

[**PRESIDENTIAL DECREE NO. 1455, June 11, 1978**]

AMENDING CERTAIN SECTIONS OF PRESIDENTIAL DECREE NO. 612 OTHERWISE KNOWN AS THE INSURANCE CODE

WHEREAS, Presidential Decree No. 612, otherwise known as the Insurance Code, was promulgated primarily to promote and develop a strong national insurance industry and to provide the necessary operating conditions for its integration in the economic and social development of the Philippines;

WHEREAS, the prevailing economic conditions necessitate the amendment of said Decree to further assure the solvency of insurance companies doing business in the Philippines in the interest of the sound development of the national economy;

WHEREAS, there is a need to amend the said Decree to further ensure the faithful performance of insurance contracts for the protection of the interests of the policyholders and the public;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby decree and order the amendment of Presidential Decree No. 612, otherwise known as the Insurance Code, as follows:

SECTION 1. Section 176 of Presidential Decree No. 612, otherwise known as the Insurance Code is hereby amended to read as follows:

"SEC. 176. The liability of the surety or sureties shall be joint and several with the obligor and shall be limited to the amount of the bond. It is determined strictly by the terms or the contract of suretyship in relation to the principal contract between the obligor and the obligee."

SEC. 2. Section 187 of the same Decree is hereby amended to read as follows:

"SEC. 187. No insurance company shall transact any insurance business in the Philippines until after it shall have obtained a certificate of authority for that purpose from the Commissioner upon application therefor and payment by the company concerned of the fees hereinafter prescribed.

The Commissioner may refuse to issue a certificate of authority to any insurance company if, in his judgment, such refusal will best promote the interest of the people of this country. No such certificate of authority shall be granted to any such company until the Commissioner shall have satisfied himself by such examination as he may make and such evidence as he may require that such company is qualified by the laws of the Philippines to transact business therein, that the grant of such authority appears to be justified in the light of local economic requirements, and that the direction and administration, as well as the integrity and responsibility of the organizers and administrators, the financial organization and the amount of capital, notwithstanding the provisions of section one hundred eighty-eight, reasonably assure the safety of the interests of the policyholders and the public.

In order to maintain the quality of the management of insurance companies and afford better protection to policyholders and the public in general, any person of good moral character, unquestioned integrity and recognized competence may be elected or appointed director or officer of insurance companies. The Commissioner shall prescribe the qualifications of the executive officers and other key officials of insurance companies for purposes of this section.

No person shall concurrently be a Director and/or Officer of an insurance company and an adjustment company.

Incumbent Directors and/or Officers affected by the above provisions are hereby allowed to hold on to their positions until the end of their terms, or two years from the effectivity of this Decree, whichever is shorter.

Before issuing such certificate of authority, the Commissioner must be satisfied that the name of the company is not that of any other known company transacting a similar business in the Philippines, or a name so similar as to be calculated to mislead the public.

Such certificate of authority shall expire on the last day of June of each year and shall be renewed annually if the company is continuing to comply with the provisions of this Code or the circulars, instructions, rulings, or decisions of the Commissioner. Every company receiving any such certificates of authority shall be subject to the provisions of this Code and other related laws and to the jurisdiction and supervision of the Commissioner.

No insurance company may be authorized to transact in the Philippines the business of life and non-life insurance concurrently, unless specifically authorized to do so; *Provided*, That the terms "life" and "non-life" insurance shall be deemed to include health, accident and disability insurance.

No insurance company shall have any equity in an adjustment company and neither shall an adjustment company have any equity in an insurance company.

Insurance companies and adjustment companies presently affected by the above provision shall have two years from the effectivity of this Decree within which to divest of their stockholdings."

SEC. 3. Section 188 of the same Decree is hereby amended to read as follows:

"SEC. 188. Except as provided in section two hundred eighty-one, no domestic insurance company shall, if a stock corporation, engage in business in the Philippines unless possessed of a paid-up capital stock equal to at least five million pesos; *Provided*, That a domestic insurance company already doing business in the Philippines with a paid-up capital stock which is less than a five million pesos shall have a paid-up capital stock of at least three million pesos by December thirty-one, nineteen hundred seventy-eight, four million pesos by December thirty-one, nineteen hundred seventy-nine and five million pesos by December thirty-one, nineteen hundred eighty; *Provided, Further*, That the

Secretary of Finance may, upon recommendation of the Insurance Commissioner, increase such minimum paid-up capital stock requirement, under such terms and conditions as he may impose, to an amount which, in his opinion, would reasonably assure the safety of the interests of the policyholders and the public.

'The Commissioner may, as pre-licensing requirement of a new insurance company, in addition to the paid-up capital stock, require the stockholders to pay in cash to the company in proportion to their subscription interests a contributed surplus fund of not less than one million pesos, in the case of a life insurance company, or not less than five hundred thousand pesos, in any case of an insurance company other than life. He may also require such company to submit to him a business plan showing the company's estimated receipts and disbursements, as well as the basis therefor, for the next succeeding three years.

If organized as a mutual company, in lieu of such capital stock, it must have available cash assets of at least five million pesos above all liabilities for losses reported, expenses, taxes, legal reserve, and reinsurance of all outstanding risks, and the contributed surplus fund equal to the amounts required of stock corporations. A stock insurance company doing business in the Philippines may, subject to the pertinent law and regulations which now are or hereafter may be in force, alter its organization and transform itself into a mutual insurance company."

SEC. 4. Section 194 of the same Decree is hereby amended to read as follows:

"SEC. 194. An insurance company doing business in the Philippines shall at all times maintain a margin of solvency which shall be an excess of the value of its admitted assets exclusive of its paid-up capital, in the case of a domestic company, or an excess of the value of its admitted assets in the Philippines, exclusive of its security deposits, in the case of a foreign company, over the amount of its liabilities, unearned premium and reinsurance reserves in the Philippines of at least two *per mille* of the total amount of its insurance in force as of the preceding calendar year on all policies except term insurance, in the case of a life insurance company, or of at least ten per centum of the total amount of its net premium written during the preceding calendar year, in the case of a company other than a life insurance company; *Provided*, That, in either case, such margin shall in no event be less than five hundred thousand pesos; and *Provided, Further*, That the term "paid-up capital" shall not include contributed surplus and capital paid in excess of par value. Such assets, liabilities and reserves shall exclude assets, liabilities and reserves included in separate accounts established in accordance with section two hundred thirty-seven. Whenever the aforementioned margin be found to be less than that herein required to be maintained, the Commissioner shall forthwith direct the company to make good any such deficiency by cash to be contributed by all stockholders of record in proportion to their respective interests, and paid to the treasurer of the company, within fifteen days from receipt of the order; *Provided*, That the company in the interim shall not be permitted to take any new risk of any kind or character unless and until it make good such deficiency; *Provided, Further*, That a stockholder who, aside from paying the

contribution due from him, pays the contribution due from another stockholder by reason of the failure or refusal of the latter to do so, shall have a lien on the certificates of stock of the insurance company concerned appearing in its books in the name of the defaulting stockholder on the date of default, as well as on any interests or dividends that have accrued or will accrue to the said certificates of stock, until the corresponding payment or reimbursement is made by the defaulting stockholder."

SEC. 5. Section 203 of the same Decree is hereby amended to read as follows:

"SEC. 203. Every domestic insurance company shall, to the extent of an amount equal in value to twenty-five per centum of the minimum paid-up capital required under section one hundred eighty-eight, invest its funds only in securities, satisfactory to the Commissioner, consisting of bonds or other evidences of debt of the Government of the Philippines or its political subdivisions or instrumentalities, or of government-owned or controlled corporations and entities, including the Central Bank of the Philippines; *Provided*, That such investments shall at all times be maintained free from any lien or encumbrance; and *Provided, Further*, That such securities shall be deposited with and held by the Commissioner for the faithful performance by the depositing insurer of all its obligations under its insurance contracts. The provisions of section one hundred ninety-two shall, so far as practicable, apply to the securities deposited under this section.

Except as otherwise provided in this Code, no judgment creditor or other claimant shall have the right to levy upon any of the securities of the insurer held on deposit under this section or held on deposit pursuant to the requirement of the Commissioner."

SEC. 6. Section 204 of the same Decree is hereby amended to read as follows:

"SEC. 204. After satisfying the requirements contained in the preceding section, any domestic non-life insurance company, shall invest, to an amount prescribed below, its funds in, or otherwise, acquire or loan upon, only the classes of investments described in section two hundred including securities issued by any "registered enterprise", as this term is defined in Republic Act No. 5186, otherwise known as the Investment Incentives Act, and such other classes of investments as may be authorized by the Commissioner for purposes of this Section; *Provided*, That (a) no more than twenty per centum of the net worth of such company as shown by its latest financial statement approved by the Commissioner shall be invested in the lot and building in which the insurance company conducts its business and (b) the total investment of an insurance company in any registered enterprise shall not exceed twenty per centum of the paid-up capital of the registered enterprise excluding the intended investment, unless previously authorized by the Commissioner; and, *Provided, Further*, That such investments, free from any lien or encumbrance, shall be at least equal in amount to the aggregate amount of (a) its legal reserve, as provided in section two hundred thirteen, and (b) its reserve fund held for reinsurance as

provided for in the pertinent treaty provision in the case of reinsurance ceded to authorized insurers."

SEC. 7. Section 247 of the same Decree is hereby amended to read as follows:

"SEC. 247. If the Commissioner is of the opinion upon examination or other evidence that any domestic or foreign insurance company is in an unsound condition, or that it has failed to comply with the provisions of law or regulations obligatory upon it, or that its condition or methods of business is such as to render its proceedings hazardous to the public or to its policyholders or that its paid-up capital stock, in the case of a domestic stock company, or its available cash assets, in the case of a domestic mutual company, or its security deposits, in the case of a foreign company is impaired or deficient, or that the margin of solvency required of such company is deficient, the Commissioner is authorized to suspend or revoke all certificates of authority granted to such insurance company, its officers and agents, and no new business shall thereafter be done by such company or for such company by its agent in the Philippines while such suspension, revocation or disability continues or until its authority to do business is restored by the Commissioner. Before restoring such authority, the Commissioner shall require the company concerned to submit to him a business plan showing the company's estimated receipts and disbursements, as well as the basis therefor, for the next succeeding three years."

SEC. 8. Section 249 of the same Decree is hereby amended to read as follows:

"SEC. 249. Whenever, upon examination or other evidence, it shall be disclosed that the condition of any insurance company doing business in the Philippines is one of insolvency, or that its continuance in business would be hazardous to its policyholders and creditors, the Commissioner shall forthwith order the company to cease and desist from transacting business in the Philippines and shall designate a receiver to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same for the benefit of its policyholders and creditors and exercise all the powers necessary for these purposes including, but not limited to, bringing suits and foreclosing mortgages in the name of the insurance company.

The Commissioner shall thereupon determine within thirty days whether the insurance company may be reorganized or otherwise placed in such condition so that, it may be permitted to resume business with safety to its policyholders and creditors and shall prescribe the conditions under which such resumption of business shall take place as well as the time for fulfillment of such conditions. In such case, the expenses and fees in the collection and administration of the insurance company shall be determined by the Commissioner and shall be paid out of the assets of such company.

If the Commissioner shall determine and confirm within the said period that the insurance company is insolvent, as defined hereunder, or cannot resume business with safety to its policyholders and creditors, he shall, if the public interest requires, order its liquidation plan and implement