

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVE

H.B. No. 4453

Introduced by **Representative TEODORICO T. HARESCO, JR.**

EXPLANATORY NOTE

Commonwealth Act No. 541 (C.A. 541), otherwise known as “An Act to Regulate the Awarding of Contracts for Construction or Repair of Public Works,” was enacted in 1940, during the World War II. For seventy-nine years, such law remained the same, thus restricting the competition in the construction industry.

In May 2019, the Government Procurement Policy Board (GPPB) has approved a resolution raising the foreign equity requirement for infrastructure projects to 40% from the current 25%.¹ Under Resolution No. 06-2019, the GPPB adopted Executive Order No. 65 S. 2018, which provided that contractors with 40% foreign equity may be awarded contracts for the construction and repair of locally funded public works.² This Resolution shows the direction of the government to ease restrictions on foreign participation in certain investment areas or activities.

This bill seeks to encourage competition in public works projects and allow the participation of both foreign and local contractors to bid in government projects.


TEODORICO T. HARESCO, JR.

¹ <https://www.bworldonline.com/40-foreign-owned-builders-are-now-eligible-for-infrastructure-projects/>
² Ibid.

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AN ACT
AMENDING INVESTMENT RESTRICTIONS IN COMMONWEALTH ACT NO. 541, AS
AMENDED BY LETRRER OF INSTRUCTIONS NO. 630,
AND FOR OTHER PURPOSES

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

SECTION 1. A new Section 1 of Commonwealth Act No. 541, as amended by Letter of Instructions No. 630, is hereby inserted to read as follows:

“SEC. 1. DECLARATION OF POLICY. – THE STATE RECOGNIZES THE IMPORTANCE OF EFFICIENT AND COST-EFFECTIVE DELIVERY OF RELIABLE, SAFETY-COMPLIANT AND QUALITY PUBLIC WORKS TO NATIONAL DEVELOPMENT. IT IS THUS DECLARED THE POLICY OF THE STATE TO ENCOURAGE COMPETITION AND EXTEND EQUAL OPPORTUNITIES TO ELIGIBLE AND QUALIFIED BIDDERS TO PUBLIC WORKS PROJECTS OF THE GOVERNMENT AND TO ATTRACT NOT ONLY DOMESTIC BUT EVEN FOREIGN INVESTMENTS IN THE CONSTRUCTION INDUSTRY TO IMPROVE MARKET DYNAMISM, ENCOURAGE INNVOATION, AND REWARD GOOD PERFORMANCE.”

SEC. 2. Section 1 of C.A. 541 is hereby renumbered and amended to read as follows:

SEC. [1] 2. All branches, offices, and subdivisions of the Government and all government-owned or controlled companies, authorized to contract and make disbursements for the construction or repair of **LOCALLY FUNDED** public works, **INCLUDING THE CONSTRUCTION OF DEFENSE-RELATED STRUCTURES, shall EXTEND EQUAL OPPORTUNITIES** [give preference] in awarding **OR NEGOTIATING** contract for such works to **ELIGIBLE AND QUALIFIED** Filipino [or American] **AND FOREIGN** contractors. [~~and domestic entities when the lowest bid of a domestic bidder is not more than fifteen per centum in excess of the lowest foreign bid:~~

1 ~~Provided, However, That for the construction of land, air, and sea coast defenses,~~
2 ~~arsenals, barracks, depots, hangars, landing fields, quarters, hospitals, and all other~~
3 ~~buildings and structures required for the national defense of the Philippines, no~~
4 ~~foreign bids shall be allowed.]~~

5
6 **SEC. 3.** Section 2 of C.A. 541 is hereby repealed.

7
8 **SEC. 4. *Separability Clause.*** – If any portion of this Act shall be held invalid or
9 unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions
10 hereof which shall remain in full force effect.

11
12 **SEC. 5. *Repealing Clause.*** – All laws, decrees, orders, rules and regulations or provisions
13 thereof which are inconsistent with this Act are hereby repealed, amended or modified
14 accordingly.

15
16 **SEC. 6. *Effectivity Clause.*** - This act shall take effect fifteen (15) days after its publication
17 in the Official Gazette or in a newspaper of general circulation.

18
19 *Approved,*