



Republic of the Philippines
House of Representatives
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 4403

Introduced by Representative Giorgidi B. Aggabao

Explanatory Note

More than a decade since the passage of the Retail Trade Liberalization Law, the objectives of trade liberalization is far from being achieved. From year 2000 to 2009, foreign direct investment (FDI) in retail and wholesale sector combined was only one percent (1%) of total FDI inflow. Unemployment is up at 6.9 % and while a robust retail trade industry could have been instrumental for job creation, without such foreign investments, however, the opportunity for employment is lessened.

This bill seeks to address what is perceived to be some loopholes in the existing law, particularly in the capital requirement before a foreign entity may 100% own a retail establishment. It proposes to do away with these restrictions by removing the equity and capitalization requirements in the Retail Trade Liberalization law in order to provide a more attractive and favourable investment climate in the country.

Approval of this bill is earnestly urged.


GIORGIDI B. AGGABAO

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AN ACT
AMENDING REPUBLIC ACT NO. 8762, OTHERWISE KNOWN
AS A RETAIL TRADE LIBERALIZATION ACT, AND FOR OTHER PURPOSES

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

SECTION 1. Section 5 of Republic Act No. 8762 is hereby amended to read as follows:

“Sec. 5. Foreign Equity Participation. Foreign-owned partnerships, associations and corporations formed and organized under the laws of the Philippines may, upon registration with the Securities and Exchange Commission (SEC) and the Department of Trade and Industry (DTI), or in case of foreign owned single proprietorship, with the DTI, engage or invest in the retail trade business, subject to the following categories:

Category A. Enterprises with paid-up capital of the equivalent in Philippine Pesos of less than Two million five hundred thousand US dollars (US\$2,500,000.00) shall be reserved exclusively for Filipino citizens and corporations wholly owned by Filipino citizens.

Category B. Enterprises with a minimum paid-up capital of the equivalent in Philippine Pesos of Two million five hundred thousand US dollars (US\$2,500,000.00) but less than Seven million five hundred

thousand US dollars (US\$7,500,000.00) may be wholly owned by foreigners except for the first two (2) years after the effectivity of this Act wherein foreign participation shall be limited to not more than sixty percent (60%) of total equity.

Category C. Enterprises with a paid-up capital of the equivalent in Philippine Pesos of Seven million five hundred thousand US dollars (US\$7,500,000.00) or more may be wholly owned by foreigners Provided, however, That in no case shall the investments for establishing a store in Categories B and C be less than the equivalent in Philippine Pesos of Eight hundred thirty thousand US dollars (US\$830,000.00).

Category D. Enterprises specializing in high-end or luxury products with a paid-up capital of the equivalent in Philippine Pesos of Two hundred fifty thousand US dollars (US\$250,000.00) per store may be wholly owned by foreigners.

The foreign investor shall be required to maintain in the Philippines the full amount of ITS [the prescribed minimum] capital, **OR, IN CASE ANY PART OF THE CAPITAL IS SOLD TO A CITIZEN OF THE PHILIPPINES, OR TO A PARTNERSHIP, ASSOCIATION OR CORPORATION OWNED AND CONTROLLED BY CITIZENS OF THE PHILIPPINES, THE UNSOLD AMOUNT OF ITS CAPITAL,** unless the foreign investor has notified the SEC and the DTI of its intention to repatriate its capital and cease operations in the Philippines. The actual use in Philippine operations of the inwardly remitted [minimum] capital [requirement] shall be monitored by the SEC.

Failure to maintain the [full] amount of [the prescribed minimum] capital **REQUIRED IN THE IMMEDIATELY PRECEDING PARAGRAPH,** prior to notification of the SEC and the DTI, shall subject the foreign investor to penalties or restrictions on any future trading activities/business in the Philippines.

Foreign retail stores shall secure a certification from the Bangko Sentral ng Pilipinas (BSP) and the DTI, which will verify or confirm inward remittance of ITS [the minimum required] capital investment.

SEC. 2. Section 6 of Republic Act No. 8762 is hereby deleted.

SEC. 3. Section 7 of Republic Act No. 8762 is hereby deleted.

SEC. 4. Section 8 of Republic Act No. 8762 is hereby amended to read as follows:

Sec. 8. Qualification of Foreign Retailers [No foreign retailer shall be allowed to engage in retail trade in the Philippine unless all the following qualifications are met:

(a) A minimum of Two hundred million US dollar (US\$200,000,000.00) net worth in its parent corporation for Categories B and C, and Fifty million US dollar (US\$50,000,000.00) net worth in its parent corporation for category D;

(b) (5) retailing branches or franchises in operation anywhere around the world unless such retailer has at least one (1) store capitalized at a minimum of Twenty-five million US dollars (US\$25,000,000.00);

(c) Five (5)-year track record in retailing; and

(d)] Only nationals from, or juridical entities formed or incorporated in countries which allow the entry of Filipino retailers shall be allowed to engage in retail trade in the Philippines.

The DTI is hereby authorized to pre-qualify all foreign retailers, subject to the provisions of this Act, before they are allowed to conduct business in the Philippines.

The DTI shall keep a record of qualified foreign retailers who may, upon compliance with law, establish retail stores in the Philippine. [It shall ensure that parent retail trading company of the foreign investor complies with the qualifications on capitalization and track record prescribed in this section.]

The Inter-Agency Committee on Tariff and Related Matters Authority (NEDA) Board shall formulate and regularly update a list of foreign retailers of high-end or luxury goods and render an annual report on the same to Congress.

Sec.5. Section 9 of Republic Act No.8762 is hereby amended to read as follows:

"Sec. 9. Promotion of Locally Manufactured Products. [For ten (10) year after the effectivity of this Act, at] **AT least [thirty] TEN percent (10%) [(30%)]** of

the aggregate cost of the stock inventory of foreign retailers [falling under Categories B and C and ten percent (10%) for category D] shall be made in the Philippines.

Sec. 6. Repealing Clause. Republic Act No. 8762, and all laws, decrees, orders, rules and regulation or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 7. Separability Clause. If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

Sec. 8. Effectivity. This Act shall take effect fifteen (15) days after publication in two (2) newspapers of general circulation in the Philippines

Approved,