

Republic of the Philippines  
Congress of the Philippines  
Metro Manila

Twelfth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-eighth day of July, two thousand three.

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[ REPUBLIC ACT NO. 9302 ]

AN ACT AMENDING REPUBLIC ACT NUMBERED THREE THOUSAND FIVE HUNDRED NINETY-ONE, AS AMENDED, OTHERWISE KNOWN AS THE "CHARTER OF THE PHILIPPINE DEPOSIT INSURANCE CORPORATION" AND FOR OTHER PURPOSES

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

SECTION 1. Section 1 of Republic Act No. 3591, as amended, is hereby amended by adding a new paragraph to read as follows:

"The Corporation shall, as a basic policy, promote and safeguard the interests of the depositing public by way of providing permanent and continuing insurance coverage on all insured deposits."

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

"SEC. 2. The powers and functions of the Corporation shall be vested in, and exercised by a Board of Directors which shall be composed of five (5) members as follows:

"(a) The Secretary of Finance who shall be *ex-officio* Chairman of the Board without compensation.

"(b) The Governor of the Bangko Sentral ng Pilipinas, who shall be *ex-officio* member of the Board without compensation.

"(c) The President of the Corporation, who shall be appointed by the President of the Philippines from either the Government or private sector to serve on full-time basis for a term of six (6) years. The President of the Corporation shall also serve as Vice Chairman of the Board.

"(d) Two (2) members from the private sector, to be appointed for a term of six (6) years without reappointment by the President of the Philippines: *Provided*, That of those first appointed, the first appointee shall serve for a period of two (2) years.

"No person shall be appointed as member of the Board unless he be of good moral character and of unquestionable integrity and responsibility, and who is of recognized competence in economics, banking and finance, law, management administration or insurance, and shall be at least thirty-five (35) years of age. For the duration of their tenure or term in office and for a period of one year thereafter, the appointive members of the Board shall be disqualified from holding any office, position, or employment in any insured bank.

"The Secretary of Finance and the Governor of the Bangko Sentral may each designate a representative, whose position shall not be lower

than an undersecretary or deputy governor respectively, to attend such meetings and to vote on behalf of their respective principals. Whenever the Chairman of the Board is unable to attend a meeting of the Board, or in the event of a vacancy in the office of the Secretary of Finance, the President of the Corporation shall act as Chairman.

"The presence of three (3) members shall constitute a quorum. All decisions of the Board of Directors shall require the concurrence of at least three (3) members.

"The Secretary of Finance shall fix the rate of *per diem* for every Board meeting attended by the members of the Board of Directors from the private sector. The President of the Philippines may fix such emoluments that may be received by the Board of Directors comparable to the emoluments of members of the Board of Directors of other government financial institutions.

"The Board of Directors shall have the authority:

"1. To prepare and issue rules and regulations as it considers necessary for the effective discharge of its responsibilities;

"2. To direct the management, operation and administration of the Corporation;

"3. To establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the Corporation in accordance with sound principles of management.

"A compensation structure, based on job evaluation studies and wage surveys and subject to

the Board's approval, shall be instituted as an integral component of the Corporation's human resource development program: *Provided*, That all positions in the Corporation shall be governed by a compensation, position classification system and qualification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans of other government financial institutions and shall be subject to review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The Corporation shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758, as amended.

"4. To appoint, establish the rank, fix the remuneration, approve local and foreign training of, and remove any officer or employee of the Corporation, for cause, subject to pertinent civil service laws: *Provided*, That the Board of Directors may delegate this authority to the President subject to specific guidelines;

"5. To adopt an annual budget for, and authorize such expenditures by the Corporation as are in the interest of the effective administration and operation of the Corporation; and

"6. To approve the methodology for determining the level and amount of provisioning for insurance and financial assistance losses, which shall establish reasonable levels of deposit insurance reserves."

SEC. 3. Section 2-A of the same Act is hereby re-numbered as Section 3.

SEC. 4. Section 3 of the same Act is hereby re-numbered as Section 4 and subsection (g) thereof is further amended to read as follows:

“(g) The term “insured deposit” means the amount due to any depositor for deposits in an insured bank net of any obligation of the depositor to the insured bank as of the date of closure, but not to exceed Two hundred fifty thousand pesos (P250,000.00). Such net amount shall be determined according to such regulations as the Board of Directors may prescribe. In determining such amount due to any depositor, there shall be added together all deposits in the bank maintained in the same right and capacity for his benefit either in his own name or in the name of others. A joint account regardless of whether the conjunction “and,” “or,” “and/or” is used, shall be insured separately from any individually-owned deposit account: *Provided*, That (1) If the account is held jointly by two or more natural persons, or by two or more juridical persons or entities, the maximum insured deposit shall be divided into as many equal shares as there are individuals, juridical persons or entities, unless a different sharing is stipulated in the document of deposit; and (2) If the account is held by a juridical person or entity jointly with one or more natural persons, the maximum insured deposit shall be presumed to belong entirely to such juridical person or entity: *Provided, further*, That the aggregate of the interests of each co-owner over several joint accounts, whether owned by the same or different combinations of individuals, juridical persons or entities, shall likewise be subject to the maximum insured deposit of Two hundred fifty thousand pesos (P250,000.00): *Provided, furthermore*, That the provisions of any law to the contrary notwithstanding, no owner/holder of any negotiable certificate of deposit shall be recognized as a depositor entitled to the rights provided in this Act unless his name is registered as owner/holder thereof in the books of the issuing bank.”

**SEC. 5.** Section 4 of the same Act is re-numbered as Section 5.

**SEC. 6.** Section 6, subsections (a), (d) and (h) of the same Act are hereby further amended, to read as follows:

**"SEC. 6. (a)** The assessment rate shall be determined by the Board of Directors: *Provided*, That the assessment rate shall not exceed one-fifth (1/5) of one *per centum* (1%) *per annum*. The semi-annual assessment for each insured bank shall be in the amount of the product of one-half (1/2) the assessment rate multiplied by the assessment base but in no case shall it be less than Five thousand pesos (P5,000.00). The assessment base shall be the amount of the liability of the bank for deposits as defined under subsection (f) of Section 4 without any deduction for indebtedness of depositors.

**"The semi-annual assessment base for one semi-annual period shall be the average of the assessment base of the bank as of the close of business on March thirty-one and June thirty and the semi-annual assessment base for the other semi-annual period shall be the average of the assessment base of the bank as of the close of business on September thirty and December thirty-one: *Provided*, That when any of said days is a non-business day or legal holiday, either national or provincial, the preceding business day shall be used. The certified statements required to be filed with the Corporation under subsections (b) and (c) of this Section shall be in such form and set forth such supporting information as the Board of Directors shall prescribe. The assessment payments required from the insured banks under subsections (b) and (c) of this Section shall be made in such manner and at such time or times as the Board of Directors shall prescribe, provided the time or times so prescribed shall not be later than sixty (60) days after filing the certified statement setting forth the amount of assessment."**

"(d) All assessment collections and income from operations after expenses and charges shall be added to the Deposit Insurance Fund under Section 13 hereof. Such expenses and charges are: (1) the operating costs and expenses of the Corporation for the calendar year; (2) additions to reserve to provide for insurance and financial assistance losses, net of recoverable amounts from applicable assets and collaterals, during the calendar year; and (3) the net insurance and financial assistance losses sustained in said calendar year."

"(h) The Corporation shall not terminate the insured status of any bank which continues to operate or receive deposits. Should any insured bank fail or refuse to pay any assessment required to be paid by such bank under any provision of this Act, and should the bank not correct such failure or refusal within thirty (30) days after written notice has been given by the Corporation to an officer of the bank citing this subsection, and stating that the bank has failed or refused to pay as required by the law, the Corporation may, at its discretion, file a case for collection before the appropriate court without prejudice to the imposition of administrative sanctions allowed under the provisions of this Law on the bank officials responsible for the non-payment of assessment fees."

SEC. 7. Section 7, subsection (a) of the same Act is hereby further amended to read as follows:

"SEC. 7. (a). Whenever upon examination by the Corporation into the condition of any insured bank, it shall be disclosed that an insured bank or its directors or agents have committed, are committing or about to commit unsafe or unsound practices in conducting the business of the bank, or have violated, are violating or about to violate any provisions of any law or regulation to which the insured bank is subject, the Board of Directors shall submit the report of the examination to the Monetary Board to secure corrective action thereon.

If no such corrective action is taken by the Monetary Board within forty-five (45) days from the submission of the report, the Board of Directors shall, *motu proprio*, institute corrective action which it deems necessary. The Board of Directors may thereafter issue a cease and desist order, and require the bank or its directors or agents concerned to correct the practices or violations within forty-five (45) days. However, if the practice or violation is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors and the Corporation, the period to take corrective action shall not be more than fifteen (15) days. The order may also include the imposition of fines provided in Section 21 (f) hereof. The Board of Directors shall duly inform the Monetary Board of the Bangko Sentral ng Pilipinas of action it has taken under this subsection with respect to such practices or violations."

SEC. 8. Section 8, paragraph Eighth of the same Act is hereby amended to read as follows:

"Eighth - To conduct examination of banks with prior approval of the Monetary Board: *Provided*, That no examination can be conducted within twelve (12) months from the last examination date: *Provided, further*, That, to avoid overlapping of efforts, the examination shall maximize the efficient use of the relevant reports, information, and findings of the Bangko Sentral which it shall make available to the Corporation: *Provided, finally*, That the Board of Directors shall, in close coordination with the Monetary Board, prescribe such guidelines as may be necessary to ensure that there are no duplications of functions."

SEC. 9. Section 9 of the same Act is hereby further amended by adding a new subsection (b-1) after subsection (b), adding a new subsection (d-1) after subsection (d), amending



subsection (e), and adding new subsections (f), (g), and (h), to read as follows:

“(b-1) The investigators appointed by the Board of Directors shall have the power on behalf of the Corporation to conduct investigations on frauds, irregularities and anomalies committed in banks, based on reports of examination conducted by the Corporation and Bangko Sentral ng Pilipinas or complaints from depositors or from other government agency. Each such investigator shall have the power to administer oaths, and to examine and take and preserve the testimony of any person relating to the subject of investigation.”

“(d-1) Each insured bank shall keep and maintain a true and accurate record or statement of its daily deposit transactions consistent with the standards set by the Bangko Sentral ng Pilipinas and the Corporation. Compliance with such standards shall be duly certified by the president of the bank or the compliance officer: *Provided*, That refusal or willful failure to issue the required certification shall constitute a violation of this Section and shall subject such officers of the bank to the sanctions provided for under Section 21 (f) of this Act.”

“(e) Personnel of the Corporation are hereby prohibited from:

“(1) being an officer, director, consultant, employee or stockholder, directly or indirectly, of any bank or banking institution except as otherwise provided in this Act;

“(2) receiving any gift or thing of value from any officer, director or employee thereof:

“(3) revealing in any manner, except as provided in this Act or under order of the court, information relating to the condition or business of any such institution. This prohibition shall not

apply to the giving of information to the Board of Directors, the President of the Corporation, Congress, any agency of government authorized by law, or to any person authorized by either of them in writing to receive such information.

“(f) The Corporation shall underwrite or advance litigation costs and expenses, including legal fees and other expenses of external counsel, or provide legal assistance to, directors, officers, employees or agents of the Corporation in connection with any civil, criminal, administrative or any other action or proceeding, to which such director, officer, employee or agent is made a party by reason of, or in connection with, the exercise of authority or performance of functions and duties under this Act: *Provided*, That such legal protection shall not apply to any civil, criminal, administrative or any action or proceeding that may be initiated by the Corporation, in whatever capacity, against such director, officer, employee or agent: *Provided*, *further*, That directors, officers, employees or agents who shall resign, retire, transfer to another agency or be separated from the service, shall continue to be provided with such legal protection in connection with any act done or omitted to be done by them in good faith during their tenure or employment with the Corporation: *Provided*, *finally*, That in the event of a settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Corporation is advised by counsel that the persons to be indemnified did not commit any negligence or misconduct.

“(g) The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay the amount advanced should it ultimately

be determined by the Board of Directors that he is not entitled to be indemnified as provided in this subsection.

“(h) Legal assistance shall include the grant or advance of reasonable legal fees as determined by the Board of Directors to enable the concerned director, officer, employee or agent to engage counsel of his choice, subject to approval by the Board of Directors.”

“Notwithstanding the provisions of this Section and Section 2, members of the Board of Directors and personnel of the Corporation may become directors and officers of any bank and banking institution and of any entity related to such institution in connection with financial assistance extended by the Corporation to such institution and when, in the opinion of the Board, it is appropriate to make such designation to protect the interest of the Corporation.

“Borrowing from any bank or banking institution by examiners and other personnel of the examination departments of the Corporation shall be prohibited only with respect to the particular institution in which they are assigned, or are conducting an examination. Personnel of other departments, offices or units of the Corporation shall likewise be prohibited from borrowing from any bank or banking institution during the period of time that a transaction of such institution with the Corporation is being evaluated, processed or acted upon by such personnel: *Provided, however,* That the Board may, at its discretion, indicate the position levels or functional groups to which the prohibition is applicable.

“Borrowing by all full-time personnel of the Corporation from any bank or banking institution shall be secured and disclosed to the Board, and

shall be subject to such further rules and regulations as the Board may prescribe."

SEC. 10. Section 9-A of the same Act is hereby numbered as Section 10, and further amended to read as follows:

"SEC. 10. (a) The provisions of other laws, general or special, to the contrary notwithstanding, whenever it shall be appropriate for the Monetary Board of the Bangko Sentral ng Pilipinas to appoint a receiver of any banking institution pursuant to existing laws, the Monetary Board shall give prior notice and appoint the Corporation as receiver.

"(b) The Corporation as receiver shall control, manage and administer the affairs of the closed bank. Effective immediately upon takeover as receiver of such bank, the powers, functions and duties, as well as all allowances, remunerations and perquisites of the directors, officers, and stockholders of such bank are suspended, and the relevant provisions of the Articles of Incorporation and By-laws of the closed bank are likewise deemed suspended.

"The assets of the closed bank under receivership shall be deemed in *custodia legis* in the hands of the receiver. From the time the closed bank is placed under such receivership, its assets shall not be subject to attachment, garnishment, execution, levy or any other court processes. Therefore, a judge, officer of the court or any person who shall issue, order, process or cause the issuance or implementation of the writ of garnishment, levy, attachment or execution shall be liable under Section 21 hereof.

"(c) In addition to the powers of a receiver pursuant to existing laws, the Corporation is empowered to:

"(1) bring suits to enforce liabilities to or recoveries of the closed bank;

"(2) appoint and hire persons or entities of recognized competence in banking or finance as its deputies and assistants, to perform such powers and functions of the Corporation as receiver or liquidator of the closed bank;

"(3) suspend or terminate the employment of officers and employees of the closed bank: *Provided*, That payment of separation pay or benefits shall be made only after the closed bank has been placed under liquidation pursuant to the order of the Monetary Board under Section 30 of R. A. 7653, and that such payment shall be made from available funds of the bank after deducting reasonable expenses for receivership and liquidation;

"(4) pay accrued utilities, rentals and salaries of personnel of the closed bank, for a period not exceeding three (3) months, from available funds of the closed bank;

"(5) collect loans and other claims of the closed bank, and for the purpose, modify, compromise or restructure the terms and conditions of such loans or claims as may be deemed advantageous to the interest of the creditors and claimants of the closed bank;

"(6) hire or retain private counsels as may be necessary;

"(7) borrow or obtain a loan, or mortgage, pledge or encumber any asset of the closed bank, when necessary to preserve or prevent dissipation of the assets, or to redeem foreclosed assets of the closed bank, or to minimize losses to the depositors and creditors;

"(8) if the stipulated interest on deposits is unusually high compared with the prevailing applicable interest rate, the Corporation as receiver may exercise such powers which may include a

reduction of the interest rate to a reasonable rate: *Provided*, That any modification or reduction shall apply only to unpaid interest; and

“(9) exercise such other powers as are inherent and necessary for the effective discharge of the duties of the Corporation as a receiver.”

“The Board of Directors shall adopt such policies and guidelines as may be necessary for the performance of the above powers by personnel, deputies and agents of the Corporation.”

SEC. 11. A new section is hereby inserted as Section 11 of the same Act to read as follows:

“SEC. 11. In all cases or actions filed by the Corporation as receiver for the recovery of, or involving any asset of the closed bank, payment of all docket and other court fees shall be deferred until the action is terminated with finality. Any such fees shall constitute as a first lien on any judgment in favor of the closed bank or in case of unfavorable judgment, such fees shall be paid as administrative expenses during the distribution of the assets of the closed bank.”

SEC. 12. Section 9-B of the same Act is hereby re-numbered as Section 12 and further amended to read as follows:

“SEC. 12. Before any distribution of the assets of the closed bank in accordance with the preference established by law, the Corporation shall periodically charge against said assets reasonable receivership expenses and subject to approval by the proper court, reasonable liquidation expenses, it has incurred as part of the cost of receivership/liquidation proceedings and collect payment therefore from available assets.

“After the payment of all liabilities and claims against the closed bank, the Corporation shall pay any surplus dividends at the legal rate of interest

from date of takeover to date of distribution, to creditors and claimants of the closed bank in accordance with legal priority before distribution to the shareholders of the closed bank.”

SEC. 13. Section 9-C of the same Act is hereby repealed.

SEC. 14. Section 10 of the same Act is re-numbered as Section 13 and further amended to read as follows:

“SEC. 13. To carry out the purposes of this Act, the permanent insurance fund shall be Three billion pesos (P3,000,000,000.00).

“The Deposit Insurance Fund shall be the capital account of the Corporation and shall principally consist of the following: (i) the Permanent Insurance Fund; (ii) assessment collections, subject to the charges enumerated in Section 6 (d); (iii) reserves for insurance and financial assistance losses; and (iv) retained earnings: *Provided*, That the reserves for insurance and financial assistance losses and retained earnings shall be maintained at a reasonable level to ensure capital adequacy: *Provided, further*, That the Corporation may, within two (2) years from the passage of this Act, and every five (5) years thereafter, conduct a study on the need to adjust the amount of the Permanent Insurance Fund, insurance cover, assessment rate and assessment base, and thereafter make the necessary recommendation to Congress. For this purpose, the Corporation may hire the services of actuarial consultants to determine, among others, the affordability of assessment rates, analysis and evaluation of insurance risk, and advisability of imposing varying assessment rates or insurance cover of different bank categories.”

SEC. 15. Section 10 (b) of the same Act is hereby repealed.

SEC. 16. Section 10 (c) of the same Act is hereby re-numbered as Section 14 and further amended to read as follows:

"SEC. 14. Whenever an insured bank shall have been closed by the Monetary Board pursuant to Section 30 of R. A. 7653, payment of the insured deposits on such closed bank shall be made by the Corporation as soon as possible either (1) by cash or (2) by making available to each depositor a transferred deposit in another insured bank in an amount equal to insured deposit of such depositor: *Provided, however,* That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the viability of a claim for an insured deposit, it may require final determination of a court of competent jurisdiction before paying such claim: *Provided, further,* That failure to settle the claim, within six (6) months from the date of filing of claim for insured deposit, where such failure was due to grave abuse of discretion, gross negligence, bad faith, or malice, shall, upon conviction, subject the directors, officers or employees of the Corporation responsible for the delay, to imprisonment from six (6) months to one (1) year: *Provided, furthermore,* That the period shall not apply if the validity of the claim requires the resolution of issues of facts and or law by another office, body or agency including the case mentioned in the first proviso or by the Corporation together with such other office, body or agency."

SEC. 17. Section 10 (d) of the same Act is hereby re-numbered as Section 15.

SEC. 18. Section 11 of the same Act is hereby re-numbered as Section 16 and further amended by inserting a new paragraph as Section 16 (a), and the existing paragraphs are hereby re-numbered accordingly:

"SEC. 16 (a) The Corporation shall commence the determination of insured deposits due the depositors of a closed bank upon its actual takeover of the closed bank. The Corporation shall give notice to the depositors of the closed bank of the insured



deposits due them by whatever means deemed appropriate by the Board of Directors: *Provided*, That the Corporation shall publish the notice once a week for at least three (3) consecutive weeks in a newspaper of general circulation or, when appropriate, in a newspaper circulated in the community or communities where the closed bank or its branches are located.

“(b) Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new bank or by an insured bank in which a transferred deposit has been made available shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit.

“(c) Except as otherwise prescribed by the Board of Directors, neither the Corporation or such other insured bank shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank.

“(d) The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other liable therefor.

"(e) Unless otherwise waived by the Corporation, if the depositor in the closed bank shall fail to claim his insured deposits with the Corporation within two (2) years from actual takeover of the closed bank by the receiver, or does not enforce his claim filed with the corporation within two (2) years after the two-year period to file a claim as mentioned hereinabove, all rights of the depositor against the Corporation with respect to the insured deposit shall be barred; however, all rights of the depositor against the closed bank and its shareholders or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor. Thereafter, the Corporation shall be discharged from any liability on the insured deposit."

SEC. 19. Section 12 of the same Act is re-numbered as Section 17 and the last paragraph (c) hereof is hereby further amended to read as follows:

"(c) When the Corporation has determined that an insured bank is in danger of closing, in order to prevent such closing, the Corporation, in the discretion of its Board of Directors, is authorized to make loans to, or purchase the assets of, or assume liabilities of, or make deposits in, such insured bank, upon such terms and condition as the Board of Directors may prescribe, when in the opinion of the Board of Directors, the continued operation of such bank is essential to provide adequate banking service in the community or maintain financial stability in the economy.

"The authority of the Corporation under the foregoing paragraph to extend financial assistance to, assume liabilities of, purchase the assets of an insured bank may also be exercised in the case of a closed insured bank if the Corporation finds that the resumption of operations of such bank is vital to the interests of the community, or a severe financial climate exists which threatens the stability

of a number of banks possessing significant resources: *Provided*, That the reopening and resumption of operations of the closed bank shall be subject to the prior approval of the Monetary Board.

"The Corporation may provide any corporation acquiring control of, merging or consolidating with or acquiring the assets of an insured bank in danger of closing in order to prevent such closing or of a closed insured bank in order to restore to normal operations, with such financial assistance as it could provide an insured bank under this subsection: *Provided*, That within sixty (60) days from date of assistance the Corporation shall submit a report thereof to the Monetary Board.

"The Corporation, prior to the exercise of the powers under this Section, shall determine that actual payoff and liquidation thereof will be more expensive than the exercise of this power: *Provided*, That when the Monetary Board has determined that there are systemic consequences of a probable failure or closure of an insured bank, the Corporation may grant financial assistance to such insured bank in such amount as may be necessary to prevent its failure or closure and/or restore the insured bank to viable operations, under such terms and conditions as may be deemed necessary by the Board of Directors, subject to concurrence by the Monetary Board and without additional cost to the Deposit Insurance Fund.

"A systemic risk refers to the possibility that failure of one bank to settle net transactions with other banks will trigger a chain reaction, depriving other banks of funds leading to a general shutdown of normal clearing and settlement activity. Systemic risk also means the likelihood of a sudden, unexpected collapse of confidence in a significant portion of the banking or financial system with potentially large real economic effects. Finally, the Corporation may not use its authority under this

subsection to purchase the voting or common stock of an insured bank but it can enter into and enforce agreements that it determines to be necessary to protect its financial interests: *Provided*, That the financial assistance may take the form of equity or quasi-equity of the insured bank as may be deemed necessary by the Board of Directors with concurrence by the Monetary Board: *Provided, further*, That the Corporation shall dispose of such equity as soon as practicable."

SEC. 20. Section 13 of the same Act is re-numbered as Section 18, and is hereby amended to read as follows:

"SEC. 18. The Corporation is authorized to borrow from the Bangko Sentral ng Pilipinas and the Bangko Sentral is authorized to lend the Corporation on such terms as may be agreed upon by the Corporation and the Bangko Sentral, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes and financial assistance provided for in Section 17 (c) of this Act: *Provided*, That any such loan as may be granted by the Bangko Sentral shall be consistent with monetary policy: *Provided, further*, That the rate of interest thereon shall be fixed by the Monetary Board but shall not exceed the treasury bill rate.

"When in the judgment of the Board of Directors the funds of the Corporation are not sufficient to provide for an emergency or urgent need to attain the purposes of this Act, the Corporation is likewise authorized to borrow money, obtain loans or arrange credit lines or other credit accommodations from any bank designated as depository or fiscal agent of the Philippine Government: *Provided*, That such loan shall be of short-term duration."

SEC. 21. Section 14 of the same Act is re-numbered as Section 19 and is hereby amended to read as follows:

"SEC. 19. With the approval of the President of the Philippines, the Corporation is authorized to issue bonds, debentures, and other obligations as may be necessary for purposes of settlement of insured deposits in closed banks as well as for financial assistance as provided herein: *Provided*, That the Board of Directors shall determine the interest rates, maturity and other requirements of said obligations: *Provided, further*, That the Corporation shall provide for appropriate reserves for the redemption or retirement of said obligation.

SEC. 22. Section 15 of the same Act is re-numbered as Section 20 and is hereby amended to read as follows:

"SEC. 20. (a) The Corporation shall annually make a report of its operations to the Congress as soon as practicable after the 1<sup>st</sup> day of January in each year.

"(b) The financial transactions of the Corporation shall be audited by the Commission on Audit in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Commission on Audit. The audit shall be conducted at the place or places where accounts of the Corporation are normally kept. Except as to matters relating to the function of the Corporation as receiver which shall be subject to visitorial audit only, the representatives of the Commission on Audit shall have access to all books, accounts, records, reports, files and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation."

SEC. 23. Section 16 of the same Act is re-numbered as Section 21, and paragraphs (a), (b), (f) and (g) are hereby further amended to read as follows:

"SEC. 21. (a) Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include a statement in all its advertisements to the effect that its deposits are insured by the Corporation: *Provided*, That the Board of Directors may exempt from this requirement advertisements which do not relate to deposits or when it is impractical to include such statement therein. The Board of Directors shall prescribe by regulations the forms of such signs and the manner of use.

"(b) No insured bank shall pay any dividend on its capital stock or interest on its capital notes or debentures (if such interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any assessment due to the Corporation: *Provided*, That if such default is due to a dispute between the insured bank and the Corporation over the amount of such assessment, this subsection shall not apply if such bank shall deposit security satisfactory to the Corporation for payment upon final determination of the issue."

"(f) The penalty of *prision mayor* or a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Two million pesos (P2,000,000.00), or both, at the discretion of the court, shall be imposed upon any director, officer, employee or agent of a bank:

"1) for any willful refusal to submit reports as required by law, rules and regulations;

"2) any unjustified refusal to permit examination and audit of the deposit records or the affairs of the institution;

**"3) any willful making of a false statement or entry in any bank report or document required by the Corporation;**

**"4) submission of false material information in connection with or in relation to any financial assistance of the Corporation extended to the bank;**

**"5) splitting of deposits or creation of fictitious loans or deposit accounts.**

**"Splitting of deposits occurs whenever a deposit account with an outstanding balance of more than the statutory maximum amount of insured deposit maintained under the name of natural or juridical persons is broken down and transferred into two or more accounts in the name/s of natural or juridical persons or entities who have no beneficial ownership on transferred deposits in their names within thirty (30) days immediately preceding or during a bank-declared bank holiday, or immediately preceding a closure order issued by the Monetary Board of the Bangko Sentral ng Pilipinas for the purpose of availing of the maximum deposit insurance coverage;**

**"6) refusal to allow the Corporation to take over a closed bank placed under its receivership or obstructing such action of the Corporation;**

**"7) refusal to turn over or destroying or tampering bank records;**

**"8) fraudulent disposal, transfer or concealment of any asset, property or liability of the closed bank under the receivership of the Corporation;**

**"9) violation of, or causing any person to violate, the exemption from garnishment, levy, attachment or execution provided under this Act and the New Central Bank Act;**

"10) any willful failure or refusal to comply with, or violation of any provision of this Act, or commission of any other irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Board of Directors.

"(g) The Board of Directors is hereby authorized to impose administrative fines for any act or omission enumerated in the preceding subsection, and for violation of any order, instruction, rule or regulation issued by the Corporation, against a bank and/or any of its directors, officers or agents responsible for such act, omission, or violation, in amounts as it may be determined to be appropriate, but in no case to exceed three times the amount of the damages or costs caused by the transaction for each day that the violation subsists, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank."

SEC. 24. A new Section 22 is hereby inserted, to read as follows:

"SEC. 22. No court, except the Court of Appeals, shall issue any temporary restraining order, preliminary injunction or preliminary mandatory injunction against the Corporation for any action under this Act.

"This prohibition shall apply in all cases, disputes or controversies instituted by a private party, the insured bank, or any shareholder of the insured bank.

"The Supreme Court may issue a restraining order or injunction when the matter is of extreme urgency involving a constitutional issue, such that unless a temporary restraining order is issued, grave injustice and irreparable injury will arise. The party applying for the issuance of a restraining order or



injunction shall file a bond in an amount to be fixed by the Supreme Court, which bond shall accrue in favor of the Corporation if the court should finally decide that the applicant was not entitled to the relief sought.

“Any restraining order or injunction issued in violation of this Section is void and of no force and effect and any judge who has issued the same shall suffer the penalty of suspension of at least sixty (60) days without pay.”

SEC. 23. The Corporation may be reorganized by the Board of Directors by adopting if it so desires, an entirely new staffing pattern or organizational structure to suit the operations of the Corporation under this Act. No preferential or priority right shall be given to or enjoyed by any personnel for appointment to any position in the new staffing pattern nor shall any personnel be considered as having prior or vested rights with respect to retention in the Corporation or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to reorganization. The reorganization shall be completed within six (6) months after the effectivity of this Act. Personnel who are not retained are deemed separated from the service.

SEC. 24. The Board of Directors is hereby authorized to provide separation incentives, and all those who shall retire or be separated from the service on account of reorganization under the preceding section shall be entitled to such incentives which shall be in addition to all gratuities and benefits to which they may be entitled under existing laws.

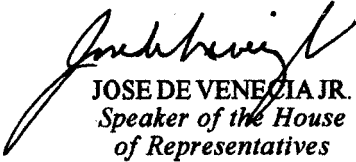
SEC. 25. The words “Central Bank” and the “Central Bank of the Philippines” wherever they appear in Republic Act No. 3591, as amended, is hereby replaced with *Bangko Sentral* and/or *Bangko Sentral ng Pilipinas*, respectively.

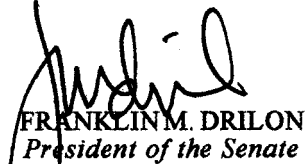
SEC. 26. *Separability Clause.* - If any provision or section of this Act or the application thereof to any person or circumstances is held invalid, the other provisions or sections of this Act, in the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SEC. 27. *Repealing Clause.* - All acts or parts of acts and executive orders, administrative orders, or parts thereof which are inconsistent with the provisions of this Act are hereby repealed.

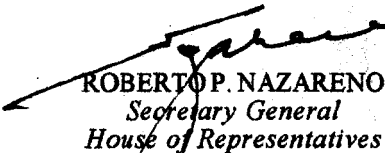
**SEC. 28. Effectivity Clause.** - This Act shall take effect fifteen (15) days following the completion of its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,

  
**JOSE DE VENECIA JR.**  
*Speaker of the House  
of Representatives*


  
**FRANKLIN M. DRILON**  
*President of the Senate*

This Act which is a consolidation of Senate Bill No. 2730 and House Bill No. 6003 was finally passed by the Senate and the House of Representatives on June 11, 2004.

  
**ROBERTO P. NAZARENO**  
*Secretary General  
House of Representatives*

  
**OSCAR G. YABES**  
*Secretary of the Senate*

Approved: JUL 27 2004

  
**GLORIA MACAPAGAL-ARROYO**  
*President of the Philippines*



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