

[PRESIDENTIAL DECREE NO. 71, November 29, 1972]

AMENDING REPUBLIC ACT NUMBERED THREE HUNDRED AND THIRTY-SEVEN, ENTITLED "THE GENERAL BANKING ACT."

WHEREAS, there were pending before Congress prior to the promulgation of Proclamation No. 1081, dated September 21, 1972, urgent banking measures proposing amendments to Republic Act No. 337, entitled "The General Banking Act", which are vital to the national development program of the Government;

WHEREAS, an extensive survey and study of the banking and credit system had been undertaken for the purposes of assessing its adequacy in Philippine economic growth, and of facilitating the savings-investment process in development;

WHEREAS, the result of the survey was an integrated set of recommendations which were accepted, with modifications by the monetary authorities, and made the basis for this Decree to effect reforms in the banking system, and to render monetary and credit policies more responsive to the requirements of economic development;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, as amended, and in order to effect the desired changes and reforms in the social, economic, and political structure of our society, do hereby order and decree the amendment of Republic Act No. 337, as follows:

SECTION 1. Section two of the Republic Act No. 337, is hereby amended to read as follows:

"SEC. 2. Only entities duly authorized by the Monetary Board of the Central Bank may engage in the lending of funds obtained from the public through the receipt of deposits of any kind, and all entities regularly conducting such operations shall be considered as banking institutions and shall be subject to the provisions of this Act, of the Central Bank Act, and of other pertinent laws. The terms 'banking institution' and 'bank', as used in this Act, are synonymous and interchangeable and specifically include commercial banks, savings banks, mortgage banks, development banks, rural banks, stock savings and loan associations, and branches and agencies in the Philippines of foreign banks hereinafter called Philippine branches,

"The Monetary Board may regulate the activities of the persons and entities which act as agents of banks. In no case may the Monetary Board authorize the drawing of checks against deposits not maintained in banks or branches or agencies thereof."

SEC. 2. The same Act is hereby amended by adding the following sections after section two thereof, which read as follows:

"SEC. 2-A. The following entities shall not be considered as banking institutions but shall be subject to regulation by the Monetary Board which may include, but need not be limited to, the imposition of net worth to risk assets ratios, reserve requirements, and interest rate ceilings:

"(a) Entities regularly engaged in the lending of funds or purchasing of receivables or other obligations with funds obtained from the public through the issuance, endorsement, or acceptance of debt instruments of any kind for their own account, or through the issuance of certificates of assignment or similar instruments with recourse, trust certificates, or of repurchase agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally; "b) Entities regularly engaged in the lending of funds which receive deposits only occasionally; and

"(c) Trust companies, building and loan associations, and non-stock savings and loan associations, but such non-deposit accepting entities shall continue to be supervised and regulated by the Monetary Board under the pertinent provisions of this Act, and/or Republic Act Nos. 265 and 3779.

"SEC. 2-B. The operations and activities of non-bank financial intermediaries, except insurance companies, shall be subject to regulation by the Monetary Board which may include, but need not be limited to, the imposition of constraints covering the (a) Minimum size of funds received, (b) Methods of marketing and distribution, (c) Terms and maturities of funds received, and (d) Uses of funds: *Provided, however,* That, if such entities are found by the Central Bank to be performing quasi-banking functions, they may be further subject to regulation under Section Two-A of this Act.

"SEC. 2-C. The Monetary Board may, at its discretion, prescribe control ratios, ceilings, limitations, or other forms of regulation on the different types of contingent accounts of banking institutions and non-bank financial intermediaries performing quasi-banking functions.

"SEC. 2-D. For purposes of Sections Two, Two-A, Two-B, and Two-C the following definition of terms shall apply:

"(a) 'Public' shall mean twenty or more lenders;

"(b) 'Quasi-Banking Functions' shall mean borrowing funds, for the borrowers's own account, through the issuance, endorsement or acceptance of debt instruments of any kind other than deposits, or through the issuance of participations, certificates of assignment, or similar instruments with recourse, trust certificates, or of repurchase agreements, from twenty or more lenders at any one time, for purposes of relending or purchasing of receivables and other obligations: *Provided, however,* That commercials, industrial, and other non-financial companies, which borrow funds through any of these means for the limited purpose of financing their own needs or the needs of their agents or dealers, shall not be considered as performing quasi-banking functions;

"(c) 'Financial intermediaries shall mean persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others;

"(d) 'Regulation' shall mean the issuance of rules of conduct or the establishment of modes or standards of operations for uniform application to all institutions or functions covered, taking into consideration in determining such coverage the distinctive character of the operations of institutions and the substantive similarities of specific functions to which such rules, modes, or standards are to be applied: *Provided*, That, if the circumstances so warrant as determined by the Monetary Board, any of these institutions may be subject to special examination; and

"(e) Supervision shall include not only the issuance of rules, but also the overseeing to ascertain that regulations are complied with, investigating, or examining to determine whether an institution is conducting its business on a sound financial basis, and inquiring into the solvency and liquidity of the institution;"

SEC. 3. Section four of the same Act is hereby amended to read as follows:

"**SEC. 4.** The determination of whether a person or an entity is (a) performing banking or quasi-banking functions or (b) engaged in other types of financial intermediation shall be decided by the Monetary Board subject to judicial review. The Board may, through the appropriate supervising department of the Central Bank, examine, inspect or investigate the books and records of such person or entity for the purpose of resolving the question."

SEC. 4. Section five of the same Act is hereby amended by adding the following subsection after subsection (e) thereof, which reads as follows:

"(f) 'Unimpaired Capital and Surplus', 'Combined Capital Accounts', and 'Net Worth', which terms shall mean, for the purposes of this Act, the total of the unimpaired paid-in capital, surplus, and undivided profits, net of such valuation reserves as may be required by the Central Bank."

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

"**SEC. 6.** No person, association, or corporation not conducting the business of a commercial banking corporation, trust corporation, savings and mortgage bank, development bank, rural bank, savings and loan association, or building and loan association, as defined in this Act, or other banking laws, shall advertise or hold itself out as being engaged in the business of such bank, corporation, or association, or use in connection with its business title the word or words 'bank,' 'banking,' 'banker,' 'building and loan association,' 'savings and loan association,' 'trust corporation,' 'trust company,' or words of similar import, or solicit or receive deposits of money for deposit, disbursement, safekeeping, or otherwise, or transact in any manner the business of any such bank, corporation or association, without having first complied with the

provisions of this Act or other banking laws. For any violation of the provisions of this section by a corporation, the officers and directors thereof shall be jointly and severally liable. Any violation of the provisions of this section shall be punished by a fine of five hundred pesos for each day during which such violation is continued or repeated, and in default of the payment thereof, subsidiary imprisonment as prescribed by law."

SEC. 6. The same Act is further amended by adding the following sections immediately after Section six thereof, which reads as follows:

"SEC. 6-A. For purposes of uniformity, simplicity, and equality of treatment, banking institutions shall be classified into the following general categories: (a) Commercial banks, (b) Thrift banks, composed of (1) Savings and mortgage banks, (2) Stock savings and loan associations, and (3) Private development banks, and (c) Regional unit banks composed of rural banks. Specialized and unique government banks, such as the Development Bank of the Philippines and the Land Bank, are not covered by this classification, but shall be subject to supervision and regulation by the Central Bank pursuant to the provisions of Section Twenty-Five of Republic Act No. 265.

"The Monetary Board shall determine the proper classification of other types of banking institutions that may be established after the approval of this Act.

"SEC. 6-B. With prior approval of the Monetary Board, commercial banks and thrift banks may establish branches, agencies, or extension offices, on a nationwide basis, but rural banks shall remain as regional unit banks.

"Notwithstanding the provisions of any law to the contrary, no government or private bank may open branches, agencies, or extension offices without prior approval of the Monetary Board.

"SEC. 6-C. The hours during which all banks, including their branches, agencies, and extension offices, shall transact business shall not be less than six (6) hours a day to be selected by the banking institution concerned between eight o'clock in the morning and eight o'clock in the evening, which time shall be reported to the Monetary Board: *Provided*, That banks may, at their discretion and after prior notice to the Monetary Board, remain open beyond the minimum six (6) hours and for as long as they find it necessary even before eight o'clock in the morning or after eight o'clock in the evening for the purpose of servicing deposits and withdrawals: *Provided, finally*, That other banking services may be extended beyond the minimum six hours: *Provided, finally*, That the additional hours during which any of these other banking services may be conducted may be limited by regulation of the Monetary Board.

"SEC. 6-D. The Monetary Board may, at its discretion, in specific cases where the circumstances so warrant, require a bank to engage the services of an independent auditor to be chosen by the bank concerned from a list of certified public accountants acceptable to the Monetary Board. The terms of the engagement shall be as prescribed by the Monetary Board which may either be on a continuing basis where the

auditor shall act as resident examiner, or on the basis of special engagements, but in any case, the independent auditor shall be responsible not only to the bank's board of directors, but to the Monetary Board as well; *Provided*, That nothing in this section shall be understood to preclude the Monetary Board from directing the board of directors of banking institutions and/or the individual members thereof, to conduct, either personally or by a committee created by the board, an annual balance sheet audit of the bank, to review the internal audit and control system of the bank, and to submit a report of such audit.

"SEC. 6-E. The banking industry is hereby declared as indispensable to the national interest and, notwithstanding the provisions of any law to the contrary, any strike or lockout involving banks, if unsettled after seven (7) calendar days, shall be reported by the Central Bank to the President of the Philippines who shall immediately certify the same to the appropriate court, government agency or commission for resolution. In accordance with the provisions of Section one hundred six of Republic Act No. 265, as amended, the Monetary Board may, at its discretion, modify or set aside the penalties for reserve deficiencies accruing during the entire period, or part thereof, of any bank strike or lockout, or of any national emergency affecting bank operations."

SEC. 7. The same Act is further amended by adding the following section after Section nine thereof, which reads as follows:

"SEC. 9-A. In order to maintain the quality of bank management and afford better protection to depositors and the public in general, the Monetary Board may pass upon and review the qualifications of persons who are elected or appointed bank directors and officers and disqualify those found unfit. The Monetary Board shall prescribe the qualifications of bank directors and officers for purposes of this section."

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

"SEC. 12. At least seventy per cent (70%) of the voting stock of any banking institution which may be established after the approval of this Act shall be owned by citizens of the Philippines, except where a new bank is established as a result of: (a) The local incorporation of any of the existing branches or agencies of foreign banks in the Philippines pursuant to Section sixty-eight of this Act or (b) The consolidation of existing banks in any of which there are foreign-owned voting stocks at the time of consolidation.

"The computation of the minimum percentage of Filipino-owned voting stocks required herein shall be governed by the provisions of the second paragraph of Section twelve-A of this Act. The Monetary Board may, if the national interest so requires, set a higher percentage of Filipino-owned voting stocks in banking institutions that may be established after the approval of this Act."

SEC. 9. The same Act is further amended by adding the following sections after Section twelve thereof, which read as follows: