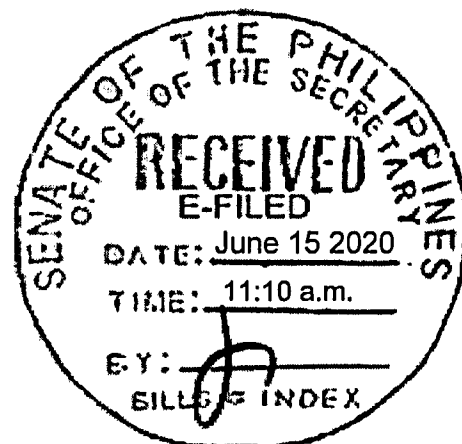


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE

S. No. **1596**

Introduced by Senator Manuel "Lito" M. Lapid

**AN ACT
ENSURING PHILIPPINE FINANCIAL INDUSTRY RESILIENCY
AGAINST THE COVID-19 PANDEMIC**

EXPLANATORY NOTE

The Coronavirus Disease 2019 (COVID-19) pandemic posed numerous challenges to our country. In response, our government has been continuously and consistently addressing and providing solutions for the same through various measures to contain the outbreak which include the community quarantine, among others. These measures, however, have its costs in our economy which caused serious economic setbacks.

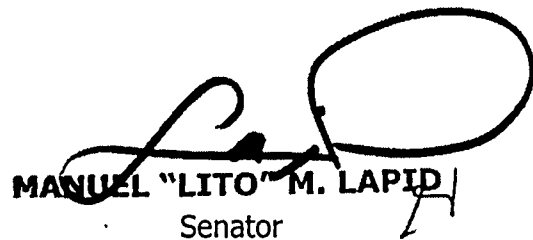
One of the factors that affects not only the performance, efficiency and credibility of banks, but also of the financial sector and the whole economy are the non-performing assets (NPAs), which consists of the non-performing loans (NPLs) and real and other properties acquired (ROPAs). According to the study done by the Bankers Association of the Philippines, there is an expected increase in non-performing loans (NPL) from 5% today to 20% or higher in a matter of months, which would translate to Php 240-300 billion of NPLs wherein 50-80% thereof may have to be written off.

As the State recognizes the crucial role of banks and other financial institutions as

mobilizers of savings and investments and in the provision of the needed financial system liquidity to keep the economy afloat, this bill seeks to lay down the policies to strengthen the financial sector.

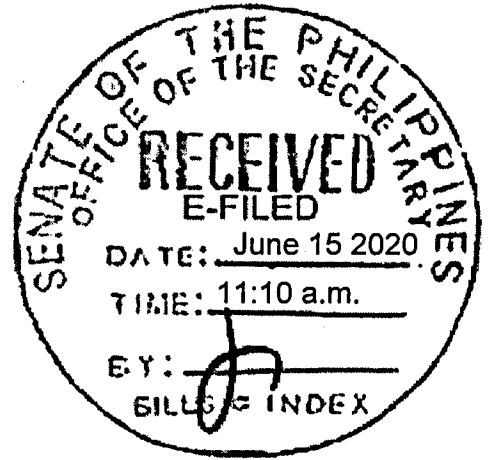
This bill also aims to create the Financial Institutions Strategic Transfer Corporation which will help the financial institutions in the management of their NPAs by encouraging investments and by eliminating the existing barriers in the acquisition of the same, in the rehabilitation of distressed businesses, and in the improvement of the liquidity of the financial system for economic growth and financial stability.

In view of the foregoing, the immediate passage of this bill is earnestly sought.



MANUEL "LITO" M. LAPID
Senator

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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SENATE

S. No. **1596**

Introduced by Senator Manuel "Lito" M. Lapid

**AN ACT
ENSURING PHILIPPINE FINANCIAL INDUSTRY RESILIENCY
AGAINST THE COVID-19 PANDEMIC**

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

1 SECTION 1. *Title.* – This Act shall be known as "*Financial Institutions*
2 *Strategic Transfer (FIST) Act.*"

3
4 *Sec. 2. Declaration of Policy.* – The Coronavirus Disease 2019 (COVID-19)
5 pandemic has greatly affected nations worldwide, including the Philippines, and the
6 measures adopted by the government to contain the outbreak have unavoidably
7 caused serious economic setbacks and tremendous financial pressure on markets
8 and industries. Because of the unpredictability of the course and outcome of the
9 health crisis, it is necessary to lay down the appropriate policies not only to marshal
10 available resources towards the most affected and vulnerable sectors but more
11 importantly, to strengthen the financial sector so that economic recovery can be
12 achieved faster, and with more lasting positive effects.

13
14 The State recognizes the role of banks and other financial institutions as
15 mobilizers of savings and investments and in providing the needed financial system

1 liquidity to keep the economy afloat. Thus, it is essential that banks and other
2 financial institutions are able to maintain their financial health in order to cushion the
3 adverse economic impact of this pandemic. It is hereby declared the policy of the
4 State:

- 5
- 6 (a) to develop and maintain a sound financial sector for the country;
 - 7 (b) to address the non-performing asset problems of the financial
8 sector;
 - 9 (c) to encourage public and private sector investments in non-
10 performing assets;
 - 11 (d) to eliminate existing barriers in the acquisition of non-performing
12 assets;
 - 13 (e) to help in the rehabilitation of distressed businesses with the end in
14 view of their becoming economic value-added contributors; and
 - 15 (f) to improve the liquidity of the financial system which can be
16 harnessed to propel economic growth and maintain financial
17 stability.

18

19 *Sec. 3. Definition of Terms. – As used in this Act:*

20

21 (a) *Approval Certificate* means the certificate of approval or authority issued
22 by the Commission to an application by a Financial Institutions Strategic Transfer
23 Corporation (FISTC) to issue Investment Unit Instruments (IUIs), pursuant to the
24 provisions of this Act;

25

26 (b) *Approved Plan* means an FISTC Plan for which an Approval Certificate has
27 been issued by the Commission;

28

29 (c) *Commission* refers to the Securities and Exchange Commission;

30

31 (d) *Financial Institutions, or FIs* means credit-granting institutions which shall
32 be limited to the following:

1
2 (1) the Bangko Sentral ng Pilipinas (BSP);

3
4 (2) a bank, as defined under Republic Act No. 8791, also known as
5 "The General Banking Law of 2000";

6
7 (3) a financing company, as defined under Republic Act No. 8556,
8 also known as "The Financing Company Act of 1998";

9
10 (4) an investment house, as defined in Presidential Decree No. 129,
11 also known as "The Investment Houses Law";

12
13 (5) a lending company, as defined under Republic Act No. 9474,
14 also known as "Lending Company Regulation Act of 2007";

15
16 (6) government financial institutions (GFIs), which for purposes of
17 this Act, refer to the Philippine Deposit Insurance Corporation
18 (PDIC), Land Bank of the Philippines (LBP), and Development Bank
19 of the Philippines (DBP), and such other GFIs as may be included
20 by the Secretary of Finance;

21
22 (7) government-owned-or-controlled-corporations (GOCCs), which
23 for purposes of this Act, refers to the National Home Mortgage
24 Finance Corporation (NHMFC), Philippine Guarantee Corporation
25 (PGC), Home Development Mutual Fund (HDMF), Social Security
26 System (SSS), Government Service Insurance System (GSIS), Small
27 Business Corporation (SBC), National Housing Authority (NHA), and
28 such other GOCCs as may be included by the Secretary of Finance;
29 and

30
31 (8) other institutions licensed by the BSP to perform (i) quasi-
32 banking functions and (ii) credit-granting activities, including non-

1 stock savings and loan associations, pawnshops, and non-bank
2 credit card issuers;

3
4 (e) *FISTC Plan* refers to the plan submitted to the Commission for its approval
5 as pre-requisite to the issuance of an Investment Unit Instrument;

6
7 (f) *Investment Unit Instrument (IUI)* refers to a participation certificate, debt
8 instrument or similar instrument issued by the FISTC and subscribed by Permitted
9 Investors as provided in Section 11 hereof, pursuant to an Approved Plan: *Provided,*
10 That these shall not include the instruments to be issued by the FISTC to the selling
11 FIs as full or partial settlement of the non-performing assets transferred to the said
12 FISTC: *Provided, further,* That such issuances of the FISTC shall not be considered
13 as deposit substitutes: *Provided, finally,* That these shall not form part of the capital
14 stock of the FISTC;

15
16 (g) *Non-Performing Assets, or NPAs* consist of the non-performing loans and
17 real and other properties acquired by FIs;

18
19 (h) *Non-Performing Loans, or NPLs* refer to secured or unsecured loans,
20 receivables, and other financial assets of similar nature, including restructured loans,
21 which are to be considered credit-impaired and defined as such in the rules and
22 regulations to be issued to implement this Act;

23
24 (i) *Real and Other Properties Acquired (ROPAs)* refer to real and other
25 properties, other than those used for operating purposes or held for investment,
26 acquired by an FI in settlement of loans and receivables, including real properties,
27 shares of stocks, and security interest which have been acquired by way of dation in
28 payment (*dacion en pago*) or judicial or extra-judicial foreclosure or execution of
29 judgment or enforcement of security interest;

30
31 (j) *True Sale* refers to a sale wherein the selling FI transfers or sells its NPAs
32 to an FISTC, without recourse to cash or property in exchange for the transfer or

1 sale, and without prejudice to the FI and FISTC agreeing on sharing of profits in
2 accordance with the conditions prescribed in the rules and regulations to be issued
3 to implement this Act, and subject to the following results:

4
5 (1) The transferor transfers full legal and beneficial title to and
6 relinquishes effective control over the transferred NPAs; and

7
8 (2) The transferred NPAs are legally isolated and put beyond the
9 reach of the transferor and its creditors:

10
11 *Provided*, That the transferring FI shall not have direct or indirect control of the
12 transferee FISTC: *Provided, further*, That the selling FI does not have legal or
13 beneficial ownership of more than ten percent 10% of the transferee FISTC.

14 15 16 **ARTICLE II**

17 **Financial Institutions Strategic Transfer Corporation**

18
19 *Sec. 4. Financial Institutions Strategic Transfer Corporation.* — An FISTC is a
20 stock corporation organized in accordance with Republic Act No. 11232, otherwise
21 known as "The Revised Corporation Code of the Philippines," and the rules
22 promulgated by the Commission, for purposes of registering the FISTC: *Provided*,
23 That if the FISTC will acquire land, at least sixty percent (60%) of its outstanding
24 capital stock shall be owned by Philippine nationals pursuant to Republic Act No.
25 7042, as amended, otherwise known as the "Foreign Investments Act." The BSP,
26 GFIs and GOCCs may create an FISTC subject to their respective charters and the
27 approval of the Governance Commission for Government Owned or Controlled
28 Corporations (GCG): *Provided*, That the limitations under Section 3(h) of this Act
29 shall not apply to BSP and such GFIs or GOCCs.

30
31 FISTCs which are not qualified to acquire or hold land in the Philippines shall
32 be allowed to bid and take part in foreclosure sales of real property mortgaged to

1 them, as well as to avail of enforcement and other proceedings, and accordingly to
2 take possession of the mortgaged property, for a period not exceeding five (5)-years
3 from actual possession: *Provided*, That in no event shall the title to the property be
4 transferred to such FISTC. In case the FISTC is the winning bidder, it shall, during
5 the said five (5)-year period, transfer its rights to a qualified Philippine national,
6 without prejudice to a borrower's rights under applicable laws. Should a FISTC be
7 not able to transfer such property within the five (5)-year period, the FISTC shall be
8 penalized one half of one percent ($\frac{1}{2}$ of 1%) per annum of the price at which the
9 property was foreclosed, until the FISTC is able to transfer the property to a
10 qualified Philippine national.

11

12 *Sec. 5. Powers of an FISTC.* – An FISTC shall have the following powers:

13

14 (a) Invest in, or acquire NPAs of FIs;

15

16 (b) Engage third parties to manage, operate, collect and dispose of NPAs
17 acquired from an FI;

18

19 (c) Rent, lease, hire, subject to security interest, mortgage, transfer, sell,
20 exchange, usufruct, secure, securitize, collect rents and profits, and other similar
21 acts concerning its NPAs acquired from an FI;

22

23 (d) in case of NPLs, to restructure debt, condone debt and undertake other
24 restructuring related activities. In restructuring debt, the FISTC may reduce the
25 principal amount, interest earned, interest rates, and the period for calculating the
26 interest, extend the time for debt repayment or relax the conditions for debt
27 repayment, agree to the conversion of the borrower's debt to equity in the
28 borrower's business, agree to a transfer of assets or claims from the borrower to
29 repay the debt or dispose of some of the borrower's property or claims to third
30 persons;

31

1 (e) Buy or transfer shares issued by the borrower for the purpose of business
2 reorganization or rehabilitation of the borrower, subject to the provisions of the
3 Revised Corporation Code of the Philippines in respect to the rights of the
4 shareholders of the borrower company, and apply other measures or restructuring
5 techniques with the approval of the Commission;

6
7 (f) Enter into dation in payment arrangements, foreclose judicially or extra-
8 judicially and other forms of debt settlement involving NPLs;

9
10 (g) Spend funds to renovate, improve, complete or alter its NPAs acquired
11 from an FI;

12
13 (h) Issue equity or participation certificates or other forms of IUIs for the
14 purpose of acquiring, managing, improving and disposing of its NPAs acquired from
15 an FI;

16
17 (i) Borrow money and issue other instruments of indebtedness for the
18 purpose of paying operational and administrative costs;

19
20 (j) Guarantee credit, and accept, intervene or honor the bills of borrowers;

21
22 (k) Advance funds to borrowers as may be required for an acquired asset or
23 any debt restructuring agreement pursuant thereto, or under any court order or
24 rehabilitation plan; and

25
26 (l) Engage the services of a third-party asset servicing company for the
27 collection and receipt of the debt payments for debts under debt restructuring or
28 business reorganization, management and disposition of assets of the FISTC in
29 accordance with the rules, procedures and conditions prescribed by the Commission
30 or by the courts. Except in the case of ROPAs whose redemption periods have
31 already expired, the FISTC shall notify the borrower and all persons holding prior
32 encumbrances upon the properties, or a part thereof, or are actually holding the

1 same adversely against the borrower, of the appointment of such third-party asset
2 servicing company within fifteen (15) days from the date of the appointment.

3
4 *Sec. 6. Period for Filing of Applications.* – Applications for the establishment
5 and registration of an FISTC shall be filed with the Commission within twenty-four
6 (24) months beginning from the date of effectivity of the rules and regulations of
7 this Act, or effectivity of applicable revenue regulations, whichever is later: *Provided,*
8 That the Secretary of Finance may extend the period of application by a maximum of
9 another twenty-four (24) months.

10
11 Entities created under Republic Act No. 9182, as amended, are qualified to
12 avail of the privileges and incentives under this Act, subject to compliance with the
13 requirements prescribed in the rules and regulations issued to implement this Act.

14
15 *Sec. 7. Capitalization of an FISTC.* – An FISTC shall have adequate minimum
16 capitalization in such amount as may be prescribed by the Commission or by the
17 appropriate regulatory agency of the FISTC.

18
19 *Sec. 8. Submission of FISTC Plan.* – After the establishment of an FISTC
20 pursuant to Section 4 hereof, an FISTC Plan shall be submitted to the Commission
21 for approval and shall include the following:

- 22
23 (a) Investment policies of the FISTC;
24 (b) Contribution plan including the amounts and draft of subscription
25 documents;
26 (c) Features of the IUIs, including the specific amounts issued and to
27 be issued;
28 (d) Rights of the holders of the IUIs;
29 (e) Draft agreements for the appointment of trustees and agents with
30 respect to the IUIs and the NPLs acquired from an FI;
31 (f) Name of the external auditor of the FISTC;

- 1 (g) Roles and responsibilities of the trustees, advisors, loan servicers
2 and property managers;
3 (h) Draft form of financial reports of the FISTC;
4 (i) Details of distribution policies;
5 (j) Methods for the increase and decrease of future fund contribution;
6 (k) Methods for the alteration or modification of the approved FISTC
7 Plan;
8 (l) Methods for the liquidation and distribution of assets to the holders
9 of IUIs;
10 (m) Details of credit enhancements like guarantees or standby letters
11 of credit or advances that may be extended to the FISTC by an
12 entity which shall not be the selling FI, its parent, subsidiaries or
13 affiliates; and
14 (n) Such other documents or information as may be required by the
15 Commission.
16

17 *Sec. 9. Approval, Rejection, Suspension or Revocation of FISTC Plan.*
18

- 19 a) *Approval* – Upon approval of the FISTC Plan, the Commission shall issue an
20 Approval Certificate stating that the application has been approved and that
21 the IUIs may be issued.
22
23 b) *Amendments to Approved FISTC Plan* – If an FISTC Plan becomes on its face
24 incomplete or inaccurate in any material respect, the Commission shall issue
25 an order directing the amendment of the FISTC Plan. Upon compliance with
26 such order, the amended FISTC Plan shall become effective upon approval of
27 the Commission or appropriate regulatory authority pursuant to Section 4 of
28 this Act.
29
30 c) *Rejection, Suspension or Revocation* – The Commission may reject a
31 submitted FISTC Plan if on its face it was not in compliance with the
32 requirements of this Act or the rules and regulations issued to implement it. It

1 is also authorized to suspend or revoke the effectivity of an approved plan
2 after due notice and hearing by issuing an order to such effect setting forth
3 its findings in respect thereto, if it finds that:

- 4
- 5 1. The FISTC has violated any of the provisions of this Act, the rules and
6 regulations issued to implement it, or any order of the Commission
7 which the FISTC has notice of in connection with the offering of IUIs
8 for which a FISTC Plan has been filed;
 - 9
 - 10 2. The FISTC has been, or is engaged, or is about to engage in fraudulent
11 transactions;
 - 12
 - 13 3. The FISTC has made any false or misleading representation of material
14 facts in any approved plan concerning the FISTC or its IUIs;
 - 15
 - 16 4. The FISTC has failed to comply with any requirement that the
17 Commission may impose as a condition for the issuance of IUI for
18 which a FISTC Plan has been filed; or
 - 19
 - 20 5. The FISTC Plan is, on its face, incomplete or inaccurate in any material
21 respect, or includes any untrue statement of a material fact, or omits
22 to state a material fact required to be stated, or one which is necessary
23 to obviate any misappreciation of the statements therein.
 - 24

25 *Sec. 10. Issuance of IUIs.* – The FISTC may be allowed to issue IUIs subject
26 to the rules and regulations the Commission is herein mandated to promulgate.

27

28 *Sec. 11. Permitted Investors.* – Any qualified buyer, as defined in Section 10
29 (1) of Republic Act No. 8799, may acquire or hold IUIs in an FISTC in the minimum
30 amount of Ten million pesos (P10,000,000.00): *Provided,* That an FISTC shall not be
31 authorized to acquire the IUIs of another FISTC: *Provided, further,* That the parent,
32 subsidiaries, affiliates or stockholders, directors, officers or any related interest of

1 the selling FI or the parent's subsidiaries, affiliates or stockholders, directors, officers
2 or any related interest shall not acquire or hold, directly or indirectly, the IUIs of the
3 FISTC that acquired the NPAs of the FI.

4
5
6 **ARTICLE III**

7 **Transfer of Assets to FISTC**

8
9 *Sec. 12. Notice and Manner of Transfer of Assets.* – (a) No transfer of NPLs to
10 an FISTC shall take effect unless the FI concerned shall give prior notice to the
11 borrowers of the NPLs and all persons holding prior encumbrances upon the assets
12 mortgaged or subject to security interest. Such notice shall be in writing and made
13 in accordance with the 1997 Rules of Civil Procedure, as amended, and the rules and
14 regulations issued to implement this Act, at their last known address or their email
15 address registered and on file with the FI.

16
17 (b) The transfer of NPAs from an FI to an FISTC shall be subject to prior
18 certification of eligibility as NPA by the appropriate regulatory authority having
19 jurisdiction over its operations which shall issue its certification within forty-five (45)
20 days from the date of application by the FI for eligibility.

21
22 (c) After the sale or transfer of the NPLs, the transferring FI shall inform the
23 borrower in writing at the last known address of the fact of the sale or transfer of
24 the NPLs.

25
26 *Sec. 13. Nature of Transfer.* – All sales or transfers of NPAs to an FISTC shall
27 be in the nature of a true sale after proper notice in accordance with the procedure
28 as provided for in Section 12, without need for the borrower's consent: *Provided,*
29 That disposition of assets of a GFI and a GOCC shall be covered by special rules to
30 be incorporated in the rules and regulations of this Act: *Provided, further,* That after
31 the sale, the FISTC shall assume all rights and obligations of the transferring FI.

32

1 In the transfer of NPAs, the parties shall exercise the requisite due diligence
2 and any fraud, collusion and irregularity shall be subject to penalties in Sec. 24 of
3 this Act, as well as other pertinent laws, rules and regulations.
4

5 *Sec. 14. Issuance of Injunctive Relief Against Transfer of Assets.* – No court,
6 other than the Court of Appeals and the Supreme Court, shall issue any temporary
7 restraining order, preliminary injunction, preliminary mandatory injunction, status
8 quo order, stay order, commencement order, or any other issuance of injunctive
9 relief against the transfer of NPAs from the FI to an FISTC, and from an FISTC to a
10 third party, or dation in payment by the borrower or by a third party in favor of an
11 FI or in favor of an FISTC, or judicial or extrajudicial foreclosure sales or execution
12 sales of the FI or FISTC of collateral in settlement of NPLs.
13

14 Any restraining order, injunction, status quo order, stay order,
15 commencement order, or any other issuance of injunctive relief issued in violation of
16 this Section is void and of no force and effect.
17

18 The provisions of Rules of Court on injunctions insofar as these are applicable
19 and not inconsistent with the provisions of this Act shall govern the issuance and
20 dissolution of restraining orders, injunctions, status quo orders or stay orders against
21 said transfers.
22
23
24

25 **ARTICLE IV**

26 **Incentives and Exemption Privileges**

27

28 *Sec. 15. Tax Exemptions and Fee Privileges.* – Any existing law to the
29 contrary notwithstanding, the transfer of NPAs from the FI to an FISTC, and from an
30 FISTC to a third party or dation in payment by the borrower or by a third party in
31 favor of an FI or in favor of an FISTC shall be exempt from the following taxes:
32

1 (a) Documentary stamp tax on the abovementioned transfer of
2 NPAs and dation in payment as may be imposed under Title VII of the
3 National Internal Revenue Code of 1997, as amended by Republic Act
4 No. 10963, otherwise known as the Tax Reform for Acceleration and
5 Inclusion (TRAIN) Act;

6
7 (b) Capital gains tax imposed on the transfer of lands and/or
8 other assets treated as capital assets as defined under Section
9 39(A)(1) of the National Internal Revenue Code of 1997, as amended;

10
11 (c) Creditable withholding income taxes imposed on the transfer
12 of land and/or buildings treated as ordinary assets pursuant to Bureau
13 of Internal Revenue (BIR) Revenue Regulation No. 2-98, as amended;

14
15 (d) Value-added tax on the transfer of NPAs as may be imposed
16 under Title IV of the National Internal Revenue Code of 1997, as
17 amended, or gross receipts tax under Title V of the same Code,
18 whichever is applicable pursuant to regulations of the BIR.

19
20 The abovementioned transfers shall also be subject to the
21 following, in lieu of the applicable fees:

22
23 a) Fifty percent (50%) of the applicable registration and transfer
24 fees on the transfer of real estate mortgage and security interest to
25 and from the FISTC, as imposed in accordance with the existing
26 circulars of the Land Registration Authority (LRA);

27
28 (b) Fifty percent (50%) of the filing fees for any foreclosure
29 initiated by the FISTC in relation to any NPA acquired from an FI, as
30 prescribed by the Rules of Court; and

31

1 (c) Fifty percent (50%) of the land registration fees prescribed
2 under the existing circulars of the LRA.

3
4 All sales or transfers of NPAs from the FIs to an FISTC or
5 transfers by way of dation in payment by the borrower or by a third
6 party to the FI shall be entitled to the privileges enumerated herein for
7 a period of not more than two (2) years from the date of effectivity of
8 the rules and regulations to be issued to implement this Act or of the
9 applicable revenue regulations, whichever comes later: *Provided*, That
10 the Secretary of Finance may extend such period by a maximum of two
11 (2) years.

12
13 Transfers from an FISTC to a third party of NPAs acquired by
14 the FISTC within such two-year period, or within such extended period,
15 or transfers by way of dation in payment by a borrower or by a third
16 party to the FISTC shall enjoy the privileges enumerated herein for a
17 period of not more than five (5) years from the date of acquisition by
18 the FISTC: *Provided*, That the Secretary of Finance may extend such
19 five-year period by a maximum of five (5) years: *Provided, further*,
20 That properties acquired by an FISTC from GFIs or GOCCs which are
21 devoted to socialized or low-cost housing shall not be converted to
22 other uses.

23
24 The tax exemptions, incentives, and fee privileges given to FIs
25 and FISTC at the various stages of the transactions under this Section
26 shall likewise be extended to any individual subject to the conditions
27 prescribed in the rules and regulations issued to implement this Act:
28 *Provided*, That:

29
30 (i) the transaction is limited to a ROPA that is either a
31 single family residential unit or an empty lot, or to NPL

1 secured by a real estate mortgage on a residential unit or
2 an empty lot;

3
4 (ii) there shall only be one transaction consisting of one
5 residential unit or empty lot per individual;

6
7 (iii) the two-year transfer period, including its extension,
8 and the five-year entitlement period granted to NPA, as
9 may be extended by the Secretary of Finance, shall also
10 apply to said single family residential unit or empty lot.

11
12 *Sec. 16. Additional Tax Exemptions and Fee Privileges.* – To encourage the
13 infusion of capital and financial assistance by the FISTC for the purpose of
14 rehabilitating the borrower's business, the following additional tax exemptions and
15 privileges shall be enjoyed:

16
17 (a) The FISTC shall be exempt from income tax on net interest income,
18 documentary stamp tax and mortgage registration fees on new loans in excess of
19 existing loans extended to borrowers with NPLs which have been acquired by the
20 FISTC;

21
22 (b) In case of capital infusion by the FISTC to the borrower with NPLs, the
23 FISTC shall also be exempt from the documentary stamp tax;

24
25 *Provided,* That the tax exemptions and fee privileges granted under this
26 Section shall apply for a period of not more than five (5) years from the date of
27 acquisition of NPLs by the FISTC: *Provided, further,* That the Secretary of Finance
28 may extend the period for the enjoyment of such tax exemption and fee privileges
29 by a maximum of five (5) years.

30
31 *Sec. 17. Net Operating Loss Carry-Over (NOLCO) of Participating FIs.* – (a)
32 Any loss that is incurred by an FI as a result of the transfer of an NPA within the

1 two-year period from the effectivity of the rules and regulations issued to implement
2 the provisions of this Section, shall be treated as ordinary loss: *Provided*, That the
3 accrued interest and penalties shall not be included as loss on said loss carry over
4 from operations, subject to the provisions of the National Internal Revenue Code of
5 1997 on net operating loss carry-over (NOLCO). Such loss incurred by the FI from
6 the transfer of NPAs within the two-year period from the effectivity of the rules and
7 regulations issued to implement this Act may be carried over for a period of five (5)
8 consecutive taxable years immediately following the year of such loss: *Provided*,
9 *further*, That for purposes of corporate gain or loss, the carry-over shall be subject
10 to pertinent laws: *Provided*, finally, That the tax savings derived by FIs from the
11 NOLCO shall not be made available for dividend declaration but shall be retained as
12 a form of capital build-up. The DOF, upon the recommendation of the BIR, shall
13 issue the rules and regulations to effectively implement the provisions of this
14 Section.

15

16 (b) The regulatory authority concerned shall promulgate the necessary rules
17 and regulations governing the treatment of any loss of the FIs in the books of
18 account as a result of the transfer of the NPAs.

19

20 (c) In the case of non-bank GFIs and GOCCs enumerated in Section 3 (d)
21 hereof, the Department of Finance (DOF), in consultation with the Commission on
22 Audit (COA), shall promulgate the necessary rules and regulations governing the
23 treatment of any loss in their books of accounts as a result of the transfer of their
24 NPAs.

25

26 *Sec. 18. Abuse of Tax Exemptions and Privileges.* – Any person, natural or
27 juridical, who benefits from the tax exemptions and privileges herein granted, when
28 such person is not entitled thereto, shall be subject to the penalties provided in
29 Section 24 hereof. In addition, the offender shall refund to the government double
30 the amount of the tax exemptions and privileges availed of under this Act, plus
31 interest of twelve percent (12%) per year from the date prescribed for its payment,
32 until full payment thereof.

1 **ARTICLE V**

2 **Enforcement and Protection Provisions**

3
4 *Sec. 19. Consumer Protection Mechanism.* The FISTC shall set up an
5 appropriate consumer protection mechanism as may be prescribed in the rules and
6 regulations to be issued by the appropriate regulatory authority.
7

8 *Sec. 20. Redemption Periods.* – The redemption periods allowed to borrowers
9 of banks under Section 47 of “The General Banking Law of 2000”, the Rules of
10 Court, as well as other relevant laws for non-bank borrowers shall be applicable.
11

12 **ARTICLE VI**

13 **Accounting and Reporting Provisions**

14
15 *Sec. 21. Books of Accounts and Records.* – The FISTC shall set and keep
16 accurate accounts and internal financial controls and shall appoint an external
17 auditor that is acceptable to the Commission. The Commission, the BSP, and the BIR
18 may look into the books of accounts and records of the FISTC at any time during
19 office hours, after due notice.
20

21 *Sec. 22. Reports.* – The Commission, the regulatory authorities, and the BIR
22 shall prescribe the submission of reports from the FISTC and the FIs for the proper
23 implementation of this Act.
24

25 **ARTICLE VII**

26 **Final Provisions**

27
28 *Sec.23. Primary Implementing Agency.* – The Commission shall be the
29 primary implementing agency of this Act. It shall have the authority to enlist the
30 assistance of any branch, department, bureau, office, agency or instrumentality of
31 the government, including GOCCs and GFIs which may include the use and transfer
32 of its personnel, facilities and resources.

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Sec. 24. Penalties and administrative sanctions. – Any person who violates any of the provisions of this Act, or the rules and regulations promulgated thereunder, or any person who, in a notice, certification or plan filed under this Act, makes any untruthful statement of a material fact or omits to state any material fact required to be stated therein, shall, upon conviction, suffer a fine of not less than One hundred thousand pesos (P100,000.00) nor more than Two million pesos (P2,000,000.00) or imprisonment of not less than six (6) years nor more than twelve (12) years, or both, at the discretion of the court, without prejudice to the penalties provided under Section 18 hereof, Section 37 of Republic Act No. 7653, as amended, and other applicable laws. If the offender is a corporation, association, partnership or any juridical person, the penalty shall be imposed upon the responsible officers, as the case may be, who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission. If the offender is a juridical person, other than a bank or financial institution supervised by the BSP, the court may order the suspension or revocation of its license. The offender, if an alien, shall, in addition to the penalties herein prescribed, be deported without further proceedings after serving the penalties herein prescribed. The offender, if a public official or employee, shall, in addition to the penalties prescribed herein, suffer absolute or temporary disqualification from government or public office, as the case may be.

If the offender is a juridical person, the Commission may impose penalties such as fines upon institutions under its jurisdiction and its officers and order the suspension or revocation of its license. With respect to financial institutions under its jurisdiction, the BSP shall impose upon them the sanctions prescribed under Section 37 of Republic Act No. 7653, as amended, as well as upon their directors, officers and employees. This shall be without prejudice to the appropriate penalties that may be imposed by the courts.

If, after due notice and hearing, the Commission finds that: (a) there is a violation of this Act, its rules, or its orders; or (b) any FISTC or other person has, in

1 a FISTC plan or in other reports, applications, accounts, records or documents
2 required by law or rules to be filed with the Commission, made any untrue
3 statement of a material fact, or omitted to state a material fact required to be
4 stated, or one which is necessary to obviate any misappreciation of the statements
5 therein; the Commission shall, in its discretion, impose any or all of the following
6 sanctions as may be appropriate in light of the facts and circumstances:

- 7
- 8 i. suspension, or revocation of any approved FISTC plan for the offering of
 - 9 IUIs;
 - 10 ii. fine as may be determined by the Commission; and
 - 11 iii. other penalties within the power of the Commission to impose.
- 12

13 *Sec. 25. Applicability Clause.* – The provisions of this Act shall be applicable to
14 assets that have become non-performing as of December 31, 2020: *Provided,* That
15 the Secretary of Finance may extend the said period by a maximum of two (2)
16 years.

17

18 *Sec. 26. Conscience Clause.* – Nothing in this Act shall be construed to
19 condone or exempt from any liability any person responsible for acts or omissions
20 constituting unsound business practices or mismanagement.

21

22 *Sec. 27. Oversight Committee.* – There is hereby created a Joint
23 Congressional Oversight Committee (JCOC) to oversee, monitor, and evaluate the
24 implementation of this Act. The JCOC shall be composed of five (5) members each
25 from the House of Representatives and from the Senate. The JCOC shall be co-
26 chaired by the Chairpersons of the House Committee on Banks and Financial
27 Intermediaries and the Senate Committee on Banks, Financial Institutions and
28 Currencies. The Speaker and the Senate President shall designate the other four
29 members of the JCOC of the House and the Senate from among the members of the
30 House Committee on Banks and Financial Intermediaries and the Senate Committee
31 on Banks, Financial Institutions, and Currencies, at least one member of which shall
32 be from the minority.

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2 *Sec. 28. Use of Registration Fees.* – To carry out the purposes of this Act, the
3 Commission shall retain and use all fees paid to it relative to the establishment of an
4 FISTC in addition to its annual budget and to what is provided for under Section 75,
5 on partial use of income, of Republic Act No. 8799 or the Securities Regulation Code.

6

7 *Sec. 29. Implementing Rules and Regulations.* — Within thirty (30) days from
8 the effectivity of this Act, the Commission, jointly with the BSP, the DOF, and the
9 BIR, shall promulgate the necessary rules and regulations for the effective
10 implementation of this Act: *Provided*, That within thirty (30) days from the effectivity
11 of this Act, the DOF, upon recommendation of the BIR, shall promulgate the revenue
12 regulations implementing the fiscal incentives under this Act: *Provider further*, That
13 the Commission, BSP, DOF and BIR may issue separate regulations that will apply
14 exclusively to the institutions under their respective jurisdiction. In drafting their
15 separate regulations, the appropriate regulatory authorities may grant incentives and
16 privileges as may be allowed by their respective charters, this Act and other
17 pertinent laws.

18

19 *Sec. 30. Separability Clause.* – If any provision of this Act is held
20 unconstitutional or invalid, all other provisions not affected thereby shall remain
21 valid.

22

23 *Sec. 31. Repealing Clause.* – Republic Act No. 9182, as amended by Republic
24 Act No. 9343, otherwise known as “The Special Purpose Vehicle (SPV) Act of 2002,”
25 is hereby repealed. All laws, decrees, executive orders, rules and regulations or parts
26 thereof, which are inconsistent with this Act, are hereby repealed, amended or
27 modified accordingly.

28

29 *Sec. 32. Effectivity.* – This Act shall take effect fifteen (15) days after its
30 publication in the Official Gazette or in a newspaper of general circulation.

31

32 *Approved,*