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SENATE

S. B. No. 2268

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Introduced by Senator Sergio Osmeña III

AN ACT AMENDING REPUBLIC ACT NUMBERED THREE THOUSAND FIVE HUNDRED NINETY-ONE, AS AMENDED, AND OTHER RELATED LAWS, TO ENHANCE THE RESOLUTION AND LIQUIDATION FRAMEWORK FOR BANKS AND BANKING INSTITUTIONS, AND TO STRENGTHEN THE INDEPENDENCE, AUTHORITY AND FINANCIAL CAPABILITY OF THE PHILIPPINE DEPOSIT INSURANCE CORPORATION, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The spate of bank closures in the last five (5) years has seriously affected the savings and/or business processes of countless individuals, families and businesses. The unsuccessful attempts by the PDIC to rehabilitate many of these banks after they have been ordered closed has brought to forefront the need for a preventive regulatory framework to help troubled banks before they are closed.

An efficient and stronger bank resolution framework is needed that would ensure that all efforts will have been exhausted to save a failing bank before it is ordered closed. This will minimize disruption of critical banking functions. Should closure still be imminent, despite these efforts, the resolution framework should clothe the regulators with the necessary authority to minimize the negative impact of bank closures on the stability of the banking system and its adverse repercussions on the depositing public.

An effective bank resolution and liquidation framework would better protect the interests of the bank's depositors and other creditors. A more prompt settlement of deposit insurance claims will further promote public confidence in the banking system. On the other hand, a more efficient bank liquidation process would enhance recovery by depositors and creditors of their claims against the assets of the closed bank.

The bill introduces much needed reforms in the charter of the Philippine Deposit Insurance Corporation (PDIC). It seeks to address the concerns and gaps to make

PDIC a more effective and efficient insurer of deposits consistent with international best practices. The highlights of this measure include:

1. A New Resolution Framework to deal with problem banks and removal of the 90-day receivership period- The proposed framework is based on the principle that bank rehabilitation should commence while the bank is still open so that it would be less disruptive to the system and recovery for all creditors is enhanced. Based on experience, successful rehabilitation after foreclosure is practically nil in view of the significantly deteriorated financial position of banks. Under this proposal, the resolution authority of PDIC would be triggered upon failure of Prompt Corrective Action (PCA) or upon request of the problem bank to be placed under resolution. A seamless transition from closure to liquidation by removing the 90-day receivership period is likewise proposed in order to facilitate the settlement of the claims of depositors and other creditors against the assets of the closed bank.

2. An Enhanced Liquidation Authority. – In the event of bank closure, the challenge is to be able to preserve critical banking functions and enhance the recovery of creditor claims against the assets of the closed bank. Towards this end, PDIC's mandate as bank liquidator needs to be enhanced by making available other modes of liquidating a closed bank, such as, Purchase of Assets and/or Assumption of Liabilities, and Bridge Banking. This will increase the chances of recovery of depositors and other creditors.


3. Deposit Insurance Amendments and Limited Access to Deposits. – PDIC seeks to authorize banks to disclose deposit information and data to PDIC for deposit insurance purposes only, and subject PDIC to the same prohibitions under existing bank secrecy laws. Moreover, to contain moral hazard and enforce market discipline, PDIC seeks authority to terminate deposit insurance status of banks which do not comply with its directives. PDIC likewise proposes to have the authority to charge risk-based premium and impose special assessments under certain specified conditions in the law.

4. Governance and Institutional Capability Building Measures. – To carry out these enhanced responsibilities, there is a need to strengthen PDIC structurally and operationally. It should also be able to expand its investment alternatives to enable it to better manage the Deposit Insurance Fund.

5. Additional Sanctions and Increased Penalty. – Increased penalties are proposed for various offenses, including performing acts inimical to the interest of a bank. New offenses are likewise penalized, such as filing a fictitious and/or fraudulent claim, certifying the validity of fictitious deposit liabilities, and bank fraud.

The proposed amendments will contribute to a resilient financial system that can more effectively deal with bank failures. What we have before us is an opportunity to advance and to apply the lessons learned, not only from the recent global financial crisis, but also from the experiences of the past and to adopt international best practices in the field of deposit insurance, bank resolution and liquidation. The power of legislative innovation as well as the benefit of hindsight permit us to fortify that which proved advantageous and to reform those which proved deficient in maintaining the stability of our financial system.

Thus, the approval of this bill is earnestly sought.


SERGIO OSMEÑA III
Senator

1 AND QUALIFICATION STANDARDS INCLUDING, BUT NOT LIMITED
2 TO PRESIDENTIAL DECREE NO. 985, PRESIDENTIAL DECREE NO.
3 1597, REPUBLIC ACT NO. 6758 AS AMENDED, JOINT RESOLUTION
4 NO. 4 (2009), AND REPUBLIC ACT NO. 10149.”

5 **SECTION 3.** Section 2 of the same Act is accordingly renumbered as Section 3
6 and is hereby amended to read as follows:

7 “BOARD OF DIRECTORS: COMPOSITION AND AUTHORITY

8 SECTION 3. (A) The powers and functions of the Corporation shall be
9 vested in and exercised by a Board of Directors which shall be composed
10 of **SEVEN (7)** [five (5)] members as follows:

11 [(a)] 1) The Secretary of Finance who shall be the *ex-officio* Chairman of
12 the Board without compensation.

13 [(b)] 2) The Governor of the *Bangko Sentral ng Pilipinas*, who shall be *ex-*
14 *officio* member of the Board without compensation.

15 [(c)] 3) The President of the Corporation, who shall be appointed by the
16 President of the Philippines [from either the Government or private
17 sector] to serve on a full-time basis for a term of six (6) years. The
18 President of the Corporation shall also serve as Vice Chairman of
19 the Board.

20 [(d)] 4) **FOUR (4)** [Two (2)] members from the private sector, to be
21 appointed **BY THE PRESIDENT OF THE PHILIPPINES** for a term
22 of six (6) years **SUBJECT TO ONLY ONE** [without] reappointment
23 [by the President of the Philippines]: *Provided*, That of those first
24 appointed, the first **TWO** appointees shall serve for a period of [two
25 (2)] **THREE (3)** years.

1 **ANY VACANCY IN THE BOARD OF DIRECTORS CREATED BY THE**
2 **DEATH, RESIGNATION, OR REMOVAL OF ANY APPOINTIVE**
3 **MEMBER SHALL BE FILLED BY THE APPOINTMENT OF A NEW**
4 **MEMBER TO COMPLETE THE UNEXPIRED PERIOD OF THE TERM**
5 **OF THE MEMBER CONCERNED.**

6 No person shall be appointed as member of the Board unless he be of
7 good moral character, of unquestionable integrity and responsibility, **OF**
8 **KNOWN PROBITY AND PATRIOTISM**, and who is of recognized
9 competence in economics, banking and finance, law, management
10 administration or insurance, and shall be at least thirty-five (35) years of
11 age. For the duration of their tenure or term in office and for a period of
12 one year thereafter, the appointive members of the Board shall be
13 disqualified from holding any office, position or employment in any insured
14 bank.

15 The Secretary of Finance and the Governor of the *Bangko Sentral* may
16 each designate a representative, whose position shall not be lower than
17 an undersecretary or deputy governor respectively, to attend such
18 meetings and to vote on behalf of their respective principals. Whenever
19 the Chairman of the Board is unable to attend a meeting of the Board, or
20 in the event of a vacancy in the office of the Secretary of Finance, the
21 President of the Corporation shall act as Chairman.

22 **THE PRESIDENT OF THE PHILIPPINES MAY REMOVE ANY**
23 **APPOINTIVE MEMBER OF THE BOARD OF DIRECTORS FOR ANY**
24 **OF THE FOLLOWING REASONS:**

- 1 1) IF HE IS PHYSICALLY OR MENTALLY INCAPACITATED THAT
2 HE CANNOT PROPERLY DISCHARGE HIS DUTIES AND
3 RESPONSIBILITIES, AND SUCH INCAPACITY HAS LASTED
4 FOR MORE THAN SIX (6) MONTHS; OR
- 5 2) IF THE MEMBER IS GUILTY OF ACTS OR OPERATIONS
6 WHICH ARE OF FRAUDULENT OR ILLEGAL CHARACTER OR
7 WHICH ARE MANIFESTLY OPPOSED TO THE AIMS AND
8 INTERESTS OF THE CORPORATION; OR
- 9 3) IF THE MEMBER NO LONGER POSSESSES THE
10 QUALIFICATIONS SPECIFIED IN THIS ACT.

11 The presence of **FOUR (4)** [three (3)] members shall constitute a quorum.
12 All decisions of the Board of Directors shall require the concurrence of at
13 least **FOUR (4)** [three (3)] members.

14 The Secretary of Finance shall fix the rate of *per diem* for every Board
15 meeting attended by the members of the Board of Directors from the
16 private sector, **AND THEIR OTHER EMOLUMENTS, INCLUDING**
17 **PERFORMANCE INCENTIVES, SUBJECT TO REVIEW EVERY TWO**
18 **(2) YEARS.** [The President of the Philippines may fix such emoluments
19 that may be received by the Board of Directors comparable to the
20 emoluments of members of the Board of Directors of other government
21 financial institutions].

22 **IN ADDITION TO THE REQUIREMENTS OF REPUBLIC ACT NO. 6713,**
23 **ANY MEMBER OF THE BOARD OF DIRECTORS WITH PERSONAL**
24 **OR PECUNIARY INTEREST IN ANY MATTER IN THE AGENDA OF**
25 **THE BOARD OF DIRECTORS SHALL DISCLOSE HIS INTEREST TO**
26 **THE BOARD AND SHALL RETIRE FROM THE MEETING WHEN THE**
27 **MATTER IS TAKEN UP. THE MINUTES SHALL REFLECT THE**

1 **DISCLOSURE MADE AND THE RETIREMENT OF THE MEMBER**
2 **CONCERNED.**

3 **(B)** The Board of Directors shall have the authority:

4 1. To **APPROVE** [prepare] and issue rules and regulations **FOR**
5 **BANKS AND THE DEPOSITING PUBLIC** as it considers
6 necessary for the effective discharge of its responsibilities;

7 2. To **ACT AS THE POLICY-MAKING BODY OF THE**
8 **CORPORATION AND CONSTITUTE BOARD COMMITTEES TO**
9 **OVERSEE** [direct] the management, operations and administration
10 of the Corporation;

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

16 4. **TO APPROVE, [A]** a compensation structure[.]**AS AN INTEGRAL**
17 **COMPONENT OF THE CORPORATION'S HUMAN RESOURCE**
18 **DEVELOPMENT PROGRAM** based on job evaluation studies and
19 wage surveys, **AND REVISE THE SAME FROM TIME TO TIME**
20 **AS IT MAY DEEM NECESSARY** [and subject to the Board's
21 approval, shall be, instituted as an integral component of the
22 Corporation's human resource development program]: *Provided,*
23 That all positions in the Corporation shall be governed by a
24 compensation, position classification system and qualification

1 standards approved by the Board based on a comprehensive job
2 analysis and audit of actual duties and responsibilities. The
3 compensation **STRUCTURE** [plan] shall be comparable **TO THAT**
4 **OF THE BANGKO SENTRAL, AND SHALL PROVIDE FOR**
5 **YEARLY MERIT REVIEWS OR INCREASES BASED ON**
6 **PRODUCTIVITY** [with the prevailing compensation plans of other
7 government financial institutions and shall be subject to review by
8 the Board no more than once every two (2) years without prejudice
9 to yearly merit reviews or increases based on productivity and
10 profitability]. The Corporation shall therefore be exempt from
11 existing laws, rules and regulations on compensation, position
12 classification and qualification standards, **SUCH AS, BUT NOT**
13 **LIMITED TO, PRESIDENTIAL DECREE NO. 985,**
14 **PRESIDENTIAL DECREE NO. 1597, REPUBLIC ACT NO. 6758,**
15 **AS AMENDED, JOINT RESOLUTION NO. 4 (2009), AND**
16 **REPUBLIC ACT NO. 10149.** It shall however endeavor to make
17 its system conform as closely as possible with the principles under
18 Republic Act No. 6758, as amended.

19 **[4.] 5.** To appoint, establish the rank, fix the remuneration, **BENEFITS,**
20 **INCLUDING HEALTH CARE SERVICES THROUGH A HEALTH**
21 **MAINTENANCE ORGANIZATION (HMO) AND MEDICAL**
22 **BENEFITS OTHER THAN THOSE PROVIDED FOR UNDER**
23 **REPUBLIC ACT NO. 7875, AS AMENDED,** [approve local and
24 foreign training of,] and remove any officer or employee of the
25 Corporation, for cause, subject to pertinent civil service laws:
26 *Provided,* That the Board of Directors may delegate this authority to
27 the President subject to specific guidelines; **PROVIDED,**
28 **FURTHER, THAT IN NO CASE SHALL THERE BE ANY**

1 **DIMINUTION OF EXISTING SALARIES, BENEFITS AND OTHER**
2 **EMOLUMENTS;**

3 **6. TO APPROVE POLICY ON LOCAL AND FOREIGN TRAVEL,**
4 **AND THE CORRESPONDING EXPENSES, ALLOWANCES AND**
5 **PER DIEMS, OF OFFICERS, EMPLOYEES, AGENTS OF THE**
6 **CORPORATION, WHICH SHALL BE COMPARABLE WITH THE**
7 **EXPENSES, ALLOWANCES AND PER DIEMS OF PERSONNEL**
8 **OF THE *BANGKO SENTRAL*, NOTWITHSTANDING THE**
9 **PROVISIONS OF PRESIDENTIAL DECREE NO. 1177,**
10 **EXECUTIVE ORDER NO. 292, EXECUTIVE ORDER NO. 248, AS**
11 **AMENDED, EXECUTIVE ORDER NO. 298, AND SIMILAR LAWS;**

12 **[5] 7. To adopt an annual budget for, and authorize such expenditures**
13 **by the Corporation, as are in the interest of the effective**
14 **administration and operation of the Corporation;**

15 **[6] 8. To approve the TARGET LEVEL OF THE DEPOSIT INSURANCE**
16 **FUND AND THE methodology for determining [the level and**
17 **amount of] RESERVES [provisioning] for insurance and financial**
18 **assistance losses [,which shall establish reasonable levels of**
19 **deposit insurance reserves.];**

20 **[7] 9. To review the organizational set-up of the Corporation and adopt**
21 **a new or revised organizational structure AT ANY TIME as it may**
22 **deem necessary for the Corporation to undertake its mandate and**
23 **functions;[.]**

24 **10. TO DESIGN, ADOPT AND REVISE, FROM TIME TO TIME AS IT**
25 **MAY DEEM NECESSARY, AN EARLY SEPARATION PLAN FOR**

1 EMPLOYEES OF THE CORPORATION TO ENSURE
2 AVAILABILITY OF A HUMAN RESOURCE POOL QUALIFIED
3 AND CAPABLE OF IMPLEMENTING THE CORPORATION'S
4 AUTHORITIES UNDER THIS CHARTER IN A MANNER
5 RESPONSIVE AND ATTUNED TO MARKET DEVELOPMENTS,
6 AND TO PROVIDE INCENTIVES FOR ALL THOSE WHO SHALL
7 RETIRE OR BE SEPARATED FROM THE SERVICE.
8 NOTWITHSTANDING ANY LAW TO THE CONTRARY, THESE
9 INCENTIVES SHALL BE IN ADDITION TO ALL GRATUITIES
10 AND BENEFITS THE EMPLOYEE IS ENTITLED TO UNDER
11 EXISTING LAWS; AND

12 11. TO PROMOTE AND SPONSOR THE LOCAL OR FOREIGN
13 TRAINING OR STUDY OF PERSONNEL IN THE FIELDS OF
14 BANKING, FINANCE, MANAGEMENT, INFORMATION
15 TECHNOLOGY AND LAW. TOWARD THIS END, THE
16 CORPORATION IS HEREBY AUTHORIZED TO DEFRAY THE
17 COSTS OF SUCH TRAINING OR STUDY. THE BOARD SHALL
18 PRESCRIBE RULES AND REGULATIONS TO GOVERN THE
19 TRAINING OR STUDY PROGRAMS OF THE CORPORATION."

20 **SECTION 4.** Section 3 of the same Act is accordingly renumbered as Section 4.

21 **SECTION 5.** The first paragraph of Section 4 of the same Act, as renumbered, is
22 hereby amended to read as follows:

23 "PRESIDENT OF THE CORPORATION
24 COMPENSATION, POWERS AND DUTIES

1 SECTION [3] 4. The President of the Corporation shall be **ITS** [the] Chief
2 Executive [thereof]. **THE PRESIDENT OF THE PHILIPPINES, UPON**
3 **THE RECOMMENDATION OF THE SECRETARY OF FINANCE, SHALL**
4 **FIX THE** [and his] salary, **ALLOWANCES, BENEFITS AND OTHER**
5 **EMOLUMENTS OF THE PRESIDENT OF THE CORPORATION** [shall be
6 fixed by the President of the Philippines,] at a sum commensurate to the
7 importance and responsibility attached to the position, **AND SHALL**
8 **REVIEW AND ADJUST SUCH SALARY, ALLOWANCES, BENEFITS**
9 **AND OTHER EMOLUMENTS EVERY TWO (2) YEARS.** The sum total of
10 the salary, **ALLOWANCES, BENEFITS** [of the President and the
11 allowances] and other emoluments **OF THE PRESIDENT OF THE**
12 **CORPORATION** [which the Board of Directors may grant him] shall be
13 the ceiling for fixing the salary, allowances and other emoluments of all
14 other personnel in the Corporation.

15 **SECTION 6.** Section 4, paragraphs (d) and (f), of the same Act, as renumbered,
16 are hereby amended to read as follows:

17 "(d) To represent the Corporation[, upon prior authority of the
18 Board,] in all dealings with other offices, agencies and instrumentalities of
19 the government and with all other persons or entities, public or private,
20 whether domestic, foreign or international;

21 (f) To represent the Corporation, either personally or through
22 counsel, **INCLUDING PRIVATE COUNSEL, AS MAY BE AUTHORIZED**
23 **BY THE PDIC BOARD, in ANY** [all] legal proceeding or action;"

24 **SECTION 7.** Section 4 of the same Act is accordingly renumbered as Section 5,
25 and is hereby amended to read as follows:

1 "DEFINITION OF TERMS

2 SECTION [4] 5. As used in this Act --

3 (A) THE TERM "ASSET" SHALL REFER TO MOVABLE,
4 IMMOVABLE, TANGIBLE, OR INTANGIBLE RESOURCES OR
5 PROPERTIES OVER WHICH A BANK HAS AN ESTABLISHED OR
6 EQUITABLE INTEREST, INCLUDING THE PROCEEDS OF THE
7 SALE OF ITS BANK AND BRANCH LICENSES.

8 (B) THE TERM "ASSET DISTRIBUTION PLAN" OR "ADP" SHALL
9 REFER TO THE PLAN OF DISTRIBUTION OF THE ASSETS OF A
10 CLOSED BANK TO ITS CREDITORS, BASED ON ITS ESTIMATED
11 REALIZABLE VALUE AS OF A CERTAIN CUT-OFF DATE,
12 PREPARED IN ACCORDANCE WITH THE RULES ON
13 CONCURRENCE AND PREFERENCE OF CREDITS UNDER THE
14 CIVIL CODE OR OTHER LAWS.

15 AN ADP MAY BE PARTIAL WHEN IT PERTAINS TO THE
16 DISTRIBUTION OF A PORTION OR SOME OF THE ASSETS OF
17 THE CLOSED BANK, OR FINAL WHEN IT PERTAINS TO THE
18 DISTRIBUTION OF ALL THE ASSETS OF THE CLOSED BANK.

19 (C) [(a)] The term "Board of Directors" means the Board of Directors of
20 the Corporation.

21 (D) [(b)] The term "Bank" and "Banking Institution" shall be
22 synonymous and interchangeable and shall include banks, commercial
23 banks, savings bank, mortgage banks, rural banks, development
24 banks, cooperative banks, stock savings and loan associations and

1 branches and agencies in the Philippines of foreign banks and all other
2 corporations authorized to perform banking functions in the
3 Philippines.

4 **(E) THE TERM "BRIDGE BANK" SHALL REFER TO A**
5 **CORPORATION THAT IS LICENSED BY THE *BANGKO SENTRAL***
6 **TO OPERATE AS A TEMPORARY BANK, ESTABLISHED AND**
7 **OPERATED TO ACQUIRE ASSETS AND ASSUME THE INSURED**
8 **DEPOSITS OF A CLOSED BANK.**

9 **(F) THE TERM "CLOSED BANK" SHALL REFER TO A BANK**
10 **PLACED UNDER LIQUIDATION BY THE MONETARY BOARD.**

11 **(G) THE TERM "CREDITOR" SHALL REFER TO ANY INDIVIDUAL**
12 **OR ENTITY WITH A VALID CLAIM AGAINST THE ASSETS OF THE**
13 **CLOSED BANK.**

14 [(c) The term "receiver" includes a receiver, commission, person or other
15 agency charged by law with the duty to take charge of the assets and
16 liabilities of a bank which has been forbidden from doing business in the
17 Philippines, as well as the duty to gather, preserve and administer such
18 assets and liabilities for the benefit of the depositors and creditors of said
19 bank, and to continue into liquidation whenever authorized under this Act
20 or other laws, and to dispose of the assets and to wind up the affairs of
21 such bank.]

22 [(d) The term "insured bank" means any bank the deposits of which are
23 insured in accordance with the provisions of this Act.]

1 [(e)] The term “non-insured bank” means any bank the deposits of which
2 are not insured.]

3 [(f)] (H) The term “deposit” means the unpaid balance of money or its
4 equivalent received by a bank in the usual course of business and for
5 which it has given or is obliged to give credit to a commercial, checking,
6 savings, time or thrift account, **EVIDENCED BY A PASSBOOK, CHECK**
7 **AND/OR CERTIFICATE OF DEPOSIT, OR OTHER EVIDENCE OF**
8 **DEPOSIT**, issued in accordance with *Bangko Sentral* rules and
9 regulations and other applicable laws, together with such other
10 obligations of a bank, which, consistent with banking usage and practices,
11 the Board of Directors shall determine and prescribe by regulations to be
12 deposit liabilities of the bank: *Provided*, That any obligation of a bank
13 which is payable at the office of the bank located outside of the
14 Philippines shall not be a deposit for any of the purposes of this Act or
15 included as part of the total deposits or of insured deposit: *Provided*,
16 *further*, That, subject to the approval of the Board of Directors, any
17 insured bank which is incorporated under the laws of the Philippines
18 which maintains a branch outside the Philippines may elect to include for
19 insurance its deposit obligations payable only at such branch.

20 The Corporation shall not pay deposit insurance[,] for the following
21 accounts or transactions [, whether denominated, documented, recorded
22 or booked as deposit by the bank]:

- 23 1) Investment products such as bonds and securities, trust accounts,
24 and other similar instruments;

1 2) Deposit accounts or transactions which are [unfunded, or that are]
2 fictitious or fraudulent **AS DETERMINED BY THE**
3 **CORPORATION;**

4 3) Deposit accounts or transactions constituting, and/or emanating
5 from, unsafe and unsound banking practice/s, as determined by the
6 Corporation, in consultation with the **BANGKO SENTRAL [BSP]**,
7 after due notice and hearing, and publication of a **DIRECTIVE TO**
8 cease and desist [order] issued by the Corporation against such
9 deposit accounts, transactions **OR PRACTICES;** and

10 4) Deposits that are determined to be the proceeds of an unlawful
11 activity as defined under Republic Act 9160, as amended.

12 The actions of the Corporation taken under [this] section **5(h)** shall be
13 final and executory, and may **ONLY [not]** be restrained or set aside by the
14 [court] **COURT OF APPEALS, [except] UPON [on]** appropriate petition
15 for certiorari on the ground that the action was taken in excess of
16 jurisdiction or with such grave abuse of discretion as to amount to a lack
17 or excess of jurisdiction. The petition for certiorari may only be filed within
18 thirty (30) days from notice of denial of claim for deposit insurance.

19 **(I) THE TERM "DISPUTED CLAIM" SHALL REFER TO A CLAIM OR**
20 **SUIT AGAINST THE ASSETS OF A CLOSED BANK, OR FOR**
21 **SPECIFIC PERFORMANCE, OR BREACH OF CONTRACT, OR**
22 **DAMAGES, OF WHATEVER NATURE OR CHARACTER,**
23 **WHETHER FOR MONEY OR OTHERWISE, LIQUIDATED OR**
24 **UNLIQUIDATED, FIXED OR CONTINGENT, MATURED OR**
25 **CURRENT, DENIED BY THE RECEIVER.**

1 **(J) THE TERM "INSURED BANK" MEANS ANY BANK THE**
2 **DEPOSITS OF WHICH ARE INSURED IN ACCORDANCE WITH**
3 **THE PROVISIONS OF THIS ACT.**

4 **(K) [(g)]**The term "insured deposit" means the amount due to any
5 *bona fide* depositor for legitimate deposits in an insured bank
6 **EXCLUSIVE [net]** of any obligation of the depositor to the insured
7 bank as of the date of closure, **EXCEPT FOR DEPOSITS WHICH**
8 **ARE USED AS SECURITY FOR LOANS OR OTHER**
9 **OBLIGATIONS**, but not to exceed Five Hundred Thousand Pesos
10 (P500,000.00). Such [net] amount shall be determined according to
11 such regulations as the Board of Directors may prescribe. In
12 determining such amount due to any depositor, there shall be
13 added together all deposits in the bank maintained in the same
14 right and capacity for his benefit either in his own name or in the
15 name of others. A joint account regardless of whether the
16 conjunction "and," "or," "and/or" is used, shall be insured separately
17 from any individually-owned deposit account: *Provided*, That (1) If
18 the account is held jointly by two or more natural persons, or by two
19 or more juridical persons or entities, the maximum insured deposit
20 shall be divided into as many equal shares as there are individuals,
21 juridical persons or entities, unless a different sharing is stipulated
22 in the document of deposit, and (2) if the account is held by a
23 juridical person or entity jointly with one or more natural persons,
24 the maximum insured deposit shall be presumed to belong entirely
25 to such juridical person or entity: *Provided, further*, That the
26 aggregate of the interest of each co-owner over several joint
27 accounts, whether owned by the same or different combinations of

1 individuals, juridical persons or entities, shall likewise be subject to
2 the maximum insured deposit of Five Hundred Thousand Pesos
3 (P500,000.00): *Provided, furthermore,* That the provisions of any
4 law to the contrary notwithstanding, no owner/holder of any
5 **PASSBOOK, certificate of deposit, OR OTHER EVIDENCE OF**
6 **DEPOSIT** shall be recognized as a depositor entitled to the rights
7 provided in this Act unless **THE PASSBOOK, CERTIFICATE OF**
8 **DEPOSIT OR OTHER EVIDENCE OF DEPOSIT IS DETERMINED**
9 **BY THE CORPORATION TO BE AN AUTHENTIC DOCUMENT**
10 **OR RECORD** of the issuing bank [his name is registered as
11 owner/holder thereof in the books]: *Provided, finally,* That, in case
12 of a condition that threatens the monetary and financial stability of
13 the banking system that may have systemic consequences, as
14 defined in section **23 [17]** hereof, as determined by the Monetary
15 Board, the maximum deposit insurance cover may be adjusted in
16 such amount, for such a period, and/or for such deposit products,
17 as may be determined by a unanimous vote of the Board of
18 Directors in a meeting called for the purpose and chaired by the
19 Secretary of Finance, subject to the approval of the President of
20 the Philippines.

21 **(L) THE TERM "LIQUIDATION" SHALL REFER TO THE**
22 **PROCEEDINGS UNDER SECTIONS 12 TO 17 OF THIS ACT.**

23 **(M) THE TERM "LIQUIDATION COURT" SHALL REFER TO THE**
24 **REGIONAL TRIAL COURT OF GENERAL JURISDICTION**
25 **WHERE THE PETITION FOR ASSISTANCE IN THE**
26 **LIQUIDATION OF A CLOSED BANK IS FILED AND GIVEN DUE**
27 **COURSE.**

1 (N) THE TERM "PAYOUT" SHALL REFER TO THE PAYMENT OF
2 INSURED DEPOSITS.

3 (O) THE TERM "PETITION FOR ASSISTANCE IN THE
4 LIQUIDATION OF A CLOSED BANK" OR "PAL" SHALL
5 REFER TO THE PETITION FILED BY THE RECEIVER WITH
6 THE REGIONAL TRIAL COURT (RTC) IN ACCORDANCE
7 WITH SECTION 17 OF THIS ACT.

8 (P) THE TERM "PURCHASE OF ASSETS AND ASSUMPTION OF
9 LIABILITIES" OR "P&A" SHALL REFER TO A TRANSACTION
10 WHERE AN INSURED BANK PURCHASES ANY OR ALL
11 ASSETS AND ASSUMES ANY OR ALL LIABILITIES OF
12 ANOTHER BANK UNDER RESOLUTION OR LIQUIDATION,
13 AS PROVIDED IN THIS ACT.

14 (Q) THE TERM "RECEIVER" SHALL REFER TO THE
15 CORPORATION OR ANY OF ITS DULY AUTHORIZED
16 AGENTS ACTING AS RECEIVER OF A CLOSED BANK.

17 (R) THE TERM "RECORDS" SHALL INCLUDE ALL DOCUMENTS,
18 TITLES, PAPERS AND ELECTRONIC DATA OF THE CLOSED
19 BANK, INCLUDING THOSE PERTAINING TO DEPOSIT
20 ACCOUNTS OF AND WITH THE CLOSED BANK, ITS
21 ASSETS, TRANSACTIONS AND CORPORATE AFFAIRS.

22 (S) THE TERM "RESIDUAL ASSETS" SHALL REFER TO
23 ASSETS, IN CASH OR IN KIND, TO BE TURNED OVER TO

1 THE CLOSED BANK'S STOCKHOLDERS OF RECORD, IN
2 PROPORTION TO THEIR INTEREST IN THE CLOSED BANK
3 AS OF DATE OF CLOSURE, AFTER PAYMENT IN FULL OF
4 LIQUIDATION COSTS, FEES AND EXPENSES, AND THE
5 VALID CLAIMS AND SURPLUS DIVIDENDS TO ALL THE
6 CREDITORS.

7 (T) THE TERM "RESOLUTION" SHALL REFER TO THE ACTIONS
8 UNDERTAKEN BY THE CORPORATION UNDER SECTION 11
9 OF THIS ACT TO:

- 10 1) PROTECT DEPOSITORS, CREDITORS AND THE
11 DEPOSIT INSURANCE FUND;
- 12 2) SAFEGUARD THE CONTINUITY OF ESSENTIAL
13 BANKING SERVICES OR MAINTAIN FINANCIAL STABILITY;
14 AND
- 15 3) PREVENT DETERIORATION OR DISSIPATION OF BANK
16 ASSETS.

17 (U) THE TERM "RISK-BASED ASSESSMENT SYSTEM" SHALL
18 PERTAIN TO A METHOD FOR CALCULATING AN INSURED
19 BANK'S ASSESSMENT ON THE PROBABILITY THAT THE
20 DEPOSIT INSURANCE FUND WILL INCUR A LOSS WITH
21 RESPECT TO THE BANK, AND THE LIKELY AMOUNT OF
22 ANY SUCH LOSS, BASED ON ITS RISK RATING THAT
23 TAKES INTO CONSIDERATION THE FOLLOWING-

- 24 1) QUALITY AND CONCENTRATION OF ASSETS

- 1 2) CATEGORIES AND CONCENTRATION OF LIABILITIES,
2 BOTH INSURED AND UNINSURED, CONTINGENT AND
3 NON-CONTINGENT
- 4 3) CAPITAL POSITION
- 5 4) LIQUIDITY POSITION
- 6 5) MANAGEMENT AND GOVERNANCE
- 7 6) OTHER FACTORS RELEVANT TO ASSESSING SUCH
8 PROBABILITY, AS MAY BE DETERMINED BY THE
9 CORPORATION.

10 (V) THE TERM "STATEMENT OF AFFAIRS" OR "SOA" SHALL
11 REFER TO A REPORT OF FINANCIAL CONDITION OF THE
12 CLOSED BANK AT A GIVEN DATE, SHOWING THE: 1)
13 ESTIMATED REALIZABLE VALUE OF ASSETS; 2)
14 CLASSIFICATION OF CREDITS; AND 3) ESTIMATED
15 LIABILITIES TO BE SETTLED.

16 (W) THE TERM "SURPLUS DIVIDENDS" SHALL REFER TO THE
17 REMAINING ASSETS OF THE CLOSED BANK AFTER
18 SATISFACTION IN FULL OF ALL THE LIQUIDATION COSTS,
19 FEES AND EXPENSES, AND VALID CLAIMS. THE SURPLUS
20 DIVIDENDS SHALL BE COMPUTED AT THE LEGAL RATE OF
21 INTEREST FROM THE DATE OF TAKEOVER TO CUT-OFF
22 DATE OF THE DISTRIBUTION PLAN, AND SHALL BE PAID,
23 IN CASH OR IN KIND, TO CREDITORS OF THE CLOSED
24 BANK IN ACCORDANCE WITH THE RULES ON
25 CONCURRENCE AND PREFERENCE OF CREDITS UNDER
26 THE CIVIL CODE OR OTHER LAWS.

1 on the effective date of this Act, or which thereafter may engage in the
2 business of receiving deposits, shall be insured with the Corporation.

3 **THE CORPORATION MAY CONDUCT A PERIODIC INSURANCE RISK**
4 **EVALUATION ON BANKS TO ENABLE IT TO ASSESS THE RISKS TO**
5 **THE DEPOSIT INSURANCE FUND. SUCH EVALUATION MAY**
6 **INCLUDE THE DETERMINATION OF THE (i) THE FAIR MARKET**
7 **VALUE OF THE ASSETS AND LIABILITIES OF A BANK, OR (ii) THE**
8 **RISK CLASSIFICATION OF A BANK, OR (iii) POSSIBLE**
9 **RESOLUTION MODES, SUBJECT TO SUCH TERMS AND**
10 **CONDITIONS AS THE PDIC BOARD MAY PRESCRIBE.**

11 **BANKS, THEIR OFFICERS AND EMPLOYEES ARE HEREBY**
12 **MANDATED TO DISCLOSE AND REPORT TO THE CORPORATION,**
13 **OR ITS DULY AUTHORIZED OFFICERS OR EMPLOYEES, THE**
14 **BALANCES IN ALL DEPOSIT ACCOUNTS OF EACH DEPOSITOR**
15 **SOLELY TO ENABLE THE CORPORATION TO DETERMINE THE**
16 **INSURED AND UNINSURED DEPOSITS.**

17 **THE CORPORATION, ITS DULY AUTHORIZED OFFICERS OR**
18 **EMPLOYEES, SHALL HAVE THE AUTHORITY TO EXAMINE, INQUIRE**
19 **OR LOOK INTO THE DEPOSIT RECORDS PERTAINING TO THE**
20 **INFORMATION DISCLOSED AND REPORTED UNDER THIS SECTION**
21 **AND ALL INFORMATION RELATED THERETO.**

22 **THE CORPORATION, ITS DULY AUTHORIZED OFFICERS OR**
23 **EMPLOYEES, ARE PROHIBITED FROM DISCLOSING INFORMATION**
24 **OBTAINED UNDER THIS SECTION TO ANY PERSON, GOVERNMENT**
25 **OFFICIAL, BUREAU OR OFFICE, EXCEPT UPON WRITTEN**
26 **PERMISSION OF THE DEPOSITOR, OR IN CASES OF**

1 one-fifth (1/5) of one *per centum* (1%) *per annum*. The semi-annual
2 assessment for each insured bank shall be in the amount of the product of
3 one-half (1/2) the assessment rate multiplied by the assessment base but
4 in no case shall it be less than Five thousand pesos (P5,000.00). The
5 assessment base shall be the amount of the liability of the bank for
6 deposits as defined under subsection (H) [(f)] of Section 5 [4] without any
7 deduction for indebtedness of depositors.

8 **IN ADDITION, THE BOARD OF DIRECTORS MAY ESTABLISH A**
9 **RISK-BASED ASSESSMENT SYSTEM AND IMPOSE A RISK-BASED**
10 **ASSESSMENT RATE WHICH SHALL NOT EXCEED TWO-FIFTH (2/5)**
11 **OF ONE PER CENTUM (1%) PER ANNUM MULTIPLIED BY THE**
12 **ASSESSMENT BASE.**

13 The semi-annual assessment base for one semi-annual period shall be
14 the average of the assessment base of the bank as of the close of
15 business on March thirty-one and June thirty and the semi-annual
16 assessment base for the other semi-annual period shall be the average of
17 the assessment base of the bank as of the close of business on
18 September thirty and December thirty-one: *Provided*, That when any of
19 said days is a non-business day or legal holiday, either national or
20 provincial, the preceding business day shall be used. The certified
21 statements required to be filed with the Corporation under subsections (b)
22 and (c) of this Section shall be in such form and set forth such supporting
23 information as the Board of Directors shall prescribe. The assessment
24 payments required from the insured banks under subsections (b) and (c)
25 of this Section shall be made in such manner and at such time or times as
26 the Board of Directors shall prescribe[, provided the time or times so

1 prescribed shall not be later than sixty (60) days after filing the certified
2 statement setting forth the amount of assessment].”

3 **SECTION 11.** Section 7, paragraphs (d) and (h), of the same Act, as renumbered,
4 is hereby amended to read as follows:

5 “(d) All assessment collections and income from operations after
6 expenses and charges shall be added to the Deposit Insurance Fund
7 under Section **18 [13]** hereof. Such expenses and charges are: (1) the
8 operating costs and expenses of the Corporation for the calendar year; (2)
9 additions to reserve to provide for insurance and financial assistance
10 losses, net of recoverable amounts from applicable assets and collaterals,
11 during the calendar year; and (3) the net insurance and financial
12 assistance losses sustained in said calendar year.

13 (h) [The Corporation shall not terminate the insured status of any bank
14 which continues to operate or receive deposits.] Should any insured bank
15 fail or refuse to pay any assessment required to be paid by such bank
16 under any provision of this Act, and should the bank not correct such
17 failure or refusal within thirty (30) days after written notice has been given
18 by the Corporation to an officer of the bank citing this subsection, and
19 stating that the bank has failed or refused to pay as required by the law,
20 the Corporation may, at its discretion, file a case for collection before the
21 appropriate court without prejudice to the imposition of administrative
22 sanctions allowed under the provisions of this Law on the bank officials
23 responsible for the non-payment of assessment fees.”

24 **SECTION 12.** An additional paragraph to Section 7 of the same Act, as
25 renumbered, is hereby inserted after paragraph (h) which shall read as follows:

1 issue a cease and desist order, and require the bank or its directors or
2 agents concerned to correct the practices or violations within forty-five
3 (45) days. However, if the practice or violation is likely to cause insolvency
4 or substantial dissipation of assets or earnings of the bank, or is likely to
5 seriously weaken the condition of the bank or otherwise seriously
6 prejudice the interests of its depositors and the Corporation, the period to
7 take corrective action shall not be more than fifteen (15) days. The order
8 may also include the imposition of fines provided in Section **27 (g) [21(f)]**
9 hereof. The Board of Directors shall duly inform the Monetary Board of the
10 *Bangko Sentral ng Pilipinas* of action it has taken under this subsection
11 with respect to such practices or violations.

12 (b) The actions and proceedings provided in the preceding subsections
13 may be undertaken by the Corporation if, in its opinion, an insured bank or
14 its directors or agents have violated, are violating or about to violate any
15 provision of this Act or any order, rule or instruction issued by the
16 Corporation or any written condition imposed by the Corporation in
17 connection with any transaction with or grant by the Corporation.

18
19 **(c) THE CORPORATION MAY TERMINATE THE INSURED STATUS OF**
20 **ANY BANK THAT FAILS OR REFUSES TO COMPLY, WITHIN THIRTY**
21 **(30) DAYS FROM NOTICE, WITH ANY CEASE-AND-DESIST ORDER**
22 **ISSUED BY THE CORPORATION, OR WITH ANY CORRECTIVE**
23 **ACTION IMPOSED BY THE MONETARY BOARD, UNDER THIS**
24 **SECTION PERTAINING TO A DEPOSIT-RELATED UNSAFE AND/OR**
25 **UNSOUND BANKING PRACTICE.**

26 **SUCH TERMINATION SHALL BE FINAL AND EXECUTORY, AND**
27 **SHALL BE EFFECTIVE UPON PUBLICATION OF THE NOTICE OF**
28 **TERMINATION IN A NEWSPAPER OF GENERAL CIRCULATION.**

1 THE DEPOSITS OF EACH DEPOSITOR IN THE BANK ON THE
2 EFFECTIVE DATE OF THE TERMINATION OF INSURANCE
3 COVERAGE, LESS ALL SUBSEQUENT WITHDRAWALS, SHALL
4 CONTINUE TO BE INSURED UP TO THE MAXIMUM DEPOSIT
5 INSURANCE COVERAGE FOR A PERIOD OF ONE HUNDRED EIGHTY
6 (180) DAYS. ADDITIONS TO, OR RENEWAL OF, EXISTING DEPOSITS
7 AND NEW DEPOSITS IN SUCH BANK AFTER THE EFFECTIVE DATE
8 OF TERMINATION OF INSURED STATUS OF THE BANK SHALL NOT
9 BE INSURED BY THE CORPORATION.

10 THE BANK SHALL IMMEDIATELY GIVE WRITTEN NOTICE OF SUCH
11 TERMINATION AND THE INTERIM DEPOSIT INSURANCE
12 COVERAGE TO EACH OF ITS DEPOSITORS AT THEIR ADDRESS AS
13 RECORDED IN THE BOOKS OF THE BANK.

14 THE BANK SHALL NOT ADVERTISE OR REPRESENT THAT
15 ADDITIONS TO, OR RENEWAL OF, EXISTING DEPOSITS AND NEW
16 DEPOSITS MADE AFTER THE EFFECTIVE DATE OF TERMINATION
17 ARE COVERED BY DEPOSIT INSURANCE.”

18 **SECTION 14.** Section 8 of the same Act is accordingly renumbered as Section 9.

19 **SECTION 15.** Section 9, paragraph Twelfth of the same Act, as renumbered, is
20 hereby amended to read as follows:

21 “Twelfth - **THE PROVISIONS OF PRESIDENTIAL DECREE NO.**
22 **1445, AS AMENDED, EXECUTIVE ORDER NO. 292, AND OTHER**
23 **SIMILAR LAWS NOTWITHSTANDING, [T]** to compromise, condone or
24 release, in whole or in part, any claim or settled liability to the Corporation,

1 regardless of the amount involved, under such terms and conditions as
2 may be imposed by the Board of Directors to protect the interest of the
3 Corporation, **AND TO WRITE OFF THE CORPORATION'S**
4 **RECEIVABLES AND ASSETS WHICH ARE NO LONGER**
5 **RECOVERABLE OR REALIZABLE;"**

6 **SECTION 16.** Section 9 of the same Act, as renumbered, is further amended by
7 inserting additional paragraphs after paragraph Twelve, which shall read as follows:

8 **"THIRTEENTH - TO DETERMINE QUALIFIED INTERESTED**
9 **ACQUIRERS OR INVESTORS FOR ANY OF THE MODES OF**
10 **RESOLUTION OR LIQUIDATION OF BANKS;**

11 **FOURTEENTH - TO DETERMINE THE APPROPRIATE**
12 **RESOLUTION METHOD AND TO IMPLEMENT THE SAME FOR A**
13 **BANK SUBJECT OF RESOLUTION;**

14 **FIFTEENTH - TO DETERMINE THE APPROPRIATE MODE OF**
15 **LIQUIDATION OF A CLOSED BANK AND TO IMPLEMENT THE SAME;**

16 **SIXTEENTH - TO ESTABLISH A BRIDGE BANK FOR THE**
17 **PURPOSE OF FACILITATING THE LIQUIDATION OF A CLOSED**
18 **BANK AND FOR THIS PURPOSE, MAKE ADVANCES TO THE**
19 **BRIDGE BANK FOR PAYMENT OF INSURED DEPOSITS ASSUMED**
20 **BY THE BRIDGE BANK AND FOR THE OPERATIONS OF THE**
21 **BRIDGE BANK, UPON SUCH TERMS AND CONDITIONS AND IN**
22 **SUCH FORM AND AMOUNTS AS THE PDIC BOARD MAY**
23 **PRESCRIBE: PROVIDED, THAT, SUCH ADVANCES FOR INSURED**
24 **DEPOSITS SHALL TAKE THE NATURE OF A SUBROGATED CLAIM**

1 AS PROVIDED UNDER SECTION 21 OF THIS ACT: *PROVIDED,*
2 *FURTHER, THAT,* ADVANCES FOR OPERATIONS SHALL BE PAID
3 IMMEDIATELY BY THE BRIDGE BANK AS SOON AS IT IS ABLE TO
4 GENERATE SUFFICIENT FUNDS: *PROVIDED, FINALLY, THAT,* IN
5 THE EVENT THAT THE BRIDGE BANK IS TERMINATED PURSUANT
6 TO PARAGRAPHS (i)(4) AND (i)(5) OF SECTION 16 OF THIS ACT,
7 THE ADVANCES FOR OPERATIONS SHALL PARTAKE OF THE
8 NATURE OF LIQUIDATION EXPENSES.”

9 SECTION 17. Section 9 of the same Act is accordingly renumbered as Section
10 10.

11 SECTION 18. Section 10 paragraph (b-1) of the same Act, as renumbered, is
12 hereby amended to read as follows:

13 “(b-1) The investigators appointed by the Board of Directors shall have the
14 power on behalf of the Corporation to conduct investigations on frauds,
15 irregularities and anomalies committed in banks, based on reports of
16 examination conducted by the Corporation and *Bangko Sentral ng*
17 *Pilipinas* or complaints from depositors or from other government agency.
18 Each such investigator shall have the power to administer oaths, and to
19 examine and take and preserve the testimony of any person relating to
20 the subject of investigation. **FOR THIS PURPOSE, THE CORPORATION**
21 **MAY APPOINT OR HIRE PERSONS OR ENTITIES OF RECOGNIZED**
22 **COMPETENCE IN FORENSIC AND FRAUD INVESTIGATIONS AS ITS**
23 **AGENTS.”**

24 SECTION 19. Section 10 paragraph (c) of the same Act, as renumbered, is
25 hereby amended to read as follows:

1 “(c) Each insured bank shall make to the Corporation reports of condition
2 in such form and at such times as the Board of Directors may require such
3 reports to be published in such manner, not inconsistent with any
4 applicable law, as it may direct. Every such bank which fails to make or
5 publish any such report within such time, as the Board of Directors may
6 require, shall be subject to a penalty of not more than **P10,000 [P100]** for
7 each day of such failure recoverable by the Corporation for its use.”

8 **SECTION 20.** Section 10 paragraph (d-1) of the same Act, as renumbered
9 herein, is hereby amended to read as follows:

10 “(d-1) Each insured bank shall keep and maintain a true and accurate
11 record or statement of its daily deposit transactions consistent with the
12 standards set by the *Bangko Sentral ng Pilipinas* and the Corporation.
13 Compliance with such standards shall be duly certified by the president of
14 the bank [or] **AND** the compliance officer: *Provided*, That refusal or
15 willful failure to issue the required certification shall constitute a violation
16 of this Section and shall subject such officers of the bank to the sanctions
17 provided for under Section **27 [21]** (f) of this Act.”

18 **SECTION 21.** Section 10 paragraph (f) of the same Act, as renumbered, is
19 hereby amended to read as follows:

20 “(f) The Corporation shall underwrite or advance **ALL LEGAL [litigation]**
21 costs and expenses, including legal fees and other expenses of external
22 counsel, or provide legal assistance to, directors, officers, employees or
23 agents of the Corporation in connection with any civil, criminal,
24 administrative or any other action or proceeding, to which such director,

1 officer, employee or agent is made a party by reason of, or in connection
2 with, the exercise of authority or performance of functions and duties
3 under this Act: Provided, That such legal protection shall not apply to any
4 civil, criminal, administrative or any action or proceeding that may be
5 initiated by the Corporation, in whatever capacity, against such director,
6 officer, employee or agent: *Provided, Further, That directors, officers,*
7 *employees or agents who shall resign, retire, transfer to another agency*
8 *or be separated from the service, shall continue to be provided with such*
9 *legal protection in connection with any act done or omitted to be done by*
10 *them in good faith during their tenure or employment with the Corporation:*
11 *Provided, finally, That in the event of a settlement or compromise,*
12 *indemnification shall be provided only in connection with such matters*
13 *covered by the settlement as to which the Corporation is advised by*
14 *counsel that the persons to be indemnified did not commit any negligence*
15 *or misconduct."*

16 **SECTION 22.** The second paragraph of Section 10 paragraph (i) of the same
17 Act, as renumbered, is hereby amended to read as follows:

18
19 "(i) Notwithstanding the provisions of this Section and Section 3 [2],
20 members of the Board of Directors and personnel of the Corporation may
21 become directors and officers of any bank and banking institution and of
22 any entity related to such institution in connection with financial assistance
23 extended by the Corporation to such institution and when, in the opinion of
24 the Board, it is appropriate to make such designation to protect the
25 interest of the Corporation."

26 **SECTION 23.** A new section entitled Section 11 of the same Act is hereby
27 inserted between Sections 10 and 12 which shall read as follows:

- 1 **2) CAUSE THE ENGAGEMENT, WITH THE CONSENT OF THE**
2 **CORPORATION, OF AN INDEPENDENT APPRAISER OR**
3 **AUDITOR FOR THE PURPOSE OF DETERMINING THE**
4 **VALUATION OF THE BANK CONSISTENT WITH GENERALLY**
5 **ACCEPTED VALUATION STANDARDS;**
- 6 **3) ENSURE PRUDENT MANAGEMENT AND ADMINISTRATION**
7 **OF THE BANK'S ASSETS, LIABILITIES AND RECORDS;**
- 8 **4) COOPERATE WITH THE CORPORATION IN THE CONDUCT OR**
9 **EXERCISE OF ANY OR ALL OF ITS AUTHORITIES UNDER**
10 **THIS ACT AND HONOR IN GOOD FAITH ITS COMMITMENT OR**
11 **UNDERTAKING WITH THE CORPORATION ON THE**
12 **RESOLUTION OF THE BANK.**

13 **(d) WITHIN A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS FROM**
14 **A BANK'S ENTRY INTO RESOLUTION, THE CORPORATION,**
15 **THROUGH THE AFFIRMATIVE VOTE OF AT LEAST FIVE MEMBERS**
16 **OF THE PDIC BOARD, SHALL DETERMINE WHETHER THE BANK**
17 **MAY BE RESOLVED THROUGH THE PURCHASE OF ALL ITS**
18 **ASSETS AND ASSUMPTION OF ALL ITS LIABILITIES, OR MERGER**
19 **OR CONSOLIDATION WITH, OR ITS ACQUISITION, BY A QUALIFIED**
20 **INVESTOR.**

21 **FOR THIS PURPOSE, THE CORPORATION MAY:**

- 22 **1) DETERMINE A RESOLUTION PACKAGE FOR THE BANK;**
23 **2) IDENTIFY AND, WITH THE APPROVAL OF THE MONETARY**
24 **BOARD, PRE-QUALIFY POSSIBLE ACQUIRERS OR**
25 **INVESTORS;**

- 1 **3) AUTHORIZE PRE-QUALIFIED ACQUIRERS OR INVESTORS TO**
2 **CONDUCT DUE DILIGENCE ON THE BANK, FOR PURPOSES**
3 **OF DETERMINING THE VALUATION OF A BANK THROUGH**
4 **AN OBJECTIVE AND THOROUGH REVIEW AND APPRAISAL**
5 **OF ITS ASSETS AND LIABILITIES, AND ASSESSMENT OF**
6 **RISKS OR EVENTS THAT MAY AFFECT ITS VALUATION;**
7 **4) CONDUCT A BIDDING TO DETERMINE THE ACQUIRER OF**
8 **THE BANK.**

9 **(E) IN DETERMINING THE APPROPRIATE RESOLUTION METHOD**
10 **FOR A BANK, THE CORPORATION SHALL CONSIDER THE:**

- 11 **1) FAIR MARKET VALUE OF THE ASSETS OF THE BANK, ITS**
12 **FRANCHISE, AS WELL AS THE AMOUNT OF ITS LIABILITIES;**
13 **2) AVAILABILITY OF A QUALIFIED INVESTOR;**
14 **3) LEAST COST TO THE DEPOSIT INSURANCE FUND;**
15 **4) INTEREST OF THE DEPOSITING PUBLIC.**

16 **(F) THE CORPORATION MAY APPOINT OR HIRE PERSONS OR**
17 **ENTITIES OF RECOGNIZED COMPETENCE IN BANKING, FINANCE,**
18 **ASSET MANAGEMENT OR REMEDIAL MANAGEMENT, AS ITS**
19 **AGENTS, TO PERFORM SUCH POWERS AND FUNCTIONS OF THE**
20 **CORPORATION IN THE RESOLUTION OF A BANK, OR ASSIST IN**
21 **THE PERFORMANCE THEREOF.**

22 **(G) THE PDIC BOARD SHALL PRESCRIBE THE GUIDELINES OR**
23 **CRITERIA FOR A BANK TO BE PLACED UNDER RESOLUTION.**

1 (h) UPON A DETERMINATION BY THE CORPORATION THAT THE
2 BANK MAY NOT BE RESOLVED, THE MONETARY BOARD MAY ACT
3 IN ACCORDANCE WITH SECTION 30 OF REPUBLIC ACT NO. 7653,
4 AS AMENDED.

5 (i) BANK RESOLUTION INVOLVING THE PURCHASE OF ALL
6 ASSETS AND ASSUMPTION OF ALL LIABILITIES OF A BANK SHALL
7 BE EXEMPT FROM THE PROVISIONS OF ACT NO. 3952,
8 OTHERWISE KNOWN AS THE BULK SALES LAW.

9 (j) THE PROVISIONS OF THIS SECTION ARE WITHOUT PREJUDICE
10 TO ANY ACTION THAT THE MONETARY BOARD MAY TAKE UNDER
11 EXISTING LAWS.”

12 **SECTION 24.** Sections 10, 11 and 12 of the same Act are hereby deleted.

13 **SECTION 25.** A new section entitled Section 12 of the same Act is hereby
14 inserted between Sections 11 and 13 which shall read as follows:

15 **“LIQUIDATION OF A CLOSED BANK**

16 **SECTION 12. (a) WHENEVER A BANK IS ORDERED CLOSED BY THE**
17 **MONETARY BOARD, THE CORPORATION SHALL BE DESIGNATED**
18 **AS RECEIVER AND IT SHALL PROCEED WITH THE TAKEOVER AND**
19 **LIQUIDATION OF THE CLOSED BANK. FOR THIS PURPOSE, THE**
20 **FOLLOWING CLAUSE IN SECTION 30 OF REPUBLIC ACT NO. 7653,**
21 **AS AMENDED, SHALL NOT BE APPLICABLE TO BANKS:**

1 (b) IN ADDITION TO THE POWERS OF A RECEIVER PROVIDED
2 UNDER EXISTING LAWS, THE CORPORATION, AS RECEIVER OF A
3 CLOSED BANK, IS EMPOWERED TO:

4 1) REPRESENT AND ACT FOR AND IN BEHALF OF THE CLOSED
5 BANK;

6 2) GATHER AND TAKE CHARGE OF ALL THE ASSETS,
7 RECORDS AND AFFAIRS OF THE CLOSED BANK, AND
8 ADMINISTER THE SAME FOR THE BENEFIT OF ITS
9 CREDITORS;

10 3) CONVERT THE ASSETS OF THE CLOSED BANK TO CASH OR
11 OTHER FORMS OF LIQUID ASSETS, AS FAR AS
12 PRACTICABLE;

13 4) BRING SUITS TO ENFORCE LIABILITIES OF THE DIRECTORS,
14 OFFICERS, EMPLOYEES, AGENTS OF THE CLOSED BANK
15 AND OTHER ENTITIES RELATED OR CONNECTED TO THE
16 CLOSED BANK OR TO COLLECT, RECOVER, AND PRESERVE
17 ALL ASSETS, INCLUDING ASSETS OVER WHICH THE BANK
18 HAS EQUITABLE INTEREST;

19 5) APPOINT OR HIRE PERSONS OR ENTITIES OF RECOGNIZED
20 COMPETENCE IN BANKING, FINANCE, ASSET MANAGEMENT
21 OR REMEDIAL MANAGEMENT, AS ITS DEPUTIES,
22 ASSISTANTS OR AGENTS, TO PERFORM SUCH POWERS
23 AND FUNCTIONS OF THE CORPORATION AS RECEIVER OF

1 THE CLOSED BANK, OR ASSIST IN THE PERFORMANCE
2 THEREOF;

3 6) PAY ACCRUED UTILITIES, RENTALS AND SALARIES OF
4 PERSONNEL OF THE CLOSED BANK FOR A PERIOD NOT
5 EXCEEDING THREE (3) MONTHS, FROM AVAILABLE FUNDS
6 OF THE CLOSED BANK;

7 7) COLLECT LOANS AND OTHER CLAIMS OF THE CLOSED
8 BANK AND FOR THIS PURPOSE, MODIFY, COMPROMISE OR
9 RESTRUCTURE THE TERMS AND CONDITIONS OF SUCH
10 LOANS OR CLAIMS AS MAY BE DEEMED ADVANTAGEOUS
11 TO THE INTERESTS OF THE CREDITORS OF THE CLOSED
12 BANK;

13 8) HIRE OR RETAIN PRIVATE COUNSEL AS MAY BE
14 NECESSARY;

15 9) BORROW OR OBTAIN A LOAN, OR MORTGAGE, PLEDGE OR
16 ENCUMBER ANY ASSET OF THE CLOSED BANK, WHEN
17 NECESSARY TO PRESERVE OR PREVENT DISSIPATION OF
18 THE ASSETS, OR TO REDEEM FORECLOSED ASSETS OF
19 THE CLOSED BANK, OR TO MINIMIZE LOSSES TO ITS
20 DEPOSITORS AND CREDITORS;

21 10) IF THE STIPULATED INTEREST RATE ON DEPOSITS IS
22 UNUSUALLY HIGH COMPARED WITH PREVAILING
23 APPLICABLE INTEREST RATES, THE CORPORATION AS
24 RECEIVER, MAY EXERCISE SUCH POWERS WHICH MAY
25 INCLUDE A REDUCTION OF THE INTEREST RATE TO A

1 REASONABLE RATE: *PROVIDED*, THAT ANY MODIFICATIONS
2 OR REDUCTIONS SHALL APPLY ONLY TO EARNED AND
3 UNPAID INTEREST;

4 11) UTILIZE AVAILABLE FUNDS OF THE BANK, INCLUDING
5 FUNDS GENERATED BY THE RECEIVER FROM THE
6 CONVERSION OF ASSETS TO PAY FOR REASONABLE
7 COSTS AND EXPENSES INCURRED FOR THE
8 PRESERVATION OF THE ASSETS, AND LIQUIDATION OF, THE
9 CLOSED BANK, WITHOUT NEED FOR APPROVAL OF THE
10 LIQUIDATION COURT;

11 FOR BANKS WITH INSUFFICIENT FUNDS, THE
12 CORPORATION IS AUTHORIZED TO ADVANCE THE
13 FOREGOING COSTS AND EXPENSES, AND COLLECT
14 PAYMENT, AS AND WHEN FUNDS BECOME AVAILABLE.

15 12) CHARGE REASONABLE FEES FOR THE LIQUIDATION OF
16 THE BANK FROM THE ASSETS OF THE BANK: *PROVIDED*
17 *THAT*, PAYMENT OF THESE FEES, INCLUDING ANY UNPAID
18 ADVANCES UNDER THE IMMEDIATELY PRECEDING
19 PARAGRAPH, SHALL BE SUBJECT TO APPROVAL BY THE
20 LIQUIDATION COURT;

21 13) DISTRIBUTE THE AVAILABLE ASSETS OF THE CLOSED
22 BANK, IN CASH OR IN KIND, TO ITS CREDITORS IN
23 ACCORDANCE WITH THE RULES ON CONCURRENCE AND
24 PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR
25 OTHER LAWS;

1 **14) DISPOSE RECORDS OF THE CLOSED BANK THAT ARE NO**
2 **LONGER NEEDED IN THE LIQUIDATION IN ACCORDANCE**
3 **WITH GUIDELINES SET BY THE PDIC BOARD OF DIRECTORS,**
4 **NOTWITHSTANDING THE LAWS ON ARCHIVAL PERIOD AND**
5 **DISPOSAL OF RECORDS;**

6 **15) EXERCISE SUCH OTHER POWERS AS ARE INHERENT AND**
7 **NECESSARY FOR THE EFFECTIVE DISCHARGE OF THE**
8 **DUTIES OF THE CORPORATION AS RECEIVER.**

9 **THE BOARD OF DIRECTORS SHALL ADOPT SUCH POLICIES AND**
10 **GUIDELINES AS MAY BE NECESSARY FOR THE PERFORMANCE**
11 **OF THE ABOVE POWERS BY PERSONNEL, DEPUTIES, ASSISTANTS**
12 **AND AGENTS OF THE CORPORATION.**

13 **(c) AFTER THE PAYMENT OF ALL LIABILITIES AND CLAIMS**
14 **AGAINST THE CLOSED BANK, THE CORPORATION SHALL PAY**
15 **ANY SURPLUS DIVIDENDS AT THE LEGAL RATE OF INTEREST**
16 **FROM DATE OF TAKEOVER TO DATE OF DISTRIBUTION TO**
17 **CREDITORS AND CLAIMANTS OF THE CLOSED BANK IN**
18 **ACCORDANCE WITH THE RULES ON CONCURRENCE AND**
19 **PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR OTHER**
20 **LAWS BEFORE DISTRIBUTION TO THE SHAREHOLDERS OF THE**
21 **CLOSED BANK.**

22 **(d) THE OFFICERS, EMPLOYEES, DEPUTIES, ASSISTANTS AND**
23 **AGENTS OF THE RECEIVER SHALL HAVE NO LIABILITY AND**
24 **SHALL NOT BE SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN**

1 CONNECTION WITH ANY ACT DONE OR OMITTED TO BE DONE BY
2 THEM IN GOOD FAITH IN CONNECTION WITH THE EXERCISE OF
3 THEIR POWERS AND FUNCTIONS UNDER THIS ACT AND OTHER
4 APPLICABLE LAWS, OR OTHER ACTIONS DULY APPROVED BY
5 THE COURT.

6 (e) THE PLACEMENT OF A BANK UNDER LIQUIDATION SHALL
7 HAVE THE FOLLOWING EFFECTS:

8 1) ON THE CORPORATE FRANCHISE OR EXISTENCE

9 UPON PLACEMENT BY THE MONETARY BOARD OF A BANK
10 UNDER LIQUIDATION, IT SHALL CONTINUE AS A BODY
11 CORPORATE UNTIL THE TERMINATION OF THE WINDING-UP
12 PERIOD UNDER SECTION 17 OF THIS ACT. SUCH
13 CONTINUATION AS A BODY CORPORATE SHALL ONLY BE
14 FOR THE PURPOSE OF LIQUIDATING, SETTLING AND
15 CLOSING ITS AFFAIRS AND FOR THE DISPOSAL,
16 CONVEYANCE OR DISTRIBUTION OF ITS ASSETS PURSUANT
17 TO THIS ACT. THE RECEIVER SHALL REPRESENT THE
18 CLOSED BANK IN ALL CASES BY OR AGAINST THE CLOSED
19 BANK AND PROSECUTE AND DEFEND SUITS BY OR
20 AGAINST IT. IN NO CASE SHALL THE BANK BE REOPENED
21 AND PERMITTED TO RESUME BANKING BUSINESS AFTER
22 BEING PLACED UNDER LIQUIDATION.

23 2) ON THE POWERS AND FUNCTIONS OF ITS DIRECTORS,
24 OFFICERS AND STOCKHOLDERS

1 THE POWERS, VOTING RIGHTS, FUNCTIONS AND DUTIES,
2 AS WELL AS THE ALLOWANCES, REMUNERATION AND
3 PERQUISITES OF THE DIRECTORS, OFFICERS, AND
4 STOCKHOLDERS OF SUCH BANK ARE TERMINATED UPON
5 ITS CLOSURE. ACCORDINGLY, THE DIRECTORS, OFFICERS,
6 AND STOCKHOLDERS SHALL BE BARRED FROM
7 INTERFERING IN ANY WAY WITH THE ASSETS, RECORDS,
8 AND AFFAIRS OF THE BANK.

9 THE RECEIVER SHALL EXERCISE ALL AUTHORITIES AS MAY
10 BE REQUIRED TO FACILITATE THE LIQUIDATION OF THE
11 CLOSED BANK FOR THE BENEFIT OF ALL ITS CREDITORS.

12 3) ON THE ASSETS

13 UPON SERVICE OF NOTICE OF CLOSURE AS PROVIDED IN
14 SECTION 14 OF THIS ACT, ALL THE ASSETS OF THE CLOSED
15 BANK SHALL BE DEEMED IN *CUSTODIA LEGIS* IN THE
16 HANDS OF THE RECEIVER AND AS SUCH THESE ASSETS
17 MAY NOT BE SUBJECT TO ATTACHMENT, GARNISHMENT,
18 EXECUTION, LEVY OR ANY OTHER COURT PROCESSES. A
19 JUDGE, OFFICER OF THE COURT OR ANY PERSON WHO
20 SHALL ISSUE, ORDER, PROCESS OR CAUSE THE ISSUANCE
21 OR IMPLEMENTATION OF THE WRIT OF GARNISHMENT,
22 LEVY, ATTACHMENT OR EXECUTION, SHALL BE LIABLE
23 UNDER SECTION 28 OF THIS ACT.

24 ANY PRELIMINARY ATTACHMENT OR GARNISHMENT ON
25 ANY OF THE ASSETS OF THE CLOSED BANK EXISTING AT

1 THE TIME OF CLOSURE SHALL NOT GIVE ANY PREFERENCE
2 TO THE ATTACHING OR GARNISHING PARTY. UPON
3 MOTION OF THE RECEIVER, THE PRELIMINARY
4 ATTACHMENT OR GARNISHMENT SHALL BE LIFTED AND/OR
5 DISCHARGED.

6 **4) ON LABOR RELATIONS**

7 NOTWITHSTANDING THE PROVISIONS OF THE LABOR
8 CODE, THE EMPLOYER-EMPLOYEE RELATIONSHIP
9 BETWEEN THE CLOSED BANK AND ITS EMPLOYEES SHALL
10 BE DEEMED TERMINATED UPON SERVICE OF THE NOTICE
11 OF CLOSURE OF THE BANK IN ACCORDANCE WITH THIS
12 ACT. PAYMENT OF SEPARATION PAY OR BENEFITS
13 PROVIDED FOR BY LAW SHALL BE MADE FROM AVAILABLE
14 ASSETS OF THE BANK[,] IN ACCORDANCE WITH THE RULES
15 ON CONCURRENCE AND PREFERENCE OF CREDITS UNDER
16 THE CIVIL CODE OR OTHER LAWS.

17 **5) CONTRACTUAL OBLIGATIONS**

18 THE RECEIVER MAY CANCEL, TERMINATE, RESCIND OR
19 REPUDIATE ANY CONTRACT OF THE CLOSED BANK THAT IS
20 NOT NECESSARY FOR THE ORDERLY LIQUIDATION OF THE
21 BANK, OR IS GROSSLY DISADVANTAGEOUS TO THE
22 CLOSED BANK, OR FOR ANY GROUND PROVIDED BY LAW.

23 **6) ON INTEREST PAYMENTS**

1 THE LIABILITY OF A BANK TO PAY INTEREST ON DEPOSITS
2 AND ALL OTHER OBLIGATIONS AS OF CLOSURE SHALL
3 CEASE UPON ITS CLOSURE BY THE MONETARY BOARD:
4 *PROVIDED, THAT,* THE RECEIVER SHALL HAVE THE
5 AUTHORITY, WITHOUT NEED FOR APPROVAL OF THE
6 LIQUIDATION COURT, TO ASSIGN, AS PAYMENT TO
7 SECURED CREDITORS, THE BANK ASSETS SERVING AS
8 COLLATERALS TO THEIR RESPECTIVE LOANS UP TO THE
9 EXTENT OF THE OUTSTANDING OBLIGATIONS, INCLUDING
10 INTEREST AS OF DATE OF CLOSURE OF THE BANK, AS
11 VALIDATED BY THE RECEIVER. THE VALUATION OF THE
12 ASSET SHALL BE BASED ON THE PREVAILING MARKET
13 VALUE OF THE COLLATERALS AS APPRAISED BY AN
14 INDEPENDENT APPRAISER ON AN "AS IS WHERE IS" BASIS.

15 7) LIABILITY FOR PENALTIES AND SURCHARGES FOR LATE
16 PAYMENT AND NON-PAYMENT OF TAXES

17 FROM THE TIME OF CLOSURE, THE CLOSED BANK SHALL
18 NOT BE LIABLE FOR THE PAYMENT OF PENALTIES AND
19 SURCHARGES ARISING FROM THE LATE PAYMENT OR
20 NONPAYMENT OF REAL PROPERTY TAX, CAPITAL GAINS
21 TAX, TRANSFER TAX AND SIMILAR CHARGES.

22 8) BANK CHARGES AND FEES ON SERVICES

23 THE RECEIVER MAY IMPOSE, ON BEHALF OF THE CLOSED
24 BANK, CHARGES AND FEES FOR SERVICES RENDERED
25 AFTER BANK CLOSURE, SUCH AS, BUT NOT LIMITED TO,

1 THE EXECUTION OF PERTINENT DEEDS AND
2 CERTIFICATIONS.

3 9) ACTIONS PENDING FOR OR AGAINST THE CLOSED BANK

4 EXCEPT FOR ACTIONS PENDING BEFORE THE SUPREME
5 COURT, ACTIONS PENDING FOR OR AGAINST THE CLOSED
6 BANK IN ANY COURT OR QUASI-JUDICIAL BODY SHALL,
7 UPON MOTION OF THE RECEIVER, BE SUSPENDED FOR A
8 PERIOD NOT EXCEEDING ONE HUNDRED EIGHTY (180) DAYS
9 AND REFERRED TO MANDATORY MEDIATION. UPON
10 TERMINATION OF THE MEDIATION, THE CASE SHALL BE
11 REFERRED BACK TO THE COURT OR QUASI-JUDICIAL BODY
12 FOR FURTHER PROCEEDINGS.

13 10) FINAL DECISIONS AGAINST THE CLOSED BANK

14 THE EXECUTION AND ENFORCEMENT OF A FINAL DECISION
15 OF A COURT OTHER THAN THE LIQUIDATION COURT
16 AGAINST THE ASSETS OF A CLOSED BANK SHALL BE
17 STAYED. THE PREVAILING PARTY SHALL FILE THE FINAL
18 DECISION AS A CLAIM WITH THE LIQUIDATION COURT AND
19 SETTLED IN ACCORDANCE WITH THE RULES ON
20 CONCURRENCE AND PREFERENCE OF CREDITS UNDER
21 THE CIVIL CODE OR OTHER LAWS.

22 11) DOCKET AND OTHER COURT FEES

1 **PAYMENT OF DOCKET AND OTHER COURT FEES RELATING**
2 **TO ALL CASES OR ACTIONS FILED BY THE RECEIVER WITH**
3 **ANY JUDICIAL OR QUASI-JUDICIAL BODIES SHALL BE**
4 **DEFERRED UNTIL THE ACTION IS TERMINATED WITH**
5 **FINALITY. ANY SUCH FEES SHALL CONSTITUTE AS A FIRST**
6 **LIEN ON ANY JUDGMENT IN FAVOR OF THE CLOSED BANK**
7 **OR IN CASE OF UNFAVORABLE JUDGMENT, SUCH FEES**
8 **SHALL BE PAID AS LIQUIDATION COSTS AND EXPENSES**
9 **DURING THE DISTRIBUTION OF THE ASSETS OF THE**
10 **CLOSED BANK.**

11 **12) ALL ASSETS, RECORDS, AND DOCUMENTS IN THE**
12 **POSSESSION OF THE CLOSED BANK AT THE TIME OF ITS**
13 **CLOSURE ARE PRESUMED HELD BY THE BANK IN THE**
14 **CONCEPT OF AN OWNER.**

15 **13) THE EXERCISE OF AUTHORITY, FUNCTIONS, AND DUTIES**
16 **BY THE RECEIVER UNDER THIS ACT SHALL BE PRESUMED**
17 **TO HAVE BEEN PERFORMED IN THE REGULAR COURSE OF**
18 **BUSINESS.**

19 **14) ASSETS AND DOCUMENTS OF THE CLOSED BANK SHALL**
20 **RETAIN THEIR PRIVATE NATURE EVEN IF ADMINISTERED BY**
21 **THE RECEIVER. MATTERS RELATING TO THE EXERCISE BY**
22 **THE RECEIVER OF THE FUNCTIONS UNDER THIS ACT SHALL**
23 **BE SUBJECT TO VISITORIAL AUDIT ONLY BY THE**
24 **COMMISSION ON AUDIT.**

1 **SECTION 27.** A new section entitled Section 14 of the same Act is hereby
2 inserted between Sections 13 and 15 which shall read as follows:

3 **“NOTICE OF CLOSURE AND TAKEOVER ACTIVITIES**

4 **SECTION 14. (a) UPON THE DESIGNATION OF THE CORPORATION**
5 **AS RECEIVER OF A CLOSED BANK, IT SHALL SERVE A NOTICE OF**
6 **CLOSURE TO THE HIGHEST-RANKING OFFICER OF THE BANK**
7 **PRESENT IN THE BANK PREMISES, OR IN THE ABSENCE OF SUCH**
8 **OFFICER, POST THE NOTICE OF CLOSURE IN THE BANK**
9 **PREMISES OR ON ITS MAIN ENTRANCE. THE CLOSURE OF THE**
10 **BANK SHALL BE DEEMED EFFECTIVE UPON THE SERVICE OF THE**
11 **NOTICE OF CLOSURE. THEREAFTER, THE RECEIVER SHALL**
12 **TAKEOVER THE BANK AND EXERCISE THE POWERS OF THE**
13 **RECEIVER AS PROVIDED IN THIS ACT.**

14 **(b) THE RECEIVER SHALL HAVE AUTHORITY TO USE**
15 **REASONABLE FORCE, INCLUDING THE AUTHORITY TO FORCE**
16 **OPEN THE PREMISES OF THE BANK, AND EXERCISE SUCH ACTS**
17 **NECESSARY TO TAKE ACTUAL PHYSICAL POSSESSION AND**
18 **CUSTODY OF THE BANK AND ALL ITS ASSETS, RECORDS,**
19 **DOCUMENTS, AND TAKE CHARGE OF ITS AFFAIRS UPON THE**
20 **SERVICE OF THE NOTICE OF CLOSURE.**

21 **(c) DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OF A BANK**
22 **HOLD MONEY AND OTHER ASSETS OF THE BANK IN TRUST OR**
23 **UNDER ADMINISTRATION OR MANAGEMENT BY THEM FOR THE**
24 **BANK IN THEIR FIDUCIARY CAPACITY. UPON SERVICE OF THE**
25 **NOTICE OF CLOSURE TO THE BANK, ALL DIRECTORS, OFFICERS,**

1 EMPLOYEES OR AGENTS OF THE CLOSED BANK SHALL HAVE
2 THE DUTY TO IMMEDIATELY ACCOUNT FOR, SURRENDER AND
3 TURN OVER TO THE RECEIVER, AND PROVIDE INFORMATION
4 RELATIVE TO, THE ASSETS, RECORDS, AND AFFAIRS OF THE
5 CLOSED BANK IN THEIR POSSESSION, CUSTODY,
6 ADMINISTRATION OR MANAGEMENT.

7 (d) WHEN THE CIRCUMSTANCES SO WARRANT, THE LOCAL
8 GOVERNMENT UNIT AND LAW ENFORCEMENT AGENCIES
9 CONCERNED SHALL, UPON REQUEST, IMMEDIATELY PROVIDE
10 ASSISTANCE TO THE RECEIVER DURING THE SERVICE OF NOTICE
11 OF CLOSURE AND ACTUAL TAKEOVER OPERATIONS TO ENSURE
12 THE ORDERLY CONDUCT THEREOF AND THE SECURITY AND
13 SAFETY OF THE PERSONNEL OF THE RECEIVER AND THE
14 EMPLOYEES OF THE CLOSED BANK.”

15 SECTION 28. A new section entitled Section 15 of the same Act is hereby
16 inserted between Sections 14 and 16 which shall read as follows:

17 **“PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES (P&A)**

18 SECTION 15. (a) THE RECEIVER SHALL HAVE THE AUTHORITY TO
19 FACILITATE AND IMPLEMENT THE PURCHASE OF THE ASSETS OF
20 THE CLOSED BANK AND THE ASSUMPTION OF ITS LIABILITIES BY
21 ANOTHER INSURED BANK IN ACCORDANCE WITH THE RULES ON
22 CONCURRENCE AND PREFERENCE OF CREDITS UNDER THE CIVIL
23 CODE OR OTHER LAWS, SUBJECT TO SUCH TERMS AND
24 CONDITIONS AS THE CORPORATION MAY PRESCRIBE, WITHOUT
25 NEED FOR PRIOR APPROVAL OF THE LIQUIDATION COURT.

1 **2) IT IS LESS COSTLY COMPARED TO PAYOUT, AND WILL AID**
2 **IN THE EXPEDITIOUS DISPOSITION OF THE ASSETS AND**
3 **PROMPT SETTLEMENT OF THE CLAIMS OF THE CREDITORS**
4 **OF THE CLOSED BANK;**

5 **3) THE CONTINUED OPERATION OF A BANK IS ESSENTIAL TO**
6 **PROVIDE ADEQUATE BANKING SERVICES IN THE**
7 **COMMUNITY;**

8 **4) THERE ARE QUALIFIED INVESTORS INTERESTED IN**
9 **ACQUIRING THE BANK; AND**

10 **5) THERE ARE ENOUGH ASSETS RETAINED IN THE CLOSED**
11 **BANK TO COVER PREFERRED CREDITS.**

12 **SUCH DETERMINATION OF THE CORPORATION SHALL BE FINAL**
13 **AND EXECUTORY, AND MAY NOT BE SET ASIDE BY ANY COURT.**

14 **(C) ALL BRANCH LICENSES AND OTHER BANK LICENSES OF THE**
15 **CLOSED BANK SHALL BE TRANSFERRED TO THE BRIDGE BANK. IN THE**
16 **EVENT OF THE SALE OF THE BRIDGE BANK UNDER (j)(1) and (j)(2),**
17 **THESE LICENSES SHALL BE TRANSFERRED TO THE ACQUIRER.**

18 **(D) THE BRIDGE BANK SHALL HAVE THE AUTHORITY TO:**

19 **1) PURCHASE ASSETS, ASSUME INSURED DEPOSITS AND**
20 **OTHER LIABILITIES OF THE CLOSED BANK WHICH THE**
21 **RECEIVER MAY DETERMINE TO BE APPROPRIATE;**

1 2) PERFORM BANKING FUNCTIONS AS MAY BE AUTHORIZED
2 BY THE MONETARY BOARD.

3 (E) UPON MOTION BY THE BRIDGE BANK, ALL ACTIONS PENDING
4 BEFORE ANY COURT WHERE THE BRIDGE BANK IS A PARTY BY
5 VIRTUE OF ITS ACQUISITION OF ASSETS OR ASSUMPTION OF ANY
6 LIABILITIES OF A CLOSED BANK SHALL BE STAYED FOR A
7 PERIOD OF UP TO ONE HUNDRED (180) DAYS.

8 (F) TO CARRY OUT ITS AUTHORITY UNDER THIS SECTION, THE
9 RECEIVER, IN ADDITION TO THE AUTHORITIES ENUMERATED
10 UNDER THIS ACT, SHALL HAVE THE POWER TO:

11 1) SELL, ASSIGN, TRANSFER, OR CONVEY ITS
12 SHAREHOLDINGS IN THE BRIDGE CORPORATION TO THE
13 CLOSED BANK;

14 2) TRANSFER SUCH ASSETS AND INSURED DEPOSITS OF A
15 CLOSED BANK TO THE BRIDGE BANK IN ACCORDANCE
16 WITH THE RULES ON CONCURRENCE AND PREFERENCE OF
17 CREDITS UNDER THE CIVIL CODE OR OTHER LAWS, AS THE
18 RECEIVER MAY DEEM APPROPRIATE: *PROVIDED, THAT,*
19 WITHIN ONE HUNDRED (180) DAYS FROM ESTABLISHMENT
20 OF THE BRIDGE BANK, THE RECEIVER MAY REPLACE OR
21 SUBSTITUTE ANY ASSET PURCHASED OR LIABILITY
22 ASSUMED FROM THE CLOSED BANK SUBJECT TO SUCH
23 TERMS AND CONDITIONS AS THE PDIC BOARD MAY
24 PRESCRIBE. ALL TRANSFERS OF ASSETS UNDER THIS
25 SUBSECTION SHALL:

1 a. NOT BE SUBJECT TO ANY TAXES, SUCH AS CAPITAL
2 GAINS TAX, INCOME TAX, VALUE ADDED TAX,
3 DOCUMENTARY STAMP TAX, TRANSFER TAX, AND
4 OTHER NATIONAL AND LOCAL TAXES, AS MAY BE
5 APPLICABLE;

6 b. BE EFFECTIVE WITHOUT NEED OF CONSENT FROM THE
7 STOCKHOLDERS, DEPOSITORS AND CREDITORS OF THE
8 CLOSED BANK, NOTWITHSTANDING ANY PROVISION OF
9 LAW TO THE CONTRARY.

10 3) APPOINT, INSTALL, DESIGNATE, AND/OR REMOVE THE
11 DIRECTORS, OFFICERS AND OTHER PERSONNEL OF A
12 BRIDGE BANK, AND FIX THEIR COMPENSATION.

13 THE PROVISIONS OF EXISTING LAWS NOTWITHSTANDING,
14 THE APPOINTIVE MEMBERS OF THE BOARD, OFFICERS AND
15 EMPLOYEES OF THE CORPORATION MAY BE ASSIGNED
16 AND/OR SECONDED AS DIRECTORS, OFFICERS OR OTHER
17 PERSONNEL OF A BRIDGE BANK UNDER SUCH TERMS AND
18 CONDITIONS AS THE PDIC BOARD OF DIRECTORS MAY
19 PRESCRIBE: *PROVIDED, THAT*, IF ASSIGNED OR SECONDED
20 ON FULL TIME BASIS AS OFFICERS OR EMPLOYEES OF THE
21 BRIDGE BANK, THEY SHALL NOT, SOLELY BY VIRTUE OF
22 SUCH ASSIGNMENT AND/OR SECONDMENT, LOSE ANY
23 EXISTING STATUS AS AN OFFICER OR EMPLOYEE OF THE
24 CORPORATION.

1 SECTION 10 OF THIS ACT SHALL LIKEWISE APPLY TO ALL
2 DIRECTORS, OFFICERS AND OTHER EMPLOYEES OF A
3 BRIDGE BANK WHO ARE APPOINTED, INSTALLED OR
4 DESIGNATED BY THE CORPORATION.

5 (G) THE BRIDGE BANK IS NOT AN AGENCY, CORPORATION, OR
6 INSTRUMENTALITY OF THE GOVERNMENT OF THE REPUBLIC OF
7 THE PHILIPPINES. THE BRIDGE BANK IS AN ENTITY SEPARATE
8 AND DISTINCT FROM THE CLOSED BANK.

9 (H) THE BRIDGE BANK SHALL BE EXEMPT FROM THE PAYMENT
10 OF ASSESSMENT UNDER SECTION 7 OF THIS ACT.

11 (I) THE BRIDGE BANK LICENSE SHALL BE EFFECTIVE FOR TWO (2)
12 YEARS FOLLOWING THE DATE IT WAS GRANTED A BANKING
13 LICENSE: *PROVIDED, THAT*, THE RECEIVER, WITH THE CONSENT
14 OF THE *BANGKO SENTRAL*, MAY EXTEND THE STATUS OF THE
15 BRIDGE BANK IF DEEMED NECESSARY TO CONCLUDE PENDING
16 NEGOTIATIONS FOR THE MERGER OR CONSOLIDATION, SALE, OR
17 ACQUISITION OF THE BRIDGE BANK BY AN ACQUIRER:
18 *PROVIDED, FURTHER*, THAT THE MAXIMUM EXTENSION SHALL BE
19 FOR ANOTHER YEAR.

20 (J) THE BRIDGE BANK SHALL TERMINATE UPON THE EARLIEST
21 OF ANY OF THE FOLLOWING OCCURRENCES:

22 1) THE MERGER OR CONSOLIDATION OF THE BRIDGE BANK
23 WITH ANOTHER BANK THAT IS NOT A BRIDGE BANK; OR

1 2) THE SALE OF THE BRIDGE BANK TO A QUALIFIED BUYER,
2 AS MAY BE DETERMINED BY THE RECEIVER; OR

3 3) THE PURCHASE OF ALL OR SUBSTANTIALLY ALL OF THE
4 ASSETS AND ASSUMPTION OF ALL OR SUBSTANTIALLY
5 ALL OF THE DEPOSITS AND OTHER LIABILITIES OF THE
6 BRIDGE BANK BY A QUALIFIED THIRD PARTY; OR

7 4) THE EXPIRATION OF THE PERIOD PROVIDED IN
8 PARAGRAPH (h) OF THIS SECTION; OR

9 5) THE DETERMINATION BY THE RECEIVER THAT THE
10 OPERATION OF THE BRIDGE BANK IS NO LONGER VIABLE,
11 NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO
12 THE CONTRARY.

13 **(K) EFFECTS OF TERMINATION EVENTS. –**

14 1) FOLLOWING THE TERMINATION OF A BRIDGE BANK UNDER
15 PARAGRAPHS (i)(1), (i)(2) and (i)(3), THE NET PROCEEDS
16 FROM SUCH TRANSACTION SHALL FORM PART OF THE
17 ASSETS OF THE CLOSED BANK AVAILABLE FOR
18 DISTRIBUTION TO THE CREDITORS OF THE CLOSED BANK IN
19 ACCORDANCE WITH THE RULES ON CONCURRENCE AND
20 PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR
21 OTHER LAWS.

22 2) ONCE THE TERM OF A BRIDGE BANK HAS EXPIRED AS
23 PROVIDED IN PARAGRAPH (h) OR IS TERMINATED OR
24 DISSOLVED EARLIER BY THE RECEIVER PURSUANT TO

1 SECTION 17. (A) THE ASSETS GATHERED BY THE RECEIVER
2 SHALL BE EVALUATED AND VERIFIED AS TO THEIR EXISTENCE,
3 OWNERSHIP, CONDITION, AND OTHER FACTORS TO DETERMINE
4 THEIR REALIZABLE VALUE. IN THE MANAGEMENT,
5 PRESERVATION AND DISPOSITION OF ASSETS, THE RECEIVER
6 SHALL BE GUIDED BY COST-BENEFIT CONSIDERATIONS,
7 RESOURCES OF THE CLOSED BANK, AND POTENTIAL ASSET
8 RECOVERY.

9 (B) THE CONVERSION OF THE ASSETS OF THE CLOSED BANK
10 SHALL BE CARRIED OUT IN A FAIR AND TRANSPARENT MANNER
11 IN ACCORDANCE WITH THE RULES AND PROCEDURES AS MAY
12 BE DETERMINED BY THE RECEIVER.

13 (C) IN THE MANAGEMENT AND/OR CONVERSION OF THE ASSETS
14 OF THE CLOSED BANK, THE RECEIVER SHALL HAVE THE
15 AUTHORITY TO:

16 1) REPRESENT THE CLOSED BANK BEFORE THE LAND
17 REGISTRATION AUTHORITY (LRA), BUREAU OF LANDS,
18 REGISTER OF DEEDS, THE LAND TRANSPORTATION OFFICE
19 (LTO), THE ASSESSOR'S OFFICE OR OTHER APPROPRIATE
20 OFFICE OF THE LOCAL GOVERNMENT UNIT, THE
21 SECURITIES AND EXCHANGE COMMISSION (SEC), OR SUCH
22 OTHER SIMILAR GOVERNMENT AGENCIES OR PRIVATE
23 ENTITIES IN ---

24 A. VERIFYING THE AUTHENTICITY OF OWNERSHIP
25 DOCUMENTS;

- 1 **B. REGISTERING THE INTEREST OF THE CLOSED BANK ON**
2 **A SPECIFIC PROPERTY;**
- 3 **C. CONSOLIDATING OWNERSHIP OVER AN ASSET OF THE**
4 **CLOSED BANK;**
- 5 **D. SECURING CERTIFIED TRUE COPIES OF DOCUMENTS**
6 **HELD BY THE FOREGOING AGENCIES/ENTITIES IN**
7 **RELATION TO AN ASSET OF THE CLOSED BANK;**
- 8 **E. SECURING THE APPROPRIATE CERTIFICATION FROM**
9 **THE FOREGOING AGENCIES/ENTITIES IN RELATION TO**
10 **AN ASSET OF THE CLOSED BANK; AND**
- 11 **F. PERFORMING OTHER RELATED ACTIVITIES;**

12 **2) CONDUCT A PHYSICAL OR OCULAR INSPECTION OF THE**
13 **PROPERTIES OWNED BY, OR MORTGAGED TO, THE CLOSED**
14 **BANK, TO DETERMINE THEIR EXISTENCE AND PRESENT**
15 **CONDITION;**

16 **3) DETERMINE THE DISPOSAL PRICE OF ASSETS IN**
17 **ACCORDANCE WITH GENERALLY ACCEPTED VALUATION**
18 **PRINCIPLES, STANDARDS AND PRACTICES, SUBJECT TO**
19 **SUCH GUIDELINES AS THE RECEIVER MAY DETERMINE;**

20 **4) DISPOSE REAL OR PERSONAL PROPERTIES OF THE**
21 **CLOSED BANK THROUGH BIDDING, NEGOTIATED SALE OR**
22 **ANY OTHER MODE INCLUDING LEASE WITH OPTION TO**
23 **PURCHASE, WHETHER BY PIECE OR BY LOT, AS MAY BE**
24 **REASONABLY DETERMINED BY THE RECEIVER BASED ON**
25 **COST BENEFIT CONSIDERATIONS AND TO ALLOW**
26 **EFFICIENT DISTRIBUTION OF ASSETS TO CREDITORS; AND**

1 **5) ENGAGE THIRD PARTIES TO ASSIST IN THE LIQUIDATION,**
2 **MANAGE AND/OR DISPOSE THE ASSETS, HANDLE CASES**
3 **FILED AGAINST OR BY THE CLOSED BANK, SUBJECT TO**
4 **SUCH GUIDELINES AS DETERMINED BY THE RECEIVER.**

5 **(D) NOTWITHSTANDING ANY PROVISION OF LAW TO THE**
6 **CONTRARY, THE FOLLOWING RULES SHALL APPLY TO THE**
7 **MANAGEMENT AND/OR CONVERSION BY THE RECEIVER OF THE**
8 **ASSETS OF THE CLOSED BANK:**

9 **1) UPON NOTIFICATION OF THE CLOSURE OF A BANK, THE**
10 **LAND REGISTRATION AUTHORITY, BUREAU OF LANDS,**
11 **REGISTER OF DEEDS, LAND TRANSPORTATION OFFICE,**
12 **ASSESSOR'S OFFICE OR OTHER APPROPRIATE OFFICE OF**
13 **THE LOCAL GOVERNMENT UNIT, OR SUCH OTHER SIMILAR**
14 **GOVERNMENT AGENCIES SHALL NOT ALLOW ANY**
15 **TRANSACTION AFFECTING THE ASSETS OF THE CLOSED**
16 **BANK WITHOUT THE CONSENT OF THE RECEIVER.**

17 **2) UPON ISSUANCE BY THE MONETARY BOARD OF THE**
18 **RESOLUTION ORDERING THE CLOSURE OF A BANK, ANY**
19 **PERSON OR ENTITY IN CUSTODY OR POSSESSION OF**
20 **ASSETS OR RECORDS OF THE CLOSED BANK, INCLUDING,**
21 **BUT NOT LIMITED TO, THE CLOSED BANK'S DEPOSIT**
22 **ACCOUNTS, TITLES TO REAL PROPERTY, COLLATERALS,**
23 **PROMISSORY NOTES, EVIDENCE OF INDEBTEDNESS OR**
24 **INVESTMENTS SHALL IMMEDIATELY TURN OVER CUSTODY**
25 **OF SAID ASSETS AND RECORDS TO THE RECEIVER. SUCH**

1 OBLIGATION SHALL NOT COVER EVIDENCES OF DEPOSIT
2 SUCH AS PASSBOOKS OR CERTIFICATES OF DEPOSIT
3 ISSUED BY THE BANK TO ITS DEPOSITORS. PENDING
4 TURNOVER, ALL PERSONS OR ENTITIES IN CUSTODY OR
5 POSSESSION OF ANY ASSET OR RECORD OF THE CLOSED
6 BANK SHALL HOLD THE SAID ASSETS OR RECORDS IN
7 TRUST FOR THE RECEIVER.

8 3) THE PERSONS OR ENTITIES IN CUSTODY OR POSSESSION
9 OF SUCH ASSET SHALL NOT ALLOW, AUTHORIZE OR
10 CAUSE THE WITHDRAWAL, TRANSFER, DISPOSITION,
11 REMOVAL, CONVERSION, CONCEALMENT, OR OTHER
12 TRANSACTION INVOLVING OR RELATING TO THE SUBJECT
13 ASSET, UNLESS OTHERWISE DIRECTED BY THE RECEIVER.

14 (E) THE RECEIVER SHALL HAVE THE AUTHORITY TO INVEST
15 FUNDS RECEIVED FROM THE CONVERSION OF THE ASSETS OF
16 THE CLOSED BANK IN GOVERNMENT SECURITIES, OTHER
17 GOVERNMENT-GUARANTEED MARKETABLE SECURITIES OR
18 INVESTMENT-GRADE DEBT INSTRUMENTS.

19 (F) THE PROCEEDS OF THE SALE OF THE BANKING FRANCHISE
20 SHALL BE FOR THE BENEFIT OF THE CREDITORS OF THE CLOSED
21 BANK WHICH SHALL BE DISTRIBUTED IN ACCORDANCE WITH
22 THIS ACT AND THE RULES ON CONCURRENCE AND PREFERENCE
23 OF CREDITS UNDER THE CIVIL CODE OR OTHER LAWS.

24 B. PETITION FOR ASSISTANCE
25 IN THE LIQUIDATION (PAL) OF A CLOSED BANK

1 (G) A PETITION FOR ASSISTANCE IN THE LIQUIDATION (PAL) IS A
2 SPECIAL PROCEEDING FOR THE LIQUIDATION OF A CLOSED
3 BANK, AND INCLUDES THE DECLARATION OF THE CONCOMITANT
4 RIGHT OF ITS CREDITORS AND THE ORDER OF PAYMENT OF
5 THEIR VALID CLAIMS IN THE DISPOSITION OF ITS ASSETS.

6 ANY PROCEEDING INITIATED UNDER THIS SECTION SHALL BE
7 CONSIDERED *IN REM*. JURISDICTION OVER ALL PERSONS
8 AFFECTED BY THE PROCEEDING SHALL BE CONSIDERED AS
9 ACQUIRED UPON PUBLICATION OF THE ORDER SETTING THE
10 CASE FOR INITIAL HEARING IN ANY NEWSPAPER OF GENERAL
11 CIRCULATION IN THE PHILIPPINES.

12 (H) THE LIQUIDATION COURT SHALL HAVE EXCLUSIVE
13 JURISDICTION TO ADJUDICATE DISPUTED CLAIMS AGAINST THE
14 CLOSED BANKS, ASSIST IN THE ENFORCEMENT OF INDIVIDUAL
15 LIABILITIES OF THE STOCKHOLDERS, DIRECTORS AND OFFICERS
16 AND DECIDE ON ALL OTHER ISSUES AS MAY BE MATERIAL TO
17 IMPLEMENT THE DISTRIBUTION PLAN ADOPTED BY THE
18 CORPORATION FOR GENERAL APPLICATION TO ALL CLOSED
19 BANKS.

20 (I) THE PROVISIONS OF REPUBLIC ACT NO. 8799, OTHERWISE
21 KNOWN AS "THE SECURITIES REGULATION CODE," AND
22 SUPREME COURT ADMINISTRATIVE MATTER NO. 00-8-10-SC,
23 ENTITLED, "THE RULES OF PROCEDURE ON CORPORATE
24 REHABILITATION," SHALL NOT BE APPLICABLE TO THE PAL OF
25 THE CLOSED BANK.

1 (J) THE PETITION SHALL BE FILED IN THE REGIONAL TRIAL
2 COURT WHICH HAS JURISDICTION OVER THE PRINCIPAL OFFICE
3 OF THE CLOSED BANK OR THE PRINCIPAL OFFICE OF THE
4 RECEIVER, AT THE OPTION OF THE LATTER.

5
6 (K) THE PETITION SHALL BE FILED *EX PARTE* WITHIN A
7 REASONABLE PERIOD FROM RECEIPT OF THE MONETARY BOARD
8 RESOLUTION PLACING THE BANK UNDER LIQUIDATION.

9 (L) ALL PERSONS OR ENTITIES WITH CLAIMS AGAINST THE
10 ASSETS OF THE CLOSED BANK SHALL FILE THEIR CLAIMS WITH
11 THE RECEIVER WITHIN SIXTY (60) DAYS FROM DATE OF
12 PUBLICATION OF THE NOTICE OF CLOSURE. CLAIMS FILED
13 OUTSIDE THE FOREGOING PRESCRIBED PERIOD SHALL BE
14 DISALLOWED.

15 CLAIMS DENIED BY THE RECEIVER SHALL BE FILED WITH THE
16 LIQUIDATION COURT WITHIN SIXTY (60) DAYS FROM RECEIPT OF
17 THE FINAL NOTICE OF DENIAL OF CLAIM.

18 (M) A CLAIM WHOSE VALIDITY HAS NOT YET BEEN DETERMINED
19 WITH FINALITY AT THE TIME OF THE SUBMISSION OF THE FINAL
20 ASSET DISTRIBUTION PLAN (FADP), EITHER BY REASON OF A
21 PENDING SUIT OR FOR WHATEVER REASON, SHALL BE
22 CONSIDERED AS CONTINGENT CLAIM AND SHALL NOT BE PAID
23 UNDER THE PROPOSED FINAL ASSET DISTRIBUTION PLAN
24 (FADP).

1 (N) UPON FINALITY OF THE ORDER APPROVING THE FINAL ASSET
2 DISTRIBUTION PLAN (FADP), THE PETITION FOR ASSISTANCE IN
3 THE LIQUIDATION OF A CLOSED BANK SHALL HENCEFORTH BE,
4 FOR ALL INTENTS AND PURPOSES, CONSIDERED CLOSED AND
5 TERMINATED AND THE RECEIVER, ITS OFFICERS, EMPLOYEES OR
6 AGENTS, ARE FOREVER DISCHARGED FROM ANY AND ALL
7 CLAIMS AND/OR LIABILITY ARISING FROM OR IN CONNECTION
8 WITH THE LIQUIDATION OF THE CLOSED BANK.

9 (O) THE RECEIVER SHALL SUBMIT A FINAL REPORT ON THE
10 IMPLEMENTATION OF THE APPROVED FINAL ASSET
11 DISTRIBUTION PLAN (FADP) TO THE MONETARY BOARD AND THE
12 SECURITIES AND EXCHANGE COMMISSION (SEC) AFTER THE
13 EXPIRATION OF THE WINDING-UP PERIOD PROVIDED IN SECTION
14 17 OF THIS ACT.

15 (P) THE SUPREME COURT SHALL PROMULGATE THE
16 APPROPRIATE PROCEDURAL RULES TO IMPLEMENT THIS
17 SECTION.

18 C. WINDING-UP

19 (Q) THE CREDITORS SHALL HAVE A PERIOD OF SIX (6) MONTHS
20 FROM DATE OF PUBLICATION OF NOTICE OF THE APPROVAL BY
21 THE COURT OF THE FINAL ASSET DISTRIBUTION PLAN (FADP) OF
22 THE CLOSED BANK WITHIN WHICH TO CLAIM PAYMENT OF THE
23 PRINCIPAL OBLIGATIONS AND SURPLUS DIVIDENDS. DURING
24 THIS SIX-MONTH PERIOD, THE RECEIVER SHALL HOLD AS
25 TRUSTEE THE ASSETS ALLOCATED IN THE FINAL ASSET
26 DISTRIBUTION PLAN (FADP) FOR SAID CREDITORS.

1 FAILURE BY THE CREDITOR TO COMPLY WITH THE
2 DOCUMENTARY REQUIREMENTS WITHIN THE PRESCRIBED
3 PERIOD AND/OR REFUSAL TO ACCEPT THE ASSET AS PAYMENT
4 SHALL BE DEEMED AS ABANDONMENT OR WAIVER OF HIS RIGHT
5 TO PAYMENT.

6 (R) THE INDIVIDUAL STOCKHOLDERS OF RECORD OR THEIR
7 DULY-AUTHORIZED REPRESENTATIVE OR THE COURT-
8 APPOINTED STOCKHOLDERS' REPRESENTATIVE SHALL HAVE A
9 PERIOD OF SIX (6) MONTHS FROM PUBLICATION OF NOTICE OF
10 THE APPROVAL BY THE COURT OF THE FINAL ASSET
11 DISTRIBUTION PLAN (FADP) OF THE CLOSED BANK WITHIN WHICH
12 TO CLAIM THE RESIDUAL ASSETS. DURING THIS SIX- MONTH
13 PERIOD, THE RECEIVER SHALL HOLD AS TRUSTEE THE ASSETS
14 ALLOCATED IN THE FINAL ASSET DISTRIBUTION PLAN (FADP)
15 FOR SAID STOCKHOLDERS OF RECORD.

16 FAILURE BY THE INDIVIDUAL STOCKHOLDERS OF RECORD OR
17 THEIR DULY-AUTHORIZED REPRESENTATIVE OR THE COURT-
18 APPOINTED STOCKHOLDERS' REPRESENTATIVE TO COMPLY
19 WITH THE DOCUMENTARY REQUIREMENTS WITHIN THE
20 PRESCRIBED PERIOD AND/OR REFUSAL TO ACCEPT THE
21 RESIDUAL ASSETS IN KIND SHALL BE DEEMED AS
22 ABANDONMENT OR WAIVER OF RIGHT TO RECEIVE THE
23 RESIDUAL ASSETS.

24 (S) AFTER THE LAPSE OF THE SIX-MONTH PERIOD PROVIDED IN
25 PARAGRAPHS (q) AND (r) OF THIS SECTION, ALL ASSETS WHICH

1 REMAIN UNCLAIMED BY THE CREDITORS AND/OR
2 STOCKHOLDERS OF RECORD SHALL BE TURNED OVER TO THE
3 BUREAU OF TREASURY.

4 (T) THE RECEIVER SHALL CONTINUE TO KEEP ALL THE
5 PERTINENT RECORDS OF THE CLOSED BANK FOR A PERIOD OF
6 SIX (6) MONTHS FROM DATE OF PUBLICATION OF THE APPROVAL
7 OF THE FINAL ASSET DISTRIBUTION PLAN (FADP). AFTER THE
8 LAPSE OF THIS PERIOD, THE RECEIVER IS AUTHORIZED TO
9 DISPOSE OF THE SAME IN ACCORDANCE RULES AND
10 REGULATIONS TO BE PRESCRIBED BY THE RECEIVER.”

11 **SECTION 31.** Section 13 of the same Act is hereby renumbered as Section 18.

12 **SECTION 32.** A new section entitled Section 19 of the same Act is hereby
13 inserted between Sections 18 and 20 which shall read as follows:

14 **“DIVIDEND DECLARATION**

15 **SECTION 19.** CONSISTENT WITH THE POLICY OF THE STATE TO
16 GENERATE, PRESERVE, MAINTAIN FAITH AND CONFIDENCE IN
17 THE COUNTRY’S BANKING SYSTEM, THE CORPORATION SHALL
18 BUILD UP AND MAINTAIN THE DEPOSIT INSURANCE FUND (DIF) AT
19 THE TARGET LEVEL SET BY THE PDIC BOARD OF DIRECTORS.
20 SUCH TARGET LEVEL SHALL BE SUBJECT TO PERIODIC REVIEW
21 AND MAY BE ADJUSTED AS NECESSARY.

22 THE CORPORATION SHALL REMIT DIVIDENDS TO THE NATIONAL
23 GOVERNMENT ONLY IF THE TARGET DIF LEVEL FOR THE

1 **APPLICABLE YEAR HAS BEEN REACHED. THE DIVIDEND RATE**
2 **SHALL BE AT LEAST FIFTY PERCENT (50%) OF THE NET INCOME**
3 **OF THE CORPORATION AFTER DEDUCTING ANY ADDITION TO**
4 **RESERVES FOR INSURANCE AND FINANCIAL ASSISTANCE**
5 **LOSSES, AND OTHER PROVISIONS FOR LOSSES.**

6 **THE PROVISIONS OF REPUBLIC ACT NO. 7656 SHALL NOT APPLY**
7 **TO THE CORPORATION.”**

8 **SECTION 33.** Section 14 of the same Act is accordingly renumbered as Section
9 20 and is hereby amended to read as follows:

10 **“PAYMENT OF INSURED DEPOSITS**

11 **SECTION 20.** Whenever an insured bank shall have been closed by the
12 Monetary Board pursuant to Section 30 of R.A. 7653, **OR UPON**
13 **EXPIRATION OR REVOCATION OF A BANK’S CORPORATE TERM,**
14 payment of the insured deposits on such closed bank shall be made by
15 the Corporation as soon as possible either (1) by cash or (2) by making
16 available to each depositor a transferred deposit in another insured bank
17 in an amount equal to insured deposit of such depositor: *Provided,*
18 *however,* That the Corporation, in its discretion, may require proof of
19 claims to be filed before paying the insured deposits, and that in any case
20 where the Corporation is not satisfied as to the **[viability] VALIDITY** of a
21 claim for an insured deposit, it may require final determination of a court of
22 competent jurisdiction before paying such claim: *Provided, further,* That
23 failure to settle the claim, within six (6) months from the date of filing of
24 claim for insured deposit, where such failure was due to grave abuse of
25 discretion, gross negligence, bad faith, or malice, shall, upon conviction,

1 subject the directors, officers or employees of the Corporation responsible
2 for the delay, to imprisonment from six (6) months to one (1) year:
3 *Provided, furthermore,* That the period shall not apply if the validity of the
4 claim requires the resolution of issues of facts and or law by another
5 office, body or agency including the case mentioned in the first proviso or
6 by the Corporation together with such other office, body or agency.”

7 **SECTION 34.** Section 15 of the same Act is accordingly renumbered as Section
8 21 and is hereby amended to read as follows:

9 “SECTION 21. The Corporation, upon payment of any depositor as
10 provided for in [subsection (c) of this] Section **20 OF THIS ACT**, shall be
11 subrogated to all rights of the depositor against the closed bank to the
12 extent of such payment. Such subrogation shall include the right on the
13 part of the Corporation to receive the same dividends and payments from
14 the proceeds of the assets of such closed bank and recoveries on account
15 of stockholders' liability as would have been payable to the depositor on a
16 claim for the insured deposits: [but,] **PROVIDED, THAT** such depositor
17 shall retain his claim for any uninsured portion of his deposit, **WHICH**
18 **LEGAL PREFERENCE SHALL BE IMMEDIATELY BELOW THAT OF**
19 **THE SUBROGATED CLAIM OF THE CORPORATION FOR ITS**
20 **PAYMENT OF INSURED DEPOSITS.** All payments by the Corporation of
21 insured deposits in closed banks partake of the nature of public funds,
22 and as such, must be considered a preferred credit similar to taxes due to
23 the National Government in the order of preference under Article 2244 of
24 the New Civil Code.[: Provided, further, That this preference shall be
25 likewise effective upon liquidation proceedings already commenced and
26 pending as of the approval of this Act, where no distribution of assets has
27 been made.]”

1 **SECTION 35.** Section 16 of the same Act is accordingly renumbered as Section
2 22 and paragraph (c) thereof is hereby amended to read as follows:

3 “(c) Except as otherwise prescribed by the Board of Directors, neither the
4 Corporation nor such other insured bank shall be required to recognize as
5 the owner of any portion of a deposit [appearing on the records]
6 **EVIDENCED BY A PASSBOOK, CERTIFICATE OF DEPOSIT OR**
7 **OTHER EVIDENCE OF DEPOSIT DETERMINED BY THE**
8 **CORPORATION TO BE AN AUTHENTIC DOCUMENT OR RECORD** of
9 the closed bank under a name other than that of the claimant, any person
10 whose name or interest as such owner is not disclosed on the
11 **PASSBOOK, CERTIFICATE OF DEPOSIT OR OTHER EVIDENCE OF**
12 **DEPOSIT** [records] of such closed bank as part owner of said deposit, if
13 such recognition would increase the aggregate amount of the insured
14 deposits in such closed bank.”

15 **SECTION 36.** Section 17 of the same Act is accordingly renumbered as Section
16 23.

17 **SECTION 37.** Section 23 paragraph (a) of the same Act, as renumbered, is
18 hereby amended to read as follows:

19 **“CORPORATE FUNDS AND ASSETS**

20 **SECTION 23.** (a) **SUBJECT TO GUIDELINES AND LIMITS AS**
21 **APPROVED BY THE BOARD OF DIRECTORS, [M]money** of the
22 Corporation denominated in the local currency, not otherwise employed,
23 shall be invested in obligations of the Republic of the Philippines or in

1 obligations guaranteed as to principal and interest by the Republic of the
2 Philippines.

3 **THE CORPORATION MAY ALSO INVEST IN DEBT INSTRUMENTS**
4 **DENOMINATED IN FOREIGN CURRENCIES ISSUED OR**
5 **GUARANTEED BY THE REPUBLIC OF THE PHILIPPINES, OR DEBT**
6 **INSTRUMENTS DENOMINATED IN FREELY CONVERTIBLE FOREIGN**
7 **CURRENCIES ISSUED BY SUPRANATIONALS, MULTILATERAL**
8 **AGENCIES, OR FOREIGN GOVERNMENTS WITH AT LEAST AN**
9 **INVESTMENT GRADE CREDIT RATING.**

10 **THE CORPORATION SHALL LIKEWISE BE AUTHORIZED TO BUY**
11 **AND/OR SELL DEBT INSTRUMENTS AND FOREIGN CURRENCIES**
12 **FROM ANY GOVERNMENT SECURITIES ELIGIBLE DEALERS**
13 **(GSEDs), OR ANY COUNTERPARTIES OR BROKERS, ACCREDITED**
14 **BY THE PDIC BOARD.**

15 **FOR THIS PURPOSE, THE CORPORATION SHALL BE AUTHORIZED**
16 **TO OPEN SECURITIES CUSTODIANSHIP AND SETTLEMENT**
17 **ACCOUNTS.”**

18 **SECTION 38.** Section 23 paragraph (b) of the same Act, as renumbered, is
19 hereby amended to read as follows:

20 “(b) The banking or checking accounts of the Corporation shall be kept
21 with the *Bangko Sentral ng Pilipinas*, [with the Philippine National Bank,]
22 or with any other bank designated as depository or fiscal agent of the
23 Philippine government.”

1 **SECTION 39.** An additional paragraph to Section 23 of the same Act, as
2 renumbered, is hereby inserted after paragraph (c) which shall read as follows:

3 “(d) **ASSETS OF THE CORPORATION SHALL BE EXEMPT FROM**
4 **ATTACHMENT, GARNISHMENT OR ANY OTHER ORDER OR**
5 **PROCESS OF ANY COURT, AGENCY OR ANY OTHER**
6 **ADMINISTRATIVE BODY.”**

7 **SECTION 40.** Section 17 paragraph (d) of the same Act is accordingly
8 renumbered as Section 23 paragraph (e) and is hereby amended to read as follows:

9 “FINANCIAL ASSISTANCE

10 (e) [When the Corporation has determined that an insured bank is in
11 danger of closing, in order to prevent such closing,] **IN THE EXERCISE**
12 **OF ITS AUTHORITIES UNDER SECTION 11 OF THIS ACT,** the
13 Corporation [, in the discretion of its Board of Directors,] is authorized to
14 make loans to, or purchase the assets of, or assume liabilities of, or make
15 deposits in[, such insured bank,]:

- 16 **1) A BANK IN DANGER OF CLOSING, UPON ITS ACQUISITION**
17 **BY A QUALIFIED INVESTOR; OR**
18 **2) A QUALIFIED INVESTOR, UPON ITS PURCHASE OF ALL**
19 **ASSETS AND ASSUMPTION OF ALL LIABILITIES OF A BANK**
20 **IN DANGER OF CLOSING; OR**
21 **3) A SURVIVING OR CONSOLIDATED INSTITUTION THAT HAS**
22 **MERGED OR CONSOLIDATED WITH A BANK IN DANGER OF**
23 **CLOSING;**

1 upon such terms and condition^S as the Board of Directors may prescribe,
2 when in the opinion of the Board of Directors, [the continued operation of
3 such bank] **SUCH ACQUISITION, PURCHASE OF ASSETS,**
4 **ASSUMPTION OF LIABILITIES, MERGER OR CONSOLIDATION,** is
5 essential to provide adequate banking service in the community or
6 maintain financial stability in the economy.

7 [The authority of the Corporation under the foregoing paragraph to extend
8 financial assistance to, assume liabilities of, purchase the assets of an
9 insured bank may also be exercised in the case of a closed insured bank
10 if the Corporation finds that the resumption of operations of such bank is
11 vital to the interests of the community, or a severe financial climate exists
12 which threatens the stability of a number of banks possessing significant
13 resources: *Provided,* That the reopening and resumption of operations of
14 the closed bank shall be subject to the prior approval of the Monetary
15 Board.]

16 [The Corporation may provide any corporation acquiring control of,
17 merging or consolidating with or acquiring the assets of an insured bank in
18 danger of closing in order to prevent such closing or of a closed insured
19 bank in order to restore to normal operations, with such financial
20 assistance as it could provide an insured bank under this subsection:
21 *Provided,* That, within sixty (60) days from date of assistance the
22 Corporation shall submit a report thereof to the Monetary Board.]

23 The Corporation, prior to the exercise of the powers under this Section,
24 shall determine that actual payoff and liquidation thereof will be more
25 expensive than the exercise of this power: *Provided,* That when the
26 Monetary Board has determined that there are systemic consequences of

1 a probable failure or closure of an insured bank, the Corporation may
2 grant financial assistance to such insured bank in such amount as may be
3 necessary to prevent its failure or closure and/or restore the insured bank
4 to viable operations, under such terms and conditions as may be deemed
5 necessary by the Board of Directors, subject to concurrence by the
6 Monetary Board and without additional cost to the Deposit Insurance
7 Fund.

8 A systemic risk refers to the possibility that failure of one bank to settle net
9 transactions with other banks will trigger a chain reaction, depriving other
10 banks of funds leading to a general shutdown of normal clearing and
11 settlement activity. Systemic risk also means the likelihood of a sudden,
12 unexpected collapse of confidence in a significant portion of the banking
13 or financial system with potentially large real economic effects. Finally, the
14 Corporation may not use its authority under this subsection to purchase
15 the voting or common stock of an insured bank but it can enter into and
16 enforce agreements that it determines to be necessary to protect its
17 financial interests: *Provided*, That the financial assistance may take the
18 form of equity or quasi-equity of the insured bank as may be deemed
19 necessary by the Board of Directors with concurrence by the Monetary
20 Board: *Provided, further*, That the Corporation shall dispose of such equity
21 as soon as practicable.”

22 **SECTION 41.** Section 18 of the same Act is accordingly renumbered as Section
23 24 and is hereby amended to read as follows:

24 “AUTHORITY TO BORROW

1 SECTION 24. The Corporation is authorized to borrow from the *Bangko*
2 *Sentral ng Pilipinas* and the *Bangko Sentral* is authorized to lend **TO** the
3 Corporation on such terms as may be agreed upon by the Corporation
4 and the *Bangko Sentral*, such funds as in the judgment of the Board of
5 Directors of the Corporation are from time to time required for insurance
6 purposes and financial assistance provided for in Section [17] **23(e)** of this
7 Act: *Provided*, That any such loan as may be granted by the *Bangko*
8 *Sentral* shall be consistent with monetary policy; *Provided, further*, That
9 the rate of interest thereon shall be fixed by the Monetary Board but shall
10 not exceed the [t]Treasury [bill] rate **CORRESPONDING TO THE**
11 **MATURITY OF SUCH LOAN.**

12 When in the judgment of the Board of Directors the funds of the
13 Corporation are not sufficient to provide for an emergency or urgent need
14 to attain the purposes of this Act, the Corporation is likewise authorized to
15 borrow money, obtain loans or arrange credit lines or other credit
16 accommodations from any bank [designated as depository or fiscal agent
17 of the Philippine Government]: *Provided*, That such loan shall be of short-
18 term duration, **PROVIDED, FURTHER, THAT SECTION 123 OF THE**
19 **NEW CENTRAL BANK ACT, AS AMENDED, SHALL NOT APPLY."**

20 **SECTION 42.** Section 19 of the same Act is accordingly renumbered as Section
21 25 and is hereby amended to read as follows:

22 "ISSUANCE OF BONDS, DEBENTURES AND OTHER
23 OBLIGATIONS

24 SECTION [19] **25.** With the approval of the President of the Philippines,
25 the Corporation is authorized to issue bonds, debentures, and other

1 obligations, both local or foreign, as may be necessary for purposes of
2 providing liquidity for settlement of insured deposits in closed banks, **TO**
3 **FACILITATE THE IMPLEMENTATION OF BANK RESOLUTION**
4 **UNDER SECTION 11 OF THIS ACT**, as well as for financial assistance
5 as provided herein, *Provided*, That the Board of Directors shall determine
6 the interest rates, maturity and other requirements of said obligations:
7 *Provided, further*, That the Corporation shall provide for appropriate
8 reserves for the redemption or retirement of said obligation.

9 All notes, debentures, bonds, or such obligations issued by the
10 Corporation shall be exempt from taxation both as to principal and
11 interest, and shall be fully guaranteed by the Government of the Republic
12 of the Philippines. Such guarantee, which in no case shall exceed two
13 times the Deposit Insurance Fund as of date of the debt issuance, shall be
14 expressed on the face thereof.

15 **THE CORPORATION MAY ISSUE NOTES, DEBENTURES, BONDS,**
16 **OR OTHER DEBT INSTRUMENTS WITHOUT THE APPROVAL OF THE**
17 **PRESIDENT OF THE PHILIPPINES, PROVIDED THAT THESE SHALL**
18 **NOT BE GUARANTEED BY THE NATIONAL GOVERNMENT.**

19 The Board of Directors shall have the power to prescribe **THE TERMS**
20 **AND CONDITIONS**, rules and regulations for the issuance, reissuance,
21 servicing, placement and redemption of the bonds herein authorized to be
22 issued as well as the registration of such bonds at the request of the
23 holders thereof.”

24 **SECTION 43.** Section 20 of the same Act is accordingly renumbered as Section

25 26.

1 **SECTION 44.** Section 21 of the same Act is accordingly renumbered as Section
2 27.

3 **SECTION 45.** Section 27 paragraph (f) of the same Act, as renumbered, is
4 hereby amended to read as follows:

5 “(f) The penalty of **IMPRISONMENT OF NOT LESS THAN SIX YEARS**
6 **BUT NOT MORE THAN TWELVE YEARS** [*prision mayor*] or a fine of not
7 less than Fifty thousand pesos (P50,000.00) but not more than **TEN [Two]**
8 million pesos (P10,000,000.00), ~~[(P2,000,000.00),]~~ or both, at the
9 discretion of the court, shall be imposed upon [any director, officer,
10 employee or agent of a bank]:

11 **1) ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF A**
12 **BANK FOR:**

13 a. ~~[for]~~ any willful refusal to submit reports as required by law,
14 rules and regulations;

15 b. any unjustified refusal to permit examination and audit of the
16 deposit records or the affairs of the institution;

17 c. any willful making of a false statement or entry in any bank
18 report or document required by the Corporation;

19 d. submission of false material information in connection with or in
20 relation to any financial assistance of the Corporation extended
21 to the bank;

1 e. splitting of deposits or creation of fictitious **OR FRAUDULENT**
2 loans or deposit accounts.

3 Splitting of deposits occurs whenever a deposit account with an
4 outstanding balance of more than the statutory maximum
5 amount of insured deposit maintained under the name of
6 natural or juridical persons is broken down and transferred into
7 two (2) or more accounts in the name/s of natural or juridical
8 persons or entities who have no beneficial ownership on
9 transferred deposits in their names within one hundred twenty
10 (120) days immediately preceding or during a bank-declared
11 bank holiday, or immediately preceding a closure order issued
12 by the Monetary Board of the *Bangko Sentral ng Pilipinas* for
13 the purpose of availing of the maximum deposit insurance
14 coverage;

15 **f. REFUSAL TO RECEIVE THE NOTICE OF CLOSURE AS**
16 **PROVIDED UNDER SECTION 14 OF THIS ACT;**

17 g. refusal to allow the Corporation to take over a closed bank
18 [placed under its receivership] or obstructing such action of the
19 Corporation;

20
21 h. refusal to turn over or destroying or tampering bank records;

22 i. fraudulent disposal, transfer or concealment of any asset,
23 property or liability of the closed bank [under the receivership of
24 the Corporation];

1 j. violation of, or causing any person to violate, the exemption
2 from garnishment, levy, attachment or execution provided under
3 this Act and the New Central Bank Act;

4 k. any willful failure or refusal to comply with, or violation of any
5 provision of this Act, or commission of any other irregularities,
6 and/or conducting business in an unsafe or unsound manner as
7 may be determined by the Board of Directors[,] **IN RELATION**
8 **TO SECTION 56 OF REPUBLIC ACT NO. 8791, OR THE**
9 **GENERAL BANKING LAW OF 2000.**

10 **NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE**
11 **FOREGOING ACTS OF DIRECTORS, OFFICERS,**
12 **EMPLOYEES OR AGENTS OF THE BANK SHALL BE**
13 **CONSIDERED AS ADDITIONAL GROUNDS FOR NON-**
14 **COMPLIANCE WITH THE FIT AND PROPER RULES OF THE**
15 **BANGKO SENTRAL.**

16 l. **OTHER ACTS INIMICAL TO THE INTEREST OF THE BANK**
17 **OR THE CORPORATION, SUCH AS, BUT NOT LIMITED TO,**
18 **CONFLICT OF INTEREST, DISLOYALTY, AND**
19 **DISCLOSURE OF CONFIDENTIAL INFORMATION, AS MAY**
20 **BE DETERMINED BY THE CORPORATION.**

21 **2) ANY PERSON FOR:**

1 **a. REFUSAL TO DISCLOSE INFORMATION, RECORDS OR**
2 **DATA PERTAINING TO THE BANK ACCOUNTS OF A**
3 **CLOSED BANK TO THE RECEIVER;**

4 **b. REFUSAL TO TURN OVER POSSESSION OR CUSTODY OF**
5 **THE ASSET AND RECORD OF THE CLOSED BANK TO THE**
6 **RECEIVER, NOTWITHSTANDING ANY AGREEMENT TO**
7 **THE CONTRARY;**

8 **c. REFUSAL OR DELAYING THE:**

9 **i. VERIFICATION OF AUTHENTICITY OF THE OWNERSHIP**
10 **DOCUMENTS;**

11 **ii. REGISTRATION OF INTEREST OF THE CLOSED BANK**
12 **ON A SPECIFIC PROPERTY;**

13 **iii. CONSOLIDATION OF OWNERSHIP OVER AN ASSET OF**
14 **THE CLOSED BANK;**

15 **iv. ACT OF SECURING CERTIFIED TRUE COPIES OF**
16 **DOCUMENTS IN RELATION TO AN ASSET OF THE**
17 **CLOSED BANK;**

18 **v. ACT OF SECURING THE APPROPRIATE**
19 **CERTIFICATION FROM THE AGENCIES OR ENTITIES**
20 **STATED IN SECTION 17 OF THIS ACT IN RELATION TO**
21 **AN ASSET OF THE CLOSED BANK;**

1 vi. CONDUCT OF A PHYSICAL OR OCULAR INSPECTION
2 OF THE PROPERTIES OWNED BY, OR MORTGAGED
3 TO, THE CLOSED BANK, TO DETERMINE THEIR
4 EXISTENCE AND PRESENT CONDITION; OR

5 vii. OTHER RELATED ACTIVITIES OF THE RECEIVER; OR

6 d. ALLOWING THE WITHDRAWAL FROM DEPOSITS OR
7 DISPOSITION OF ANY ASSET OF THE CLOSED BANK
8 OTHER THAN BY THE RECEIVER,

9 e. WILLFULLY VIOLATING ANY PROVISION OF THIS ACT;

10 3) ANY LAW ENFORCEMENT OFFICER OR LOCAL
11 GOVERNMENT OFFICIAL WHO REFUSES OR FAILS TO
12 ASSIST THE RECEIVER IN THE SERVICE OF THE NOTICE OF
13 CLOSURE, AS PROVIDED UNDER SECTION 14 OF THIS ACT.”

14 **SECTION 46.** Additional paragraphs to Section 27 of the same Act, as
15 renumbered, are hereby inserted after paragraph (g) which shall read as follows:

16 “(h) THE PENALTY OF IMPRISONMENT OF NOT LESS THAN TEN
17 (10) YEARS BUT NOT MORE THAN TWELVE (12) YEARS, OR A FINE
18 OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS
19 (P500,000.00) BUT NOT MORE THAN TEN MILLION PESOS
20 (P10,000,000.00), OR BOTH, AT THE DISCRETION OF THE COURT,
21 SHALL BE IMPOSED UPON:

- 1 1) ANY DEPOSITOR WHO FILES A FICTITIOUS AND/OR
2 FRAUDULENT CLAIM FOR DEPOSIT INSURANCE; AND
3 2) ANY BANK OFFICER WHO CERTIFIES TO THE VALIDITY OF
4 THE DEPOSIT LIABILITIES WHICH IS SUBSEQUENTLY
5 VERIFIED TO BE FICTITIOUS AND/OR FRAUDULENT.

6 (i) THE PENALTY OF IMPRISONMENT OF NOT LESS THAN TWELVE
7 (12) YEARS BUT NOT MORE THAN FOURTEEN (14) YEARS SHALL
8 BE IMPOSED UPON ANY PERSON WHO PARTICIPATES, OR
9 ATTEMPTS TO PARTICIPATE, IN A SCHEME TO DEFRAUD A BANK.

10 IF THE OFFENSE SHALL HAVE BEEN COMMITTED BY A DIRECTOR
11 OR OFFICER OF THE BANK, THE PENALTY OF IMPRISONMENT OF
12 NOT LESS THAN FIFTEEN (15) YEARS BUT NOT MORE THAN
13 SEVENTEEN (17) YEARS SHALL BE IMPOSED.

14 IF THE OFFENSE SHALL HAVE RESULTED IN SYSTEMIC
15 CONSEQUENCES, AS DETERMINED BY THE *BANGKO SENTRAL*,
16 THE PENALTY OF IMPRISONMENT OF NOT LESS THAN EIGHTEEN
17 (18) YEARS BUT NOT MORE THAN TWENTY (20) YEARS SHALL BE
18 IMPOSED.”

19 **SECTION 47.** Section 22 of the same Act is accordingly renumbered as Section
20 28.

21 **SECTION 48.** Section 23 of the same Act is hereby renumbered as Section 29
22 and reinstated as follows:

1 "SECTION 29. THE CORPORATION MAY BE REORGANIZED BY THE
2 BOARD OF DIRECTORS BY ADOPTING IF IT SO DESIRES, AN
3 ENTIRELY NEW STAFFING PATTERN OR ORGANIZATIONAL
4 STRUCTURE TO SUIT THE OPERATIONS OF THE CORPORATION
5 UNDER THIS ACT. NO PREFERENTIAL OR PRIORITY RIGHT SHALL
6 BE GIVEN TO OR ENJOYED BY ANY PERSONNEL FOR
7 APPOINTMENT TO ANY POSITION IN THE NEW STAFFING PATTERN
8 NOR SHALL ANY PERSONNEL BE CONSIDERED AS HAVING PRIOR
9 OR VESTED RIGHTS WITH RESPECT TO RETENTION IN THE
10 CORPORATION OR IN ANY POSITION WHICH MAY BE CREATED IN
11 THE NEW STAFFING PATTERN, EVEN IF HE SHOULD BE THE
12 INCUMBENT OF A SIMILAR POSITION PRIOR TO
13 REORGANIZATION. THE REORGANIZATION SHALL BE
14 COMPLETED WITHIN SIX (6) MONTHS AFTER THE EFFECTIVITY OF
15 THIS ACT. PERSONNEL WHO ARE NOT RETAINED ARE DEEMED
16 SEPARATED FROM THE SERVICE."

17 **SECTION 49.** Section 24 of the same Act is accordingly renumbered as Section
18 30.

19 **SECTION 50.** Section 25 of the same Act is accordingly renumbered as Section
20 31.

21 **SECTION 51.** A new section entitled Section 32 of the same Act is hereby
22 inserted between Sections 31 and 33 which shall read as follows:

23 "SECTION 32. *EXEMPTING CLAUSE.* - THE CORPORATION SHALL
24 BE EXEMPT FROM SECTION 30 OF REPUBLIC ACT NO. 7653, AS
25 AMENDED, PRESIDENTIAL DECREE NO. 985, PRESIDENTIAL

1 **DECREE NO. 1597, REPUBLIC ACT NO. 6758, AS AMENDED, JOINT**
2 **RESOLUTION NO. 4 (2009), REPUBLIC ACT NO. 10149,**
3 **PRESIDENTIAL DECREE NO. 1177, EXECUTIVE ORDER NO. 248, AS**
4 **AMENDED, AND EXECUTIVE ORDER NO. 298.**

5 **SECTION 52.** A new section entitled Section 33 of the same Act is hereby
6 inserted between Sections 32 and 34 which shall read as follows:

7 **"SECTION 33. TRANSITORY PROVISIONS. – (a) THE INCUMBENT**
8 **PRESIDENT OF THE CORPORATION AND PRIVATE SECTOR**
9 **MEMBERS OF THE BOARD OF DIRECTORS SHALL CONTINUE TO**
10 **EXERCISE THEIR RESPECTIVE DUTIES AND FUNCTIONS UNTIL**
11 **REPLACED BY THE PRESIDENT OF THE PHILIPPINES: PROVIDED,**
12 **THAT, SUCH NEW APPOINTEES SHALL BE SUBJECT TO THE TERM**
13 **OF OFFICE PROVIDED UNDER SECTION 3 OF THIS ACT, AS**
14 **AMENDED.**

15 **(b) PAYMENT OF SURPLUS DIVIDENDS UNDER SECTION 13(C) OF**
16 **THIS ACT, AS AMENDED, SHALL BE APPLICABLE TO BANKS**
17 **WITHOUT A COURT-APPROVED FINAL ASSET DISTRIBUTION PLAN**
18 **AT THE TIME OF THE EFFECTIVITY OF THIS ACT.**

19 **(c) THE PREFERENCE INDICATED UNDER SECTION 21 OF THIS**
20 **ACT, AS AMENDED, SHALL BE LIKEWISE EFFECTIVE UPON**
21 **LIQUIDATION PROCEEDINGS ALREADY COMMENCED AND**
22 **PENDING AS OF THE EFFECTIVITY OF THIS ACT, WHERE NO**
23 **DISTRIBUTION OF ASSETS HAS BEEN MADE.**

1 (d) THE PROVISIONS IN SECTION 10 OF THIS ACT, AS AMENDED,
2 ON LEGAL ASSISTANCE, PROTECTION AND INDEMNIFICATION
3 SHALL APPLY TO ALL CASES PENDING BEFORE THE EFFECTIVITY
4 OF THIS ACT.”

5 **SECTION 53.** Section 26 of the same Act is accordingly renumbered as Section
6 34.

7 **SECTION 54.** Section 27 of the same Act is accordingly renumbered as Section
8 35.

9 **SECTION 55.** Section 28 of the same Act is accordingly renumbered as Section
10 36.

11 **SECTION 56. *Separability Clause.*** - If any provision or section of this Act or the
12 application thereof to any person or circumstances is held invalid, the other provisions
13 or sections of this Act, in the application of such provision or section to other persons or
14 circumstances, shall not be affected thereby.

15 **SECTION 57. *Repealing Clause.*** - All acts or parts of acts and executive orders,
16 administrative orders, or parts thereof which are inconsistent with the provisions of this
17 Act are hereby repealed.

18 **SECTION 58. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days
19 following the completion of its publication in the *Official Gazette* or in two (2)
20 newspapers of general circulation.

21 Approved,