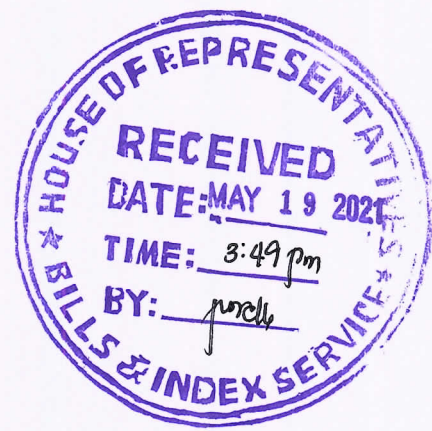


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Eighteenth Congress
Second Regular Session

HOUSE BILL NO. 9373



Introduced by Representative Bayani F. Fernando

AN ACT
INSTITUTIONALIZING THE PREFERENTIAL TREATMENT IN THE
PROCUREMENT OF MATERIALS AND SUPPLIES PRODUCED, MADE AND
MANUFACTURED IN THE PHILIPPINES REPEALING COMMONWEALTH ACT
138 ENTITLED AN ACT TO GIVE NATIVE PRODUCTS AND DOMESTIC
ENTITIES THE PREFERENCE IN THE PURCHASE OF ARTICLES FOR THE
GOVERNMENT AND AMENDING SECTIONS 4 AND 43 OF REPUBLIC ACT 9184
ENTITLED AN ACT PROVIDING FOR THE MODERNIZATION,
STANDARDIZATION AND REGULATION OF THE PROCUREMENT
ACTIVITIES OF THE GOVERNMENT AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Section 12, Article XII of the Constitution provides that the “*State shall promote the preferential use of Filipino labor, domestic materials and locally produced goods, and adopt measures that help make them competitive.*”

This preferential treatment policy has never been more important than today, during this COVID-19 pandemic where many businesses are closed and workers are displaced due to reduced operations. This policy acknowledges that the government should help businesses to return to its normal level of operation in order not to further harm the country’s economy. Local goods are not inferior to those made abroad, and Filipinos must be proud to promote these goods and services which are produced, made and manufactured in the Philippines.

On November 7, 1936, Commonwealth Act No. 138 entitled “*An Act to Give Native Products and Domestic Entities the Preference in the Purchase of Articles for the Government*” was enacted. On January 26, 2003, Republic Act No. 9184, otherwise known as the “*Government Procurement Reform Act*” took effect. Section 4 thereof states:

“*SEC. 4. Scope and Application. – This Act shall apply to the Procurement of Infrastructure Projects, Goods, and Consulting Services, regardless of source of funds, whether local or foreign, by all branches and instrumentalities of government, its departments, offices and agencies, including government-owned and/or -controlled corporations and local government units, subject to the provisions of Commonwealth Act No. 138. Any treaty or international agreement affecting the subject matter of this Act*”

to which the Philippine government is a signatory shall be observed.”
(Emphasis supplied)

Further, Section 43 of Republic Act No. 9184 also provides that:

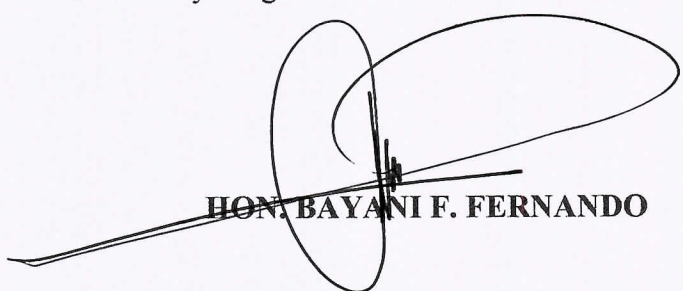
“SEC. 43. Procurement of Domestic and Foreign Goods. – Consistent with the country’s obligations under international treaties or agreements, goods may be obtained from domestic or foreign sources and the procurement thereof shall be open to all eligible suppliers, manufacturers and distributors. However, in the interest of availability, efficiency and timely delivery of goods, the procuring entity may give preference to the purchase of domestically-produced and manufactured goods, supplies and materials that meet the specified or desired quality.”

While Republic Act (RA) No. 9184 makes reference to Commonwealth Act (CA) No. 138, this is basically more on the procurement of foreign and domestic goods, and the bidding process, wherein the procuring entity shall give preference to materials and supplies produced, made and manufactured in the Philippines, subject to some conditions, and the award shall be made to the lowest domestic bidder, provided the lowest domestic bid is not more than fifteen percent (15%) in excess of the lowest foreign bid. However, CA 138 provides graduated amounts of bids that should be offered by the lowest Filipino bidder vis-à-vis the lowest foreign bid before the award will be made to the lowest Filipino bidder. Also, the amounts of bids which are mentioned in CA 138 are no longer practical and applicable given the current value of the peso against the US dollar. It is about time that CA 138 be repealed and Sections 4 and 43 of RA 9184 be amended to strengthen the policy of giving preference to Filipino goods, subject to international treaties or agreement wherein the Philippines is a signatory.

Thus, this proposed measure seeks to institutionalize the Filipino first policy in the government procurement system, and to establish the parameters, wherein all government institutions, departments and agencies must procure their supplies and products as well as services from Filipino suppliers, as long as these products and services are of acceptable standard in accordance with existing laws and treaties or international agreements. It also provides that all government-sponsored or government-issued supplies to beneficiaries have at least seventy percent (70%) local added value. It is only when there are no available locally made supplies that they can procure those from abroad.

This proposed bill also requires that the materials needed are not only locally produced but also locally-sourced. This guarantees that local industries will have a fair chance in the delivery and supply of government needed goods, products and materials. Local enterprises are encouraged to invest more in local manufacture due to the increased demand which will eventually result to job generation as a necessary offshoot of the expanded business activities.

Hence, the swift passage of this bill is earnestly sought.



HON. BAYANI F. FERNANDO

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

SECTION 1. **Short Title.** – This Act shall be known as the “*Lokal Muna Act*.”

SEC. 2. **Declaration of Policy.** – It is the policy of the State to instill patriotism and nationalism among the people. Public officials and employees shall at all times be loyal to the country and promote greater Filipino role in the country’s economy. For this purpose, all government offices shall give preference to domestically produced and manufactured goods or supplies that meet the required quality or standard.

SEC. 3. **Coverage.** – All heads of departments, bureaus, offices and agencies of the National Government, including local government units, government-owned or -controlled corporations, government financial institutions, state universities and colleges, and military and police units, authorized to requisition, purchase, contract or make disbursements for articles, materials and supplies for public use, public biddings or public works, shall give preference in the procurement of materials and supplies, produced, made and manufactured in

the Philippines that meet the specified or desired quality in accordance with the provisions of existing laws and treaties or international agreements.

SEC. 4. ***Local Added Value.*** – All government-sponsored or government-issued supplies to beneficiaries shall have at least seventy percent (70%) local added value.

For purposes of this Act, supplies refer to materials and equipment necessary in the transaction of the official business of the procuring entity and used in its day to day operations.

SEC. 5. ***Certification Requirement.*** – In order to be qualified to participate in the bidding process, suppliers are required to show proof of compliance to the requirement mentioned in Section 4 of this Act.

The Department of Trade and Industry shall issue the certification to qualified suppliers or vendors who want to participate in the procurement process.

SEC. 6. ***Availability of Local Materials.*** – The materials needed to produce the government-sponsored or government-issued supplies shall be locally sourced. In case of non-availability of materials locally, it is required that a certification from the Department of Trade and Industry stating that locally made and sourced materials are not available, before a supplier can participate in any government procurement bidding.

SEC. 7. ***Domestic and Foreign Bids.*** - Whenever several domestic and foreign bidders shall participate in the bidding to supply articles, materials and equipment mentioned in Section 3 of this Act, the award shall be given to the domestic bidder offering the lowest bid, provided the amount of the bid is not more than twenty five percent (25%) in excess of the lowest bid offered by a foreign bidder.

SEC. 8. ***Procurement of Imported Goods.*** – The procurement of imported goods may be allowed if local products, materials and supplies are not manufactured domestically in sufficient quantity or comparable quality and at reasonable prices.

SEC. 9. ***Implementing Rules and Regulations.*** – Within sixty (60) days after the approval of this Act, the Government Procurement Policy Board (GPPB) created by Republic Act No. 9184 shall formulate the necessary rules and regulations including the standard forms for government procurement for the proper implementation of this Act. The said rules and regulations shall be approved by the President of the Philippines.

SEC. 10. ***Repealing Clause.*** – Commonwealth Act No. 138, entitled “*An Act to Give Native Products and Domestic Entities the Preference in the Purchase of Articles for the Government*” is hereby repealed. Sections 4 and 43 of Republic Act No. 9184, otherwise known as the “*Government Procurement Reform Act*,” and all other laws, decrees, rules and regulations inconsistent with the provisions of this Act are hereby modified or amended accordingly.

SEC. 11. ***Effectivity.*** – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.