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Senate
P.S. Resolution No. 762

RECEIVED BY: *ji*

Introduced by: Senator Paolo Benigno "Bam" A. Aquino IV

RESOLUTION

***DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY,
IN AID OF LEGISLATION, ON THE PROCEDURE OF REGISTRATION OF FOREIGN
INVESTMENTS AND FEES IMPOSED BY GOVERNMENT AGENCIES IN ORDER TO
RATIONALIZE THE ADMINISTRATION OF FISCAL AND NON-FISCAL INCENTIVES TO
FOREIGN INVESTORS***

Whereas, the Department of Trade and Industry, through the Bureau of Investments (BOI), is the agency responsible for the promotion of investments in the Philippines. BOI is mandated to assist Filipino and foreign investors to venture in desirable areas of economic activities;

Whereas, there are several laws governing investments in the Philippines. Among others, Republic Act No. 8756 provides for the terms, conditions and licensing requirements of regional, or area headquarters, regional operating headquarters and regional warehouses of multinational companies. On the other hand, Republic Act No. 7042 otherwise known as the "Foreign Investments Act of 1991" opened up more areas of Philippine economy to foreign investment but with the exception of the restrictions in certain nationalized enterprises under the Philippine Constitution. As much as 100% foreign equity is permitted in areas of activities not otherwise mentioned in the Negative List in the Foreign Investments Act;

Whereas, 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 national industrialization and socioeconomic development to the extent that foreign investment is allowed under the Philippine Constitution and other relevant laws;

Whereas, foreign entities may opt to form their business as a domestic subsidiary, branch, representative office, regional headquarters or regional operating headquarters. Other forms of investments may be done through joint venture, purchase of shares in an existing domestic corporation, merger or consolidation, technology transfer arrangements or through a management contract with a domestic corporation;

Whereas, there are various permits, clearances and other requirements to be submitted to the different government agencies, depending on the form of business entity, before a foreign investor can register and do business in the Philippines. This includes business permit/licenses from local government units, environment compliance certificate from the Department of Environment and Natural Resources, Alien Employment Permit from the Department of Labor and Employment, tax identification number from the Bureau of Internal Revenue;

Whereas, the requirements vary not only based on the form of business entity, but also on the location where the business will be registered. The local government units may

require the foreign investor additional requirements in addition to the locational clearance, lease contract, Mayor's permit registration of building owner or landlord a real estate lessor or lease contract or the transfer of certificate of title, whichever is applicable, business name registration with the Department of Trade and Industry or articles of incorporation or partnership, as the case may be, barangay clearance and public liability insurance;

Whereas, the foreign investors also have to submit requirements depending on the type of business they will engage in the Philippines. Among others, the foreign nationals are required to present and/or submit their Resident Certificate, contractor's license, National Grains Authority in case of dealer of rice/corn and wheat, accreditation certificate issued by the Department of Trade and Industry in case of auto repair shop, electronics, radio and other electrical equipment, Department of Labor and Employment in case of recruitment agency, Philippine Overseas Employment in case of manning and crewing services, Central Bank Authority in case of banking institution, pest control license issued by fertilizers and insecticides in case of pest control services, occupancy permits, future commodity merchant/broker's license issued by the Securities and Exchange Commission;

Whereas, based on jurisprudence, the BOI as a policy-making body is charged with the duties, among others, of preparing an annual investment priorities plan that gives incentives to specific activities, of recommending to the Bureau of Immigration the entry of foreign nationals for employment purposes, and of inspecting registered enterprises for compliance purposes;

Whereas, the numerous permits/clearances and requirements, as well as the non-uniformity of fees being imposed, are burdensome for investor and may hinder the nation's achievement of its investment and growth targets. There is a need to simplify the procedure of registration for foreign investors in order to promote investments in the Philippines;

Whereas, there are reported cases of harassment of foreign nationals doing business in the country and in effect, these instances discourage prime potential investments. Good governance is key in promoting ease of doing business. All forms of harassment and corruption at any level of government serve to weaken our national competitiveness and a stumbling block in sustaining economic development;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved to direct the appropriate Senate Committees to conduct an inquiry, in aid of legislation, on the procedure of registration of foreign investments and fees imposed by government agencies in order to rationalize the administration of fiscal and non-fiscal incentives for foreign investors.

Adopted,

