

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular session

HOUSE BILL NO. 5544

Introduced by Representative **GIORGIDI B. AGGABAO**

EXPLANATORY NOTE

This bill seeks to remove the foreign equity restrictions in adjustment companies, lending companies, financing companies and investment houses. This would result in making the Foreign Investment Negative List (FINL) less negative.

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 in specific laws, becomes imperative. This is also in keeping with the major reforms in the financial sector and the government's thrust of bringing in more capital into the country that would support our economy and provide more jobs for our people.

Approval of this bill is earnestly sought.



REP. GIORGIDI B. AGGABAO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 5544

Introduced by Representative Giorgidi B. Aggabao

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

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

SECTION 1. Title.- This Act shall be known as Foreign Investment Liberalization Act of 2015.

SEC. 2. Declaration of Policy.- It is the policy of the state to attract, promote and welcome productive investments from foreign individuals, partnerships, corporations, and governments, including their political subdivisions, in activities which significantly contribute to industrialization and socio-economic development.

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

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

SEC. 3. Definition of Terms.- As used in this Act:

- a) **Foreign Investment Negative List** shall mean a list of areas of economic activity whose foreign ownership is limited to a maximum of forty percent (40%) of the outstanding capital stock in the case of a corporation or capital in the case of partnership;

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

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

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

- d) **Philippine national** shall mean a citizen of the Philippines or a domestic partnership or association wholly owned by citizens of the Philippines; or corporation organized under the laws of the Philippines of which at least sixty percent (60%) of the capital stock outstanding and entitled to vote is owned and held by citizens of the Philippines; or a corporation organized abroad and registered as doing business in the Philippines under the Corporation Code of which 100% of the capital stock outstanding and entitled to vote is wholly owned by Filipinos; or a trustee of funds for pension of other employee retirement or separation benefits, where the trustee is a Philippine national and at least sixty percent (60%) of the fund will accrue to the benefits of Philippine nationals; Provided, that where a corporation and its non-Filipino stockholders own stocks in SEC registered enterprise, at least sixty percent (60%) of the capital stock outstanding and entitled to vote of each of both corporations must be owned and held by citizens of the Philippines and at least sixty percent (60%) of the members of the Board of Directors of each of both corporations must be citizens of the Philippines, in order that the corporation must be citizens of the Philippines, in order that the corporation shall be considered Philippine national. The control test shall be applied for this purpose.

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

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

Individuals or juridical entities not meeting the aforementioned qualifications are considered as non-Philippine nationals.

SEC. 4. Lifting of Nationality Requirements. - All statutory laws and implementing rules and regulations that impose nationality requirements or foreign investment limitations on adjustment companies, lending companies, financing companies and investment houses are hereby repealed, except as otherwise provided in this Act, and subject to the provisions of the Constitution.

SEC. 5. Adjustment companies. - Section 332 of Presidential Decree 612, otherwise known as "The Insurance Code" as amended by Republic Act No. 10607 is hereby amended to read as follows:

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

Section 6. Lending companies. -Section 6 of Republic Act No. 9474, otherwise known as the "Lending Company Regulation Act of 2007", is hereby amended to read as follows:

"Section 6. Citizenship Requirements.

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

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

SEC. 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 (5,000,000.00) in other classes of cities and Two Million Five Hundred Thousand (2,500,000.00) 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.”

SEC. 8. Investment Houses. - Section 5 of Presidential Decree 129, as amended by Republic Act 8366, otherwise known as the “Investment Houses Law”, is hereby amended to read as follows:

Sec.5. Citizenship requirements. - An Investment House may be owned up to 100% by foreign nationals. In approving foreign equity applications in Investment Houses, the Securities and Exchange Commission shall approve such applications only if the same or similar rights are enjoyed by Philippine nationals in the applicant’s country.

Foreign nationals may become members of the board of directors to the extent of the foreign participation in the equity of said enterprise.”

SEC. 9. Repealing Clause. - All statutory laws, orders, issuances, rules and regulation and/or parts thereof which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 10. Effectivity. - This Act shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

Approved,