

PHILIPPINES LEGAL CODES**AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042
AND FOR OTHER PURPOSES****[Republic Act No. 8179]****Section 1**

Section 3, paragraph (a), of Republic Act No. 7042, otherwise known as the "Foreign Investments Act of 1991", is hereby amended to read as follows:

"Section 3. Definitions. - As used in this Act:

- a) the term "Philippine national" shall mean a citizen of the Philippines, or a domestic partnership or association wholly owned by citizens of the Philippines; or a 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 one hundred percent [100%] of the capital stock outstanding and entitled to vote is wholly owned by Filipinos or a trustee of funds for pension or 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 benefit of Philippine nationals: Provided, That where a corporation and its non-Filipino stockholders own stocks in a Securities and Exchange Commission [Section] 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, in order that the corporation shall be considered a Philippine national."

Section. 2

Sec. 7 of Republic Act No. 7042 is hereby amended to read as follows:

"Sec. 7. Foreign investments in domestic market enterprises. - Non-Philippine nationals may own up to one hundred percent [100%] of domestic market enterprises unless foreign ownership therein is prohibited or limited by the Constitution and existing laws or the Foreign Investment Negative List under Section 8 hereof."

Section. 3

Section 8 of the Foreign Investments Act of 1991 is hereby amended to read as follows:

"Sec. 8. List of investment areas reserved to Philippine nationals [Foreign Investment Negative List]. - The Foreign Investment Negative List shall have two [2] component lists: A and B:

- a) List A shall enumerate the areas of activities reserved to Philippine nationals by mandate of the Constitution and specific laws.
- b) List B shall contain the areas of activities and enterprises regulated pursuant to law:
 1. which are defense-related activities, requiring prior clearance and authorization from the Department of National Defense [DND] to engage in such activity, such as the manufacture, repair, storage and/or distribution of firearms, ammunition, lethal weapons, military ordnance, explosives, pyrotechnics and similar materials; unless such manufacturing or repair

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

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

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

"Amendments to List B may be made upon recommendation of the Secretary of National Defense, or the Secretary of Health, or the Secretary of Education, Culture and Sports, endorsed by the NEDA, or upon recommendation motu proprio, of NEDA, approved by the President, and promulgated by a Presidential Proclamation.

"The transitory Foreign Investment Negative List established in Section 15 hereof shall be replaced at the end of the transitory period by the First Regular Negative Lists to be formulated and recommended by NEDA following the process and criteria provided in Sections 8 and 9 of this Act. The First Regular Negative List shall be published not later than sixty [60] days before the end of the transitory period. Subsequent Foreign Investment Negative List shall become effective fifteen [15] days after publication in a newspaper of general circulation in the Philippines: Provided, however, That each Foreign Investment Negative List shall be prospective in operation and shall in no way affect foreign investments existing on the date of its publication.

"Amendments to List B after promulgation and publication of the First Regular Foreign Investment Negative List at the end of the transitory period shall not be made more often than once very two [2] years."

Section. 4

Section 9 of the Foreign Investments Act of 1991 is hereby amended to read as follows:

"Section. 9. Investment rights of former natural-born Filipinos. - For purposes of this Act, former natural-born citizens of the Philippines shall have the same investment rights of Philippine citizens in Cooperatives under Republic Act No. 6938, Rural Banks under Republic Act No. 7353, Thrift Banks and Private Development Banks under Republic Act No. 7906, and Financing Companies under Republic Act No. 5980. These rights shall not extend to activities reserved by the Constitution including [1] the exercise of profession; [2] in defense-related activities under Section 8 (b) hereof, unless specifically authorized by the Secretary of National Defense; and [3] activities covered by Republic Act No. 1180 [Retail Trade Act], Republic Act No. 5487 [Security Agency Act], Republic Act No. 7076 [Small Scale Mining Act], Republic Act No. 3018, as amended [Rice and Corn Industry Act], and P.D. 449 [Cockpits Operation and Management]".

Section. 5

The Foreign Investments Act is further amended by inserting a new section designated as Section 10 to read as follows:

"Section. 10. Other rights of natural-born citizen pursuant to the provisions of Article XII, Section 8 of the Constitution. - Any natural-born citizen who has lost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine Laws may be a transferee of a private land up to a maximum area of five thousand [5,000] square

meters in the case of urban land or three [3] hectares in the case of rural land to be used by him for business or other purposes. In the case of married couples, one of them may avail of the privilege herein granted: Provided, That If both shall avail of the same, the total area acquired shall not exceed the maximum herein fixed.

"In case the transferee already owns urban or rural land for business or other purposes, he shall be entitled to be a transferee of additional urban or rural land for business or other purposes which when added to those already owned by him shall not exceed the maximum areas herein authorized.

"A transferee under this Act may acquire not more than two [2] lots which should be situated in different municipalities or cities anywhere in the Philippines: Provided, That the total land area thereof shall not exceed five thousand [5,000] square meters in the case of urban land or three [3] hectares in the case of rural land for use by him for business or other purposes. A transferee who has already acquired urban land shall be disqualified from acquiring rural land and vice versa."

Section. 6

The National Economic and Development Authority, in consultation with the Board of Investments, the Department of Trade and Industry and Securities and Exchange Commission, shall prepare and issue the necessary primer and other information campaign materials regarding the Foreign Investments Act and the amendments introduced thereto, with copies of said materials furnished all the Philippine embassies, consulates and other diplomatic offices abroad and disseminated to Filipino nationals, former natural-born Filipino citizens, and foreign investors, within sixty [60] days after the effectivity hereof.

Section. 7

The NEDA is hereby directed to make the necessary amendments to the implementing rules and regulations of Republic Act No. 7042 in order to reflect the changes embodied in the Act.

Section. 8

Sections 9 and 10 of Republic Act No. 7042 and all references thereto in said law are hereby repealed or modified accordingly. All other laws, rules and regulation and/or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section. 9

If any part or section of this Act is declared unconstitutional for any reason whatsoever, such declaration shall not in any way affect the other parts or sections of this Act.

Section. 10

This Act shall take effect fifteen [15] days after publication in two [2] newspapers of general circulation in the Philippines.

Approved: March 28, 1996

FURTHER INFORMATION

MCA Limited has prepared this background report as a general reference document. For further information please contact us at the address below.

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