

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
TWENTIETH CONGRESS
First Regular Session
HOUSE BILL NO. 2799



INTRODUCED BY REPRESENTATIVE ROMEO S. MOMO, SR.

EXPLANATORY NOTE

The construction industry has been growing at an average rate of ten percent (10%) in the last five years - the fastest among all sectors. It has been the biggest direct job contributor in the last ten years, employing more than four million workers in 2019. The entire construction sector is estimated to be around twelve percent (12%) of the total economy. In the midst of a pandemic that has shaken the global economy, many countries including the Philippines are relying on the construction industry to buoy their economic recovery.

However, it is likewise in the context of this economic slowdown that efforts emerged to open up the Philippine construction industry to foreign players. Such a move would allow foreign contractors, often multinational companies or entities heavily financed by their home country, to compete freely with our local contractors, 97% of whom are micro, small, and medium enterprise (MSME) contractors. While liberalization ideally seeks to nurture competition and generate growth, the unregulated entry of foreign players at this time may actually box out local contractors from the market while yielding minimum benefit to the country and the ordinary Filipino.

Instead of thrusting local and foreign players into a free-for-all competition, this bill seeks to strengthen the safeguards for domestic MSMEs so that they may realistically operate alongside foreign entrants. It likewise seeks to put Filipinos first by ensuring that with the entry of foreign contractors, Filipino industry, labor and materials are given preference, instead of allowing foreign workers and suppliers to earn the lion's share of local projects. Further, this measure seeks to maximize the potential benefit of opening the market to foreign players by aiming to create and capture opportunities for meaningful technology transfer and capacity building of our local contractors.

It is in this light that approval of this bill is earnestly sought.

A handwritten signature in black ink, consisting of a large, stylized 'R' and 'M' intertwined, with a horizontal line extending from the 'R'.

ROMEO S. MOMO, SR.
Representative
1st District of Surigao del Sur

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AN ACT
FURTHER AMENDING REPUBLIC ACT NO. 4566 ALSO KNOWN AS 'THE
CONTRACTORS' LICENSING LAW

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

SEC. 1. A new Section 17 of Republic Act No. 4566 is hereby inserted to read as follows:

"Section 17. *Who may practice construction contracting.* Only persons, regardless of nationality or citizenship, properly licensed and registered with the Philippine Contractors Accreditation Board (the "Board") with conformity of the Construction Industry Authority of the Philippines (the "Authority") may practice construction contracting in the Philippines."

SEC. 2. A new Section i8 of Republic Act No. 4566 is hereby inserted to read as follows:

"Section 18. *Protection of Filipino industry.* In the issuance of licenses to foreign contractors, the Board shall promulgate rules and regulations to ensure that foreign contractors shall give priority to Filipino labor and materials in the undertaking of its projects."

SEC. 3. A new Section 19 of Republic Act No. 4566 is hereby inserted to read as follows:

"Sec. 19. *Technology and knowledge transfer.* The Board shall promulgate rules and regulations to ensure that licensed foreign contractors engage in appropriate technology and knowledge transfer and capacity building."

SEC. 4. A new Section 20 of Republic Act No. 4566 is hereby inserted to read as follows:

"Sec. 20. *Protection of domestic contractors.* - The Board shall promulgate rules and regulations, or recommend to Congress the enactment of a law as the case may be, to ensure that the privileges available to foreign contractors, insofar as they are applicable, are made available to domestic contractors, and the warranties required for domestic contractors are, insofar as they are applicable, are similarly required for foreign contractors."

SEC. 5. A new Section 24 of Republic Act No. 4566 is hereby inserted to read as follows:

"Section 24. *License types.* - License means the authority granted by the Philippine Contractors Accreditation Board (the "Board") with conformity of the Construction Industry Authority of the Philippines (the "Authority") for a person to engage in construction contracting in the Philippines. There shall be two types of licenses designated as regular and special licenses:

- a) Regular license is issued to a domestic construction firm which shall authorize the licensee to engage in construction contracting within the field and scope of his license classification(s) for as long as the License validity is maintained through annual renewal, unless renewal is denied or the License is suspended, cancelled or revoked for cause.

Regular license shall be reserved for and issued only to constructor-firms of Filipino sole proprietorship, or partnership/corporation with at least sixty percent (60%) Filipino equity, except when otherwise allowed by the implementing rules.

- b) Special license is issued to a joint venture, consortium, foreign constructor, or project owner which shall authorize the licensee to engage only in the construction of a single specific undertaking/project. In case the licensee is a foreign firm, the license authorization shall be further subject to condition(s) as may have been imposed by the proper Philippine government authority in the grant of the privilege for him to so engage in construction contracting in the Philippines. Annual renewal shall be required for as long as the undertaking/project is in progress, but shall be restricted to only as many times as necessary for completion of the same.

The following may qualify for a Special License:

- 1) A joint venture, consortium or any such similar association organized for a single specific undertaking/project;
- 2) A foreign firm legally allowed by the proper Philippine government authority or agency to undertake construction activities in the Philippines;
- 3) A project owner undertaking by himself, sans the service of a constructor, the construction of a project intended for sale, lease, commercial/industrial use or any other income generating purpose."

- 4) A foreign firm bringing in a new technology that is new or inexistent or of inadequate supply in the country.

SEC. 6. A new Section 26 of Republic Act No. 4566 is hereby inserted to read as follows:

"Sec. 26. *Restriction in government contracts.* Government contracts shall not be awarded to foreign contractors unless the Board has duly certified that no other local contractor can undertake the specific project applied for: *Provided*, that foreign contractors shall be allowed to undertake foreign-financed projects, Build-Operate-Transfer (BOT) contracts, and Public-Private Partnership (PPP) programs."

SEC. 7. The succeeding sections of Republic Act No. 4566 are hereby renumbered accordingly.

SEC. 8. *Implementing Rules and Regulations.* The Philippine Contractors Accreditation Board, in coordination with the Construction Industry Authority of the Philippines, and in consultation with other stakeholders shall issue the implementing rules and regulations within thirty (30) days from the effectivity of this Act.

SEC. 9. *Separability Clause.* If, for any reason, any part or provision of this Act is declared invalid such declaration shall not affect other provisions of this Act.

SEC. 10. *Repealing Clause.* Any law, presidential decree or issuance, executive order, administrative order, rule or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, 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.