

FIFTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
First Regular Session )

10 JUL 27 2013

SENATE

S.B. No. **2128**

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Introduced by Senator EDGARDO J. ANGARA

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### EXPLANATORY NOTE

The economic downturn that emerged in 2008 and the mayhem it has brought upon the world will not be soon forgotten. Dubbed as the worst crisis since the Great Depression, it started with the disastrous collapse of the United States housing market, which exposed the way banks and other lenders dealt with risks. The crisis created a ripple of fear and anxiety throughout global financial markets and severely undermined the banking system of many countries. From the United States to Europe and Asia, banks struggled to remain afloat, necessitating the intervention of and aid from their respective governments.

The unprecedented bank closures in the United States demonstrated that bank regulation does not stop at merely keeping banking institutions alive and healthy. To be responsive and thorough, bank regulation must likewise deal with the systematic and efficient process for handling banking institutions when they fail. Both the process and the regulatory agencies must ensure the least disruption to the financial system, the preservation of the public's confidence in the banking industry, and the protection of the bank's creditors, most especially its depositors.

The Philippines has long needed to update its rules for the liquidation of banks. This need has now become more pronounced with the recent passage into law of the Financial Rehabilitation and Insolvency Act (FRIA), which explicitly excludes in its application the liquidation of banking institutions. The legal basis for the current bank liquidation process is found in a number of different laws such as the New Central Bank Act, the General Banking Law of 2000, the Rules of Court, The PDIC Charter, and decisions of the Supreme Court. The lack of a single comprehensive law to govern bank liquidation has resulted in an often cumbersome and impracticable process for all parties concerned.

The proposed bill, entitled The Closed Bank Liquidation Act (CBLA), seeks to establish a more functional and improved framework for the liquidation and winding-up of the affairs of banking institutions that fail. It builds on a wealth of [insights based on the] experience and difficulties perennially encountered under the current practice as well as the positive examples of other countries. The salient points of the proposed bill are as follows:

- ***Seamless Transition.*** The CBLA seeks to remove the mandatory 90-day receivership period prior to liquidation prescribed under Section 30 of the New Central Bank Act to allow for a seamless transition from closure to liquidation. Experience has shown that rehabilitation is no longer feasible or economically viable after the Monetary Board has closed a bank and the receivership period required by current laws merely delays the inevitable. Prudence dictates that any action to rehabilitate the bank should be conducted and exhausted prior to closure during the period of the Prompt Corrective Action (PCA) phase with the *Bangko Sentral ng Pilipinas*. The delay in the commencement of the liquidation process on account of the 90-day receivership period simply adds to the cost of liquidation and even contributes to the diminution in value of the assets of the closed bank which are restricted in the hands of the receiver during said period.
  
- ***Alternative Modes of Liquidation.*** The CBLA seeks the grant of authority to the statutory liquidator of closed banks, the Philippine Deposit Insurance Corporation (PDIC), to implement alternative bank liquidation methods to facilitate the exit of closed banks. Apart from the conventional mode of liquidation under current laws, two other modes of liquidation are being proposed: the Purchase and Assumption (P&A), and Bridge Banking. A P&A transaction involves the entry of a third party acquirer who will purchase some or all of the assets, and assume some or all of the liabilities, of a closed bank. In Bridge Banking, a temporary bank (the bridge bank) will be set up to continue the critical banking functions of the failed bank without causing panic among its depositors and creditors, thereby preserving its franchise value until a final resolution of the bank is reached. Both the P&A and the Bridge Banking liquidation methods are widely used in other jurisdictions and are deemed to be less costly for the government in dealing with bank failures. More importantly, compared to existing procedures, the alternative methods are designed to be less disruptive to the financial system, thereby maintaining stability and preserving confidence in the banking industry.
  
- ***Enhanced Liquidation Process.*** The CBLA likewise proposes the codification into law of specific policies and practices that address operational and practical concerns of the Liquidator arising from the actual liquidation of closed banks. These include the following:
  - Clear procedures for the takeover of closed banks and for the filing of the Petition for Assistance in Liquidation (PAL) in order to prevent any delay in takeover which often gives opportunity for records tampering, destruction of bank documents, or illegal asset disposal by the bank's personnel;
  - Unequivocal termination of the bank's corporate existence as well as the powers and functions of its stockholders, directors, and officers upon the bank's closure. Consistent with international best practices, this proposal will pave the way for the Liquidator to promptly dissolve the closed bank and adopt the most viable liquidation method without being subjected to delays caused by uncooperative or conflicting factions of stockholders, directors, and officers;

- Explicit authority of the Liquidator to determine the liquidation price of the closed bank's assets based on generally-accepted valuation principles and internationally-accepted valuation standards and practices. Through such authority, the Liquidator would be able to attract buyers or acquirers and quickly dispose of the closed bank's assets even before their values diminish or before their maintenance result in additional costs of liquidation;
  - Explicit authority of the Liquidator to avail of various modes of disposing real and personal properties of closed banks in order to maximize the conversion of the closed bank's properties into cash for payment of its obligations; and
  - Adoption of Alternative Dispute Resolution (ADR) to expedite resolution of cases for or against the closed bank and lessen the litigation expenditures of the closed bank.
- ***Winding-Up Phase.*** The CBLA prescribes a one-year period within which the closed bank's creditors and stockholders are paid their claims against the bank. The one-year period shall be reckoned from the publication of the decision or order of the final distribution of the assets of the closed bank. If there are no claimants after the winding-up phase, unclaimed assets shall be escheated in favor of the government.

Thus, the CBLA is both an evolution and an innovation of the existing liquidation process for closed banks. It is founded not only on legal but also practical considerations in order to respond to the operational reality of liquidating and winding-up the affairs of closed banks. It seeks the protection of the closed bank's depositors and creditors and the maximization of the liquidation process to the end that most, if not all, of the obligations of the closed bank are fully settled. Above all, the CBLA emphasizes the stability of the financial system and the preservation of the public's trust and confidence in the banking industry by putting in place a quick, efficient, and cost-effective bank liquidation process.

For many countries, including the Philippines, the global financial crisis has offered an opportunity to initiate the review of the existing financial and regulatory landscape. Identifying the gaps and weaknesses in the financial system and strengthening the will and ability of the regulatory agencies to perform their functions have resulted in regulatory reforms through legislative action. The CBLA is another crucial step in this direction. By modernizing and consolidating under a single law the rules and procedures for bank liquidation, we will contribute greatly to the security and stability of our banking system.

Hence, the passage of this bill is earnestly recommended.

  
EDGARDO J. ANGARA

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S.B. No. 2128

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Introduced by Senator EDGARDO J. ANGARA

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AN ACT  
PROVIDING FOR THE TAKEOVER, LIQUIDATION AND WINDING UP OF A  
CLOSED BANKING INSTITUTION

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

CHAPTER I  
GENERAL PROVISIONS

1  
2  
3  
4       **Section 1. *Title and Coverage.*** – This Act shall be known as the “*Closed Bank*  
5 *Liquidation Act of 2010.*”  
6

7       **Section 2. *Declaration of Policy.*** – It is the policy of the State to promote the  
8 efficient and orderly liquidation of the assets, and the settlement of the obligations, of  
9 banks which have been ordered closed by the Monetary Board. In so doing, the State shall  
10 recognize creditor rights, respect the priority of claims, and ensure equitable treatment of  
11 creditors who are similarly situated.  
12

13       **Section 3. *Definition of Terms.*** – As used in this Act, the term:

14  
15       (a) “*Bank*” shall refer to an entity engaged in the lending of funds obtained in the  
16 form of deposits. This shall include commercial banks, savings banks, mortgage  
17 banks, rural banks, development banks, cooperative banks, stock savings and  
18 loan associations, branches in the Philippines of foreign banks, and all other  
19 corporations authorized by the *Bangko Sentral ng Pilipinas* (BSP) to perform  
20 banking functions in the Philippines.

- 1
- 2 (b) "*Alternative Dispute Resolution*" means any process or procedure used to
- 3 resolve a dispute or controversy, other than by adjudication of a presiding judge
- 4 of a court or an officer of a government agency in which a neutral third party
- 5 participates to assist in the resolution of issues, which includes arbitration,
- 6 mediation, conciliation, early neutral evaluation, mini-trial, or any combination
- 7 thereof;
- 8
- 9 (c) "*Claim*" shall refer to any claim or demand of whatever nature or character
- 10 against the closed bank or its property, whether for money or otherwise,
- 11 liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed
- 12 or undisputed. Creditors or third parties are not prohibited from filing cases
- 13 directly against the directors and officers acting in their personal capacities.
- 14
- 15 (d) "*Liquidation*" shall refer to the proceedings under this Act.
- 16
- 17 (e) "*Liquidation Court*" shall refer to the Regional Trial Court (RTC) which has
- 18 acquired jurisdiction over the Petition for Assistance in the liquidation of a
- 19 closed bank.
- 20
- 21 (f) "*Payout*" shall refer to the payment of valid claims for insured deposits.
- 22
- 23 (g) "*Petition for Assistance in the Liquidation of a Closed Bank*" (PAL) shall refer
- 24 to the petition filed by the Liquidator with the Regional Trial Court (RTC) in
- 25 accordance with Section 15 of this Act.
- 26
- 27 (h) "*Principal Obligation*" shall refer to the outstanding obligation including
- 28 interest as of date of closure of the bank as validated by the Liquidator.
- 29
- 30 (i) "*Project of Distribution*" (POD) shall refer to the plan of distribution of the
- 31 assets of a closed bank as of the cut-off date of the Statement of Condition of
- 32 the closed bank, in accordance with the Rules on Concurrence and Preference
- 33 of Credits. This plan specifies in detail the total amount of assets available for
- 34 distribution, and the amount and kind of payment for the settlement of the
- 35 liabilities of the closed bank.

1  
2 A POD may be partial when it pertains to the distribution of a portion or some  
3 of the assets of the closed bank, or final, when it pertains to the distribution of  
4 all its assets.

5  
6 (j) "*Real and Other Properties Acquired*" (ROPA) shall refer to real and other  
7 properties acquired by a bank judicially or extra-judicially in the settlement of  
8 loans and/or acquired for other reasons.

9  
10 (k) "*Records*" shall include all documents, titles, papers and electronic data of the  
11 closed bank, including those pertaining to deposit accounts of and with the  
12 closed bank, and its assets, transactions and corporate affairs.

13  
14 (l) "*Residual Assets*" shall refer to the remaining assets of the closed bank which  
15 shall be turned-over to the stockholders of record, after full payment or  
16 distribution of the assets of the closed bank for the settlement of valid principal  
17 obligations and surplus claims of the creditors.

18  
19 (m) "*Statement of Affairs*" (SOA) shall refer to a report of financial condition at a  
20 given date, showing the: 1) estimated realizable value of assets; 2) classification  
21 of credits; and 3) total estimated liabilities to be settled.

22  
23 (n) "*Surplus Claim*" shall refer to the remaining assets of a closed bank after  
24 payment in full of the validated principal claims of the creditors which are  
25 outstanding as of closure date of the bank, before any distribution can be made  
26 to the stockholders.

27  
28 (o) "*Takeover*" shall refer to the act of physically taking possession and control of  
29 a closed bank for purposes of liquidation.

30  
31 (p) "*Winding Up Period*" shall refer to the period after the finality of the order of  
32 the Liquidation Court approving the final POD as provided in Chapter VIII of  
33 this Act.

34  
35 **Section 4. Bank Closure and Liquidation. –**

- 1
- 2 (a) The authority to forbid a bank from doing business in the Philippines and direct
- 3 its liquidation under this Act is vested exclusively with the Monetary Board,
- 4 consistent with existing laws.
- 5
- 6 (b) Banking is a public trust. As such, the closure of a bank is an exercise of police
- 7 power of the State.
- 8
- 9 (c) The actions of the Monetary Board taken under this Act shall be final and
- 10 executory, and may not be restrained or set aside except on petition for
- 11 *certiorari* filed with the Court of Appeals on the ground and upon a finding
- 12 after due hearing that the action taken was in excess of jurisdiction or with such
- 13 grave abuse of discretion as to amount to lack or excess of jurisdiction. The
- 14 petition for *certiorari* may only be filed by the stockholders of record
- 15 representing the majority of the capital stock within ten (10) days from receipt
- 16 by the board of directors of the bank of the resolution or order directing the
- 17 closure, Takeover and Liquidation of the bank.
- 18
- 19

## 20 CHAPTER II

### 21 APPOINTMENT OF A BANK LIQUIDATOR AND MODES OF LIQUIDATION

22

#### 23 Section 5. *Appointment of a Bank Liquidator.* –

24

- 25 (a) Whenever a bank is ordered closed by the Monetary Board, the latter shall
- 26 designate the Philippine Deposit Insurance Corporation (PDIC) as Liquidator
- 27 and direct it to Takeover and proceed with the Liquidation of said closed bank.
- 28

29 Notwithstanding any provision of law to the contrary, the following clause in

30 Section 30 of Republic Act No. 7653, as amended, shall not be applicable to

31 banks:

32

33 “The receiver shall determine, as soon as possible, but not

34 later than ninety (90) days from take-over, whether the

35 institution may be rehabilitated or otherwise placed in such a

1 condition so that it may be permitted to resume business with  
2 safety to its depositors and creditors and the general public:  
3 *Provided*, That any determination for the resumption of  
4 business of the institution shall be subject to prior approval of  
5 the Monetary Board.”  
6

7 (b) The Monetary Board shall send to the Board of Directors of the closed bank a  
8 copy of the Monetary Board resolution or order placing the bank under  
9 Liquidation. The ten (10)-day period within which the stockholders of record  
10 representing the majority of the capital stock may file the petition for *certiorari*  
11 referred to under Section 4 (c) of this Act shall be reckoned from receipt of the  
12 Monetary Board resolution or order.  
13

14 **Section 6. Modes of Liquidation.** – Whenever a bank is ordered closed by the  
15 Monetary Board, the Liquidator is authorized to adopt any or a combination of the  
16 following modes of liquidation:  
17

- 18 (a) Conventional Liquidation
  - 19 (b) Purchase of Assets and Assumption of Liabilities
  - 20 (c) Bridge Banking
- 21

22 In determining which mode of liquidation is appropriate, the PDIC, is authorized to  
23 conduct, through a special examination of the bank in accordance with Section 8 of  
24 Republic Act No. 3591, as amended, a due diligence audit on such bank. Notwithstanding  
25 the provisions of Republic Act 1405, as amended, Republic Act 6426, as amended,  
26 Republic Act 8791, and other laws, this audit shall include the examination and audit of the  
27 deposit accounts in the bank and/or records to establish a deposit profile of the bank as to  
28 the number of deposit accounts and total insured deposits: *Provided*, that the information  
29 on individual accounts obtained through such examination or audit shall not be disclosed  
30 or released to any third party except upon order of the court.  
31  
32

33 **CHAPTER III**  
34 **SERVICE OF NOTICE OF CLOSURE AND TAKEOVER ACTIVITIES**  
35



1           **Section 7. *Service of Notice of Closure.*** – Upon receipt of the Monetary Board  
2 resolution referred to in Section 5, the Liquidator shall serve a notice of closure to the  
3 highest-ranking officer of the bank present in the bank premises, or in the absence of such  
4 officer, post the notice of closure in the bank premises. Thereafter, the Liquidator shall  
5 Takeover the bank and exercise the powers of the Liquidator as provided in this Act.

6  
7           **Section 8. *Authority to Force Open.*** – The Liquidator shall have authority to use  
8 reasonable force, including the authority to force open the premises of the bank, and  
9 exercise such acts necessary to take actual physical possession and custody of the bank and  
10 all its assets, records, documents, and take charge of its affairs provided the notice  
11 requirement under Section 7 of this Act has been complied with.

12  
13           **Section 9. *Obligations of Directors, Officers, Employees or Agents of the Closed***  
14 ***Bank.*** – Upon service of the notice of closure to the bank as provided in Section 7 of this  
15 Act, all directors, officers, employees or agents of the closed bank shall have the duty to  
16 immediately account for, surrender or turn over to the Liquidator, and provide information  
17 relative to, the assets, records, documents, and affairs of the closed bank in their possession  
18 or custody.

19  
20           **Section 10. *Mandatory Assistance of Local Government and the Law***  
21 ***Enforcement Agencies.*** – When the circumstances so warrant, the local government unit  
22 concerned and law enforcement agencies shall provide mandatory assistance to the  
23 Liquidator during the service of notice of closure and actual Takeover operations to ensure  
24 the security and safety of the personnel of the Liquidator and the orderly conduct thereof.

25  
26           In case of the absence of bank employees and officers, at least one representative of  
27 the local government unit concerned shall act as witness to the inventory taking of the  
28 assets, records, and documents of the bank.

29  
30  
31   **CHAPTER IV**  
32   **CONVENTIONAL LIQUIDATION**

33  
34           **Section 11. *Authority of the Liquidator.*** – The Liquidator is empowered to:  
35

- 1 (a) Represent and act for and in behalf of the closed bank;  
2
- 3 (b) Gather and take charge of all the assets which shall include the bank license or  
4 franchise, records, documents, and affairs of the closed bank, and administer  
5 the same for the benefit of its creditors;  
6
- 7 (c) Collect loans and other claims of the closed bank, and for this purpose, modify,  
8 compromise or restructure the terms and conditions of such loans or claims as  
9 may be deemed advantageous to the interest of the creditors and claimants of  
10 the closed bank;  
11
- 12 (d) Convert the assets of the closed bank to money, as far as practicable;  
13
- 14 (e) Appoint and hire persons or entities to perform powers and functions of the  
15 Liquidator or assist in the performance thereof;  
16
- 17 (f) Bring suits to enforce liabilities of the directors, officers, employees, agents of  
18 the closed bank and other entities related or connected to the closed bank or to  
19 collect, recover, and preserve all assets, including assets over which the bank  
20 has equitable interest;  
21
- 22 (g) Hire or retain private counsel as may be necessary;  
23
- 24 (h) Pay accrued utilities, rentals and salaries of retained personnel of the closed  
25 bank, for a period not exceeding three (3) months, from available funds of the  
26 closed bank and provided that these are essential to the Takeover operations;  
27
- 28 (i) Borrow or obtain a loan, or mortgage, pledge or encumber any asset of the  
29 closed bank, when necessary to preserve or prevent dissipation of the assets, or  
30 to redeem foreclosed assets of the closed bank, or to minimize losses to the  
31 depositors and creditors;  
32
- 33 (j) Distribute the available assets of the closed bank, in cash or in kind, to its  
34 creditors in accordance with the provisions of the Civil Code on Concurrence  
35 and Preference of Credits;

1  
2 (k) Dispose records of the closed bank that are no longer needed in the Liquidation,  
3 notwithstanding the laws on archival period and disposal of records;

4  
5 (l) Reduce the interest rate to a reasonable rate if the stipulated interest on deposits  
6 is unusually high compared with the prevailing applicable interest rate;  
7 *Provided, That,* any modification or reduction shall apply to earned and unpaid  
8 interest;

9  
10 (m) Adopt modes of liquidation as provided in this Act;

11  
12 (n) Utilize revenues and earnings realized by the Liquidator to pay for reasonable  
13 costs, fees and expenses in the liquidation of the closed bank, including  
14 administrative expenditures; and

15  
16 (o) Exercise such other powers as are necessary for the effective discharge of the  
17 duties of the Liquidator.

18  
19 **Section 12. *Liquidation Expenses.*** – Before any distribution of the assets of the  
20 closed bank is undertaken in accordance with the preference established by law, the  
21 Liquidator shall periodically charge against said assets reasonable liquidation expenses,  
22 including administrative expenditures, incurred by the Liquidator as part of the cost of  
23 liquidation proceedings and collect payment therefor from available assets.

24  
25 **Section 13. *Immunity of Liquidator.*** – The Liquidator, its officers and agents, and  
26 all persons employed by it shall not be subject to any action, claim or demand in  
27 connection with any act done or omitted to be done by them in good faith in connection  
28 with the exercise of their powers and functions under this Act or other actions duly  
29 approved by the court.

30  
31 **Section 14. *Effect of Placement of a Bank under Liquidation.*** –

32  
33 (a) On the corporate franchise  
34

1 Except for purposes of Liquidation and Winding Up as provided in this Act,  
2 the corporate existence of a bank shall be deemed terminated upon its closure  
3 by the Monetary Board.  
4

5 (b) On the powers and functions of its Directors, Officers and Stockholders.  
6

7 The powers, functions and duties, as well as the allowances, remuneration and  
8 perquisites of the directors, officers, and stockholders of such bank are *ipso*  
9 *facto* terminated. As such, the directors, officers, and stockholders shall be  
10 barred from interfering in any way with the assets, records, and affairs of the  
11 bank.  
12

13 (c) On the assets of the closed bank.  
14

15 From the time the closed bank is placed under liquidation, all assets of the  
16 closed bank shall not be subject to attachment, garnishment, execution, levy or  
17 any other similar order, nor shall any involuntary lien attach to the property of  
18 the closed bank. Any judge, officer of the court, or any person who shall issue,  
19 order, process or cause the issuance or implementation of the writ of  
20 garnishment, levy, attachment or execution shall be liable under Section 21  
21 Republic Act No. 3591, as amended.  
22

23 (d) On labor relations.  
24

25 Notwithstanding the provisions of the Labor Code, the employer-employee  
26 relationship between the closed bank and its employees shall be deemed  
27 terminated upon service of the notice of closure in accordance with this Act.  
28 Payment of separation pay or benefits shall be made from available assets of  
29 the bank, pursuant to a Project of Distribution of assets approved by the  
30 Liquidation Court.  
31

32 (e) Contractual obligations  
33

34 The closed bank shall honor all contractual obligations that are: 1) validly  
35 entered into, and 2) which the closed bank may still be capable of performing.

1 Nothing contained herein shall prevent the Liquidator from canceling,  
2 terminating, rescinding or repudiating any contract of the closed bank for any  
3 ground provided by law.  
4

- 5 (f) Liability for penalties and surcharges for late payment and non-payment of  
6 taxes  
7

8 From the time of closure, the closed bank shall not be liable for the payment of  
9 penalties and surcharges arising from the late payment or nonpayment of real  
10 property tax, capital gains tax, transfer tax and similar charges.  
11

- 12 (g) Bank charges and fees on services  
13

14 The Liquidator, in behalf of the closed bank, may continue to impose the usual  
15 bank charges and fees for services rendered after bank closure, such as, but not  
16 limited to, the execution of pertinent deeds and certifications.  
17

- 18 (h) Cases pending for or against the closed bank  
19

20 Cases pending for or against the closed bank in any court or quasi-judicial  
21 body shall, upon motion of the Liquidator, be suspended and referred to  
22 Alternative Dispute Resolution; Provided, That: this shall not apply to cases  
23 pending before the Supreme Court. The case shall be referred back to the court  
24 or quasi-judicial body for further proceedings upon termination of Alternative  
25 Dispute Resolution.  
26

27 The payment of docket, filing fees, and other fees required in the institution of  
28 a case before the judicial or quasi-judicial bodies shall be deferred and shall  
29 constitute as a lien on any recovery.  
30

31 **Section 15. *Petition for Assistance in the Liquidation of a Closed Bank.* –**  
32

- 33 (a) Filing of the Petition  
34

1           Within sixty (60) days upon receipt of resolution of the Monetary Board placing a  
2 bank under liquidation, the Liquidator shall file *ex parte* a Petition for Assistance in the  
3 Liquidation (PAL) of a bank with the Regional Trial Court (RTC) where the head office of  
4 the closed bank or the head office of the PDIC is located, at the discretion of the  
5 Liquidator, pursuant to a Master Liquidation Plan (MLP) adopted by PDIC for general  
6 application to all closed banks.

7  
8           (b) Posting/Publication of the Order setting the case for initial hearing

9  
10          Upon receipt of the Petition, an order may be issued by the Liquidation Court:

- 11  
12                   1) Stating that the petition is sufficient in form and substance;
- 13  
14                   2) Setting the date and time of the initial hearing of the petition;
- 15  
16                   a. Ordering the Liquidator to cause the posting in three (3) public  
17 places and a one-time publication in a newspaper of general  
18 circulation of the order of the Liquidation Court setting the  
19 petition for initial hearing; and ordering the public or those  
20 whose interest may be adversely affected to file an opposition to  
21 the petition. Otherwise, they shall be barred from questioning or  
22 opposing the petition.
- 23  
24                   b. Directing those who may have a claim against the assets of the  
25 bank to file their respective claims with the Liquidator within 90  
26 days from the date of publication of such order of the  
27 Liquidation Court.

28  
29           (c) Hearing

30  
31          During the initial hearing of the PAL, the Liquidator shall present proof of  
32 compliance with the jurisdictional requirements and evidence in support of the petition.

33  
34           (d) Constitution as Liquidation Court

1           When an order is issued giving due course to the petition, the court is considered as  
2 the Liquidation Court of the closed bank.

3  
4           (e) Proceedings in the Liquidation Court

5  
6                   1) Jurisdiction of the Liquidation Court

7  
8                           The duly constituted Liquidation Court shall have exclusive  
9 jurisdiction to adjudicate claims against the closed bank, to assist in the  
10 enforcement of individual liabilities of the stockholders, directors and  
11 officers, and to decide on other issues as may be material to implement the  
12 liquidation plan adopted.

13  
14                   2) Filing of disputed claims

15  
16                           a. All disputed claims against the closed bank shall be filed with  
17 the Liquidation Court through the filing of a motion for  
18 intervention under Rule 19 of the Rules of Court and payment of  
19 fees as may be required under the rules.

20  
21                           b. All claims which were verified and found to be in order by the  
22 Liquidator need not be filed and proved with the Liquidation  
23 Court.

24  
25                   3) Treatment of each claim

26  
27                           Each claim is considered separate and distinct from others. The  
28 order relative to a particular claim applies only to said claim, leaving the  
29 other claims unaffected.

30  
31                   4) Appeal

32  
33                           The order approving or disapproving a claim is in the nature of a  
34 final order, which may be subject of multiple appeals in accordance with the  
35 Rules of Court.

1  
2 5) Inclusion in the Project of Distribution of approved claims  
3

4 All claims that were approved by the Liquidation Court shall be  
5 included among the recognized liabilities of the closed bank to be settled in  
6 accordance with the Rules on Concurrence and Preference of Credits under  
7 the Civil Code.  
8

9 (f) Submission of Project of Distribution (POD)  
10

11 1) Filing of POD  
12

13 Upon motion, the proposed POD shall be submitted for approval of  
14 the Liquidation Court.  
15

16 2) Notice of Hearing  
17

18 a. Creditors who shall receive payment under the proposed POD  
19 shall be notified of the hearing of the motion in accordance with  
20 the Rules of Court.  
21

22 b. The Notice to Creditors of the hearing of the motion seeking the  
23 approval of the POD shall be published once in a newspaper of  
24 general circulation. However, the approval of the Liquidation  
25 Court may be obtained to dispense with the publication if the  
26 circumstances so warrant.  
27

28 3) Approval of POD  
29

30 The POD shall be implemented as soon as the court order approving the same has  
31 attained finality.  
32

33 (g) Termination of Liquidation Proceeding  
34



1 The liquidation proceeding shall be deemed closed and terminated upon finality of  
2 the order of the Liquidation Court approving the termination of the liquidation proceeding  
3 and discharging PDIC as Liquidator from any and all liabilities arising from or in  
4 connection with the Liquidation of the closed bank.

5  
6 **Section 16. *Implementation of Court-Approved Final POD.*** – Upon finality of  
7 the court order approving the final POD, the Liquidator shall notify the creditors of the  
8 date and requirements for the payment of their approved claims. Notwithstanding any laws  
9 to the contrary, the creditors shall have a period of one (1) year from date of such notice  
10 within which to submit the complete requirements; otherwise, their claim shall be deemed  
11 to have prescribed.

## 12 13 14 **CHAPTER V**

### 15 **PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES**

16  
17 **Section 17. *Definition.*** – A purchase and assumption (P&A) transaction is one in  
18 which a qualified third party or the acquirer purchases some or all of the assets, and  
19 assumes some or all of the liabilities, of the closed bank.

20  
21 **Section 18. *Adoption of a Purchase and Assumption Transaction.*** – The PDIC,  
22 as Liquidator of a closed bank, may, by a majority vote of its Board of Directors and  
23 without need of the consent of the stockholders of the closed bank, adopt a P&A  
24 transaction as a mode of liquidating a closed bank when it has determined that:

25  
26 (a) A P&A mode of liquidation would be less disruptive compared to Payout, and  
27 would aid in the expeditious disposition of the assets and prompt settlement of  
28 the claims of the creditors of the closed bank; and

29  
30 (b) The cost of adopting such mode of liquidation is less than the estimated cost  
31 arising from Payout.

32  
33 **Section 19. *Additional Powers of the Liquidator.*** – The Liquidator, in addition to  
34 the authorities enumerated under this Act, shall have the power to:

1 (a) Adopt any type of P&A transaction it deems appropriate for the closed bank;

2  
3 (b) Provide assistance to the acquirer through loans and other forms of support as  
4 may be determined by the PDIC Board of Directors;

5  
6 (c) Provide the acquirer with a full or partial guarantee against loss arising from its  
7 assumption of liabilities and purchase of the assets of the closed bank; or

8  
9 (d) Adopt any combination of the actions referred to in subparagraphs (a) to (c).

10  
11 In the exercise of these powers, the Liquidator shall always be subject to the criteria  
12 provided in Section 18.

13  
14 **Section 20. *Mandatory Conditions.*** – The following conditions shall be applicable  
15 to and included in any P&A transaction implemented under this Act:

16  
17 (a) Upon the effectivity of the P&A transaction, the acquirer shall give the closed  
18 bank’s depositors the option of either withdrawing their deposits or maintaining  
19 the funds with the acquirer under a new account. Deposit liabilities in the  
20 closed bank assumed by an acquirer shall not be subject to the Rules on  
21 Concurrence and Preference of Credits under the Civil Code.

22  
23 (b) The rights of the stockholders of the closed bank are terminated, except the  
24 right to the payment of the Residual Assets, if any, of the closed bank.

25  
26  
27 **CHAPTER VI**  
28 **BRIDGE BANKING**

29  
30 **Section 21. *Definition.*** – A “Bridge Bank” shall refer to a temporary bank licensed  
31 by the *Bangko Sentral ng Pilipinas* (BSP), established and operated to acquire assets and  
32 assume liabilities of a closed bank, for the purpose of facilitating the liquidation of a closed  
33 bank. In issuing a Bridge Bank license, the BSP is authorized to waive the minimum  
34 requirements for establishing a bank under existing laws.

1           **Section 22. *Formation, Establishment or Organization of a Bridge Bank.*** – The  
2 PDIC may form, establish, organize, operate, and/or contract to operate corporations  
3 whose primary purpose is to operate as a Bridge Bank and which shall hereafter be referred  
4 to as a “bridge corporation”.

5  
6           **Section 23. *When Adopted.*** – A Bridge Bank mode of liquidation may be adopted  
7 only if the PDIC determines that:

8  
9           (c) It is a cost-effective and viable mode of liquidation and the amount necessary to  
10           implement such measure is less than the estimated cost arising from Payout;  
11           and

12  
13           (b) The preservation of critical banking functions is in the best interest of the  
14           depositors and the public.

15  
16           **Section 24. *Authority.*** – The Bridge Bank shall:

17  
18           (c) Have the authority to purchase assets, assume deposits and other liabilities of  
19           the closed bank which the Liquidator may determine to be appropriate; and

20  
21           (b) Perform such banking functions as the Monetary Board may authorize,  
22           consistent with the objectives of this Act.

23  
24           **Section 25. *Additional Powers of the Liquidator.*** – To carry out its authority under  
25 this Chapter, the Liquidator, in addition to the authorities enumerated under this Act, shall  
26 have the power to:

27  
28           (c) Sell, assign, transfer, or convey its shareholdings in its bridge corporation to the  
29           closed bank;

30  
31           (b) Transfer such assets and deposit liabilities of a closed bank to the Bridge Bank,  
32           as the Liquidator may deem appropriate. All transfers of assets under this  
33           subsection shall:

1           1) Not be subject to any taxes, such as capital gains tax, income tax, value  
2           added tax and documentary stamp tax, and other taxes, as may be  
3           applicable;

4  
5           2) Be effective without any consent from the stockholders and creditors of  
6           the closed bank, notwithstanding any provision of law to the contrary.

7  
8           (c) Make advances to the Bridge Bank for the Bridge Bank to operate, upon such  
9           terms and conditions and in such form and amounts as the Liquidator may  
10          prescribe. Advances made by the Liquidator to the Bridge Bank shall be booked  
11          as a liability of the Bridge Bank and shall be paid immediately by the Bridge  
12          Bank as soon as it is able to generate sufficient funds.

13  
14          In the event that the Bridge Bank is terminated pursuant to Section 27,  
15          paragraphs (d) and (e) of this Act, the advances made to the Bridge Bank shall  
16          partake of the nature of public funds and as such, must be considered a  
17          preferred credit similar to taxes due to the national government in the order of  
18          preference under Article 2224 of the New Civil Code; and

19  
20          (d) Appoint, install, designate, and/or remove the directors, officers and other  
21          personnel of a Bridge Bank and fix their compensation.

22  
23          The provisions of existing laws notwithstanding, the officers and employees of  
24          the PDIC may be assigned as directors, officers or other personnel of a Bridge  
25          Bank under such terms and conditions as the PDIC Board of Directors may  
26          prescribe.

27  
28          **Section 26. Term of Existence.** – The Bridge Bank shall automatically terminate at  
29          the end of two (2) years following the date it was granted a banking license, subject to the  
30          provisions of Section 27 of this Act; *Provided*, That the Liquidator may extend the status  
31          of the Bridge Bank if deemed necessary to conclude pending negotiations for the merger or  
32          consolidation, sale, or acquisition of the Bridge Bank by an acquirer: *Provided, finally*, that  
33          the maximum extension shall be one (1) year.

1           **Section 27. Termination.** – The Bridge Bank shall likewise terminate upon the  
2 earliest of any of the following occurrences:

- 3
- 4           (a) The merger or consolidation of the Bridge Bank with another bank that is not a  
5           Bridge Bank; or
- 6
- 7           (b) The sale of the Bridge Bank to a qualified buyer, as may be determined by the  
8           Liquidator; or
- 9
- 10          (c) The purchase of all or substantially all of the assets and assumption of all or  
11          substantially all of the deposits and other liabilities of the Bridge Bank by a  
12          qualified third party; or
- 13
- 14          (d) The expiration of the period provided in Section 26; or
- 15
- 16          (e) The termination or dissolution of a Bridge Bank, if determined by the  
17          Liquidator that the operation of the Bridge Bank is no longer viable,  
18          notwithstanding any other provision of law to the contrary.

19

20           **Section 28. Effects of Termination Events.** –

- 21
- 22           (a) *Merger or Consolidation.* – The merger or consolidation of a Bridge Bank with  
23           another bank as provided in Section 27 (a) of this Act shall be conducted in  
24           accordance with, and shall have the effect provided in, the provisions of  
25           applicable laws.
- 26
- 27           (b) *Sale to a Qualified Buyer.* – Following the sale of a Bridge Bank as provided in  
28           Section 27 (b) of this Act, the BSP shall terminate the license of the Bridge  
29           Bank and the proceeds from such sale shall be distributed in accordance with  
30           this Act and the rules on Concurrence and Preference of Credits.
- 31
- 32           (c) *Purchase of Assets and Assumption of Liabilities.* – Following the purchase of  
33           all or substantially all of the assets, and assumption of all or substantially all of  
34           the deposits and other liabilities, of a Bridge Bank by a qualified third party as  
35           provided in Section 27 (c) of this Act, the proceeds and the remaining assets

1 and liabilities, if any, shall be distributed in accordance with this Act and the  
2 rules on Concurrence and Preference of Credits.

3  
4 (d) *Term Expiration or Early Termination Due to Non-Viability.* – Once the term of  
5 a Bridge Bank has expired or is terminated earlier if determined by the  
6 Liquidator that its operation is no longer viable, PDIC shall conduct Payout  
7 operations on the insured deposits of the subject Bridge Bank. The Liquidator  
8 shall then file a Petition for Assistance in the Liquidation (PAL) of the Bridge  
9 Bank under Section 15 of this Act, and the proceeds, if any, shall be distributed  
10 in accordance with this Act and the rules on Concurrence and Preference of  
11 Credits.

12  
13 In all the foregoing cases, the Liquidator shall have all the rights, powers, and privileges,  
14 and shall perform the duties related to the exercise of such rights, powers, or privileges,  
15 granted by this Act to the Liquidator of a closed bank.

16  
17  
18 **CHAPTER VII**  
19 **ASSET MANAGEMENT AND CONVERSION**

20  
21 **Section 29. *Asset Management.*** – The assets gathered by the Liquidator shall be  
22 evaluated and verified as to their existence, ownership and other factors to determine their  
23 realizable value. To the extent possible and provided that the closed bank has sufficient  
24 funds, the Liquidator shall endeavor to preserve the assets of the closed bank and  
25 maximize recovery.

26  
27 **Section 30. *Conversion of Assets.*** – The conversion of the assets of the closed  
28 bank shall be carried out in a fair and transparent manner in accordance with the rules and  
29 procedure as may be determined by the Liquidator.

30  
31 **Section 31. *Actions of the Liquidator.*** – In the management and/or conversion of  
32 the assets of the closed bank, the Liquidator shall have the authority to:

33  
34 (a) Represent the closed bank before the Land Registration Authority (LRA),  
35 Bureau of Lands, Register of Deeds, the Land Transportation Office (LTO), the

1 Assessor's Office or other appropriate office of the local government unit, the  
2 Securities and Exchange Commission (SEC), or such other similar government  
3 agencies or private entities in ---  
4

- 5 1) Verifying the authenticity of ownership documents;
- 6 2) Registering the interest of the closed bank on a specific property;
- 7 3) Consolidating ownership over an asset of the closed bank;
- 8 4) Securing certified true copies of documents held by the foregoing  
9 agencies/entities in relation to an asset of the closed bank;
- 10 5) Securing the appropriate certification from the foregoing  
11 agencies/entities in relation to an asset of the closed bank; and
- 12 6) Performing other related activities;

13  
14 (b) Conduct a physical or ocular inspection of the properties owned by, or  
15 mortgaged to, the closed bank, to determine their existence and present  
16 condition;

17  
18 (c) Determine the disposal price of assets in accordance with generally accepted  
19 valuation principles and internationally-accepted standards and practices,  
20 subject to such guidelines as the Liquidator may determine;

21  
22 (d) Dispose real or personal properties of the closed bank through bidding,  
23 negotiated sale or any other mode, whether by piece or by lot, such as lease  
24 with option to purchase or bulk sale, as may be reasonably determined by the  
25 Liquidator; and

26  
27 (e) Engage third parties to manage and/or dispose the assets of the closed bank to  
28 qualified individuals or entities, as may be determined by the Liquidator.

29  
30 **Section 32. Special Provisions.** – Notwithstanding any provision of law to the  
31 contrary, the following rules shall apply to the management and/or conversion by the  
32 Liquidator of the assets of the closed bank:

- 33  
34 (a) Upon notification of the closure of a bank, the LRA, Bureau of Lands, Register  
35 of Deeds, the LTO, the Assessor's Office or other appropriate office of the local

1 government unit, the SEC or such other similar government agencies or private  
2 entities shall not allow any transaction affecting the assets of the closed bank  
3 without the consent of the Liquidator.  
4

5 (b) Upon issuance by the Monetary Board of the resolution ordering the closure of  
6 a bank, all persons or entities in possession of any asset of the closed bank,  
7 including deposit accounts belonging to the closed bank, shall hold the said  
8 assets in trust for the Liquidator. As such, the persons or entities in possession  
9 of such asset shall not allow, authorize or cause the withdrawal, transfer,  
10 disposition, removal, conversion, concealment, or other transaction involving or  
11 relating to the subject asset.  
12

13 (c) Any person or entity in possession of assets of the closed bank, including, but  
14 not limited to, deposit accounts and land titles, shall, upon closure of a bank,  
15 immediately turn over custody of said assets to the Liquidator.  
16

17 **Section 33. Administration of Funds.** – The Liquidator shall have the authority to  
18 invest funds received from the conversion of the assets of the closed bank in government  
19 securities and other government-guaranteed marketable securities. Any provision to the  
20 contrary notwithstanding, administrative expenses advanced and incurred by the  
21 Liquidator in the liquidation of a closed bank may be immediately charged against  
22 available funds of said closed bank.  
23

24 **Section 34. Disposal of Banking Franchise.** – The *Bangko Sentral ng Pilipinas*  
25 (BSP) may, if public interest so requires, award to an institution, upon such terms and  
26 conditions as the Monetary Board may approve, the banking franchise of a closed bank to  
27 operate in the area where said bank or its branches were previously operating: *Provided,*  
28 That whatever proceeds may be realized from such award shall be for the benefit of the  
29 creditors of the closed bank which shall be distributed in accordance with this Act and the  
30 rules on Concurrence and Preference of Credits.  
31  
32

33 **CHAPTER VIII**  
34 **WINDING-UP**  
35



1           **Section 35. *Payment of the Principal Obligations and Surplus Claims of the***  
2 ***Creditors. –***

3  
4           (e) The creditors shall have a period of one (1) year from date of publication of  
5           notice of the approval by the court of the final distribution of the assets of the  
6           closed bank within which to claim payment of the Principal Obligations and  
7           Surplus Claims.

8  
9           (f) Payment of the Principal Obligations and Surplus Claims shall be effected upon  
10          submission by the creditors of the documentary requirements prescribed by the  
11          Liquidator.

12  
13          **Section 36. *Turnover of the Residual Assets. –***

14  
15          (a) The individual stockholders of record or their duly-authorized representative or  
16          the court-appointed stockholders' representative, shall have a period of one (1)  
17          year from publication of notice of the approval by the court of the final  
18          distribution of the assets of the closed bank within which to claim the Residual  
19          Assets.

20  
21          (b) Turnover of the Residual Assets to the stockholders shall be effected upon  
22          submission of the documentary requirements to be prescribed by the Liquidator.

23  
24          **Section 37. *Escheat. –*** The Liquidator has a period of one (1) year reckoned from  
25          the lapse of the one-year period as provided under Sections 35 and 36 within which to  
26          report any unclaimed Principal Obligations, Surplus Claims and Residual Assets for  
27          escheat to the appropriate government agency in accordance with the provisions of the  
28          Rules of Court.

29  
30          Failure by the creditor to comply with the documentary requirements within the  
31          prescribed period and/or refusal to accept the asset as payment shall be deemed as  
32          abandonment or waiver of his right to payment. The asset constituting the payment shall be  
33          subject to escheat.

1 Failure by the individual stockholders of record or their duly-authorized  
2 representative or the court-appointed stockholders' representative to comply with the  
3 documentary requirements within the prescribed period and/or refusal to accept the  
4 Residual Assets in kind shall be deemed as abandonment or waiver of right to receive the  
5 Residual Assets, and therefore subject to escheat.

6  
7 **Section 38. Disposal of records.** – The remaining records of the closed bank  
8 may be disposed of through escheat proceedings within one (1) year from date of finality  
9 of the court order approving the final POD.

10  
11  
12 **CHAPTER IX**  
13 **MISCELLANEOUS PROVISIONS**  
14

15 **Section 39. Penalties.** – The penalty of *prision mayor* or a fine of not less than  
16 Fifty thousand pesos (P50,000.00) but not more than Two million pesos (P2,000,000.00),  
17 or both, at the discretion of the court, shall be imposed:

18  
19 (a) Upon a director, officer, employee or agent of a closed bank for ---

- 20  
21 1) Refusing to allow the Liquidator to take over a bank placed under  
22 liquidation or obstructing such action of the Liquidator;  
23  
24 2) Refusing to receive the notice of closure;  
25  
26 3) Refusing to turn over, or destroying or tampering bank records;  
27  
28 4) Fraudulently disposing, transferring, assigning, or concealing any asset,  
29 property or liability of the closed bank;  
30  
31 5) Wilfully making a false statement or entry in any bank report or  
32 document required by the Liquidator;  
33

1           6) Violating or causing any person to violate, the exemption from  
2           garnishment, levy, attachment or execution provided under this Act and  
3           the New Central Bank Act; or  
4

5           7) Willfully violating any provision of this Act;  
6

7           (b) Upon any person or entity for ---  
8

9           1) Refusing to turn over possession or custody of the asset of the closed  
10           bank to the Liquidator;  
11

12           2) Refusing or delaying the a. verification of authenticity of the ownership  
13           documents; b. registration of interest of the closed bank on a specific  
14           property; c. consolidation of ownership over an asset of the closed bank;  
15           d. act of securing certified true copies of documents in relation to an  
16           asset of the closed bank; e. act of securing the appropriate certification  
17           from the agencies or entities stated in Chapter VII of this Act in relation  
18           to an asset of the closed bank; f. Conduct of a physical or ocular  
19           inspection of the properties owned by, or mortgaged to, the closed bank,  
20           to determine their existence and present condition; or g. other related  
21           activities of the Liquidator; or  
22

23           3) Willfully violating any provision of this Act;  
24

25           (c) Upon any law enforcement officer who refuses or fails to assist the Liquidator  
26           in the service of the notice of closure as provided for under Section 10 of this  
27           Act.  
28

29           The penalty herein imposed is without prejudice to any administrative action  
30           that may be filed against erring law enforcement officers, directors, officers,  
31           employees or agents of a closed bank, or other persons and entities of  
32           government agencies or instrumentalities.  
33

1           **Section 40. *Presumption of ownership.*** – All assets, records, and documents in  
2 the possession of the closed bank at the time of its closure are presumed held by the bank  
3 in the concept of an owner.

4  
5           **Section 41. *Presumption of regularity.*** – The exercise of authority, functions, and  
6 duties by the Liquidator under this Act is presumed regularly performed.

7  
8           **Section 42. *Finality of actions.*** – The actions of the Liquidator under this Act shall  
9 be final and executory, and may not be restrained or set aside by any court, except on  
10 petition for *certiorari* with the Court of Appeals on the ground that the action was taken in  
11 excess of jurisdiction or with grave abuse of discretion as to amount to a lack or excess of  
12 jurisdiction.

13  
14 No court, except the Court of Appeals, shall issue any temporary restraining order,  
15 preliminary injunction or preliminary mandatory injunction against the Liquidator for any  
16 action under this Act. This prohibition shall apply in all cases, disputes or controversies  
17 instituted by a private party, the closed bank, or any shareholder of the closed bank.

18  
19           **Section 43. *Visitorial Audit.*** – Assets and documents of the closed bank shall retain  
20 their private nature even if administered by the Liquidator. Matters relating to the exercise  
21 by the Liquidator of the functions under this Act shall be subject to visitorial audit only.

22  
23           **Section 44. *Implementing Rules.*** – The PDIC shall prescribe, by its Board of  
24 Directors, the rules and regulations necessary to implement the provisions of this Act.

25  
26  
27                                   **CHAPTER X**  
28                                   **TRANSITORY PROVISIONS**

29  
30           **Section 45. *Application to Pending Actions, Petitions and Claims.*** –

31  
32           (a) This Act shall govern all actions, petitions and claims filed against a closed  
33 bank after this Act has taken effect.  
34

1 (b) This Act shall apply to all actions, petitions, and claims against the closed bank  
2 pending at the time of the effectivity of, and insofar as consistent with, this Act.  
3

4 (c) In the event a new enactment or regulation is issued decreasing the rights and  
5 authorities hereunder granted, such new enactment or regulation shall not apply  
6 to this Act except in a suppletory manner.  
7  
8

9 **CHAPTER XI**  
10 **FINAL PROVISIONS**  
11

12 **Section 46. *Repealing Clause.*** – All acts or parts of acts and executive orders,  
13 administrative orders, or parts thereof which are inconsistent with the provisions of this  
14 Act are hereby repealed or modified accordingly.  
15

16 **Section 47. *Separability Clause.*** – If any provision or section of this Act or the  
17 application thereof to any person or circumstances is held invalid, the other provisions or  
18 sections of this Act, in the application of such provision or section to other persons or  
19 circumstances, shall not be affected thereby.  
20

21 **Section 48. *Effectivity.*** – This Act shall take effect fifteen (15) days following the  
22 completion of its publication in the Official Gazette or in two (2) newspapers of general  
23 circulation.  
24

25 *Approved,*