

REPUBLIC ACT NO. 8556

AN ACT AMENDING REPUBLIC ACT NO. 5980, AS AMENDED, OTHERWISE KNOWN AS THE FINANCING COMPANY ACT

Section 1. This Act shall be known as the "Financing Company Act of 1998."

Sec. 2. Declaration of Policy. — It is hereby declared to be the policy of the State to regulate and promote the activities of financing and leasing companies to place their operations on a sound, competitive, stable and efficient basis as other financial institutions, to recognize and strengthen their critical role in providing medium and long-term credit for investments in capital goods and equipment especially by small and medium enterprises particularly in the countryside and to curtail and prevent acts or practices prejudicial to the public interest so that they may be in a better position to extend efficient service in a fair manner to the general public and to industry, commerce and agriculture and thereby more fully contribute to the sound development of the national economy.

Sec. 3. Sec. 3 of the same Act is hereby amended to read as follows:

"Sec. 3. Definition of Terms. — As used in this Act, the term:

"(a) 'Financing companies' hereinafter called companies, are corporations, except banks, investments houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivable, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable property;

"(b) 'Securities and Exchange Commission' shall mean the office of the Securities and Exchange Commission of the Philippines;

"(c) 'Credit' shall mean any loan, mortgage, financial lease, deed of trust, advance or discount, any conditional sales contract, contract to sell, or sale or contract of sale of property or service, either for present or future delivery, under which, part of all or the price is payable subsequent to the making of such sale or contract; any contract, any option, demand, lien or pledge, or to the other claims against, or for the delivery of, property or money, any purchase, or other acquisition of or any credit upon the security of, any obligation or claim arising out of the foregoing, and any transaction or series of transactions having similar purpose or effect;

"(d) 'Financial leasing' is a mode of extending credit through a non-cancelable lease contract under which the lessor purchases or acquires, at the instance of the lessee, machinery, equipment, motor vehicles, appliances, business and office machines, and other movable or immovable property in consideration of the periodic payment by the lessee of a fixed amount of money sufficient to amortize at least seventy (70%) of the

purchase price or acquisition cost, including any incidental expenses and a margin of profit over an obligatory period of not less than two (2) years during which the lessee has the right to hold and use the leased property with the right to expense the lease rentals paid to the lessor and bears the cost of repairs, maintenance, insurance and preservation thereof, but with no obligation or option on his part to purchase the leased property from the owner-lessor at the end of the lease contract.

"(e) 'Purchase discount' is the difference between the value of the receivable purchased or credit assigned, and the net amount paid by the finance company for such purchases or assignment, exclusive of fees, services, charges, interest and other charges incident to the extension of credit.

"(f) 'Lease rentals' shall refer to the periodic payments made by the lessee to the lessor under Sec. 3(d), above."

Sec. 4. Sec. 4 of the same Act is hereby amended to read as follows:

"Sec. 4. Grant of Authority to Securities and Exchange Commission. — The Securities and Exchange Commission is hereby empowered to enforce the provisions implementing regulations except insofar as the Bangko Sentral may have supervisory authority under the provisions of Republic Act No. 7653 with respect to financing companies licensed to perform quasi-banking functions, and insofar as the Monetary Board has authority to prescribe financing company rates and charges under Sec. 5 hereof."

Sec. 5. Sec. 5 of the same Act is hereby amended to read as follows:

"Sec. 5. Limitation on purchase discounts, lease rentals, fees, service and other charges. — The Monetary Board of the Bangko Sentral ng Pilipinas is hereby empowered to prescribe, in consultation with financing companies and the Securities and Exchange Commission, the maximum rate or rates of purchase discounts, lease rentals, fees, service and other charges of financing companies, and to change, eliminate or grant exemptions from or suspend the effectivity of such rules whenever warranted by prevailing economic and social conditions."

Sec. 6. Sec. 6 of the same Act is hereby amended to read as follows:

"Sec. 6. Form of organization and capital requirements. — Financing companies shall be organized in the form of stock corporations at least forty percent (40%) of the voting stock of which is owned by citizens of the Philippines and shall have a paid-up capital of not less than Ten million pesos (P10,000,000) in case the financing company is located in Metro Manila and other first class cities, Five million pesos (P5,000,000) in other classes of cities and Two million five hundred thousand pesos (P2,500,000) in municipalities: Provided, however, That no foreign national may be allowed to own stock in any financing company unless the country of which he is a national accords the same reciprocal rights to Filipinos in the ownership of financing companies or their counterpart entities in such country: and Provided, further, That financing companies duly existing and in operation before the effectivity of this Act shall comply with the minimum capital requirement within one (1) year from the date of the said effectivity."

Sec. 7. Sec. 7 of the same Act is hereby amended to read as follows:

"Sec. 7. Requirement for registration. — Aside from requiring compliance with the provisions of the Corporation Code, the Securities and Exchange Commission shall not register the articles of incorporation of any financing company unless its office is satisfied on the evidence submitted to it, that:

"(a) All the requirements of existing laws to engage in the business for which the applicant is proposed to be incorporated or organized have been complied with;

"(b) The organization, direction and administration, as well as the integrity and responsibility of the organizers and administrators reasonably assure the protection of the interest of the general public;

"(c) All the requirements of this Act have been complied with: Provided, That financing companies duly incorporated or registered prior to the approval of this Act, and which are actually existing and operating as such, shall file an information sheet with the Securities and Exchange Commission in the form to be prescribed by the Securities and Exchange Commission within sixty (60) days after notice from the said Commission. No person, association, partnership, or corporation shall hold itself out as doing business as a 'financing company' or 'finance and investment company' or any other title or name tending to give the public the impression that it is engaged in the operations and activities of a financing company, unless so authorized under this Act."

Sec. 8. Sec. 8 of the same Act is hereby repealed.

Sec. 9. Sec. 9 of the same Act is hereby renumbered as Sec. 8.

Sec. 10. There is hereby inserted after Sec. 8 as renumbered, new Sec.s 9, 10, 11, 12 and 13 to read as follows:

"Sec. 9. Rights and powers. — Financing companies shall have the following powers, in addition to those granted by this Act and by other laws:

"(a) Engage in quasi-banking and money market operations with the prior approval of the Bangko Sentral ng Pilipinas;

"(b) Engage in trust operations subject to the provisions of the General Banking Act upon prior approval by the Bangko Sentral ng Pilipinas;

"(c) Issue bonds and other capital instruments subject to pertinent rules and regulations of the Bangko Sentral ng Pilipinas;

"(d) Rediscount their paper with government financial institutions subject to relevant laws, rules and regulation;

"(e) Participate in special loan or credit programs sponsored by or made available through government financial institutions; and

"(f) Provide foreign currency loans and leases to enterprises who earn foreign currency by exports or other means, subject to existing laws and rules and regulations promulgated by the Bangko Sentral ng Pilipinas.

"Nothing in this Sec. shall be construed as precluding a financing company from performing such services or exercising such powers as may be granted by the Bangko Sentral ng Pilipinas or the Securities and Exchange Commission or as may be incidental to its activities as a corporation.

"Sec. 10. Applicability of incentives and exemptions to financial leases. — Any incentive, exemption or benefit, including tax credits and investment incentives granted by law or regulation to any purchaser, importer, borrower or other eligible person in connection with any purchase, importation, acquisition, or other transaction shall not be lost, diminished or impaired when the associated financing is through a financial lease rather than through borrowing or other conventional method of financing. Financing companies providing the financial lease in such cases shall be entitled to any incentive, exemption, benefit or privilege available to lenders, importers, purchasers or other eligible person in such transactions under the applicable law or regulation.

"Sec. 11. Parity clause. — When providing medium and long-term credit to small and medium enterprises, financing companies shall enjoy such other rights, powers, benefits and privileges as may be granted by the law or regulation to other non-bank financial institutions when they provide similar credit to such enterprises."

"Sec. 12. Liability of lessors. — Financing companies shall not be liable for loss, damage or injury caused by a motor vehicle, aircraft, vessel, equipment, machinery or other property leased to a third person or entity except when the motor vehicle, aircraft, vessel, equipment or other property is operated by the financing company, its employees or agents at the time of the loss, damage or injury.

"Sec. 13. Registry of financial lease. — The Register of Deeds shall open and maintain a register of financial leases, as an adjunct to the chattel mortgage registry.

"Said lease register shall contain the following particulars:

- "(1) Name or description of property, including:
 - "(a) Brand name or name of manufacturer;
 - "(b) Name of model, if any;
 - "(c) Year of model, or manufacture, if available; and
 - "(d) Serial number, if any.
- "(2) Acquisition cost;
- "(3) Name of owner or finance company lessor;
- "(4) Name of lessee;
- "(5) Date of lease agreement or schedule;
- "(6) Date of expiry of lease; and
- "(7) Date of entry in lease registry."

Sec. 11. Sec. 10 of the same Act is hereby renumbered as Sec. 14. As renumbered, Sec. 14 is hereby amended to read as follows:

"Sec. 14. Penalty. — A fine of not less than Ten thousand pesos (P10,000.00) and not more than One hundred thousand pesos (P100,000.00) or imprisonment for not more than six (6) months or both, at the discretion of the court, shall be imposed upon:

"(1) Persons, associations, partnerships or corporations, including the managing officer thereof, that shall:

"(a) Engage in the business of a financing company without authority from the Securities and Exchange Commission;

"(b) Hold themselves out to be financing companies, either through advertisement in whatever form, whether in its stationery, commercial paper or other document, or through other representations without authority;

"(c) Make use of trade or firm name containing the words 'Financing Company' or 'Leasing Company' or 'Finance and Leasing Company' or 'Finance and Investment Company' or any other designation that would give the public the impression that it is engaged in the business of a financing company or leasing company as defined in this Act without authority; and

"(d) Violate the provisions of this Act.

"(2) Any officer, employee, or agent of a financing company who shall:

"(a) Knowingly and willingly make any statement in any application, report or document required to be filed under this Act, which statement is false or misleading with respect to any material fact; or

"(b) Overvalue or aid in overvaluing any securities for the purpose of influencing in any way the action of the company on any loan, or discounting line.

"(3) Any officer, employee or examiner of the Securities and Exchange Commission directly charged with the implementation of this Act who shall commit, connive, aid or assist in the commission of acts enumerated under subSec.s 1 and 2 of this Sec.."
Sec. 12. Sec.s 11 and 12 of the same Act are hereby renumbered as Sec.s 15 and 18, respectively.

Sec. 13. Effectivity. — This Act shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or in two newspapers of general circulation.

Approved: February 26, 1998