



HOUSE OF REPRESENTATIVES

HouseBill No. 0300

Introduced by Representative VICTOR A. YAP

EXPLANATORY NOTE

Republic Act No. 7042 or the Foreign Investments Act (FIA) of 1991 was enacted to attract productive foreign investments to facilitate transfer of technology, enhance skills of Filipino workers, promote the welfare of Filipino consumers, and to generate more employment for the economy. However, there are two provisions in the law that are deemed to be inconsistent with the objectives of the FIA. First is the inclusion of "practice of professions" in the items listed in the Foreign Investment Negative List, and second, the high number of direct local hires required.

This bill aims to exclude the "practice of professions" from the coverage of the FIA so as to attract foreign professionals to come to the country. By allowing foreign professionals to practice in the Philippines, they would be able to bring in technology and know-how from abroad, and help create jobs for locals by attracting businesses that require highly skilled professionals in the country.

This measure also reduces the number of direct local hires required. While FIA allows foreign investors to establish small and medium-sized enterprises with a minimum paid-in capital of US\$100,000, they are required to employ at least 50 direct local hires. However, operationally speaking, a small and medium-sized enterprise cannot immediately sustain a labor force of 50 employees. Thus, there is a need to lower the threshold of employment requirement to 15 direct local hires.

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

VICTOR A. YAP
Representative, 2nd District of Tarlac

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AN ACT
AMENDING SECTIONS 4 AND 8 OF REPUBLIC ACT NO. 7042, AS AMENDED,
OTHERWISE KNOWN AS THE "FOREIGN INVESTMENT ACT OF 1991"

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

1 **SECTION 1.** Section 4 of Republic Act No. 7042, as amended by
2 Republic Act No. 8179, otherwise known as the "Foreign Investments Act
3 of 1991", is hereby amended to read as follows:

4 "Sec. 4. *Scope.* – This Act shall not apply to banking and
5 other financial institutions which are governed and regulated by the
6 General Banking Act and other laws under the supervision of the [Central
7 Bank] **BANGKO SENTRAL NG PILIPINAS, AND THE PRACTICE**
8 **OF PROFESSIONS."**

9 **Sec. 2.** Section 8 of Republic Act No. 7042, as amended by Republic
10 Act No. 8179, is hereby amended to read as follows:

11 "Sec. 8. *List of Investment Areas Reserved to Philippine Nationals*
12 *(Foreign Investment Negative List).* – The Foreign Investment
13 Negative List shall have two (2) component lists: A and B:

14 "a) List A shall enumerate the areas of activities reserved to
15 Philippine nationals by mandate of the Constitution and specific law:

16 "b) List B shall contain the areas of activities and enterprises
17 regulated pursuant to law:

18 "1) which are defense-related activities, requiring prior clearance
19 and authorization from THE Department of National Defense
20 (DND) to engage in such activity, such as the manufacture, repair,
21 storage and/or distribution of firearms, ammunition, lethal weapons,
22 military ordinance, explosives, pyrotechnics and similar materials;
23 unless such manufacturing or repair activity is specifically

1 authorized, with a substantial export component, to a non-Philippine
2 national by the Secretary of National Defense; or

3 “2) which have implications on public health and morals, such
4 as the manufacture and distribution of dangerous drugs; all forms of
5 gambling; nightclubs, bars, beer houses, dance halls, sauna and
6 steam bathhouses and massage clinics.

7 “Small and medium-sized domestic market enterprises with
8 paid-in equity capital less than the equivalent of Two hundred
9 thousand US dollars (US\$200,000.00), are reserved to Philippine
10 nationals: *Provided*, That if: (1) they involve advanced technology
11 as determined by the Department of Science and Technology, or (2)
12 they employ at least [fifty (50)] **FIFTEEN (15)** direct employees,
13 then a minimum paid-in capital of One hundred thousand US dollars
14 (US\$100,000.00) shall be allowed to non-Philippine nationals.

15 “Amendments to List B may be made upon recommendation of
16 the Secretary of National Defense, or the Secretary of Health, or the
17 Secretary of Education, [Culture and Sports,] indorsed by the
18 NEDA, or upon recommendation *motu proprio*, of NEDA, approved
19 by the President, and promulgated by a Presidential Proclamation.

20 “The Transitory Foreign Investment Negative List established in
21 Section 15 hereof shall be replaced at the end of the transitory period
22 by the first Regular Negative List to be formulated and
23 recommended by NEDA, following the process and criteria,
24 provided in Section 8 and 9 of this Act. The first Regular Negative
25 Lists shall be published not later than sixty (60) days before the end
26 of the transitory period provided in said section, and shall become
27 immediately effective at the end of the transitory period. Subsequent
28 Foreign Investment Negative Lists shall become effective fifteen
29 (15) days after publication in a newspaper of general circulation in
30 the Philippines: *Provided, however*, That each Foreign Investment
31 Negative List shall be prospective in operation and shall in no way
32 affect foreign investment existing on the date of its publication.

33 “Amendments to List B after promulgation and publication of
34 the first Regular Foreign Investment Negative List at the end of the
35 transitory period shall not be made more often than once every two
36 (2) years.”

1 **SEC. 3. *Separability Clause.*** – If any portion or provision of this Act is
2 declared unconstitutional, the remainder of this Act or any provision not
3 affected thereby shall remain in force and effect.

4 **SEC. 4. *Repealing Clause.*** – All laws, decrees, orders, rules and
5 regulations or other issuances or parts thereof inconsistent with the
6 provisions of this Act are hereby repealed or modified accordingly.

7 **SEC. 5 *Effectivity.*** – This Act shall take effect fifteen (15) days after its
8 publication in the *Official Gazette* or in a newspaper of general circulation
9 in the Philippines.

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11 Approved,