

**Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City**

**SEVENTEENTH CONGRESS  
Third Regular Session**

**House Bill No. 8259**



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**Introduced by Rep. ARTHUR C. YAP**

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

**EXPLANATORY NOTE**

Commonwealth Act No. 541 (C.A. 541), also called "An Act to Regulate the Awarding of Contracts for Construction or Repair of Public Works," was enacted in 1940, a time when the Philippines was still transitioning to full independence, setting-up its own government, promoting local capital and industrialization, and establishing the basis for national defense while World War II was looming. Clearly, the principle of competitiveness enshrined in the 1987 Constitution and in the Philippine Competition Act was diluted and not a priority in the minds of the then National Assembly when a domestic preference policy was adopted by the Government in the awarding of public works projects to the local construction industry.

For seventy-eight years, such domestic preference policy has confined competition in the construction industry within our territorial boundaries and has discriminated in favor of domestic businesses with substantial market power and political influence. Between 2010 and 2015, public construction grew by 8% while private construction grew by 58%.<sup>1</sup> The lack of genuine competition in the public construction industry impairs public welfare as there are fewer incentives for existing domestic

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<sup>1</sup> Philippine Competition Commission's Policy Note No. 1, Series of 2017, entitled "Anti-Competitive Effects of Regulatory Restrictions: The Case of the Construction Sector."

firms to innovate and puts at risk the delivery of reliable, safety-compliant and quality public works.

Accordingly, this bill should be considered in the context of positioning the Philippines more competitively and attracting new investments in the construction industry to enable the Government to deliver the much-needed infrastructure that would support the country's initiatives in providing a business climate conducive to investments in the country. In this light, this bill seeks to provide a more level playing field and extend equal opportunities to eligible and qualified domestic and foreign bidders to participate in the bidding by the Government for public works projects. It is hoped that the enactment of this measure will encourage and attract foreign firms possessing the capacity to construct vital projects and capable of sharing technical expertise with local firms to enter the Philippine construction market.

This is the House counterpart of the Senate Bill of Senator Sherwin Gatchalian. The passage of this legislation is earnestly sought.



**ATTY. ARTHUR C. YAP**

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**NO. 541, AS AMENDED BY LETTER OF INSTRUCTIONS NO. 630,**  
**AND FOR OTHER PURPOSES**

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

1       **SECTION 1.** A new Section 1 of Commonwealth Act No. 541 (C.A.  
2 541), also known as "An Act to Regulate the Awarding of Contracts for  
3 the Construction or Repair of Public Works," as amended by Letter of  
4 Instructions No. 630, is hereby inserted to read as follows:

5  
6       "SEC. 1. STATEMENT OF POLICY. - THE STATE  
7 RECOGNIZES HOW VITAL THE EFFICIENT DELIVERY OF  
8 RELIABLE, SAFETY-COMPLIANT AND QUALITY PUBLIC  
9 WORKS TO NATIONAL DEVELOPMENT. IT ALSO  
10 RECOGNIZES THAT HEALTHY COMPETITION CAN FURTHER  
11 DEVELOP THE CONSTRUCTION INDUSTRY AND OPTIMIZE  
12 THE CONSTRUCTION CAPABILITY OF THE COUNTRY TO  
13 EFFICIENTLY DELIVER SUCH PUBLIC WORKS.

14  
15 IT IS THUS THE STATE'S POLICY TO EXTEND EQUAL  
16 OPPORTUNITIES TO ELIGIBLE AND QUALIFIED BIDDERS TO  
17 PUBLIC WORKS PROJECTS OF THE GOVERNMENT AND TO  
18 ATTRACT DOMESTIC AND FOREIGN INVESTMENTS IN THE  
19 CONSTRUCTION INDUSTRY TO IMPROVE MARKET  
20 DYNAMISM, ENCOURAGE INNOVATION AND REWARD GOOD  
21 PERFORMANCE."

22  
23       **SECTION 2.** Section 1 of C.A. 541 is hereby renumbered and  
24 amended to read as follows:

25       SEC. [4] 2. All Branches, offices, and subdivisions of the  
26 Government and all government-owned or controlled  
27 companies, authorized to contract and make disbursements  
28 for the construction or repair of LOCALLY-FUNDED public  
29 works, INCLUDING THE CONSTRUCTION OF DEFENSE-

1 RELATED STRUCTURES, shall EXTEND EQUAL  
2 OPPORTUNITIES ~~[give preferences]~~ in awarding OR  
3 NEGOTIATING contract for such works to ELIGIBLE AND  
4 QUALIFIED FILIPINO AND FOREIGN ~~[Filipino or American]~~  
5 contractors. ~~[and domestic entities when the lowest bid of a~~  
6 ~~domestic bidder is not more than fifteen per centum in excess~~  
7 ~~of the lowest foreign bid: Provided, However, That or the~~  
8 ~~construction of land, air, and sea coast defenses, arsenals,~~  
9 ~~barracks, depots, hangars, landing fields, quarters, hospitals,~~  
10 ~~and all other buildings and structures required for the~~  
11 ~~national defense of the Philippines, no foreign bids shall be~~  
12 ~~allowed.]~~  
13

14 **SECTION 3.** Section 2 of C.A. 541 is hereby repealed.  
15

16 **SECTION 4. *Separability Clause.*** – If any portion of this Act is  
17 declared invalid or unconstitutional, the portions or provisions which  
18 are not affected shall remain valid and subsisting.  
19

20 **SECTION 5. *Repealing Clause.*** – All laws, decrees, executive  
21 issuances, rules and regulations inconsistent with this Act are hereby  
22 repealed or modified accordingly.  
23

24 **SECTION 6. *Effectivity.*** – This Act shall take effect fifteen (15) days  
25 after its publication in the Official Gazette or in a newspaper of general  
26 circulation.  
27

28 *Approved.*