

# [ PRESIDENTIAL DECREE NO. 81, December 14, 1972 ]

## **AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NUMBERED FOUR THOUSAND EIGHT HUNDRED SIXTY, AS AMENDED (RE-FOREIGN BORROWING ACT).**

**WHEREAS**, the Government is vigorously engaged in a continuing program of reconstruction and development of infrastructure facilities, food production, and industrialization; **WHEREAS**, for this purpose, the Government has presented, and will continue to present before financial institutions specific proposals for the funding of both public and private sector projects;

**WHEREAS**, availment of financial assistance from these institutions to be able to undertake these priority projects would require responsible foreign borrowing legislation;

**NOW, THEREFORE, I, FERDINAND E. MARCOS**, President of the Philippines, by virtue of the powers in me vested by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, in order to assure a sustained and accelerated implementation of its development program do hereby order to amend further R.A. 4860, as amended, and to adopt this Decree as part of the law of the land.

**SECTION 1.** Section one of Republic Act Numbered Four Thousand Eight Hundred Sixty, as amended, is further amended to read as follows:

**"SEC. 1.** The President of the Philippines is hereby authorized, in behalf of the Republic of the Philippines, to contract such loans, credits, including supplier's credit, deferred payment arrangements, or indebtedness as may be necessary and upon such terms and conditions as may be agreed upon, not inconsistent with this Act, with Governments of foreign countries with whom the Philippines has diplomatic or trade relations or which are members of the United Nations, their agencies, instrumentalities or financial institutions or with reputable international organizations or non-governmental national or international lending institutions or firms extending supplier's credit deferred payment arrangements to enable the Government of the Republic of the Philippines to:

"(A) Undertake, through any government office, agency or instrumentality, or government-owned or controlled corporation, industrial, agricultural or other economic and social development projects and feasibility studies, which are authorized by law including but not limited to those enumerated in Annex 'A' including lists 1, 2, 3 and 4 hereof, which are made integral parts of the Act and such projects which may from time to time be recommended by the National Economic Development Authority and approved by the President of the Philippines: *Provided*, That at least seventy-five per cent of the loans, credits or indebtedness authorized to be obtained under this paragraph shall be

spent for projects which are income-generating. Such foreign loans, credits or indebtedness shall be used to meet the

direct and indirect foreign exchange requirements and up to twenty per centum of the peso costs to cover the costs of studies, technical surveys, equipment, machineries, supplies, construction, installation and related technical services: *Provided, further,* That whenever necessary, part of the proceeds of such loans, credits or indebtedness shall be used for environmental, health, and ecologic management and control;

"(B) Lend the proceeds of such loans, credits or indebtedness to Government-owned or controlled corporations to finance development projects which are authorized by the charters of such corporations or by law: *Provided,* That the proceeds of said loans, credits or indebtedness shall likewise be used to meet the direct and indirect foreign exchange requirements and up to twenty per centum of the peso costs to cover the costs of studies, technical surveys, equipment, machineries, supplies, construction, installation and related technical services;

"(C) Lend the proceeds of such loans, credits or indebtedness to the Development Bank of the Philippines which shall administer said proceeds in accordance with the agreement with the foreign creditor for relending to individuals, partnerships, cooperatives, associations or private corporations, whose capital stock, if not fully subscribed, is open to subscription by the general public to meet the direct and indirect foreign exchange requirements as well as up to twenty per centum of the peso costs for such industrial, agricultural and other economic development projects subject to the provisions of the charter, rules and regulations of said bank and to the terms and conditions agreed upon by the Government and the institution providing financing for the projects: *Provided,* That the Development Bank of the Philippines shall pay the Republic of the Philippines at least for the principal, interests and other charges on such loans, credits or indebtedness turned over to it: *Provided, further,* That of the total authorized borrowing for relending to the private sector:

1. Sixty per centum shall be for industrial and public utility projects which are approved by the Board of Investments or their corresponding Boards; and
2. Forty per centum must be allocated to agricultural projects which are recommended by the Department of Agriculture and Natural Resources and approved by the National Economic Development Authority and which satisfy any or all of the following criteria:
  - (a) New and/or export-oriented
  - (b) Import-substitute-oriented
  - (c) Necessary to increase agricultural production; or
  - (d) Necessary to improve the quality and marketability of agricultural products.

"The proceeds of the loans, credits or indebtedness under this paragraph shall not be re-loaned to any individual, partnership, cooperative, association or private corporation, the account of which with the Development Bank of the Philippines or with any government financial

institution in arrears for three or more installments for causes other than force majeure or those beyond its control, nor shall paid proceeds or portions thereof be used for any purpose other than that for which the loan, credit or indebtedness has been granted. The failure of any debtor to meet three amortization payments of its loan when due, for causes other than force majeure or those beyond its control, will render the entire obligation or any balance thereof due and demandable, and the debtor shall pay a special penalty of two per centum of the total amount due.

"The authority of the President of the Philippines, as hereby *provided* in this Section shall include the power to issue, for the purposes stated, bonds, debentures, securities or other evidences of indebtedness for sale in the international market the income from which shall be fully tax-exempt in the Philippines."

**SEC. 2.** Section two of the same Act is hereby further amended to read as follows:

**"SEC. 2.** The total amount of loans, credits or indebtedness, excluding interest and other normal banking charges which shall not be in excess of those imposed or charged by the International Bank for Reconstruction and Development, the Asian Development Bank or other reputable international organization or non-governmental national or international-lending institution, which the President is authorized to incur under Section one of this Act shall not exceed one billion United States dollars or its equivalent in other foreign currencies at the exchange rate prevailing at the time the loans, credits or indebtedness are incurred at terms of payment of not less than 10 years except those contracted in the interest of national security and rehabilitation resulting from natural calamities: *Provided*, That the price, interest rates and other charges on loans, credits or indebtedness from non-governmental national or international lending institutions or firms extending supplier's credits or deferred credit arrangements shall be determined by the rules and regulations which may be promulgated by the Central Bank: *Provided, finally*, That seventy-five per centum of such total authorized amount of one billion United States dollars or its equivalent in other currencies shall be incurred for projects of the public sector contemplated under paragraphs 'A' and 'B' of Section one and twenty-five per centum thereof shall be utilized for projects of the private sector contemplated under paragraph 'C' of Section one, and that no individual, partnership, cooperative, association or private corporation shall be allowed to borrow more than fifteen per centum of the total of such loans, credits, indebtedness authorized to be incurred for relending by the Development Bank of the Philippines, except those who may, undertake projects whose financial requirements are in excess of such limitation, in which case the recommendation of National Economic Development Authority and the approval by the President to exceed such limit is required.

"The Central Bank of the Philippines shall promulgate and enforce such measures as shall be necessary to eventually reduce the external debt service requirements to an annual level not exceeding twenty per centum of the average of the foreign exchange receipts of the immediately preceding year."