

## Legal Brief

### **99-Year Foreign Investors' Lease of Land: The Hidden Compliance Costs**

On the surface, the promise of a long-term lease is a significant upgrade from previous restrictions, but the IRR introduces layers of administrative discretion and aggressive termination clauses that complicate the picture.

The headline of the Act is the 99-year maximum lease period, which is intended to provide long-term stability. However, the IRR includes a significant loophole: the President of the Philippines has the authority to impose a shorter lease period for investments in “vital services” or “critical infrastructure” based on national security or government priorities.

This creates a paradoxical situation where the very industries that require the most long-term certainty (such as energy or telecommunications) are the ones most likely to have their lease terms cut short at the government's discretion.

For those in the tourism sector, the IRR sets a rigid and aggressive timeline. To qualify, a project must have a minimum investment of Five Million US Dollars (USD 5,000,000.00), and 70% of that capital must be infused within just three years of signing the lease.

In a country where permitting and pre-development can often face unforeseen delays, this three-year “ticking clock” is a high-pressure requirement that could lead to project disqualification before the first brick is even laid.

Perhaps the most concerning aspect for a foreign investor is the “unequivocal authority” granted to government agencies to terminate leases “*ipso facto*” (automatically). A lease can be cancelled if an investor is deemed to have “withdrawn” the investment, which the IRR defines as a failure to operate for three consecutive years or failing to pay rent for three months while not operating, even if there could be several legitimate and valid reasons for project delays. While this is meant to prevent land speculation, the “automatic” nature of the termination places an immense amount of power in the hands of monitoring agencies like the BOI or PEZA.

The IRR makes it clear that renewal is not automatic and must be based on “mutual agreement”. However, it adds a vague requirement: the foreign lessee must prove they have made “social and economic contributions to the country” to qualify for renewal. Without a specific rubric or measurable criteria for what constitutes a sufficient “contribution,” this leaves the future of a century-long investment up to the subjective interpretation of bureaucrats decades down the line.

Finally, any contract found in violation of the Act (such as using the land for an unauthorized purpose) is null and void *ab initio*, and can lead to fines up to Ten Million Pesos and even imprisonment for company officers.

We encourage foreign investors to seek counsel prior to the execution of a long-term lease of private land.

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*Got further questions? Contact us at [attorney@geronimo.law](mailto:attorney@geronimo.law) or visit our website at [www.geronimo.law](http://www.geronimo.law).*