

**[ REPUBLIC ACT NO. 6424, March 30, 1972 ]**

**AN ACT CREATING THE PHILIPPINE EXPORT CREDIT INSURANCE AND GUARANTEE CORPORATION, DEFINING ITS POWERS, FUNCTIONS AND OBJECTIVES AND FOR OTHER PURPOSES.**

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

SECTION 1. *Short Title.* — This Act shall be known as the "Philippine Export Credit Insurance and Guarantee Corporation Act."

SEC. 2. *Declaration of Policy.* — It is the policy of the State to actively encourage, promote, and diversify exports and foreign markets of Philippine goods and prices in order to attain a rising level of production and employment, increase foreign exchange earnings, hasten economic development of the country, and assure that benefits of economic growth accrue to the Filipino people. Towards this end, it is important that sufficient incentives and protection be extended to exporters so that export capabilities of the country may be better exceed and encouraged to develop to the fullest extent

SEC. 3. *Definition of Terms.* — For purposes of this Act the following definitions shall apply:

- a. "Corporation" shall mean the Philippine Export Credit Insurance and Guarantee Corporation created under this Act.
- b. "Board" shall mean the Board of Directors of the Corporation.
- c. "Capital or Insurance Fund" shall mean the capital of the Corporation from which no disbursement shall be made until after the Corporation shall have exhausted every other available financial resource and every possibility of borrowing from financial institutions in accordance with this Act.
- d. "Credit Risks" shall mean possible non-payment of credit granted to a foreign customer by the insured in connection with an export transaction resulting from or occasioned by circumstances, happenings or events which are outside or beyond the control of the insured as follows:
  1. Insolvency or protracted default of the foreign customer;
  2. Governmental action under circumstances not due to the fault of the buyer which prevents the transfer of payment to exporters;
  3. New import or export licensing restrictions the country of the foreign customer or of the insured;
  4. Moratoria, war, revolution, civil disturbances, similar circumstances which prevent the payment of accepted goods and/or services; and
  5. Such other risks connected with export transactions on deferred payment, except against risks of devaluation or changes in the exchange rate and against risks that are normally insured with commercial insurers

licensed to do business in the Philippines such as fire, marine, casualty accident, fidelity, surety, and physical damage

- e. "Export Credit Agency" shall mean a corporation commission, board, agency of a government, or body incorporated or established in any country having purposes similar to those of the Corporation.
- f. "Export Credit Insurance" shall mean a contract of insurance entered into by the corporation with persons, natural or juridical, engaged in transactions involving goods and/or services exported or contracted to be exported for losses attributable to the occurrence of any of the credit risks defined in paragraph (d) above.
- g. "Export Transaction" shall mean any transaction involving: (i) the export of goods out of the Philippines; (ii) the manufacture, treatment or servicing of goods for, or the sale or leasing of goods to a foreign customer; (iii) the sale or licensing of any right in a patent, trademark, or copyright to a foreign customer; or (iv) the rendering to a foreign customer of any managerial, construction, technological, marketing or other services.
- h. "Foreign Affiliate" shall mean a person, entity, association or corporation carrying on business outside the Philippines that is directly or indirectly controlled by the insured, or vice-versa.
- i. "Foreign Customer" shall mean a person or any entity, corporation, or organization carrying on business or other activities outside the Philippines, and may include a foreign government.
- j. "Foreign Government" shall mean the government of a Country, other than the Philippines, or of any political subdivision or agency thereof.
- k. "Guarantee" shall mean an undertaking by the Corporation to pay the bank or creditor of an insured exporter for money advanced or loans granted to said exporter against export credit instruments that are not paid at maturity.
- l. "Insured" shall mean any citizen of the Philippines or corporation or partnership or other entity organized under existing Philippine laws who has entered into a contract of insurance with the Corporation covering an export transaction with, a foreign customer, in accordance with the provisions of this Act.
- m. "Instrument" shall mean a promissory note, bill of exchange bond, debenture, or any other evidence of indebtedness payable by a foreign customer and, in case the customer is a foreign government, includes an agreement to pay.
- n. "Technical Reserve" shall mean all the available funds kept in a separate account out of which claims for losses will be paid.
- o. "Working Fund" shall mean the account to which all investment incomes, premium incomes, and all other incomes shall be credited and against which all operating costs and other expenses, including claims paid, shall be debited.

## **Article I. — Creation, Purposes and Powers of the Corporation**

SEC. 4. *Creation, Name, Domicile and Term.* — There is hereby created a public corporation capitalized at Ten Million Pesos (P10,000,000.00), to be known as the "Philippine Export Credit Insurance and Guarantee Corporation," which shall be organized within three (3) months from the approval of this Act. The domicile and principal place of business of the Corporation shall be within the Greater Manila area, but it may establish such branches and agencies in other places, within and outside the Philippines, as may be necessary for the proper conduct of its business.

The Corporation shall have a term of fifty (50) years from and after the date of

organization, unless sooner dissolved by law or for any of the causes provided for by law.

SEC. 5. *Purposes.* — The Corporation is established for the purposes of facilitating and developing trade between the Philippines and other countries by means of the powers, and authority provided in this Act.

SEC. 6. *Corporate Powers.* — The Corporation shall have the power:

- a. To adopt, alter, and use a corporate seal which shall be judicially noticed;
- b. To have the right of succession;
- c. To make or enter into contracts;
- d. To lease or own real and personal property, and to sell or otherwise dispose of the same;
- e. To sue and be sued;
- f. To act as receiver;
- g. To take, hold and sell mortgages on real and personal property and any other security, as additional security for any loan made or guarantees given under this Act, and to acquire, by foreclosure or other proceedings, or in any manner, sell, lease or otherwise dispose of real and/or personal property;
- h. To employ agents or representatives in any part of the Philippines and/or abroad in the pursuit of the affairs of the Corporation;
- i. To invest the earnings of the Corporation in bonds, stocks, debentures, or other securities which are fully guaranteed by the Government of the Philippines or by the Central Bank of the Philippines: *Provided, however,* That preference shall be given to Central Bank supported securities which are high yielding and readily marketable;
- j. To contract indebtedness in any currency, issue, sell and discount bonds, debentures, and other evidences of indebtedness of the Corporation, upon recommendation of the Secretary of Finance and with the concurrence of the Monetary Board of the Central Bank of the Philippines, but in no case to exceed at, any one time, including other borrowings, an aggregate amount equivalent to fifteen times its combined capital and surplus;
- k. To adopt, by its Board of Directors, by-laws not inconsistent with law, prescribing the manner by which its general business may be conducted, and the privileges granted to it may be exercised and enjoyed;
- l. To promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Act, which rules and regulations shall take effect thirty (30) days after their publication in two (2) newspapers of general circulation in the Philippines;
- m. To exercise, by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act and such incidental powers as shall be necessary to carry on the powers so granted;
- n. To acquire, discount and hold such assets and incur such liabilities as may result directly from operations authorized by the provisions of this Act, or as are essential to the proper conduct of such operations.

In discharging its functions and in exercising its authority under this Act, the Corporation may avail itself of the services and facilities of appropriate departments, branches, and agencies of the Government of the Philippines, including government owned-or-controlled corporations. Such government instrumentalities and subdivisions shall extend such assistance to the Corporation as may be necessary for

the attainment of the objectives of this Act.

## **Article II. — The Board of Directors**

SEC. 7. *Board of Directors.* — The powers and functions of the Corporation shall be vested in a Board of Directors which shall be composed of seven (7) members as follows:

- a. The President of the Corporation, who shall preside at all meetings of the Board. He shall be appointed to serve on a full-time basis for a term of six (6) years by the President of the Philippines, with the consent of the Commission on Appointments; and
- b. A representative each from the Department of Agriculture and Natural Resources, the Department of Finance, the Department of Foreign Affairs, the Department of Commerce and Industry, the Board of Investments, and the Central Bank of the Philippines, other than their respective heads, to be designated by the latter, to serve for a period of two (2) years.

All members of the Board hereinabove-mentioned may be reappointed or redesignated to their respective positions: *Provided, however,* That a member who has been appointed or designated to fill up a vacancy due to death, resignation, removal or permanent incapacity of a member, who shall serve the unexpired portion of the term of the member concerned, may likewise be reappointed or redesignated to the same position.

SEC. 8. *Qualifications.* — No person shall be appointed as President, or appointed or designated as a member of the Board, unless he be a natural-born Filipino citizen, at least thirty (30) years old, of good moral character, integrity and responsibility, not previously convicted of a crime involving moral turpitude, and of recognized competence in any of the fields of international finance, export and import trade, commercial law, insurance, economics, international banking, or credit management: *Provided, however,* That in making appointments, the President of the Philippines may give due consideration to nominations which may be submitted by Filipino agricultural, industrial, commercial, banking, insurance, and other allied associations.

SEC. 9. *Disqualifications.* — No member of the Board shall, during his term of office, be an officer, director, stockholder, or owner of any insured firm or be personally interested, directly or indirectly, in any transaction with an insured firm.

SEC. 10. *Removal of Board Members.* — The President of the Philippines may remove any member of the Board for any of the following reasons:

- a. If the member is disqualified under the provisions of Section 9 of this Act; or
- b. If the member is guilty of acts or operations which are of fraudulent or illegal character or which are manifestly opposed to the aims and interests of the Corporation; or
- c. If the member no longer possesses the qualifications in Section 8.

SEC. 11. *Meetings of the Board.* — The Board of Directors shall meet regularly at least once a month, but whenever deemed necessary, special meetings of the Board may be called by either the President of the Corporation or at the instance of any two members of the Board.

The presence of four (4) members shall constitute a quorum, and all decisions of the Board shall require the concurrence of the majority of such quorum: *Provided, however,* That the Presiding Officer of the Board shall always have the right to vote.

All members of the Board except the President shall receive a *per diem* of Two Hundred Pesos for every Board meeting attended: *Provided, however,* That in no case shall any such member receive more than One Thousand Pesos in any one month in the form of *per diem*: *And provided, further,* That no other allowances in any form of compensation shall be paid them, except actual expenses in travelling to and from their residence to attend Board meetings.

SEC. 12. *Exercise of Authority.* — In order to exercise the authority granted to it under this Act, the Board shall:

- a. Direct the preparation, approve, amend and repeal such rules and regulations as it considers necessary;
- b. Direct the preparation, approve, amend and repeal plans of operations including, among other things, a table of organization and administrative procedures;
- c. Review, approve or amend the annual budget and such supplemental budgets which may be submitted to it by the President of the Corporation from time to time for the performance of the functions and operation of the Corporation: *Provided, however,* That the operating expenses of the Corporation, excluding the payment of claims, shall in no case exceed forty per cent (40%) of its first One Million Pesos annual gross income: *Provided, further,* That if such gross annual income exceeds One Million Pesos in any fiscal year, the maximum corporate operating expenses may be increased by twenty-five percent (25%) of such excess: *Provided, finally,* That in the computation of gross income, recoveries and salvages shall not be included; and
- d. Generally, exercise all the powers necessary or incidental to attain the intents and purposes of this Act.

### **Article III. — The Organizational Structure of the Corporation**

SEC. 13. *Powers and Duties of the President of the Corporation.* — The President of the Corporation shall be the chief executive of the organization. His powers and duties, in addition to that provided in Section 7 (a) of this Act shall be:

- a. To prepare the agenda for the meetings of the Board, and to submit for the consideration of the Board such policies and measures as he believes necessary to carry out the purposes and provisions of this Act;
- b. To execute, administer and implement the policies and measures approved by the Board;
- c. With the approval of the Board, to appoint and fix the number and salaries of such subordinate personnel as may be necessary in carrying out the objectives of this Act, and to remove, suspend, or otherwise discipline for cause any subordinate officer or employee of the Corporation;
- d. To direct and supervise the operations and internal administration of the Corporation. The President may delegate certain of his administrative responsibilities to other officers of the Corporation, subject to the rules and regulations promulgated by the Board;