

[REPUBLIC ACT NO. 9302, July 27, 2004]

AN ACT 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:

SEC. 1. SEC. 1 of Republic Act No. 3591, as amended, is hereby amended by adding a new paragraph to read as follows:

"The Corporation shall, as a basic, policy, promote and safeguard the interests of the depositing public by way of providing permanent and continuing insurance coverage on all insured deposits."

SEC. 2. SEC. 2 of the same Act 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 ex officio Chairman of the Board without compensation.

"(b) The Governor of the Bangko Sentral ng Pilipinas, 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 full-time basis for a term of six (6) years. The President of the Corporation 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.

"The Secretary of Finance and the Governor of the Bangko Sentral may each designate a representative, whose position shall not be lower than an undersecretary or deputy governor respectively, to attend such meetings and to vote on behalf of their respective principals. Whenever the Chairman of the Board is unable to attend a meetings 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. All decisions of the Board of Directors shall require the concurrence of at least three (3) members.

"The Secretary of Finance shall fix the rate of per diem for every Board meeting attended by the members of the Board of Directors from the private sector. The President of the Philippines may fix such emoluments that may be received by the Board of Directors comparable to the emoluments of members of the Board of Directors of other government financial institutions.

"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, operation and administration of the Corporation;

"3. To establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the Corporation in accordance with sound principles of management.

"A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall be instituted as an integral component of the Corporation's human resource development program: Provided, That all positions in the Corporation shall be governed by a compensation, position classification system and qualification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities. The compensation plan shall be comparable with the prevailing compensation plans of other government financial institutions and shall be subject to review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increases based on productivity and profitability. The Corporation shall therefore be exempt from existing laws, rules and regulations on compensation, position classification and qualification standards. It shall however endeavor to make its system conform as closely as possible with the principles under Republic Act No. 6758, as amended.

"4. To appoint, establish the rank, fix the remuneration, approve local and foreign training of, and remove any officer or employee of the Corporation, for cause, subject to pertinent civil service laws: Provided, That the Board of Directors may delegate this authority to the President subject to specific guidelines;

"5. To adopt an annual budget for, and authorize such expenditures by the Corporation as are in the interest of the effective administration and operation of the Corporation; and

"6. To approve the methodology for determining the level and amount of provisioning for insurance and financial assistance losses, which shall establish reasonable levels of deposit insurance reserves. "SEC. 3. EC. 2-A of the same Act is hereby re-numbered as SEC. 3.

SEC. 4. Section 3 of the same Act is hereby re-numbered as Section 4 and subsection (g) thereof is further amended to read as follows:

"(g) The term "insured deposit" means the amount due to any depositor for deposits in an insured bank net of any obligation of the depositor to the insured bank as of the date of closure, but not to exceed two hundred fifty thousand pesos (P250,000.00). Such net amount shall be determined according to such regulations as the Board of Directors may prescribe. In determining such amount due to any depositor, there shall be added together all deposits in the bank maintained in the same right and capacity for his benefit either in his own name or in the name of others. A joint account regardless of whether the conjunction "and," "or," "and/or" is used, shall be insured separately from any individually-owned deposit account: *Provided*, That (1) If the account is held jointly by two or more natural persons, or by two or more juridical persons or entities, the maximum insured deposit shall be divided into as many equal shares as there are individuals, juridical persons or entities, unless a different sharing is stipulated in the document of deposit; and (2) If the account is held by a juridical person or entity jointly with one or more natural persons, the maximum insured deposit shall be presumed to belong entirely to such juridical person or entity: *Provided, further*, That the aggregate of the interests of each co-owner over several joint accounts, whether owned by the same or different combinations of individuals, juridical persons or entities, shall likewise be subject to the maximum insured deposit of Two hundred fifty thousand pesos (P250,000.00): *Provided, furthermore*, 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. 5. SEC. 4 of the same Act is re-numbered as SEC. 5.

SEC. 6. SEC. 6, subSEC.s (a), (d) and (h) of the same Act are hereby further amended, to read as follows:

"SEC. 6. (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 Five thousand pesos (P5,000.00). The assessment base shall be the amount of the liability of the bank for deposits as defined under subsection (f) of SEC. 4 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."

"(d) All assessment collections and income from operations after expenses and charges shall be added to the Deposit Insurance Fund under Section 13 hereof. Such expenses and charges are: (1) the operating costs and expenses of the Corporation for the calendar year; (2) additions to reserve to provide for insurance and financial assistance losses, net of recoverable amounts from applicable assets and collaterals, during the calendar year; and (3) the net insurance and financial assistance losses sustained in said calendar year."

"(h) The Corporation shall not terminate the insured status of any bank which continues to operate or receive deposits. 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 the law, the Corporation may, at its discretion, file a case for collection before the appropriate court without prejudice to the imposition of administrative sanctions allowed under the provisions of this Law on the bank officials responsible for the non-payment of assessment fees."

SEC. 7. SEC. 7, subsection (a) of the same Act is hereby further amended to read as follows:

"SEC. 7. (a) Whenever upon examination by the Corporation into the 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 forty-five (45) 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 thereafter issue a cease and desist order, and require the bank or its directors or agents concerned to correct the practices or violations within forty-five (45) 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 condition of the bank or otherwise seriously prejudice the interests of its depositors and the Corporation, the period to take corrective action shall not be more than fifteen (15) days. The order may also include the imposition of fines provided in Section 21 (f) hereof. The Board of Directors shall duly inform the Monetary Board of the Bangko Sentral ng Pilipinas of action it has taken under this subsection with respect to such practices or violations."

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

"Eighth — To conduct examination of banks with prior approval of the Monetary Board: Provided, That no examination can be conducted within twelve (12) months from the last examination date: *Provided, further*, That, to avoid overlapping of efforts, the examination shall maximize the efficient use of the relevant reports, information, and findings of the Bangko Sentral which it shall make available to the Corporation: *Provided*, finally, That the Board of Directors shall, in close coordination with the Monetary Board, prescribe such guidelines as may be necessary to ensure that there are no duplications of functions."

SEC. 9. Section 9 of the same Act is hereby further amended by adding a new subsection (b-1) after subsection (b), adding a new subsection (d-1) after subsection (d), amending subsection (e), and adding new subsection (f), (g), and (h), to read as follows:

"(b-1) The investigators appointed by the Board of Directors shall have the power on behalf of the Corporation to conduct investigations on frauds, irregularities and anomalies committed in banks, based on reports of examination conducted by the Corporation and Bangko Sentral ng Pilipinas or complaints from depositors or from other government agency. Each such investigator shall have the power to administer oaths, and to examine and take and preserve the testimony of any person relating to the subject of investigation."

"(d-1) Each insured bank shall keep and maintain a true and accurate record or statement of its daily deposit transactions consistent with the standards set by the Bangko Sentral ng Pilipinas and the Corporation. Compliance with such standards shall be duly certified by the president of the bank or the compliance officer: *Provided*, That refusal or willful failure to issue the required certification shall constitute a violation of this SEC. and shall subject such officers of the bank to the sanctions provided for under SEC. 21 (f) of this Act."

"(e) Personnel of the Corporation are hereby prohibited from: