

[Commonwealth Act No. 458, June 09, 1939]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A RESERVE BANK IN THE PHILIPPINES

Be it enacted by the National Assembly of the Philippines;

CHAPTER I - DEFINITIONS OF TERMS

Sec. 1. (a) The term "Reserve System" shall be held to mean that banking system herein created under which the Reserve Bank of the Philippines and the member banks shall operate to accomplish the purposes of this Act.

(b) The term "Reserve Bank" shall be held to mean the Reserve Bank of the Philippines.

(c) The term "Member Bank" shall be held to mean any bank, banking association, trust company, savings bank, or other banking corporation, or any branch of the same, which is a member of the Reserve System herein established.

(d) The term "Bank" shall be held to mean any bank, banking association, trust company, savings bank, or other banking corporation, or any branch of the same, which is engaged in banking business in the Philippines.

(e) The term "Board" shall be held to mean the Board of Governors of the Reserve Bank.

(f) The term "lawful money of the Philippines" shall include Treasury certificates and silver pesos legally issued under authority of the Government of the Philippines.

(g) The term "lawful money of the United States" shall include gold coins, gold certificates, silver dollars and United States notes.

(h) The term "Government" shall mean the Government of the Philippines.

Chapter II.--ESTABLISHMENT AND FUNCTIONS

NAME, DOMICILE, AND DURATION

Sec. 2. In order to afford means of centralizing the reserves of member banks, to regulate credit and credit facilities, and to coordinate effectively bank resources, there is created a bank to be known as the "Reserve Bank of the Philippines."

Sec. 3. The Reserve Bank shall have its principal place of business in the City of Manila and shall exist for a period of fifty years.

CAPITAL STOCK

Sec. 4. The Reserve Bank shall have a capital stock of five million pesos, divided into five thousand shares having a par value of one thousand pesos each.

Sec. 5. The President of the Philippines, in behalf of the Government, shall subscribe to and pay for two thousand shares of the capital stock of the Reserve Bank; the remainder of the capital shall be subscribed from time to time by the President of the Philippines, in behalf of the Government, in such amounts as he may determine as soon as sufficient funds may be available for that purpose and the needs of the business of the Reserve Bank should require it.

Sec. 6. There is appropriated from the proceeds of the excise tax on coconut oil the sum of two million pesos for the payment of two thousand shares of stock subscribed by the Government provided in the next preceding section.

CORPORATE POWERS

Sec. 7. The Reserve Bank shall have the following powers:

(a) Upon the indorsement of any member bank, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, the Reserve Bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Reserve Bank to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this Act. Notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producer of staple agricultural products in their raw state shall also be eligible for such discount, but notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the Philippines shall not be eligible for discount. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than ninety days.

(b) Upon the indorsement of any member bank, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, the Reserve Bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Reserve Bank, discount notes, drafts, and bills of exchange issued or drawn for an agricultural purpose, or based upon livestock, and having a maturity, at the time of discount, not exceeding nine months, and such notes, drafts, and bills of exchange may be offered as a collateral security for the issuance of Reserve Bank notes under the provisions of section 22 of this Act: *Provided*, That notes, drafts, and bills of exchange with maturities in excess of six months shall not be eligible as a basis for the issuance of Reserve Bank notes unless secured by warehouse receipts or other such negotiable documents conveying or securing title to readily marketable staple agricultural products or by chattel mortgage upon livestock which is being fattened for market.

(c) The Reserve Bank may make advances for periods not exceeding fifteen days to member banks on their promissory notes secured by the deposit or pledge of bonds, notes, certificates of indebtedness, or treasury bills of the Government of the Philippines or of the United States, or by the deposit or pledge of debentures or other obligations of the Agricultural and Industrial Bank of the Philippines which are eligible for purchase by the Reserve Bank, and the Reserve Bank may make

advances for periods not exceeding ninety days to member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by the Reserve Bank. All such advances shall be made at rates to be established by the Board of Governors. If any member bank to which any such advance has been made shall during the life or continuance of such advance, and despite an official warning of the Board of Governors to the contrary, increase its outstanding loans secured by collateral in the form of stocks, bonds, debentures, or other such obligations, or loans made to members of any organized stock exchange, investment house, or dealer in securities, upon any obligation, note, or bill, secured or unsecured, for the purpose of purchasing and/or carrying stocks, bonds, or other investment securities, except obligations of the Government of the Philippines or of the United States, such advance shall be deemed mediately due and payable, and such member bank shall be ineligible as a borrower at the Reserve Bank under the provisions of this paragraph for such period as the Board of Governors of the Reserve Bank shall determine: *Provided*, That no temporary carrying or clearance loans made solely for the purpose of facilitating the purchase or delivery of securities offered for public subscription shall be included in the loans referred to in this paragraph.

(d) To buy from and sell to member banks cable transfers, bills of exchange eligible for rediscount and treasury bills having a maturity of not exceeding ninety days.

(e) To buy and sell securities issued or guaranteed both as to principal and interest by the Government of the United States. However, the aggregate of the securities held at any one time by the Reserve Bank with maturities exceeding nine months shall not be more than its paid-up capital and surplus.

(f) To accept money on time deposits or current accounts from the Government, and its political subdivisions and from banks.

(g) To hold the reserves of the member banks.

(h) To issue bank notes.

(i) To maintain accounts with central banks in other countries and to establish agency or correspondent relations with such central banks.'

(j) To buy and sell gold and silver, in coin or bullion.

(k) To designate the branches and agencies of the Philippine National Bank in the Philippines as its correspondents, or agents under such terms as may be agreed upon with the Philippine National Bank.

(1) To make, provisional advances to the Government and its political subdivisions for the expenses authorized in their annual appropriations. Said advances shall be payable within three months and shall not, in their aggregate, exceed one-sixth of the estimated income of the borrower for the year. In no event shall the total of such advances exceed the total capital and surplus of the Reserve Bank. In cases of emergency and with the approval of the Secretary of Finance, the maturity of loans granted to the Government may be extended for a period not to exceed one year.

(m) To act as the agent for the Government, in the purchase and sale of gold or silver bullion; in the purchase, sale, transfer and custody of bills of exchange, securities, or shares in any company; in the collection of the proceeds, whether principal, interest or dividends, of any securities or shares and in the remittance of such proceeds, at the risk of the Government, by bills of exchange payable either in the Philippines or elsewhere.

(n) To make by-laws; to adopt and use a corporate seal; to buy, hold, transfer, sell, let, lease, mortgage, encumber and otherwise trade in personal or real properties, shares of stock, securities, or other instruments of credit of any domestic or foreign corporation, as its aims and the transactions of its business may reasonably and necessarily require; to enter into contracts essential to the proper management of its corporate affairs and to carry out its aims and purposes; to appoint and dismiss its officers and employees, unless otherwise provided for by this Act and to fix the amount of compensation for said officers and employees; to sue and be sued; to have the power of succession, and to exercise such powers as may be reasonably necessary to carry on the business for which it has been created or authorized.

MEMBER BANKS

Sec. 8. All banks which have been organized or which may hereafter be organized under the laws of the Philippines, whether by special charter or otherwise (including established banks organized under the laws or Royal Decrees of Spain) shall be members of the Reserve System. Banks organized under the laws of the United States and having license to do business in the Philippines, and those which up to July fourth, nineteen hundred and forty-six, shall have secured such license, may likewise be members of the Reserve System of the Philippines if they apply for membership within ninety days from the date of effectivity of this Act, or in the case of those securing said license after the date of effectivity of this Act, within ninety days from the date of the issuance of the license.

Sec. 9. All reserves of member banks required by existing laws to be maintained shall be deposited with the Reserve Bank.

SEC. 10. In order to prevent injurious credit expansion or contraction, the Board of Governors, subject to the approval of the Secretary of Finance, may from time to time by regulation change the requirements as to the amount of reserves to be maintained against demand or time deposits or both by member banks; but the amount of the reserves required maintained by member banks shall not be less than, nor more than twice the amount of the minimum reserves provided by existing laws.

SEC. 11. Any member bank which, after due demand has failed to deposit in the Reserve Bank the reserves to which the two next preceding sections refer, shall be subject to suspension as a member bank and shall thereby lose all its rights and privileges as such, besides being subject to the penalties provided by law for failure to maintain the required legal reserves.

SEC. 12. A weekly return showing the financial condition made up to the close of business every Saturday, and signed by the Manager and the Accountant of the member bank, or signed by other principal officers of the member bank acting on their behalf for the time being, shall be filed with the Reserve Bank every Monday in

such form as may be prescribed by rules and regulations issued by the Board of Governors.

Sec. 13. If the Reserve Bank has any reason to believe that a return of a member bank is incorrect in any material particular, or if any member bank fails to make a return when required to do so either by this Act or by the Reserve Bank acting under the authority of this Act, or if for any reason it is the opinion of the Board of Governors of the Reserve Bank that for the public interest an examination should be made, the Board of Governors shall with the cooperation of the Bank Commissioner examine the books and accounts of that member bank. The expenses of such examinations shall be borne by the member bank examined.

A member bank which fails or defaults in submitting the weekly return required by this Act, shall be administratively fined by the Board in the amount of one hundred pesos for every day during which such failure or default continues.

Sec. 14. Any member bank may accept drafts or bills of exchange drawn upon it having not more than six months sight to run, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods on condition that shipping documents conveying or securing title be attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples. No member bank shall accept, whether in a foreign or domestic transaction, for any one person, company, firm, or corporation, an amount equal at any time in the aggregate to more than fifteen per centum of its paid-up and unimpaired capital stock and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

AGGREGATE LIABILITIES OF MEMBER BANKS

Sec. 15. No member bank shall at any time be indebted, or in any way liable, to an amount exceeding that of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the following nature:

(a) Notes in circulation.

(b) Moneys deposited with or collected by the member bank, (c) Bills of exchange or drafts drawn against money actually on deposit to the credit of the member bank or due there to.

(d) liabilities to the stockholders of the member banks for dividends and reserve profits.

(e) liabilities incurred under the provisions of this Act.

(f) Liabilities created by the indorsement of accepted bills of exchange payable abroad actually owned by the indorsing member bank and discounted at home or abroad.

DEPOSIT OF CHECKS AT PAR