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SENATE

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S. No. 521

INTRODUCED BY HON. MANUEL B. VILLAR, JR.

EXPLANATORY NOTE

Export finance is a critical factor in the export promotion and development efforts of the Philippines. In line with the country's push towards achieving a Newly Industrializing Country (NIC) status by year 2000, policymakers have set an ambitious annual export growth target of 15%. Without adequate access to financing, these export targets would virtually be impossible to achieve.

On the surface, export credit facilities and guarantee mechanisms are readily available and seemingly adequate. On a closer look, however, only those exporters who can provide physical collateral (and therefore the large firms) have access credit, but irony is that a firm does not get that track record if it was not given access to formal credit.

The consequences are: dependence on self-financing and informal sector loans which limit the capacity to grow; acceptance of limited export orders, and a slow export growth rate. While neighboring countries have sustained their export surge, our exporters continue to struggle in the world markets.

The existing situation makes export financing an urgent policy concern. Policy measures and support programs to ensure quick and uninterrupted flow of funds to the export sector have to be identified and implemented. In this context, there is great need for export credit, guarantee, and insurance at rates and on terms and conditions which will make the country's exporters internationally competitive. The Medium-Term Philippine Development Plan has stressed international competitiveness as goal for the country's enterprises.

This bill therefore proposes the establishment of the Philippine Export Credit Guarantee Corporation (PECGC) through the consolidation of two existing institutions – the Philippine Export and Foreign Loan Guarantee Corporation (Philguarantee) and the Guarantee Fund for Small and Medium Enterprises (GFSME). This will also correct the current fragmentation of the credit guarantee system as reflected in the senseless competition between Philguarantee and PECGC will redound tremendously to the economy.


MANUEL B. VILLAR, JR.

THIRTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

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SENATE
OFFICE OF THE SECRETARY

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S. No. 521

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AN ACT CREATING THE PHILIPPINE EXPORT CREDIT GUARANTEE CORPORATION THROUGH THE CONSOLIDATION OF THE PHILIPPINE GUARANTEE EXPORT AND FOREIGN LOAN GUARANTEE CORPORATION AND THE GUARANTEE FUND FOR SMALL AND MEDIUM ENTERPRISES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Declaration of Policy. In support of growth and development of exports, the State shall establish a strong and credible export credit program which will provide guarantees, insurance services, and export credits, as well as other appropriate services, to the export sector at internationally competitive rates, terms and conditions.

SECTION 2. Establishment of the Philippine Export Credit Guarantee Corporation. The Philippine Export Credit Guarantee Corporation (PECGC) is hereby created through the consolidation of the functions and resources of the Philippine Export and Foreign Loan Guarantee Corporation (Philguarantee) and the Guarantee Fund for Small and Medium Enterprises (GFSME).

SECTION 3. Primary Objectives. In support of export promotion and development, the PECGC shall provide guarantees and insurance coverage, as well as other appropriate services, to the export sector, compromising direct and indirect exporters themselves as well as financial institutions in relation to the latter's export lending.

SECTION 4. Place of Business. PECGC shall have its principal place of business in Metro Manila, but may maintain branches, agencies and correspondents in such other places as the proper conduct of its business may require: Provided, That it shall maintain regional offices in some, but not necessarily, all, the regions of the country.

SECTION 5. Corporate Powers. PECGC is hereby authorized to adopt, alter and use a corporate seal which shall be judicially noticed; to enter into contracts; to lease or own real and personal property; to issue bonds and to borrow money from local and/or foreign sources; and to sell or otherwise dispose of the same; to sue and to be sued; and otherwise to do and perform any and all things that may be necessary or proper to carry out the purposes of this Act.

SECTION 6. Consolidation and Transfer of Powers of Philguarantee and GFSME. All powers, duties, and functions vested by law, directly, in Philguarantee and GFSME, insofar as

these pertain to export guarantee, insurance and other related functions, shall be consolidated with the PECGC.

The powers and functions of the PECGC shall include, but not be limited to, the following:

(a) To guarantee Philippine banking and financial institutions against losses that may be incurred by them in connection with: (i) the grant of loans/credit accommodations; or (ii) the issuance of standby letters of credit or of letters of guarantee, as the case may be, to secure the performance of approved service contracts to exporters, producers of export inputs, or contractors with approved service contracts abroad, Provided, That such exporters, producers of export inputs, or service contractors, are Filipino citizens or corporations or associations at least a majority of whose is owned by such citizens.

(b) To enter into contacts of insurance with any Filipino citizens or entities, as defined in letter (a) of this section, to ensure them against the risk of war, expropriation, restrictions on remittances and such other risks as may appear to the PECGC to be noncommercial risks, in respect of, or in connection with, export contracts or transactions.

(c) To develop credit information on foreign buyers and foreign markets and on domestic direct and indirect exporters. For this purpose the PECGC shall to have the authority to request from Philippine banks and financial institutions and from export credit agencies worldwide, any data which it may require for the proper discharge of its functions and responsibilities.

(d) To act as agent for any persons, entities, governments, agency of a government in respect of or in connection with export contracts or transactions.

(e) To provide technical assistance for exporters in the preparation of financial statements, preparation, financing and execution of expansion project, and in other areas necessary to promote and develop exports.

(f) To perform such other functions as may be provided by law.

SECTION 7. Consolidation of Assets and Liabilities. All assets and liabilities of Philguarantee and GFSME shall be consolidated and transferred to PECGC: Provided, That assets assessed as nonperforming shall be retained and administered, disposed of and liquidated by Philguarantee which shall continue to exist as the Philguarantee Board or Liquidators only for the purpose provided in this section but not later than twenty-five (25) years or until such time that liabilities have been liquidated: Provided, That the PECGC shall remit seventy-five percent (75%) of its profits to a special deposit account (sinking fund) until such time as the net liabilities of the Philguarantee shall have been liquidated through generally accepted finance mechanisms such as, but not limited to, write-offs, set-offs, condonation, collections reappraisal, revaluation and bond issuance by the National Government, or to the National Government as dividends. Provided, finally, That upon disposition of said retained assets and liquidation of said retain liabilities, the Philguarantee shall be deemed abolished.

SECTION 8. Capital Structure. The capital of the PECGC shall be One Billion Pesos (P1,000,000,000.00), to be fully subscribed by the Government of the Philippines and shall come from the consolidated capital funds of Philguarantee and GFSME.

SECTION 9. Governing Body. The PECGC shall be governed by a Board of Directors which shall be composed of NINE (9) members as follows:

- (a) The Secretary of Finance;
- (b) The Secretary of Trade and Industry;
- (c) The Director-General of the National Economic and Development Authority;
- (d) The Chairman of the Board of Directors of the Development Bank of the Philippines;
- (e) The President of the PECGC to be appointed by the President of the Philippines for a term of five (5) years;
- (f) Four (4) representatives from private sector, with three (3) coming from the export sector and one (1) from private financial institutions, to be appointed by the President of the Philippines for terms of five (5) years.

In making the appointments of the President of the PECGC and the representatives from the private sector, the President shall base his selection on the integrity, experience and expertise of the appointee.

The Secretary of Finance and the Secretary of Trade and Industry shall sit respectively as ex officio Chairman and Vice Chairman of the Board, respectively. The other officers of the PECGC shall be appointed by the Board.

SECTION 10. Powers of the Board. The Board shall be the chief policy-making authority of the PECGC. It shall have the following powers:

- (a) To formulate policies to carry out effectively the provisions of this Act.
- (b) To prepare rules and regulations as it considers necessary for the effective discharge of the responsibilities and exercise of the powers assigned to the PECGC.
- (c) On the recommendation of the President of the PECGC, appoint, fix the remuneration and other emoluments, and remove the personnel of the PECGC, Provided, That the compensation and remuneration of the PECGC officers and staff shall not be subject to Salary Standardization Law.
- (d) To authorize such expenditure by the PECGC as are in the interest of the effective administration and operations of the PECGC.
- (e) To compromise or release, in whole or part, any claim or settled liability to the PECGC, regardless of the amount involved, under such terms and conditions it may impose to protect/promote the interests of the PECGC. This authority to compromise or release extends to claims against PECGC.

SECTION 11. Powers and Duties of the President. The President of the PECGC shall be the chief executive officer of the PECGC. He shall have the following powers:

- (a) To prepare the agenda for the meetings of the Board, and to submit for the consideration of Board such policies and measures as may be necessary to carry out the purposes and objectives of this Act.
- (b) To execute, administer, and implement the policies and measures approved by the Board.

(c) To direct and supervise the operations and administrations of the PECGC.

(d) To represent the PECGC in all dealings with other offices, agencies, and instrumentalities of the Government and with all persons and other entities, public or private, domestic or foreign.

SECTION 12. Transitory Clause. The PECGC shall be made operational by the performance of the following acts:

(a) The President of the Philippines shall constitute the Board of Directors and appoint the President of the Corporation within sixty (60) days upon effectivity of this Act.

(b) The transfer of such assets and liabilities from the Philguarantee and GFSME to the PECGC as provided in Section 7 of this Act shall be completed within ninety (90) days from the constitution of the Board.

All incumbent personnel in Philguarantee and GFSME as of the date of approval of this Act shall continue to exercise their duties and functions, until absorbed as personnel of PECGC as provided in Section 13.

SECTION 13. Mandate to Organize. The PECGC shall be organized by its Board of Directors without being subject to provisions of the Civil Service Law and the Salary Standardization Law, by adopting if it so desires an entirely new staffing organizational structure to suit the operations of the PECGC under this Act. No preferential or priority shall be given to or enjoyed by any Philguarantee or GFSME personnel for appointment to any position in the new staffing pattern, nor shall any personnel be considered as having prior or vested rights with respect to retention in the PECGC or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to organization. The formulation of the program shall be fully implemented within six (6) months after the effectivity of this Act and shall be fully implemented within a period of six (6) months thereafter. Personnel who may not be retained are deemed separated from the service.

SECTION 14. Separation Benefits. The Board of Directors of the PECGC is authorized to provide separation benefits and all those who shall retire or be separated from the service on account of reorganization under the preceding section shall be entitled to such benefits in addition to all gratuities and benefits to which they may be entitled under existing laws.

SECTION 15. Separability Clause. If any provision of this Act is subsequently declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in force and effect.

SECTION 16. Repealing Clause. All laws, decrees, executive orders, rules and regulations, and other issuances inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 17. Effectivity Clause. This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved,