

[Act No. 3610, December 03, 1929]

AN ACT AMENDING ACT NUMBERED FOURTEEN HUNDRED AND FIFTY-NINE, AS AMENDED; DEFINING THE POWERS OF BANKS, BANKING INSTITUTIONS, TRUST CORPORATIONS, AND BUILDING AND LOAN ASSOCIATIONS; PROHIBITING THE USE OF THE WORD OR WORDS "BANK," "BANKING," "BANKER," "BUILDING AND LOAN ASSOCIATION," "TRUST CORPORATION" OR WORDS OF SIMILAR IMPORT UNDER CERTAIN CONDITIONS; AUTHORIZING THE BANK COMMISSIONER TO INTERVENE IN CASE OF THE VOLUNTARY LIQUIDATION OF ANY BANK OR BANKING INSTITUTION; PROVIDING APPEAL FROM THE ACTION OF THE BANK COMMISSIONER, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the Philippines in Legislature assembled and by the authority of the same:

SECTION 1. Act Numbered Fourteen hundred and fifty-nine, as amended, is hereby further amended by inserting after section nine thereof another section reading as follows:

"SEC. 9 1/2. The Director of the Bureau of Commerce and Industry shall not hereafter file the articles of incorporation of any bank, banking institution, or building and loan association, unless accompanied by a certificate of authority issued by the Bank Commissioner, under his official seal, certifying that such concern is authorized under the laws of the Philippine Islands to engage in the business for which it is proposed to be incorporated. And it shall be the duty of the Bank Commissioner to issue such certificate within thirty days from the receipt of the application therefor, unless he has evidence to show that the establishment of the proposed institution will be prejudicial to the interests of the public, in which case he shall state in writing his reasons for refusing to issue the certificate: *Provided, however,* That in case of the refusal of the Bank Commissioner to issue such certificate, if the parties applying therefor shall deem themselves aggrieved by reason of the refusal of the Bank Commissioner as aforesaid, they may appeal within thirty days after such refusal, to the Secretary of Finance, as provided by section one hundred ninety and six-sevenths hereof."

SEC. 2. Section eighteen of the said Act is hereby amended by adding at the end thereof a new paragraph to read as follows:

"The Director of the Bureau of Commerce and Industry shall not hereafter file any amendment to the articles of incorporation of any bank, banking institution, or building and loan association, unless accompanied by a certificate of the Bank Commissioner to the effect that such amendment is in accordance with law."

SEC. 3. Section twenty of the same Act is hereby amended by adding at the end thereof a new paragraph to read as follows:

"The Director of the Bureau of Commerce and Industry shall not hereafter file the by-laws of any bank, banking institution, or building and loan association, unless accompanied by a certificate of the Bank Commissioner to the effect that such by-laws are in accordance with law."

SEC. 4. Section twenty-two of the same Act is hereby amended by the addition at the end thereof of a second proviso clause to read as follows:

"And provided, further, That the Director of the Bureau of Commerce and Industry shall not hereafter file any amendment to the by-laws of any bank, banking institution, or building and loan association, unless accompanied by a certificate of the Bank Commissioner to the effect that such amendments are in accordance with law."

SEC. 5. Section sixty-eight of the same Act is hereby amended by inserting before the last paragraph thereof the following new paragraph:

"The Secretary of Finance may, in his discretion, order the issuance to any foreign banking corporation of a license to transact business in the Philippine Islands, upon the recommendation of the Bank Commissioner. It shall be the duty of the Bank Commissioner to verify the information contained in the statement of the managing agent or representative of such foreign banking corporation, as well as to make any other or further investigation as to the persons, conditions and circumstances surrounding or in any manner affecting such banking corporation, and if said Bank Commissioner is satisfied that the issuance to such corporation of a license to transact business in the Philippine Islands will promote the public interest and convenience, then he shall recommend that such license be issued: *Provided,* That hereafter no foreign banking corporation shall open a branch or branches in the Philippine Islands without first having obtained the written approval of the Bank Commissioner, which shall be given by him unless he has evidence to show that the establishment of such branch or branches will be prejudicial to the interest of the public, in which case he shall state in writing his reasons for refusing to give the approval. In case of the refusal of the Bank Commissioner to give such approval, the parties applying therefor may appeal to the Secretary of Finance as provided in section one hundred ninety and six-sevenths of Act Numbered Fourteen hundred and fifty-nine as amended by this Act."

SAVINGS AND MORTGAGE BANKS

SEC. 6. Sections one hundred and three to and including section one hundred and fifteen of said Act are hereby amended to read as follows:

"SEC. 103. Any banking corporation organized primarily for the purpose of accumulating the small savings of depositors and investing them, together with its capital, in bonds or in loans secured by bonds, bullion or real-estate mortgages as hereinafter provided or in any combination of the aforementioned forms of investment shall be known as a savings and mortgage bank for the purposes of this Act. Such a corporation shall not be permitted to file its articles of incorporation with the Director of the Bureau of Commerce and Industry, unless accompanied by a certificate of authority issued by the Bank Commissioner in accordance with section

nine and one-half of Act Numbered Fourteen hundred and fifty-nine as amended by this Act. A certificate to the effect that the articles of incorporation have been filed shall not be issued unless such articles show, under oath of the incorporators, that such corporation has a capital stock paid in cash of not less than two hundred' thousand pesos if the proposed institution has its head office or a branch in a city or municipality with a population of seventy-five thousand persons or more, and not less than one hundred thousand pesos if located in a city or municipality with a population less than seventy-five thousand persons but more than fifty thousand persons, and fifty thousand pesos if located in a city or municipality with a population of less than fifty thousand persons. The population of any city or municipality shall be deemed to be that shown in the records of the Department of the Interior, as certified to by the Secretary of the Department.

"If the deposits of a savings and mortgage bank amount to more than ten times its unimpaired capital and surplus, additional capital shall be paid in so that as nearly as possible the bank shall have at least one peso of unimpaired capital and surplus for each ten pesos of deposits. The adjustments of the capital stock account herein required shall take place on the thirty-first day of December of each year.

"SEC. 104. A savings and mortgage bank may loan or invest its funds and deposits and collect such loans with interest accrued and repay its depositors with or without interest on their deposits, as may be provided in the by-laws of the corporation and not in violation of this Act. No loan of a savings and mortgage bank shall be for a longer period than five years, unless such loan is madeable in monthly, quarterly, semiannual or annual installments in which case it may have a maturity not to exceed ten years.

"SEC. 105. The loans and investments of a savings and mortgage bank shall be limited to the following:

"(1) Loans secured by mortgage or deed of trust to the corporation of unencumbered improved real estate in cities and municipalities in the Philippine Islands, or by mortgage or deed of trust to the corporation of actually cultivated and improved agricultural lands in the Philippine Islands. The amount loaned shall not exceed sixty per centum of the appraised value of the real estate including the value of the insured improvements thereon which is security for the loan. In determining the amount to be loaned upon a given parcel of real estate careful consideration shall be given to the prices' at which surrounding property has been sold, the assessed value of the property offered as security, and the revenue-producing capacity of such property;

"(2) Loans secured by the pledge to the corporation of gold or silver bullion: *Provided*, That the loans shall not exceed ninety per centum of the value of the pledge by which the loan is secured;

"(3) Bonds or evidences of debt—or loans secured by such bonds or evidences of debt—of the Government of the United States or of the Philippine Islands or of any province, city or municipality in the Philippine

Islands authorized by law to issue bonds; and bonds or evidences of debt—or loans secured by such bonds or evidences of debt—of any person, firm, company, corporation, or other entity guaranteed both as to principal and interest by the Government of the Philippine Islands or by the Government of the United States: *Provided, however,* That any loan made upon the security of such bonds or evidences of debt shall not exceed the face value of such bonds or evidences of debt, or the market value thereof, whichever may be the smaller;

"(4) Loans with first mortgages transferred to the corporation as collateral security on improved and otherwise unencumbered real estate in cities and municipalities in the Philippine Islands: *Provided, however,* That the mortgage transferred to the corporation as collateral security with interest accrued and due shall not exceed sixty per centum of the appraised value of the real estate and insured improvements which secure such mortgage;

"(5) Drafts, bills of exchange, acceptances, or notes arising out of current commercial transactions which are guaranteed by a solvent bank operating in the Philippine Islands. The aggregate investments in this class shall not exceed ten per centum of the total assets of the bank;

"(6) Collateral trust bonds or notes or obligations secured by such bonds or notes secured by a first mortgage or by a participating interest in a first mortgage upon improved urban real estate in cities and municipalities of the Philippine Islands, provided that such bonds and notes shall have been outstanding for at least three years prior to their purchase by the mortgage and savings bank and provided that during that period, the earnings of the property mortgaged and available for paying interest have been equal to at least two hundred per centum of the annual interest payable on account of all first mortgage obligations outstanding. No such bonds or notes or obligations secured thereby shall be purchased if the aggregate of first mortgage obligations outstanding against the property exceeds sixty per centum of the appraised value thereof.

"SEC. 106. No loan on the security of real estate shall be made unless the title to such real estate, free from all encumbrances, shall be in the mortgagor and unless the mortgage shall be a preferred claim on the property therein described as against the whole world.

"The direct indebtedness to a savings and mortgage bank of any person, firm, corporation, or entity shall be limited to twenty-five per centum of the unimpaired capital stock and surplus of the savings and mortgage bank: *Provided, however,* That this limitation shall not apply to loans secured by the pledge of gold and silver bullion in accordance with subparagraph (2) of section one hundred and five, nor to the bonds or evidences of debt or loans secured by such bonds or evidences of debt of the Government of the United States or of the Government of the Philippine Islands, or of any province, city or municipality in the Philippine Islands when such bonds or evidences of debt of such province, city or municipality are guaranteed as to principal and interest by the Government of the Philippine Islands, nor shall this limitation apply to

drafts, bills of exchange, acceptances or notes arising out of current commercial transactions which are guaranteed by solvent banks operating in the Philippine Islands. Except with the approval of the Bank Commissioner, no savings and mortgage bank may carry on deposit with another person, firm, corporation or entity an amount in excess of twenty-five per centum of the unimpaired capital stock and surplus of such savings and mortgage bank after deducting sums due by it to such person, firm, corporation or entity.

"SEC. 107. Any savings and mortgage bank may, with the approval of the Bank Commissioner, incur liabilities for money borrowed provided such liabilities shall not, in the aggregate, exceed fifty per centum of the paid-up and unimpaired capital stock of the corporation. The unencumbered assets of every savings and mortgage bank shall constitute the security of depositors who shall have priority of right over all others to such assets.

"SEC. 108. Savings and mortgage banks may purchase, hold and convey real and personal property as follows:

"(1) The lot with the building thereon in which the bank conducts and carries on its business, which shall not exceed in value twenty-five per centum of the unimpaired capital stock and surplus;

"(2) Such property, real and personal, as may have been mortgaged, pledged, or conveyed to it in good faith by reason of money loaned by it in pursuance of the regular business of the bank and such real and personal property as may have been purchased by it at sales to satisfy pledges, mortgages, or deeds of trust executed to it on account of money loaned by it, and such real and personal property as may have been conveyed to it by borrowers in satisfaction and discharge of loans made by the bank to them: *Provided, however,* That any real estate purchased by said bank in payment or by reason of any loan made by such bank must be sold by the bank within five years after the title thereto has been vested in it. *And provided, further,* That no savings and mortgage bank shall purchase, own, or sell personal property except as may be required in the transaction of its ordinary business or for its immediate accommodation.

"SEC. 109. Married women and minors may, in their own right and in their own names, make deposits and receive and receipt for deposits, dividends, and interest: *Provided, however,* That if any guardian shall give notice in writing to any savings and mortgage bank not to make payment of deposits, dividends, or interest to the minor of whom he is guardian, then such payment shall be made only to the guardian.

"SEC. 110. Before declaring any dividend, ten per centum of the net profits must be deducted and set aside as a part of the surplus, and the surplus thereby created shall be invested as are other funds of the bank. The surplus shall be used exclusively for the purpose of meeting losses sustained by the bank in the pursuit of its lawful business: *Provided,* That the bank may provide by its bylaws for the disposal of any excess in the surplus over twenty per centum of its liabilities, inclusive of stock, and