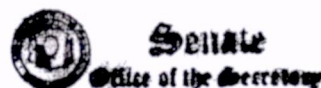


EIGHTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

]]]



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SENATE

S.B. No. 919

RECEIVED BY:

A handwritten signature in black ink, appearing to be 'JF', written over a horizontal line.

Introduced by SEN. WIN GATCHALIAN

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

Twenty-eight years from the enactment of Republic Act No. 7042, otherwise known as the Foreign Investments Act of 1991 (FIA), our current foreign investment regime and policies are still relatively restrictive, standing in the way of economic attractiveness and employment opportunities. We remain a relatively unattractive investment destination, because our investment laws are less open and generally more inhibitory compared to those of our neighbors in the ASEAN. Given the current global and regional economic climate, there is a need to take a look at the FIA in its current form and face the fact that it may not be living up to its potential as a vital piece of legislation.

This bill proposes to amend several provisions of the FIA, which will help us take advantage of global and regional economic dynamics. If passed into law, this bill could help make the Philippines more attractive as an investment destination which, in turn, could open up more employment opportunities for the Filipino people.

First, the updated policy declaration puts a premium on the major role played by technological advancements as well as global and regional economic realities on the Philippine economy.

Second, the removal of “the practice of all professions” from the coverage of the law means that the law now applies only to foreign investments, and not to the practice of professions in the Philippines by foreigners. It leaves the practice of professions under the ambit of the specific laws that govern and regulate them. This seeks to encourage foreign professionals to come to the country to share their knowledge, expertise, skills and technical know-how to us Filipinos. This transfer of knowledge and technology will, in turn, help the country attract more businesses that require high-skilled and knowledge workers.

Third, the requirement of an annual review of the Foreign Investment Negative List ensures that our economic policies with regard to foreign investments are constantly in line and up to date with rapidly changing global and regional economic realities. This allows us to maintain a more competitive position vis-à-vis our ASEAN neighbors in terms of attracting businesses that may be wary of restrictive policies and regulations.

Fourth, this proposal also provides for a review mechanism over foreign investment transactions that threaten to impair national security, ensuring that the State does not take for granted national security issues in the name of gaining more FDIs.

Finally, the establishment of a web portal to serve as a central database to be maintained by the Board of Investments, in coordination with other relevant agencies, will certainly make it easier for investors to learn about the country’s pertinent laws, rules and regulations, and policies, including restrictions, on foreign investments. This will provide potential foreign investors access to what legal and practical issues they might need to face – sending a clear message that transparency and ease of doing business are as important to the State as it is to businesses and investors.

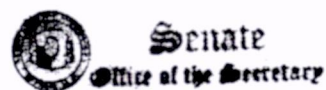
Taken together, these amendments will result in a foreign investment regime that is more fine-tuned to the changing economic climate and its accompanying demands. Our receptiveness to these changes may very well

determine whether we can live up to our true economic potential or remain in the doldrums compared to our next-door neighbors.

It is high time for our country to start enjoying the economic benefits that our neighbors have reaped from foreign investments for the longest time. I earnestly seek for this measure's immediate passage.



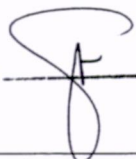
WIN GATCHALIAN



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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

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

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

4 “Sec. 2. Declaration of Policy. – **RECOGNIZING THAT**
5 **INCREASED CAPITAL AND TECHNOLOGY BENEFITS THE**
6 **PHILIPPINES AND THAT GLOBAL AND REGIONAL**
7 **ECONOMIES AFFECT THE PHILIPPINE ECONOMY**, [i]t is the
8 policy of the State to attract, promote and welcome productive
9 investments from foreign individuals, partnerships,
10 corporations, and governments, including their political
11 subdivisions, in activities which significantly contribute to
12 [national industrialization and socioeconomic development]
13 **SUSTAINABLE INCLUSIVE ECONOMIC GROWTH,**
14 **PRODUCTIVITY, GLOBAL COMPETITIVENESS,**

1 **EMPLOYMENT CREATION, TECHNOLOGICAL**
2 **ADVANCEMENT, AND COUNTRYWIDE DEVELOPMENT** to
3 the extent that foreign investment is allowed in such activity by
4 the Constitution and relevant laws, **AND CONSISTENT WITH**
5 **THE PROTECTION OF NATIONAL SECURITY.** Foreign
6 investments shall be encouraged in enterprises that
7 significantly expand livelihood and employment opportunities
8 for Filipinos; enhance economic value of [farm]
9 **AGRICULTURAL** products; promote the welfare of Filipino
10 consumers; expand the scope, quality and volume of exports
11 and their access to foreign markets; and/or transfer relevant
12 technologies in agriculture, industry and support services.
13 Foreign investments shall be welcome as a supplement to
14 Filipino capital and technology in those enterprises serving
15 mainly the domestic market. xxx”

16
17 Sec. 2. Section 3 of R.A. 7042 is hereby amended to read as follows:

18 “Sec. 3. Definitions. – As used in this Act:

19 xxx

20 b) the term “investment” shall mean equity participation
21 in any enterprise organized and existing under the laws of the
22 Philippines **AND DULY RECORDED IN THE STOCK**
23 **TRANSFER BOOK, OR ITS EQUIVALENT, OF THE**
24 **ENTERPRISE.”**

25
26 Sec. 3. Section 4 of R.A. 7042 is hereby amended to read as follows:

27 “Sec. 4. Scope. – This Act shall not apply to banking and
28 other financial institutions which are governed and regulated
29 by the General Banking Act and other laws under the
30 supervision of the [Central Bank] **BANGKO SENTRAL NG**
31 **PILIPINAS, AND THE PRACTICE OF PROFESSIONS.”**

1 Sec. 4. The Foreign Investments Act, as amended, is further amended
2 by inserting a new section designated as Section 11 to read as follows:

3 **Sec. 11 - THE NATIONAL ECONOMIC AND**
4 **DEVELOPMENT AUTHORITY (NEDA), IN COOPERATION**
5 **AND CONSULTATION WITH THE BOARD OF INVESTMENTS**
6 **(BOI), THE DEPARTMENT OF TRADE AND INDUSTRY (DTI),**
7 **THE SECURITIES AND EXCHANGE COMMISSION (SEC),**
8 **THE DEPARTMENT OF INFORMATION AND**
9 **COMMUNICATIONS TECHNOLOGY (DICT), INVESTMENT**
10 **PROMOTION AGENCIES (IPAs), AND OTHER PERTINENT**
11 **GOVERNMENT AGENCIES, SHALL CONDUCT AN ANNUAL**
12 **REVIEW OF THE FOREIGN INVESTMENT NEGATIVE LIST**
13 **AND SUBMIT TO CONGRESS EVERY APRIL 30 OF THE**
14 **YEAR THE OUTPUT OF THE STAKEHOLDERS' ANALYSIS**
15 **ON THE CONTRIBUTION TO THE ECONOMY OF THE**
16 **INVESTMENT AREAS, INDUSTRIES OR SECTORS THAT**
17 **WILL BE LIBERALIZED AND EXCLUDED IN THE FOREIGN**
18 **INVESTMENT NEGATIVE LIST. IT SHALL LIKEWISE**
19 **RECOMMEND TO CONGRESS INVESTMENT-RELATED**
20 **MATTERS REQUIRING NECESSARY LEGISLATION. (n)**

21
22 Sec. 5. The Foreign Investments Act, as amended, is further amended
23 by inserting a new section designated as Section 12 to read as follows:

24 **Sec. 12 - THE NEDA, THE NATIONAL SECURITY**
25 **COUNCIL (NSC), AND OTHER APPROPRIATE**
26 **DEPARTMENTS OR AGENCIES WITH THE EXPERTISE AND**
27 **KNOWLEDGE OF THE RELEVANT ISSUES, SHALL INITIATE**
28 **A REVIEW OF ANY FOREIGN INVESTMENT TRANSACTION**
29 **THAT THREATENS TO IMPAIR THE NATIONAL SECURITY**
30 **OF THE REPUBLIC OF THE PHILIPPINES. THE REVIEW**
31 **SHALL INCLUDE, AMONG OTHERS, A DETERMINATION OF**
32 **THE EFFECTS OF SUCH FOREIGN INVESTMENT ON**
33 **NATIONAL SECURITY, THE NEGOTIATION OF ANY**

1 MITIGATION AGREEMENTS, AND THE RESTRUCTURING
2 OR MODIFICATION OF THE SUBJECT TRANSACTION. ANY
3 RECOMMENDATION INVOLVING THE SUSPENSION OR
4 PROHIBITION OF ANY QUESTIONED TRANSACTION SHALL
5 BE TRANSMITTED TO THE OFFICE OF THE PRESIDENT
6 FOR APPROPRIATE ACTION. THE IMPLEMENTING RULES
7 AND REGULATIONS SHALL SET THE PROCESS FOR SUCH
8 REVIEW. (n)

9
10 Sec. 6. The Foreign Investments Act, as amended, is further amended
11 by inserting a new section designated as Section 13 to read as follows:

12 **Sec. 13 - IN ORDER TO EFFECTIVELY GUIDE**
13 **INVESTORS ON POTENTIAL AREAS OF INVESTMENTS IN**
14 **THE PHILIPPINES, THE BOI, IN COORDINATION AND**
15 **COOPERATION WITH OTHER GOVERNMENT AGENCIES**
16 **AND IPAs, SHALL MAKE AVAILABLE FOR PUBLIC ACCESS**
17 **A JOINT WEB PORTAL THAT WILL BEAR ALL**
18 **INFORMATION PERTINENT TO INVESTMENT POLICIES,**
19 **PROGRAMS, AND PROCEDURES. THE WEB PORTAL SHALL**
20 **ALSO INCLUDE INFORMATION ON RELEVANT INDUSTRIES**
21 **AND SERVICES THAT WILL BE PROMOTED FOR**
22 **INVESTMENTS PURPOSES, A DATABASE OF FILIPINO**
23 **SMALL AND MEDIUM ENTERPRISES THAT COULD BE**
24 **POTENTIAL PARTNERS OF FOREIGN INVESTORS,**
25 **REGIONAL INVESTMENT INFORMATION, AND SUCH**
26 **OTHER RELEVANT INFORMATION NEEDED IN SETTING UP**
27 **BUSINESS IN THE PHILIPPINES. (n)**

28
29 Sec. 7. The NEDA, in coordination with the BOI, SEC, DTI, DICT, IPAs,
30 NSC, and other pertinent government agencies, is hereby directed to make
31 the necessary amendments to the implementing rules and regulations of
32 Republic Act No. 7042, as amended, in order to reflect the changes embodied
33 in this Act.

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

4
5 Sec. 9. *Separability Clause.* – If any portion or provision of this Act is
6 declared invalid or unconstitutional, the portions or provisions which are not
7 affected shall remain valid and in force and effect.

8
9 Sec. 10. *Effectivity.* – This Act shall take effect fifteen (15) days after its
10 publication in the Official Gazette or in a newspaper of general circulation.

11
12 Approved,