers of general circulation.

Approved,