

[REPUBLIC ACT NO. 7400, April 13, 1992]

AN ACT FURTHER 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 2 of Republic Act No. 3591, as amended, 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 the *ex officio* Chairman of the Board without compensation.

"(b) The Governor of the Central Bank, 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 a full-time basis for a term of six (6) years. The President 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.

"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, and all decisions shall require a vote of a majority of the members present, there being a quorum.

"The members of the Board of Directors from the private sector, except the President shall receive a *per diem* for every board meeting attended, the amount of which shall be Five hundred pesos (P500.00) per meeting but not to exceed the sum of Two thousand pesos (P2,000.00) for every single month.

"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, operations and administration of the Corporation;

"3. To appoint, establish the rank, fix the remuneration and remove any officer or employee of the Corporation for cause, subject to the Civil Service and pertinent compensation laws; and

"4. To authorize such expenditures by the Corporation as are the in the interest of the effective administration and operation of the Corporation."

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

"Sec. 2-A. The President of the Corporation shall be the Chief Executive thereof and his salary shall be fixed by the President of the Philippines at a sum commensurate to the importance and responsibility attached to the position. The sum total of the salary of the President and the allowances and other emoluments which the Board of Directors may grant him shall be the ceiling for fixing the salary, allowances and other emoluments of all other personnel in the Corporation.

"The powers and duties of the President of the Corporation are:

"(a) To prepare the agenda for the meeting of the Board and to submit for the consideration of the Board the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Act;

"(b) To execute and administer the policies and measures approved by the Board;

"(c) To direct and supervise the operations and internal administration of the Corporation in accordance with the policies established by the Board. The President may delegate certain of his administrative responsibilities to other officers of the Corporation, subject to the rules and regulations of the Board;

"(d) To represent the Corporation, upon prior authority of the Board, in all dealings with other offices, agencies and instrumentalities of the Government and with all other persons or entities, public or private, whether domestic, foreign or international;

"(e) To authorize, with his signature, upon prior authority of the Board, contracts entered into by the Corporation, notes and securities issued by the Corporation, and the annual reports, balance sheets, profits and loss statements, and other documents of the Corporation. The signature of the President may be in facsimile wherever appropriate;

"(f) To represent the Corporation, either personally or through counsel, in all legal proceedings or actions;

"(g) To delegate, with the prior approval of the Board of Directors, his power to represent the Corporation, as provided in subsections (d) and (f) of this Section, to other officers of the Corporation; and

"(h) To exercise such other powers as may be vested in him by the Board.

"The President shall be assisted by a Vice President Vice and other officials whose appointment and removal for cause shall be approved and whose salary shall be fixed by the Board of Directors upon recommendation of the President of the Corporation. During the absence or temporary incapacity of the President, or in case of vacancy or permanent incapacity and pending the appointment of a new President of the Corporation by the President of the Philippines, the Vice President shall act as President and discharge the duties and responsibilities thereof."

SEC. 3. Section 3, subsections (b), (c), (f), and (g) is hereby amended to read as follows:

"(b) The term 'Bank' and 'Banking Institution' shall be synonymous and interchangeable and shall include banks, commercial banks, savings bank, mortgage banks, rural banks, development banks, cooperative banks, stock savings and loan associations and branches and agencies in the Philippines of foreign banks and all other corporations authorized to perform banking functions in the Philippines."

"(c) The term 'receiver' includes a receiver, commission, person or other agency charged by law with the take charge of the assets and liabilities of a bank which has been forbidden from doing business in the Philippines, as well as the duty to gather, preserve and administer such assets and liabilities for the benefit of the depositors and creditors of said bank, and to continue into liquidation whenever authorized under this Act or other laws, and to dispose of the assets and to wind up the affairs of such bank."

"(f) The term 'deposit' means the unpaid balance of money or its

equivalent received by a bank in the usual course of business and for which it has given or is obliged to give credit to a commercial, checking, savings, time or thrift account or which is evidenced by passbook, check and/or certificate of deposit, printed or issued in accordance with check and/or certificate of deposit, printed or issued in accordance with the Central Bank rules and regulations and other applicable laws, together with such other obligations of a bank, which, consistent with banking usage and practices, the Board of Directors shall determine and prescribe by regulations to be deposit liabilities of the Bank: *Provided*, That any obligation of a bank which is payable at the office of the bank located outside of the Philippines shall not be a deposit for any of the purposes of this Act or included as part of the total deposits or of insured deposit: *Provided, further*, That, subject to the approval of the Board of Directors, any insured bank which is incorporated under the laws of the Philippines which maintains a branch outside the Philippines may elect to include for insurance its deposit obligations payable only at such branch."

"(g) The term "insured deposit" means the net amount due to any depositor for deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of One hundred thousand pesos (P100,000.00). Such net amount shall be determined according to such regulations as the Board of Directors may prescribe and in determining such amount due to any depositor, there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the name of others: *Provided*, 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 4. Section 6, subsections (a) and (h), of the same Act is hereby amended to read as follows:

"(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 the amount of Two hundred fifty pesos (P250.00). The assessment base shall be the amount of the liability of the bank for deposits according to the definition of the term 'deposit' in and pursuant to subsection (f) of Section 3 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."

"(h) 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 law the insured status of such bank shall be terminated by the Board of Directors: *Provided*, That, after the lapse of thirty (30) days from the date when the written notice has been sent by registered mail, whether or not such notice has been actually received by the bank, the Corporation shall terminate the insured status of the bank. The bank shall give written notice of such termination to each of the depositors at his last address of record on the books of the bank and the Corporation shall publish the notice of such termination, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of ninety (90) days. No additions to any such deposits and no new deposits in such bank after the date of such termination shall be insured by the Corporation, and the bank shall not advertise or hold itself out as having insured deposits unless the same connection shall also state with equal prominence that such additions to deposits and new deposits made after such date are not so insured. In the event that such bank shall be closed on account of insolvency within the period of ninety (90) days, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured bank."

SEC.5. Section 7 of the same Act is hereby amended to read as follows:

"SEC. 7 (a). Whenever upon examination by the Corporation 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 sixty (60) 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 issue a cease and desist order and require the bank or its directors or agents concerned to correct the practices or violations within sixty (60) 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 interests of its depositors and the Corporation, the