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SENATE

S. B. No. 2976

RECEIVED BY: 

**Prepared by the Committee on Banks, Financial Institutions and Currencies with
Senator Sergio Osmeña III as author**

**AN ACT
ENHANCING THE RESOLUTION AND LIQUIDATION FRAMEWORK FOR BANKS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 3591, AS AMENDED, AND
OTHER RELATED LAWS**

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

1 **SECTION 1.** Section 1 of Republic Act No. 3591, as amended, is hereby
2 amended to read as follows:

3 "THE CREATION OF THE
4 PHILIPPINE DEPOSIT INSURANCE CORPORATION

5 SECTION 1. – There is hereby created a Philippine Deposit Insurance
6 Corporation hereinafter referred to as the "Corporation" which shall insure
7 as herein provided, the deposits of all banks which are entitled to the
8 benefits of insurance under this Act, and which shall have the powers
9 hereinafter granted.

10 The Corporation shall, as a basic policy, promote and safeguard the
11 interests of the depositing public by [way of] providing [permanent and
12 continuing] insurance coverage on all insured deposits **AND HELPING**

1 **MAINTAIN A SOUND AND STABLE BANKING SYSTEM.”**

2 **SECTION 2.** A new section entitled Section 2 of the same Act shall be inserted
3 between Sections 1 and 3 which shall read as follows:

4 **“STATE POLICY**

5 **SECTION 2. – IT IS HEREBY DECLARED TO BE THE POLICY OF THE**
6 **STATE TO STRENGTHEN THE MANDATORY DEPOSIT INSURANCE**
7 **COVERAGE SYSTEM TO GENERATE, PRESERVE, MAINTAIN FAITH**
8 **AND CONFIDENCE IN THE COUNTRY’S BANKING SYSTEM, AND**
9 **PROTECT IT FROM ILLEGAL SCHEMES AND MACHINATIONS.**

10 **TOWARDS THIS END, THE GOVERNMENT MUST EXTEND ALL**
11 **MEANS AND MECHANISMS NECESSARY FOR THE CORPORATION**
12 **TO EFFECTIVELY FULFILL ITS VITAL TASK OF PROMOTING AND**
13 **SAFEGUARDING THE INTERESTS OF THE DEPOSITING PUBLIC BY**
14 **WAY OF PROVIDING INSURANCE COVERAGE ON BANK DEPOSITS**
15 **AND IN HELPING DEVELOP A SOUND AND STABLE BANKING**
16 **SYSTEM.**

17 **IN VIEW OF THE CRUCIAL ROLE AND THE NATURE OF ITS**
18 **FUNCTIONS AND RESPONSIBILITIES, THE CORPORATION, WHILE**
19 **BEING A GOVERNMENT INSTRUMENTALITY WITH CORPORATE**
20 **POWERS, SHALL ENJOY FISCAL AND ADMINISTRATIVE**
21 **AUTONOMY.**

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

1 "BOARD OF DIRECTORS: COMPOSITION AND AUTHORITY

2 SECTION [2] 3. (A) The powers and functions of the Corporation shall be
3 vested in and exercised by a Board of Directors which shall be composed
4 of **SEVEN (7)** [five (5)] members as follows:

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

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

9 **[(c)] 3)** The President of the Corporation, who shall be appointed by the
10 President of the Philippines **FROM A SHORTLIST PREPARED BY**
11 **THE GOVERNANCE COMMISSION FOR GOVERNMENT-**
12 **OWNED OR CONTROLLED CORPORATIONS PURSUANT TO**
13 **REPUBLIC ACT NO. 10149** [from either the Government or private
14 sector] to serve on a full-time basis for a term of six (6) years. The
15 President of the Corporation shall also serve as Vice Chairman of
16 the Board.

17 **[(d)] 4) FOUR (4)** [Two (2)] members from the private sector, to be
18 appointed **BY THE PRESIDENT OF THE PHILIPPINES FROM A**
19 **SHORTLIST PREPARED BY THE GOVERNANCE COMMISSION**
20 **FOR GOVERNMENT-OWNED OR CONTROLLED**
21 **CORPORATIONS PURSUANT TO REPUBLIC ACT NO. 10149.**
22 **THE APPOINTIVE DIRECTORS SHALL SERVE** for a term of six
23 (6) years **UNLESS SOONER REMOVED FOR CAUSE AND**
24 **SHALL BE SUBJECT TO ONLY ONE** [without] reappointment [by
25 the President of the Philippines]: *Provided*, That of those first
26 appointed, the first **TWO** appointee**S** shall serve for a period of [two

1 (2)] **THREE (3) years]: PROVIDED, HOWEVER, THAT THE**
2 **APPOINTIVE DIRECTOR SHALL CONTINUE TO HOLD OFFICE**
3 **UNTIL THE SUCCESSOR IS APPOINTED. AN APPOINTIVE**
4 **DIRECTOR MAY BE NOMINATED BY THE GOVERNANCE**
5 **COMMISSION FOR GOVERNMENT OWNED OR CONTROLLED**
6 **CORPORATIONS FOR REAPPOINTMENT BY THE PRESIDENT**
7 **ONLY IF ONE OBTAINS A PERFORMANCE SCORE OF ABOVE**
8 **AVERAGE OR ITS EQUIVALENT OR HIGHER IN THE**
9 **IMMEDIATELY PRECEDING YEAR OF TENURE AS APPOINTIVE**
10 **DIRECTOR BASED ON THE PERFORMANCE CRITERIA FOR**
11 **APPOINTIVE DIRECTORS FOR THE GOVERNMENT OWNED OR**
12 **CONTROLLED CORPORATIONS.**

13 **APPOINTMENT TO ANY VACANCY SHALL BE ONLY FOR THE**
14 **UNEXPIRED TERM OF THE PREDECESSOR PURSUANT TO**
15 **REPUBLIC ACT NO. 10149.**

16 No person shall be appointed as member of the Board unless he be
17 of good moral character, [and] of unquestionable integrity and
18 responsibility, **OF KNOWN PROBITY AND PATRIOTISM**, and who
19 is of recognized competence in economics, banking and finance,
20 law, management administration or insurance, and shall be at least
21 thirty-five (35) years of age. For the duration of their tenure or term
22 in office and for a period of one year thereafter, the appointive
23 members of the Board shall be disqualified from holding any office,
24 position or employment in any insured bank.

25 The Secretary of Finance and the Governor of the *Bangko Sentral*
26 may each designate **AN ALTERNATE** [a representative, whose
27 position shall not be lower than an undersecretary or deputy

1 governor respectively], **WHO SHALL BE AN OFFICIAL WITH A**
2 **RANK NOT LOWER THAN DIRECTOR III OR ITS EQUIVALENT**
3 **WITH WRITTEN AUTHORITY FROM THE SECRETARY OF**
4 **FINANCE OR THE GOVERNOR OF THE BANGKO SENTRAL**
5 **NG PILIPINAS** to attend such meetings and to vote on behalf of
6 their respective principals. Whenever the Chairman of the Board is
7 unable to attend a meeting of the Board, or in the event of a
8 vacancy in the office of the Secretary of Finance, **AND IN THE**
9 **ABSENCE OF THE VICE CHAIRMAN**, the [President of the
10 Corporation] **MEMBERS OF THE BOARD SHALL DESIGNATE**
11 **FROM AMONG THEMSELVES WHO** shall act as Chairman.

12 **THE PRESIDENT OF THE PHILIPPINES MAY REMOVE ANY**
13 **APPOINTIVE MEMBER OF THE BOARD OF DIRECTORS FOR ANY OF**
14 **THE FOLLOWING REASONS:**

15 1) **IF THE MEMBER IS PHYSICALLY OR MENTALLY**
16 **INCAPACITATED THAT HE CANNOT PROPERLY**
17 **DISCHARGE HIS OR HER DUTIES AND**
18 **RESPONSIBILITIES, AND SUCH INCAPACITY HAS**
19 **LASTED FOR MORE THAN SIX (6) MONTHS; OR**

20 2) **IF THE MEMBER IS GUILTY OF ACTS OR**
21 **OPERATIONS WHICH ARE OF FRAUDULENT OR**
22 **ILLEGAL CHARACTER OR WHICH ARE MANIFESTLY**
23 **OPPOSED TO THE AIMS AND INTERESTS OF THE**
24 **CORPORATION; OR**

25 3) **IF THE MEMBER NO LONGER POSSESSES THE**
26 **QUALIFICATIONS SPECIFIED IN THIS ACT; OR**

1 **4) IF THE MEMBER DOES NOT MEET THE STANDARDS**
2 **FOR PERFORMANCE BASED ON THE EVALUATION BY**
3 **THE GOVERNANCE COMMISSION FOR GOVERNMENT-**
4 **OWNED OR CONTROLLED CORPORATIONS UNDER**
5 **REPUBLIC ACT NO. 10149.**

6
7 The presence of **FOUR (4)** [three (3)] members shall constitute a quorum.
8 All decisions of the Board of Directors shall require the concurrence of at
9 least **FOUR (4)** [three (3)] members.

10 [The Secretary of Finance shall fix the rate of *per diem* for every Board
11 meeting attended by the members of the Board of Directors from the
12 private sector.] **THE COMPENSATION, PER DIEMS, ALLOWANCES,**
13 **INCENTIVES, AND OTHER BENEFITS FOR BOARD MEMBERS**
14 **SHALL BE DETERMINED BY THE GOVERNANCE COMMISSION FOR**
15 **GOVERNMENT OWNED OR CONTROLLED CORPORATIONS**
16 **PURSUANT TO REPUBLIC ACT NO. 10149.** [The President of the
17 Philippines may fix such emoluments that may be received by the Board
18 of Directors comparable to the emoluments of members of the Board of
19 Directors of other government financial institutions].

20 **IN ADDITION TO THE REQUIREMENTS OF REPUBLIC ACT NO. 6713,**
21 **OTHERWISE KNOWN AS THE CODE OF CONDUCT AND ETHICAL**
22 **STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, ANY**
23 **MEMBER OF THE BOARD OF DIRECTORS WITH PERSONAL OR**
24 **PECUNIARY INTEREST IN ANY MATTER IN THE AGENDA OF THE**
25 **BOARD OF DIRECTORS SHALL DISCLOSE HIS OR HER INTEREST**
26 **TO THE BOARD AND SHALL RECUSE FROM THE MEETING WHEN**
27 **THE MATTER IS TAKEN UP. THE MINUTES SHALL REFLECT THE**

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

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

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

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

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

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

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

15 [4.] **5.** To appoint, establish the rank, fix the remuneration, **BENEFITS,**
16 **INCLUDING HEALTH CARE SERVICES THROUGH A HEALTH**
17 **MAINTENANCE ORGANIZATION (HMO) AND MEDICAL BENEFITS**
18 **OTHER THAN THOSE PROVIDED FOR UNDER REPUBLIC ACT NO.**
19 **7875, AS AMENDED,** [approve local and foreign training of,] and remove
20 any officer or employee of the Corporation, for cause, subject to pertinent
21 civil service laws: *Provided,* That the Board of Directors may delegate this
22 authority to the President subject to specific guidelines; **PROVIDED,**
23 **FURTHER, THAT IN NO CASE SHALL THERE BE ANY DIMINUTION**
24 **OF EXISTING SALARIES, BENEFITS AND OTHER EMOLUMENTS;**

25 **6.** **TO APPROVE POLICY ON LOCAL AND FOREIGN TRAVEL, AND THE**
26 **CORRESPONDING EXPENSES, ALLOWANCES AND PER DIEMS, OF**
27 **OFFICERS, EMPLOYEES, AGENTS OF THE CORPORATION, WHICH**
28 **SHALL BE COMPARABLE WITH THE EXPENSES, ALLOWANCES**

1 AND PER DIEMS OF PERSONNEL OF OTHER FINANCIAL
2 INSTITUTIONS BASED ON PREVAILING MARKET STANDARDS,
3 NOTWITHSTANDING THE PROVISIONS OF PRESIDENTIAL DECREE
4 NO. 1177, EXECUTIVE ORDER NO. 292, EXECUTIVE ORDER NO. 248,
5 AS AMENDED, EXECUTIVE ORDER NO. 298, AND SIMILAR LAWS;

6 [5] 7. To adopt an annual budget for, and authorize such expenditures
7 by the Corporation, as are in the interest of the effective
8 administration and operation of the Corporation;

9 [6] 8. To approve the **TARGET LEVEL OF THE DEPOSIT INSURANCE FUND**
10 **AND THE** methodology for determining [the level and amount of]
11 **RESERVES** [provisioning] for insurance and financial assistance losses
12 [which shall establish reasonable levels of deposit insurance reserves.];

13 [7] 9. To review the organizational set-up of the Corporation and adopt a new
14 or revised organizational structure as it may deem necessary for the
15 Corporation to undertake its mandate and functions;[.]

16 **10. TO DESIGN, ADOPT AND REVISE, AS IT MAY DEEM NECESSARY,**
17 **AN EARLY SEPARATION PLAN FOR EMPLOYEES OF THE**
18 **CORPORATION TO ENSURE AVAILABILITY OF A HUMAN**
19 **RESOURCE POOL QUALIFIED AND CAPABLE OF IMPLEMENTING**
20 **THE CORPORATION'S AUTHORITIES UNDER THIS CHARTER IN A**
21 **MANNER RESPONSIVE AND ATTUNED TO MARKET**
22 **DEVELOPMENTS, AND TO PROVIDE INCENTIVES FOR ALL THOSE**
23 **WHO SHALL RETIRE OR BE SEPARATED FROM THE SERVICE.**
24 **NOTWITHSTANDING ANY LAW TO THE CONTRARY, THESE**
25 **INCENTIVES SHALL BE IN ADDITION TO ALL GRATUITIES AND**

1 **BENEFITS THE EMPLOYEE IS ENTITLED TO UNDER EXISTING**
2 **LAWS; AND**

3 **11. TO PROMOTE AND SPONSOR THE LOCAL OR FOREIGN**
4 **TRAINING OR STUDY OF PERSONNEL IN THE FIELDS OF**
5 **BANKING, FINANCE, MANAGEMENT, INFORMATION**
6 **TECHNOLOGY AND LAW. TOWARD THIS END, THE**
7 **CORPORATION IS HEREBY AUTHORIZED TO DEFRAY THE**
8 **COSTS OF SUCH TRAINING OR STUDY. THE BOARD SHALL**
9 **PRESCRIBE RULES AND REGULATIONS TO GOVERN THE**
10 **TRAINING OR STUDY PROGRAMS OF THE CORPORATION.”**

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

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

14 “PRESIDENT OF THE CORPORATION
15 COMPENSATION, POWERS AND DUTIES

16 **SECTION [3] 4.** *The President of the Corporation shall be ITS [the] Chief*
17 **Executive OFFICER AND THE VICE CHAIRMAN OF ITS BOARD OF**
18 **DIRECTORS [thereof] and his OR HER salary shall be fixed by the**
19 **President of the Philippines UPON THE RECOMMENDATION OF THE**
20 **GOVERNANCE COMMISSION FOR GOVERNMENT OWNED OR**
21 **CONTROLLED CORPORATIONS, at a sum commensurate to the**
22 **importance and responsibility attached to the position. The sum total of**
23 **the salary, ALLOWANCES, BENEFITS [of the President and the**
24 **allowances] and other emoluments OF THE PRESIDENT OF THE**

1 **CORPORATION** [which the Board of Directors may grant him] **SHALL**
2 **BE HIGHER THAN THE COMPENSATION PACKAGE OF THE NEXT**
3 **HIGHEST RANKING EXECUTIVE OF THE CORPORATION AND** shall
4 be the ceiling for fixing the salary, allowances and other emoluments of all
5 other personnel in the Corporation.

6 **SECTION 6.** Section 4, paragraphs (d), [and] (f) **AND (H)** of the same Act, as
7 renumbered, are hereby amended to read as follows:

8 “(d) To represent the Corporation[, upon prior authority of the
9 Board,] in all dealings with other offices, agencies and instrumentalities of
10 the government and with all other persons or entities, public or private,
11 whether domestic, foreign or international;

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

15 (h) xxx The President shall be assisted by a Vice-President and other
16 officials whose appointment and removal for cause shall be approved and whose
17 salary shall be fixed by the Board of Directors upon recommendation of the
18 President of the Corporation. During the absence or temporary incapacity of the
19 President, or in case of vacancy or permanent incapacity and pending
20 appointment of a new President of the Corporation by the President of the
21 Philippines, the **BOARD OF DIRECTORS SHALL DESIGNATE THE OFFICER-**
22 **IN-CHARGE OF THE CORPORATION** [Vice President shall act as President
23 and discharge the duties and responsibilities thereof].”

1 **(D) [(b)]** The term “Bank” and “Banking Institution” shall be
2 synonymous and interchangeable and shall include banks, commercial
3 banks, savings bank, mortgage banks, rural banks, development
4 banks, cooperative banks, stock savings and loan associations and
5 branches and agencies in the Philippines of foreign banks and all other
6 corporations authorized to perform banking functions in the
7 Philippines.

8 **(E) THE TERM “CLOSED BANK” REFERS TO A BANK PLACED**
9 **UNDER LIQUIDATION BY THE MONETARY BOARD.**

10 **(F) THE TERM “CREDITOR” REFERS TO ANY INDIVIDUAL OR**
11 **ENTITY WITH A VALID CLAIM AGAINST THE ASSETS OF THE**
12 **CLOSED BANK.**

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

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

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

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

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

21 1) Investment products such as bonds and securities, trust accounts,
22 and other similar instruments;

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

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

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

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

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

23 **(I) THE TERM "INSURED BANK" MEANS ANY BANK THE DEPOSITS**
24 **OF WHICH ARE INSURED IN ACCORDANCE WITH THE PROVISIONS**
25 **OF THIS ACT.**

1 (J) [(g)]The term "insured deposit" means the amount due to any *bona*
2 *fide* depositor for legitimate deposits in an insured bank [net of any
3 obligation of the depositor to the insured bank] as of the date of closure
4 but not to exceed Five Hundred Thousand Pesos (P500,000.00). Such
5 [net] amount shall be determined according to such regulations as the
6 Board of Directors may prescribe. In determining such amount due to any
7 depositor, there shall be added together all deposits in the bank
8 maintained in the same right and capacity for his benefit either in his own
9 name or in the name of others. A joint account regardless of whether the
10 conjunction "and," "or", "and/or" is used, shall be insured separately from
11 any individually-owned deposit account: *Provided*, That (1) If the account
12 is held jointly by two or more natural persons, or by two or more juridical
13 persons or entities, the maximum insured deposit shall be divided into as
14 many equal shares as there are individuals, juridical persons or entities,
15 unless a different sharing is stipulated in the document of deposit, and (2)
16 if the account is held by a juridical person or entity jointly with one or more
17 natural persons, the maximum insured deposit shall be presumed to
18 belong entirely to such juridical person or entity: *Provided, further*, That
19 the aggregate of the interest of each co-owner over several joint accounts,
20 whether owned by the same or different combinations of individuals,
21 juridical persons or entities, shall likewise be subject to the maximum
22 insured deposit of Five Hundred Thousand Pesos (P500,000.00):
23 *Provided, furthermore*, That the provisions of any law to the contrary
24 notwithstanding, no owner/holder of any **PASSBOOK**, negotiable
25 certificate of deposit, **OR OTHER EVIDENCE OF DEPOSIT** shall be
26 recognized as a depositor entitled to the rights provided in this Act unless
27 **THE PASSBOOK, CERTIFICATE OF DEPOSIT OR OTHER EVIDENCE**
28 **OF DEPOSIT IS DETERMINED BY THE CORPORATION TO BE AN**

1 **AUTHENTIC DOCUMENT OR RECORD** of the issuing bank [his name is
2 registered as owner/holder thereof in the books]: *Provided, finally,* That, in
3 case of a condition that threatens the monetary and financial stability of
4 the banking system that may have systemic consequences, as defined in
5 section **22 [17]** hereof, as determined by the Monetary Board, the
6 maximum deposit insurance cover may be adjusted in such amount, for
7 such a period, and/or for such deposit products, as may be determined by
8 a unanimous vote of the Board of Directors in a meeting called for the
9 purpose and chaired by the Secretary of Finance, subject to the approval
10 of the President of the Philippines.

11 **(K) THE TERM “LIQUIDATION” REFERS TO THE PROCEEDINGS**
12 **UNDER SECTIONS 12 TO 16 OF THIS ACT.**

13 **(L) THE TERM “LIQUIDATION COURT” REFERS TO THE**
14 **REGIONAL TRIAL COURT OF GENERAL JURISDICTION**
15 **WHERE THE PETITION FOR ASSISTANCE IN THE**
16 **LIQUIDATION OF A CLOSED BANK IS FILED AND GIVEN**
17 **DUE COURSE.**

18 **(M) THE TERM “PAYOUT” REFERS TO THE PAYMENT OF**
19 **INSURED DEPOSITS.**

20 **(N) THE TERM “PETITION FOR ASSISTANCE IN THE**
21 **LIQUIDATION OF A CLOSED BANK” REFERS TO THE**

1 PETITION FILED BY THE RECEIVER WITH THE REGIONAL
2 TRIAL COURT (RTC) IN ACCORDANCE WITH SECTION 16
3 OF THIS ACT.

4 (O) THE TERM "PURCHASE OF ASSETS AND ASSUMPTION OF
5 LIABILITIES" REFERS TO A TRANSACTION WHERE AN
6 INSURED BANK PURCHASES ANY OR ALL ASSETS AND
7 ASSUMES ANY OR ALL LIABILITIES OF ANOTHER BANK
8 UNDER RESOLUTION OR LIQUIDATION, AS PROVIDED IN
9 THIS ACT.

10 (P) THE TERM "RECEIVER" REFERS TO THE CORPORATION
11 OR ANY OF ITS DULY AUTHORIZED AGENTS ACTING AS
12 RECEIVER OF A CLOSED BANK.

13 (Q) THE TERM "RECORDS" INCLUDES ALL DOCUMENTS,
14 TITLES, PAPERS AND ELECTRONIC DATA OF THE CLOSED
15 BANK, INCLUDING THOSE PERTAINING TO DEPOSIT
16 ACCOUNTS OF AND WITH THE CLOSED BANK, ITS
17 ASSETS, TRANSACTIONS AND CORPORATE AFFAIRS.

18 (R) THE TERM "RESIDUAL ASSETS" REFERS TO ASSETS, IN
19 CASH OR IN KIND, TO BE TURNED OVER TO THE CLOSED
20 BANK'S STOCKHOLDERS OF RECORD, IN PROPORTION TO
21 THEIR INTEREST IN THE CLOSED BANK AS OF DATE OF
22 CLOSURE, AFTER PAYMENT IN FULL OF LIQUIDATION
23 COSTS, FEES AND EXPENSES, AND THE VALID CLAIMS
24 AND SURPLUS DIVIDENDS TO ALL THE CREDITORS.

1 **(S) THE TERM "RESOLUTION" REFERS TO THE ACTIONS**
2 **UNDERTAKEN BY THE CORPORATION UNDER SECTION 11**
3 **OF THIS ACT TO:**

4 **1) PROTECT DEPOSITORS, CREDITORS AND THE**
5 **DEPOSIT INSURANCE FUND;**

6 **2) SAFEGUARD THE CONTINUITY OF ESSENTIAL**
7 **BANKING SERVICES OR MAINTAIN FINANCIAL STABILITY;**

8 **AND**

9 **3) PREVENT DETERIORATION OR DISSIPATION OF BANK**
10 **ASSETS.**

11 **(T) THE TERM "RISK-BASED ASSESSMENT SYSTEM"**
12 **PERTAINS TO A METHOD FOR CALCULATING AN INSURED**
13 **BANK'S ASSESSMENT ON THE PROBABILITY THAT THE**
14 **DEPOSIT INSURANCE FUND WILL INCUR A LOSS WITH**
15 **RESPECT TO THE BANK, AND THE LIKELY AMOUNT OF**
16 **ANY SUCH LOSS, BASED ON ITS RISK RATING THAT**
17 **TAKES INTO CONSIDERATION THE FOLLOWING:**

18 **1) QUALITY AND CONCENTRATION OF ASSETS;**

19 **2) CATEGORIES AND CONCENTRATION OF LIABILITIES,**
20 **BOTH INSURED AND UNINSURED, CONTINGENT AND**
21 **NON-CONTINGENT;**

22 **3) CAPITAL POSITION;**

23 **4) LIQUIDITY POSITION;**

24 **5) MANAGEMENT AND GOVERNANCE; AND**

25 **6) OTHER FACTORS RELEVANT TO ASSESSING SUCH**
26 **PROBABILITY, AS MAY BE DETERMINED BY THE**
27 **CORPORATION.**

1 (U) THE TERM "STATEMENT OF AFFAIRS" REFERS TO A
2 REPORT OF FINANCIAL CONDITION OF THE CLOSED BANK
3 AT A GIVEN DATE, SHOWING THE: 1) ESTIMATED
4 REALIZABLE VALUE OF ASSETS; 2) CLASSIFICATION OF
5 CREDITS; AND 3) ESTIMATED LIABILITIES TO BE SETTLED.

6 (V) THE TERM "SURPLUS DIVIDENDS" REFERS TO THE
7 REMAINING ASSETS OF THE CLOSED BANK AFTER
8 SATISFACTION IN FULL OF ALL THE LIQUIDATION COSTS,
9 FEES AND EXPENSES, AND VALID CLAIMS. THE SURPLUS
10 DIVIDENDS SHALL BE COMPUTED AT THE LEGAL RATE OF
11 INTEREST FROM THE DATE OF TAKEOVER TO CUT-OFF
12 DATE OF THE DISTRIBUTION PLAN, AND SHALL BE PAID, IN
13 CASH OR IN KIND, TO CREDITORS OF THE CLOSED BANK IN
14 ACCORDANCE WITH THE RULES ON CONCURRENCE AND
15 PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR
16 OTHER LAWS.

17 (W) THE TERM "TAKEOVER" REFERS TO THE ACT OF
18 PHYSICALLY TAKING POSSESSION AND CONTROL OF THE
19 PREMISES, ASSETS AND AFFAIRS OF A CLOSED BANK
20 FOR THE PURPOSE OF LIQUIDATING THE BANK.

21 (X) [(h)] The term "transfer deposit" means a deposit in an insured
22 bank made available to a depositor by the Corporation as
23 payment of insured deposit of such depositor in a closed bank
24 and assumed by another insured bank.

1 (Y) [(i)] The term "trust funds" means funds held by an insured bank in
2 a fiduciary capacity and includes without being limited to, funds
3 held as trustee, executor, administrator, guardian or agent.

4 (Z) THE TERM "VALID CLAIM" REFERS TO THE CLAIM
5 RECOGNIZED BY THE RECEIVER OR ALLOWED BY THE
6 LIQUIDATION COURT.

7 (AA) THE TERM "WINDING UP PERIOD" REFERS TO THE
8 PERIOD PROVIDED IN SECTION 16 OF THIS ACT."

9 SECTION 8. Section 5 of the same Act is accordingly renumbered as Section 6,
10 and is hereby amended to read as follows:

11 "DEPOSIT INSURANCE COVERAGE

12 SECTION [5] 6. The deposit liabilities of any bank [or banking institution,]
13 which is engaged in the business of receiving deposits as herein defined
14 on the effective date of this Act, or which thereafter may engage in the
15 business of receiving deposits, shall be insured with the Corporation.

16 WHENEVER A BANK IS DETERMINED BY THE BANGKO SENTRAL
17 TO HAVE FAILED TO MEET THE MINIMUM CAPITAL
18 REQUIREMENTS, THE CORPORATION MAY CONDUCT AN
19 INSURANCE RISK EVALUATION ON THE BANK AT ANY TIME TO
20 ENABLE IT TO ASSESS THE RISKS TO THE DEPOSIT INSURANCE
21 FUND. SUCH EVALUATION MAY INCLUDE THE DETERMINATION OF
22 (i) THE FAIR MARKET VALUE OF THE ASSETS AND LIABILITIES OF
23 A BANK, OR (ii) THE RISK CLASSIFICATION OF A BANK, OR (iii)

1 POSSIBLE RESOLUTION MODES, SUBJECT TO SUCH TERMS AND
2 CONDITIONS AS THE PDIC BOARD MAY PRESCRIBE.

3 IN THE CONDUCT OF AN INSURANCE RISK EVALUATION, THE
4 CORPORATION, ITS DULY AUTHORIZED OFFICERS OR
5 EMPLOYEES, SHALL HAVE THE AUTHORITY TO EXAMINE, INQUIRE
6 OR LOOK INTO THE DEPOSIT RECORDS OF A BANK. FOR THIS
7 PURPOSE, BANKS, THEIR OFFICERS AND EMPLOYEES ARE
8 HEREBY MANDATED TO DISCLOSE AND REPORT TO THE
9 CORPORATION OR ITS DULY AUTHORIZED OFFICERS,
10 EMPLOYEES, DEPOSIT ACCOUNT INFORMATION IN SAID BANK.

11 THE CORPORATION, ITS DULY AUTHORIZED OFFICERS OR
12 EMPLOYEES, ARE PROHIBITED FROM DISCLOSING INFORMATION
13 OBTAINED UNDER THIS SECTION TO ANY PERSON, GOVERNMENT
14 OFFICIAL, BUREAU OR OFFICE, EXCEPT WHEN THE DISCLOSURE
15 OF THE INFORMATION OBTAINED UNDER THIS SECTION IS
16 NECESSARY FOR EXPEDITIOUS PAYMENT OF DEPOSIT
17 INSURANCE OR THE PROTECTION OF THE DEPOSIT INSURANCE
18 SYSTEM, OR TO CARRY OUT THE MANDATE OF THE
19 CORPORATION AS A RESOLUTION AUTHORITY.”

20 ANY ACT DONE PURSUANT TO THIS SECTION SHALL NOT BE
21 DEEMED TO HAVE VIOLATED REPUBLIC ACT NO. 1405, AS
22 AMENDED, REPUBLIC ACT NO. 6426, AS AMENDED, REPUBLIC
23 ACT NO. 8791, AND OTHER SIMILAR LAWS PROTECTING OR
24 SAFEGUARDING THE SECRECY OR CONFIDENTIALITY OF BANK
25 DEPOSITS: *PROVIDED*, THAT ANY UNAUTHORIZED DISCLOSURE
26 OF THE INFORMATION UNDER THIS SECTION SHALL BE SUBJECT

1 TO THE SAME PENALTY UNDER THE FOREGOING LAWS
2 PROTECTING THE SECRECY OR CONFIDENTIALITY OF BANK
3 DEPOSITS.”

4 SECTION 9. Section 6 of the same Act is accordingly renumbered as Section 7.

5 SECTION 10. Section 7 paragraph (a) of the same Act, as renumbered, is
6 hereby amended to read as follows:

7 “ASSESSMENT OF MEMBER BANKS

8
9 SECTION [6] 7. (a) The assessed rate shall be determined by the Board
10 of Directors: *Provided*, That the assessment rate shall not exceed one-fifth
11 (1/5) of one *per centum* (1%) *per annum*. The semi-annual assessment
12 for each insured bank shall be in the amount of the product of one-half
13 (1/2) the assessment rate multiplied by the assessment base but in no
14 case shall it be less than Five thousand pesos (P5,000.00). The
15 assessment base shall be the amount of the liability of the bank for
16 deposits as defined under subsection (G) [(f)] of Section 5 [4] without any
17 deduction for indebtedness of depositors.

18 IN ADDITION, THE BOARD OF DIRECTORS MAY ESTABLISH A
19 RISK-BASED ASSESSMENT SYSTEM AND IMPOSE A RISK-BASED
20 ASSESSMENT RATE WHICH SHALL NOT EXCEED TWO-FIFTH (2/5)
21 OF ONE PER CENTUM (1%) PER ANNUM MULTIPLIED BY THE
22 ASSESSMENT BASE.

23 The semi-annual assessment base for one semi-annual period shall be
24 the average of the assessment base of the bank as of the close of

1 business on March thirty-one and June thirty and the semi-annual
2 assessment base for the other semi-annual period shall be the average of
3 the assessment base of the bank as of the close of business on
4 September thirty and December thirty-one: *Provided*, That when any of
5 said days is a non-business day or legal holiday, either national or
6 provincial, the preceding business day shall be used. The certified
7 statements required to be filed with the Corporation under subsections (b)
8 and (c) of this Section shall be in such form and set forth such supporting
9 information as the Board of Directors shall prescribe. The assessment
10 payments required from the insured banks under subsections (b) and (c)
11 of this Section shall be made in such manner and at such time or times as
12 the Board of Directors shall prescribe[, provided the time or times so
13 prescribed shall not be later than sixty (60) days after filing the certified
14 statement setting forth the amount of assessment].”

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

17 “(d) All assessment collections and income from operations after
18 expenses and charges shall be added to the Deposit Insurance Fund
19 under Section 17 [13] hereof. Such expenses and charges are: (1) the
20 operating costs and expenses of the Corporation for the calendar year; (2)
21 additions to reserve to provide for insurance and financial assistance
22 losses, net of recoverable amounts from applicable assets and collaterals,
23 during the calendar year; and (3) the net insurance and financial
24 assistance losses sustained in said calendar year.

25 (h) [The Corporation shall not terminate the insured status of any bank
26 which continues to operate or receive deposits.] Should any insured bank
27 fail or refuse to pay any assessment required to be paid by such bank

1 under any provision of this Act, and should the bank not correct such
2 failure or refusal within thirty (30) days after written notice has been given
3 by the Corporation to an officer of the bank citing this subsection, and
4 stating that the bank has failed or refused to pay as required by the law,
5 the Corporation may, at its discretion, file a case for collection before the
6 appropriate court without prejudice to the imposition of administrative
7 sanctions allowed under the provisions of this Law on the bank officials
8 responsible for the non-payment of assessment fees.”

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

11 **“(I) THE CORPORATION SHALL HAVE THE AUTHORITY TO**
12 **COLLECT A SPECIAL ASSESSMENT FROM ANY MEMBER BANK**
13 **AND PRESCRIBE THE TERMS AND CONDITIONS THEREOF TO**
14 **MAINTAIN THE TARGET LEVEL OF THE DEPOSIT INSURANCE**
15 **FUND SET BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH**
16 **THIS ACT: *PROVIDED, THAT,* THE COLLECTION OF A SPECIAL**
17 **ASSESSMENT MAY LIKEWISE BE MADE FOR THE PURPOSE OF**
18 **REIMBURSING THE NATIONAL GOVERNMENT FOR ANY FINANCIAL**
19 **ASSISTANCE IT MAY HAVE EXTENDED TO AFFECTED**
20 **INSTITUTIONS OR ORGANIZATIONS DURING A SYSTEMIC**
21 **SCENARIO.”**

22 **SECTION 13.** Section 7 of the same Act is accordingly renumbered as Section
23 8, and is hereby amended to read as follows:

24 **“SANCTIONS AGAINST UNSAFE AND**
25 **UNSOUND BANKING PRACTICES**

1 SECTION [7] 8. (a) Whenever upon examination by the Corporation into
2 the condition of any insured bank, it shall be disclosed that an insured
3 bank or its directors or agents have committed, are committing or about to
4 commit unsafe or unsound practices in conducting the business of the
5 bank, or have violated, are violating or about to violate any provisions of
6 any law or regulation to which the insured bank is subject, the Board of
7 Directors shall submit the report of the examination to the Monetary Board
8 to secure corrective action thereon. If no such corrective action is taken by
9 the Monetary Board within forty-five (45) days from the submission of the
10 report, the Board of Directors shall, *motu proprio*, institute corrective
11 action which it deems necessary. The Board of Directors may thereafter
12 issue a cease and desist order, and require the bank or its directors or
13 agents concerned to correct the practices or violations within forty-five
14 (45) days. However, if the practice or violation is likely to cause insolvency
15 or substantial dissipation of assets or earnings of the bank, or is likely to
16 seriously weaken the condition of the bank or otherwise seriously
17 prejudice the interests of its depositors and the Corporation, the period to
18 take corrective action shall not be more than fifteen (15) days. The order
19 may also include the imposition of fines provided in Section 26 (g) [21(f)]
20 hereof. The Board of Directors shall duly inform the Monetary Board of the
21 *Bangko Sentral ng Pilipinas* of action it has taken under this subsection
22 with respect to such practices or violations.

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

1
2 (c) THE CORPORATION MAY TERMINATE THE INSURED STATUS OF
3 ANY BANK THAT FAILS OR REFUSES TO COMPLY, WITHIN THIRTY
4 (30) DAYS FROM NOTICE, WITH ANY CEASE-AND-DESIST ORDER
5 ISSUED BY THE CORPORATION, OR WITH ANY CORRECTIVE
6 ACTION IMPOSED BY THE MONETARY BOARD, UNDER THIS
7 SECTION PERTAINING TO A DEPOSIT-RELATED UNSAFE AND/OR
8 UNSOUND BANKING PRACTICE.

9 SUCH TERMINATION SHALL BE FINAL AND EXECUTORY, AND
10 SHALL BE EFFECTIVE UPON PUBLICATION OF THE NOTICE OF
11 TERMINATION IN A NEWSPAPER OF GENERAL CIRCULATION.

12 THE DEPOSITS OF EACH DEPOSITOR IN THE BANK ON THE
13 EFFECTIVE DATE OF THE TERMINATION OF INSURANCE
14 COVERAGE, LESS ALL SUBSEQUENT WITHDRAWALS, SHALL
15 CONTINUE TO BE INSURED UP TO THE MAXIMUM DEPOSIT
16 INSURANCE COVERAGE FOR A PERIOD OF ONE HUNDRED EIGHTY
17 (180) DAYS. ADDITIONS TO, OR RENEWAL OF, EXISTING DEPOSITS
18 AND NEW DEPOSITS IN SUCH BANK AFTER THE EFFECTIVE DATE
19 OF TERMINATION OF INSURED STATUS OF THE BANK SHALL NOT
20 BE INSURED BY THE CORPORATION.

21 THE BANK SHALL IMMEDIATELY GIVE WRITTEN NOTICE OF SUCH
22 TERMINATION AND THE INTERIM DEPOSIT INSURANCE
23 COVERAGE TO EACH OF ITS DEPOSITORS AT THEIR ADDRESS AS
24 RECORDED IN THE BOOKS OF THE BANK.

25 THE BANK SHALL NOT ADVERTISE OR REPRESENT THAT
26 ADDITIONS TO, OR RENEWAL OF, EXISTING DEPOSITS AND NEW

1 **DEPOSITS MADE AFTER THE EFFECTIVE DATE OF TERMINATION**
2 **ARE COVERED BY DEPOSIT INSURANCE.”**

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

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

6 “Twelfth - **THE PROVISIONS OF PRESIDENTIAL DECREE NO.**
7 **1445, AS AMENDED, EXECUTIVE ORDER NO. 292, AND OTHER**
8 **SIMILAR LAWS NOTWITHSTANDING, [T]** to compromise, condone or
9 release, in whole or in part, any claim or settled liability to the Corporation,
10 regardless of the amount involved, under such terms and conditions as
11 may be imposed by the Board of Directors to protect the interest of the
12 Corporation, **AND TO WRITE OFF THE CORPORATION’S**
13 **RECEIVABLES AND ASSETS WHICH ARE NO LONGER**
14 **RECOVERABLE OR REALIZABLE;”**

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

17 **“THIRTEENTH - TO DETERMINE QUALIFIED INTERESTED**
18 **ACQUIRERS OR INVESTORS FOR ANY OF THE MODES OF**
19 **RESOLUTION OR LIQUIDATION OF BANKS;**

20 **FOURTEENTH - TO DETERMINE THE APPROPRIATE**
21 **RESOLUTION METHOD AND TO IMPLEMENT THE SAME FOR A**
22 **BANK SUBJECT OF RESOLUTION; AND**

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

3 **SECTION 17.** Section 9 of the same Act is accordingly renumbered as Section
4 10.

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

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

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

20 “(c) Each insured bank shall make to the Corporation reports of condition
21 in such form and at such times as the Board of Directors may require such
22 reports to be published in such manner, not inconsistent with any
23 applicable law, as it may direct. Every such bank which fails to make or
24 publish any such report within such time, as the Board of Directors may

1 require, shall be subject to a penalty of not more than **P10,000 [P100]** for
2 each day of such failure recoverable by the Corporation for its use.”

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

5 “(d-1) Each insured bank shall keep and maintain a true and accurate
6 record or statement of its daily deposit transactions consistent with the
7 standards set by the *Bangko Sentral ng Pilipinas* and the Corporation.
8 Compliance with such standards shall be duly certified by the president of
9 the bank [or] **AND** the compliance officer: *Provided*, That refusal or
10 willful failure to issue the required certification shall constitute a violation
11 of this Section and shall subject such officers of the bank to the sanctions
12 provided for under Section **26 [21]** (f) of this Act.”

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

15 “(f) The Corporation shall underwrite or advance **ALL LEGAL [litigation]**
16 costs and expenses, including legal fees and other expenses of external
17 counsel, or provide legal assistance to, directors, officers, employees or
18 agents of the Corporation in connection with any civil, criminal,
19 administrative or any other action or proceeding, to which such director,
20 officer, employee or agent is made a party by reason of, or in connection
21 with, the exercise of authority or performance of functions and duties
22 under this Act: *Provided*, That such legal protection shall not apply to any
23 civil, criminal, administrative or any action or proceeding that may be
24 initiated by the Corporation, in whatever capacity, against such director,
25 officer, employee or agent: *Provided*, Further, That directors, officers,

1 employees or agents who shall resign, retire, transfer to another agency
2 or be separated from the service, shall continue to be provided with such
3 legal protection in connection with any act done or omitted to be done by
4 them in good faith during their tenure or employment with the Corporation:
5 Provided, finally, That in the event of a settlement or compromise,
6 indemnification shall be provided only in connection with such matters
7 covered by the settlement as to which the Corporation is advised by
8 counsel that the persons to be indemnified did not commit any negligence
9 or misconduct.”

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

12
13 “(i) Notwithstanding the provisions of this Section and Section 3 [2],
14 members of the Board of Directors and personnel of the Corporation may
15 become directors and officers of any bank and banking institution and of
16 any entity related to such institution in connection with financial assistance
17 extended by the Corporation to such institution and when, in the opinion of
18 the Board, it is appropriate to make such designation to protect the
19 interest of the Corporation.”

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

22 **“BANK RESOLUTION**

23 **SECTION 11. (A) THE CORPORATION, IN COORDINATION WITH THE**
24 **BANGKO SENTRAL, MAY COMMENCE THE RESOLUTION OF A**
25 **BANK UNDER THIS SECTION UPON:**

- 1 1) FAILURE OF PROMPT CORRECTIVE ACTION AS DECLARED
- 2 BY THE MONETARY BOARD; OR
- 3 2) REQUEST BY A BANK TO BE PLACED UNDER RESOLUTION.

4 THE CORPORATION SHALL INFORM THE BANK OF ITS ELIGIBILITY
5 FOR ENTRY INTO RESOLUTION.

6 (B) THE *BANGKO SENTRAL* SHALL INFORM THE CORPORATION
7 OF THE INITIATION OF PROMPT CORRECTIVE ACTION ON ANY
8 BANK AND SHALL BE AUTHORIZED TO SHARE WITH THE
9 CORPORATION ALL INFORMATION, AGREEMENTS OR
10 DOCUMENTS, INCLUDING ANY ORDER OF THE MONETARY
11 BOARD, IN RELATION TO THE PROMPT CORRECTIVE ACTION.
12 THE CORPORATION SHALL HAVE THE AUTHORITY TO INQUIRE
13 AND MONITOR THE STATUS OF BANKS UNDER PROMPT
14 CORRECTIVE ACTION.

15 (C) THE STOCKHOLDERS, DIRECTORS, OFFICERS OR EMPLOYEES
16 OF THE BANK SHALL HAVE THE FOLLOWING OBLIGATIONS:

- 17 1) ENSURE BANK COMPLIANCE WITH TERMS AND
18 CONDITIONS PRESCRIBED BY THE CORPORATION FOR THE
19 RESOLUTION OF THE BANK;
- 20 2) CAUSE THE ENGAGEMENT, WITH THE CONSENT OF THE
21 CORPORATION, OF AN INDEPENDENT APPRAISER OR
22 AUDITOR FOR THE PURPOSE OF DETERMINING THE
23 VALUATION OF THE BANK CONSISTENT WITH GENERALLY
24 ACCEPTED VALUATION STANDARDS;

- 1 **3) ENSURE PRUDENT MANAGEMENT AND ADMINISTRATION**
2 **OF THE BANK'S ASSETS, LIABILITIES AND RECORDS;**
3 **4) COOPERATE WITH THE CORPORATION IN THE CONDUCT OR**
4 **EXERCISE OF ANY OR ALL OF ITS AUTHORITIES UNDER**
5 **THIS ACT AND HONOR IN GOOD FAITH ITS COMMITMENT OR**
6 **UNDERTAKING WITH THE CORPORATION ON THE**
7 **RESOLUTION OF THE BANK.**

8 **(d) WITHIN A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS FROM**
9 **A BANK'S ENTRY INTO RESOLUTION, THE CORPORATION,**
10 **THROUGH THE AFFIRMATIVE VOTE OF AT LEAST FIVE (5)**
11 **MEMBERS OF THE PDIC BOARD, SHALL DETERMINE WHETHER**
12 **THE BANK MAY BE RESOLVED THROUGH THE PURCHASE OF ALL**
13 **ITS ASSETS AND ASSUMPTION OF ALL ITS LIABILITIES, OR**
14 **MERGER OR CONSOLIDATION WITH, OR ITS ACQUISITION, BY A**
15 **QUALIFIED INVESTOR.**

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

- 17 **1) DETERMINE A RESOLUTION PACKAGE FOR THE BANK;**
18 **2) IDENTIFY AND, WITH THE APPROVAL OF THE MONETARY**
19 **BOARD, PRE-QUALIFY POSSIBLE ACQUIRERS OR**
20 **INVESTORS;**
21 **3) AUTHORIZE PRE-QUALIFIED ACQUIRERS OR INVESTORS TO**
22 **CONDUCT DUE DILIGENCE ON THE BANK, FOR PURPOSES**
23 **OF DETERMINING THE VALUATION OF A BANK THROUGH**
24 **AN OBJECTIVE AND THOROUGH REVIEW AND APPRAISAL**
25 **OF ITS ASSETS AND LIABILITIES, AND ASSESSMENT OF**
26 **RISKS OR EVENTS THAT MAY AFFECT ITS VALUATION;**

1 **4) CONDUCT A BIDDING TO DETERMINE THE ACQUIRER OF**
2 **THE BANK.**

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

- 5 **1) FAIR MARKET VALUE OF THE ASSETS OF THE BANK, ITS**
6 **FRANCHISE, AS WELL AS THE AMOUNT OF ITS LIABILITIES;**
7 **2) AVAILABILITY OF A QUALIFIED INVESTOR;**
8 **3) LEAST COST TO THE DEPOSIT INSURANCE FUND; AND**
9 **4) INTEREST OF THE DEPOSITING PUBLIC.**

10 **(F) THE CORPORATION MAY APPOINT OR HIRE PERSONS OR**
11 **ENTITIES OF RECOGNIZED COMPETENCE IN BANKING, FINANCE,**
12 **ASSET MANAGEMENT OR REMEDIAL MANAGEMENT, AS ITS**
13 **AGENTS, TO PERFORM SUCH POWERS AND FUNCTIONS OF THE**
14 **CORPORATION IN THE RESOLUTION OF A BANK, OR ASSIST IN**
15 **THE PERFORMANCE THEREOF.**

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

18
19 **(h) UPON A DETERMINATION BY THE CORPORATION THAT THE**
20 **BANK MAY NOT BE RESOLVED, THE MONETARY BOARD MAY ACT**
21 **IN ACCORDANCE WITH SECTION 30 OF REPUBLIC ACT NO. 7653**
22 **OR THE NEW CENTRAL BANK ACT.**

23 **(i) BANK RESOLUTION INVOLVING THE PURCHASE OF ALL**
24 **ASSETS AND ASSUMPTION OF ALL LIABILITIES OF A BANK SHALL**

1 BE EXEMPT FROM THE PROVISIONS OF ACT NO. 3952,
2 OTHERWISE KNOWN AS THE BULK SALES LAW.

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

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

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

9 **“LIQUIDATION OF A CLOSED BANK**

10 SECTION 12. (a) WHENEVER A BANK IS ORDERED CLOSED BY THE
11 MONETARY BOARD, THE CORPORATION SHALL BE DESIGNATED
12 AS RECEIVER AND IT SHALL PROCEED WITH THE TAKEOVER AND
13 LIQUIDATION OF THE CLOSED BANK. FOR THIS PURPOSE, THE
14 FOLLOWING CLAUSE IN SECTION 30 OF REPUBLIC ACT NO. 7653,
15 AS AMENDED, SHALL NOT BE APPLICABLE TO BANKS:

16 “THE RECEIVER SHALL DETERMINE, AS SOON AS
17 POSSIBLE, BUT NOT LATER THAN NINETY (90) DAYS
18 FROM TAKE-OVER, WHETHER THE INSTITUTION MAY
19 BE REHABILITATED OR OTHERWISE PLACED IN SUCH
20 A CONDITION SO THAT IT MAY BE PERMITTED TO
21 RESUME BUSINESS WITH SAFETY TO ITS
22 DEPOSITORS AND CREDITORS AND THE GENERAL
23 PUBLIC: PROVIDED, THAT ANY DETERMINATION FOR

1 THE RESUMPTION OF BUSINESS OF THE INSTITUTION
2 SHALL BE SUBJECT TO PRIOR APPROVAL OF THE
3 MONETARY BOARD."

4 SECTION 26. A new section entitled Section 13 of the same Act is hereby
5 inserted between Sections 12 and 14 which shall read as follows:

6 "AUTHORITIES OF A RECEIVER AND EFFECTS OF PLACEMENT OF
7 A BANK UNDER LIQUIDATION

8 SECTION 13. (a) THE RECEIVER IS AUTHORIZED TO ADOPT AND
9 IMPLEMENT, WITHOUT NEED OF CONSENT OF THE
10 STOCKHOLDERS, BOARD OF DIRECTORS, CREDITORS OR
11 DEPOSITORS OF THE CLOSED BANK, ANY OR A COMBINATION OF
12 THE FOLLOWING MODES OF LIQUIDATION:

13 1) CONVENTIONAL LIQUIDATION; AND

14 2) PURCHASE OF ASSETS AND/OR ASSUMPTION OF
15 LIABILITIES

16 (b) IN ADDITION TO THE POWERS OF A RECEIVER PROVIDED
17 UNDER EXISTING LAWS, THE CORPORATION, AS RECEIVER OF A
18 CLOSED BANK, IS EMPOWERED TO:

19 1) REPRESENT AND ACT FOR AND IN BEHALF OF THE CLOSED
20 BANK;

21 2) GATHER AND TAKE CHARGE OF ALL THE ASSETS,
22 RECORDS AND AFFAIRS OF THE CLOSED BANK, AND

1 ADMINISTER THE SAME FOR THE BENEFIT OF ITS
2 CREDITORS;

3 3) CONVERT THE ASSETS OF THE CLOSED BANK TO CASH OR
4 OTHER FORMS OF LIQUID ASSETS, AS FAR AS
5 PRACTICABLE;

6 4) BRING SUITS TO ENFORCE LIABILITIES OF THE DIRECTORS,
7 OFFICERS, EMPLOYEES, AGENTS OF THE CLOSED BANK
8 AND OTHER ENTITIES RELATED OR CONNECTED TO THE
9 CLOSED BANK OR TO COLLECT, RECOVER, AND PRESERVE
10 ALL ASSETS, INCLUDING ASSETS OVER WHICH THE BANK
11 HAS EQUITABLE INTEREST;

12 5) APPOINT OR HIRE PERSONS OR ENTITIES OF RECOGNIZED
13 COMPETENCE IN BANKING, FINANCE, ASSET MANAGEMENT
14 OR REMEDIAL MANAGEMENT, AS ITS DEPUTIES,
15 ASSISTANTS OR AGENTS, TO PERFORM SUCH POWERS
16 AND FUNCTIONS OF THE CORPORATION AS RECEIVER OF
17 THE CLOSED BANK, OR ASSIST IN THE PERFORMANCE
18 THEREOF;

19 6) APPOINT OR HIRE PERSONS OR ENTITIES OF RECOGNIZED
20 COMPETENCE IN FORENSIC AND FRAUD INVESTIGATIONS;

21 7) PAY ACCRUED UTILITIES, RENTALS AND SALARIES OF
22 PERSONNEL OF THE CLOSED BANK FOR A PERIOD NOT
23 EXCEEDING THREE (3) MONTHS, FROM AVAILABLE FUNDS
24 OF THE CLOSED BANK;

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

9) HIRE OR RETAIN PRIVATE COUNSEL AS MAY BE NECESSARY;

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

11) IF THE STIPULATED INTEREST RATE ON DEPOSITS IS UNUSUALLY HIGH COMPARED WITH PREVAILING APPLICABLE INTEREST RATES, THE CORPORATION AS RECEIVER, MAY EXERCISE SUCH POWERS WHICH MAY INCLUDE A REDUCTION OF THE INTEREST RATE TO A REASONABLE RATE: *PROVIDED*, THAT ANY MODIFICATIONS OR REDUCTIONS SHALL APPLY ONLY TO EARNED AND UNPAID INTEREST;

12) UTILIZE AVAILABLE FUNDS OF THE BANK, INCLUDING FUNDS GENERATED BY THE RECEIVER FROM THE

1 **CONVERSION OF ASSETS TO PAY FOR REASONABLE**
2 **COSTS AND EXPENSES INCURRED FOR THE**
3 **PRESERVATION OF THE ASSETS, AND LIQUIDATION OF, THE**
4 **CLOSED BANK, WITHOUT NEED FOR APPROVAL OF THE**
5 **LIQUIDATION COURT;**

6 **FOR BANKS WITH INSUFFICIENT FUNDS, THE**
7 **CORPORATION IS AUTHORIZED TO ADVANCE THE**
8 **FOREGOING COSTS AND EXPENSES, AND COLLECT**
9 **PAYMENT, AS AND WHEN FUNDS BECOME AVAILABLE.**

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

16 **14) DISTRIBUTE THE AVAILABLE ASSETS OF THE CLOSED**
17 **BANK, IN CASH OR IN KIND, TO ITS CREDITORS IN**
18 **ACCORDANCE WITH THE RULES ON CONCURRENCE AND**
19 **PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR**
20 **OTHER LAWS;**

21 **15) DISPOSE RECORDS OF THE CLOSED BANK THAT ARE NO**
22 **LONGER NEEDED IN THE LIQUIDATION IN ACCORDANCE**
23 **WITH GUIDELINES SET BY THE PDIC BOARD OF DIRECTORS,**
24 **NOTWITHSTANDING THE LAWS ON ARCHIVAL PERIOD AND**
25 **DISPOSAL OF RECORDS;**

1 **16) EXERCISE SUCH OTHER POWERS AS ARE INHERENT AND**
2 **NECESSARY FOR THE EFFECTIVE DISCHARGE OF THE**
3 **DUTIES OF THE CORPORATION AS RECEIVER.**

4 **THE BOARD OF DIRECTORS SHALL ADOPT SUCH POLICIES AND**
5 **GUIDELINES AS MAY BE NECESSARY FOR THE PERFORMANCE**
6 **OF THE ABOVE POWERS BY PERSONNEL, DEPUTIES, ASSISTANTS**
7 **AND AGENTS OF THE CORPORATION.**

8
9 **(C) AFTER THE PAYMENT OF ALL LIABILITIES AND CLAIMS AGAINST**
10 **THE CLOSED BANK, THE CORPORATION SHALL PAY SURPLUS, IF ANY,**
11 **DIVIDENDS AT THE LEGAL RATE OF INTEREST FROM DATE OF**
12 **TAKEOVER TO DATE OF DISTRIBUTION TO CREDITORS AND CLAIMANTS**
13 **OF THE CLOSED BANK IN ACCORDANCE WITH THE RULES ON**
14 **CONCURRENCE AND PREFERENCE OF CREDITS UNDER THE CIVIL CODE**
15 **OR OTHER LAWS BEFORE DISTRIBUTION TO THE SHAREHOLDERS OF**
16 **THE CLOSED BANK.**

17 **(d) THE OFFICERS, EMPLOYEES, DEPUTIES, ASSISTANTS AND AGENTS**
18 **OF THE RECEIVER SHALL HAVE NO LIABILITY AND SHALL NOT BE**
19 **SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION WITH**
20 **ANY ACT DONE OR OMITTED TO BE DONE BY THEM IN GOOD FAITH IN**
21 **CONNECTION WITH THE EXERCISE OF THEIR POWERS AND FUNCTIONS**
22 **UNDER THIS ACT AND OTHER APPLICABLE LAWS, OR OTHER ACTIONS**
23 **DULY APPROVED BY THE COURT.**

24 **(e) THE PLACEMENT OF A BANK UNDER LIQUIDATION SHALL HAVE THE**
25 **FOLLOWING EFFECTS:**

1 **1) ON THE CORPORATE FRANCHISE OR EXISTENCE**

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

16 **2) ON THE POWERS AND FUNCTIONS OF ITS DIRECTORS,**
17 **OFFICERS AND STOCKHOLDERS**

18 **THE POWERS, VOTING RIGHTS, FUNCTIONS AND DUTIES,**
19 **AS WELL AS THE ALLOWANCES, REMUNERATION AND**
20 **PERQUISITES OF THE DIRECTORS, OFFICERS, AND**
21 **STOCKHOLDERS OF SUCH BANK ARE TERMINATED UPON**
22 **ITS CLOSURE. ACCORDINGLY, THE DIRECTORS, OFFICERS,**
23 **AND STOCKHOLDERS SHALL BE BARRED FROM**
24 **INTERFERING IN ANY WAY WITH THE ASSETS, RECORDS,**
25 **AND AFFAIRS OF THE BANK.**

1 THE RECEIVER SHALL EXERCISE ALL AUTHORITIES AS
2 MAY BE REQUIRED TO FACILITATE THE LIQUIDATION OF
3 THE CLOSED BANK FOR THE BENEFIT OF ALL ITS
4 CREDITORS.

5 3) ON THE ASSETS

6 UPON SERVICE OF NOTICE OF CLOSURE AS PROVIDED IN
7 SECTION 14 OF THIS ACT, ALL THE ASSETS OF THE CLOSED
8 BANK SHALL BE DEEMED IN *CUSTODIA LEGIS* IN THE
9 HANDS OF THE RECEIVER AND AS SUCH THESE ASSETS
10 MAY NOT BE SUBJECT TO ATTACHMENT, GARNISHMENT,
11 EXECUTION, LEVY OR ANY OTHER COURT PROCESSES. A
12 JUDGE, OFFICER OF THE COURT OR ANY PERSON WHO
13 SHALL ISSUE, ORDER, PROCESS OR CAUSE THE ISSUANCE
14 OR IMPLEMENTATION OF THE GARNISHMENT ORDER, LEVY,
15 ATTACHMENT OR EXECUTION, SHALL BE LIABLE UNDER
16 SECTION 27 OF THIS ACT: *PROVIDED*, HOWEVER, THAT
17 COLLATERALS SECURING THE LOANS AND ADVANCES
18 GRANTED BY THE BANGKO SENTRAL NG PILIPINAS SHALL
19 NOT BE INCLUDED IN THE ASSETS OF THE CLOSED BANK
20 FOR DISTRIBUTION TO OTHER CREDITORS: *PROVIDED*,
21 FURTHER, THAT THE PROCEEDS IN EXCESS OF THE
22 AMOUNT SECURED SHALL BE RETURNED BY THE BANGKO
23 SENTRAL TO THE RECEIVER.

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

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

6 **4) ON LABOR RELATIONS**

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

17 **5) CONTRACTUAL OBLIGATIONS**

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

23 **6) ON INTEREST PAYMENTS**

1 THE LIABILITY OF A BANK TO PAY INTEREST ON DEPOSITS
2 AND ALL OTHER OBLIGATIONS AS OF CLOSURE SHALL
3 CEASE UPON ITS CLOSURE BY THE MONETARY BOARD
4 WITHOUT PREJUDICE TO THE FIRST PARAGRAPH OF
5 SECTION 85 OF REPUBLIC ACT NO. 7653 (THE NEW
6 CENTRAL BANK ACT): *PROVIDED, THAT,* THE RECEIVER
7 SHALL HAVE THE AUTHORITY, WITHOUT NEED FOR
8 APPROVAL OF THE LIQUIDATION COURT, TO ASSIGN, AS
9 PAYMENT TO SECURED CREDITORS, THE BANK ASSETS
10 SERVING AS COLLATERALS TO THEIR RESPECTIVE LOANS
11 UP TO THE EXTENT OF THE OUTSTANDING OBLIGATIONS,
12 INCLUDING INTEREST AS OF DATE OF CLOSURE OF THE
13 BANK, AS VALIDATED BY THE RECEIVER. THE VALUATION
14 OF THE ASSET SHALL BE BASED ON THE PREVAILING
15 MARKET VALUE OF THE COLLATERALS AS APPRAISED BY
16 AN INDEPENDENT APPRAISER ON AN "AS IS WHERE IS"
17 BASIS.

18 7) LIABILITY FOR PENALTIES AND SURCHARGES FOR LATE
19 PAYMENT AND NON-PAYMENT OF TAXES

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

1 **8) BANK CHARGES AND FEES ON SERVICES**

2 THE RECEIVER MAY IMPOSE, ON BEHALF OF THE CLOSED
3 BANK, CHARGES AND FEES FOR SERVICES RENDERED
4 AFTER BANK CLOSURE, SUCH AS, BUT NOT LIMITED TO,
5 THE EXECUTION OF PERTINENT DEEDS AND
6 CERTIFICATIONS.

7 **9) ACTIONS PENDING FOR OR AGAINST THE CLOSED BANK**

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

17 **10) FINAL DECISIONS AGAINST THE CLOSED BANK**

18 THE EXECUTION AND ENFORCEMENT OF A FINAL DECISION
19 OF A COURT OTHER THAN THE LIQUIDATION COURT
20 AGAINST THE ASSETS OF A CLOSED BANK SHALL BE
21 STAYED. THE PREVAILING PARTY SHALL FILE THE FINAL
22 DECISION AS A CLAIM WITH THE LIQUIDATION COURT AND
23 SETTLED IN ACCORDANCE WITH THE RULES ON

1 **CONCURRENCE AND PREFERENCE OF CREDITS UNDER**
2 **THE CIVIL CODE OR OTHER LAWS.**

3 **11) DOCKET AND OTHER COURT FEES**

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

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

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

22 **14) ASSETS AND DOCUMENTS OF THE CLOSED BANK**
23 **SHALL RETAIN THEIR PRIVATE NATURE EVEN IF**
24 **ADMINISTERED BY THE RECEIVER. MATTERS RELATING TO**

1 THE EXERCISE BY THE RECEIVER OF THE FUNCTIONS
2 UNDER THIS ACT SHALL BE SUBJECT TO VISITORIAL AUDIT
3 ONLY BY THE COMMISSION ON AUDIT.

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

6 "NOTICE OF CLOSURE AND TAKEOVER ACTIVITIES

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

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

1 (c) DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OF A BANK
2 HOLD MONEY AND OTHER ASSETS OF THE BANK IN TRUST OR
3 UNDER ADMINISTRATION OR MANAGEMENT BY THEM FOR THE
4 BANK IN THEIR FIDUCIARY CAPACITY. UPON SERVICE OF THE
5 NOTICE OF CLOSURE TO THE BANK, ALL DIRECTORS, OFFICERS,
6 EMPLOYEES OR AGENTS OF THE CLOSED BANK SHALL HAVE
7 THE DUTY TO IMMEDIATELY ACCOUNT FOR, SURRENDER AND
8 TURN OVER TO THE RECEIVER, AND PROVIDE INFORMATION
9 RELATIVE TO, THE ASSETS, RECORDS, AND AFFAIRS OF THE
10 CLOSED BANK IN THEIR POSSESSION, CUSTODY,
11 ADMINISTRATION OR MANAGEMENT.

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

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

22 **“PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES**

23 SECTION 15. (a) THE RECEIVER SHALL HAVE THE AUTHORITY TO
24 FACILITATE AND IMPLEMENT THE PURCHASE OF THE ASSETS OF
25 THE CLOSED BANK AND THE ASSUMPTION OF ITS LIABILITIES BY

1 ANOTHER INSURED BANK, WITHOUT NEED FOR APPROVAL OF
2 THE LIQUIDATION COURT. THE EXERCISE OF THIS AUTHORITY
3 SHALL BE IN ACCORDANCE WITH THE RULES ON CONCURRENCE
4 AND PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR
5 OTHER LAWS, SUBJECT TO SUCH TERMS AND CONDITIONS AS
6 THE CORPORATION MAY PRESCRIBE. THE DISPOSITION OF THE
7 BRANCH LICENSES AND OTHER BANK LICENSES OF THE CLOSED
8 BANK SHALL BE SUBJECT TO THE APPROVAL OF THE BANGKO
9 SENTRAL NG PILIPINAS.

10 (b) SUCH ACTION OF THE RECEIVER TO DETERMINE WHETHER A
11 BANK MAY BE THE SUBJECT OF A PURCHASE OF ASSETS AND
12 ASSUMPTION OF LIABILITIES TRANSACTION SHALL BE FINAL AND
13 EXECUTORY, AND MAY NOT BE SET ASIDE BY ANY COURT.”

14 SECTION 29. A new section entitled Section [17] 16 of the same Act is hereby
15 inserted between Sections [16] 15 and [18] 17 which shall read as follows:

16 “CONVENTIONAL LIQUIDATION

17 A. ASSET MANAGEMENT AND CONVERSION

18 SECTION 16. (A) THE ASSETS GATHERED BY THE RECEIVER
19 SHALL BE EVALUATED AND VERIFIED AS TO THEIR EXISTENCE,
20 OWNERSHIP, CONDITION, AND OTHER FACTORS TO DETERMINE
21 THEIR REALIZABLE VALUE. IN THE MANAGEMENT,
22 PRESERVATION AND DISPOSITION OF ASSETS, THE RECEIVER
23 SHALL BE GUIDED BY COST-BENEFIT CONSIDERATIONS,

1 RESOURCES OF THE CLOSED BANK, AND POTENTIAL ASSET
2 RECOVERY.

3 (B) THE CONVERSION OF THE ASSETS OF THE CLOSED BANK
4 SHALL BE CARRIED OUT IN A FAIR AND TRANSPARENT MANNER
5 IN ACCORDANCE WITH THE RULES AND PROCEDURES AS MAY
6 BE DETERMINED BY THE RECEIVER.

7 (C) IN THE MANAGEMENT AND/OR CONVERSION OF THE ASSETS
8 OF THE CLOSED BANK, THE RECEIVER SHALL HAVE THE
9 AUTHORITY TO:

10 1) REPRESENT THE CLOSED BANK BEFORE THE LAND
11 REGISTRATION AUTHORITY (LRA), BUREAU OF LANDS,
12 REGISTER OF DEEDS, THE LAND TRANSPORTATION OFFICE
13 (LTO), THE ASSESSOR'S OFFICE OR OTHER APPROPRIATE
14 OFFICE OF THE LOCAL GOVERNMENT UNIT, THE
15 SECURITIES AND EXCHANGE COMMISSION (SEC), OR SUCH
16 OTHER SIMILAR GOVERNMENT AGENCIES OR PRIVATE
17 ENTITIES IN:

18 A. VERIFYING THE AUTHENTICITY OF OWNERSHIP
19 DOCUMENTS;

20 B. REGISTERING THE INTEREST OF THE CLOSED BANK ON
21 A SPECIFIC PROPERTY;

22 C. CONSOLIDATING OWNERSHIP OVER AN ASSET OF THE
23 CLOSED BANK;

1 D. SECURING CERTIFIED TRUE COPIES OF DOCUMENTS
2 HELD BY THE FOREGOING AGENCIES/ENTITIES IN
3 RELATION TO AN ASSET OF THE CLOSED BANK;

4 E. SECURING THE APPROPRIATE CERTIFICATION FROM
5 THE FOREGOING AGENCIES/ENTITIES IN RELATION TO
6 AN ASSET OF THE CLOSED BANK; AND

7 F. PERFORMING OTHER RELATED ACTIVITIES;

8 2) CONDUCT A PHYSICAL OR OCULAR INSPECTION OF THE
9 PROPERTIES OWNED BY, OR MORTGAGED TO, THE CLOSED
10 BANK, TO DETERMINE THEIR EXISTENCE AND PRESENT
11 CONDITION;

12 3) DETERMINE THE DISPOSAL PRICE OF ASSETS IN
13 ACCORDANCE WITH GENERALLY ACCEPTED VALUATION
14 PRINCIPLES, STANDARDS AND PRACTICES, SUBJECT TO
15 SUCH GUIDELINES AS THE RECEIVER MAY DETERMINE;

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

23 5) ENGAGE THIRD PARTIES TO ASSIST IN THE LIQUIDATION,
24 MANAGE AND/OR DISPOSE THE ASSETS, HANDLE CASES

1 FILED AGAINST OR BY THE CLOSED BANK, SUBJECT TO
2 SUCH GUIDELINES AS DETERMINED BY THE RECEIVER.

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

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

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

1 TURNOVER, ALL PERSONS OR ENTITIES IN CUSTODY OR
2 POSSESSION OF ANY ASSET OR RECORD OF THE CLOSED
3 BANK SHALL HOLD THE SAID ASSETS OR RECORDS IN
4 TRUST FOR THE RECEIVER.

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

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

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

22 B. PETITION FOR ASSISTANCE
23 IN THE LIQUIDATION OF A CLOSED BANK

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

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

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

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

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

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

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

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

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

24 (N) UPON FINALITY OF THE ORDER APPROVING THE FINAL ASSET
25 DISTRIBUTION PLAN, THE PETITION FOR ASSISTANCE IN THE

1 LIQUIDATION OF A CLOSED BANK SHALL HENCEFORTH BE, FOR
2 ALL INTENTS AND PURPOSES, CONSIDERED CLOSED AND
3 TERMINATED AND THE RECEIVER, ITS OFFICERS, EMPLOYEES OR
4 AGENTS, ARE FOREVER DISCHARGED FROM ANY AND ALL
5 CLAIMS AND/OR LIABILITY ARISING FROM OR IN CONNECTION
6 WITH THE LIQUIDATION OF THE CLOSED BANK.

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

12 (P) THE SUPREME COURT SHALL PROMULGATE THE
13 APPROPRIATE PROCEDURAL RULES TO IMPLEMENT THIS
14 SECTION.

15 C. WINDING-UP

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

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

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

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

24 (S) AFTER THE LAPSE OF THE SIX-MONTH PERIOD PROVIDED IN
25 PARAGRAPHS (Q) AND (R) OF THIS SECTION, ALL ASSETS WHICH
26 REMAIN UNCLAIMED BY THE CREDITORS AND/OR

1 STOCKHOLDERS OF RECORD SHALL BE TURNED OVER TO THE
2 BUREAU OF TREASURY.

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

10 SECTION 30. Section 13 of the same Act is hereby renumbered as Section [18]
11 17.

12 SECTION 31. A new section entitled Section [19] 18 of the same Act is hereby
13 inserted between Sections [18] 17 and [20] 19 which shall read as follows:

14 "DIVIDEND DECLARATION

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

22 THE CORPORATION IS EXEMPT FROM REPUBLIC ACT NO. 7656;
23 INSTEAD, THE CORPORATION SHALL REMIT DIVIDENDS TO THE

1 NATIONAL GOVERNMENT ONLY IF THE TARGET DEPOSIT
2 INSURANCE FUND LEVEL FOR THE APPLICABLE YEAR HAS BEEN
3 REACHED. FOR PURPOSES OF COMPUTING THE AMOUNT OF
4 DIVIDENDS TO BE DECLARED AND REMITTED TO THE NATIONAL
5 GOVERNMENT, ALL ASSESSMENT COLLECTIONS SHALL NOT BE
6 CONSIDERED AS INCOME. THE DIVIDEND RATE SHALL BE AT
7 LEAST FIFTY PERCENT (50%) OF THE INCOME FROM OTHER
8 SOURCES ONLY.”

9 SECTION 32. Section 14 of the same Act is accordingly renumbered as Section
10 [20] 19 and is hereby amended to read as follows:

11 “PAYMENT OF INSURED DEPOSITS

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

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

7 **SECTION 33.** Section 15 of the same Act is accordingly renumbered as Section
8 **[21] 20** and is hereby amended to read as follows:

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

1 **SECTION 34.** Section 16 of the same Act is accordingly renumbered as Section
2 **[22] 21** and paragraph (c) thereof is hereby amended to read as follows:

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

15 **SECTION 35.** Section 17 of the same Act is accordingly renumbered as Section
16 **[23] 22.**

17 **SECTION 36.** Section **[23] 22** paragraph (a) of the same Act, as renumbered, is
18 hereby amended to read as follows:

19 **“CORPORATE FUNDS AND ASSETS**

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

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

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

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

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

18 **SECTION 37.** Section [23] 22 paragraph (b) of the same Act, as renumbered, is
19 hereby amended to read as follows:

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

1 **SECTION 38.** An additional paragraph to Section [23] 22 of the same Act, as
2 renumbered, is hereby inserted after paragraph (c) which shall read as follows:

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

7 **SECTION 39.** Section 17 paragraph (d) of the same Act is accordingly
8 renumbered as Section [23] 22 paragraph (e) and is hereby amended to read as
9 follows:

10 **“FINANCIAL ASSISTANCE**

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

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

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

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

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

23 The Corporation, prior to the exercise of the powers under this Section,
24 shall determine that actual payoff and liquidation thereof will be more
25 expensive than the exercise of this power: *Provided,* That when the

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

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

23 **SECTION 40.** Section 18 of the same Act is accordingly renumbered as Section
24 **[24] 23** and is hereby amended to read as follows:

1 "AUTHORITY TO BORROW

2 SECTION [24] 23. The Corporation is authorized to borrow from the
3 *Bangko Sentral ng Pilipinas* and the *Bangko Sentral* is authorized to lend
4 TO the Corporation on such terms as may be agreed upon by the
5 Corporation and the *Bangko Sentral*, such funds as in the judgment of the
6 Board of Directors of the Corporation are from time to time required for
7 insurance purposes and financial assistance provided for in Section [17]
8 22 (e) of this Act: *Provided*, That any such loan as may be granted by the
9 *Bangko Sentral* shall be consistent with monetary policy; *Provided*,
10 further, That the rate of interest thereon shall be fixed by the Monetary
11 Board [but shall not exceed the treasury bill rate].

12 When in the judgment of the Board of Directors the funds of the
13 Corporation are not sufficient to provide for an emergency or urgent need
14 to attain the purposes of this Act, the Corporation is likewise authorized to
15 borrow money, obtain loans or arrange credit lines or other credit
16 accommodations from any bank [designated as depository or fiscal agent
17 of the Philippine Government]: *Provided*, That such loan shall be of short-
18 term duration, **PROVIDED, FURTHER, THAT NO PRIOR MONETARY**
19 **BOARD OPINION SHALL BE REQUIRED FOR THE CORPORATION**
20 **AND ITS COUNTERPARTIES ON INDIVIDUAL DRAWDOWNS OR**
21 **BORROWINGS WITHIN AN APPROVED BORROWING PROGRAM**
22 **WHERE PRIOR MONETARY BOARD OPINION HAS ALREADY BEEN**
23 **OBTAINED, PURSUANT TO SECTION 123 OF REPUBLIC ACT NO.**
24 **7653."**

25 SECTION 41. Section 19 of the same Act is accordingly renumbered as Section
26 [25] 24 and is hereby amended to read as follows:

1 "ISSUANCE OF BONDS, DEBENTURES AND OTHER
2 OBLIGATIONS

3 SECTION [19] 24. With the approval of the President of the Philippines,
4 **UPON THE RECOMMENDATION OF THE DEPARTMENT OF**
5 **FINANCE**, the Corporation is authorized to issue bonds, debentures, and
6 other obligations, both local or foreign, as may be necessary for purposes
7 of providing liquidity for settlement of insured deposits in closed banks,
8 **TO FACILITATE THE IMPLEMENTATION OF BANK RESOLUTION**
9 **UNDER SECTION 11 OF THIS ACT**, as well as for financial assistance
10 as provided herein, *Provided*, That the Board of Directors shall determine
11 the interest rates, maturity and other requirements of said obligations:
12 *Provided, further*, That the Corporation [shall] **MAY** provide for appropriate
13 reserves for the redemption or retirement of said obligation.

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

20 **THE CORPORATION MAY ISSUE NOTES, DEBENTURES, BONDS,**
21 **OR OTHER DEBT INSTRUMENTS WITHOUT THE APPROVAL OF THE**
22 **PRESIDENT OF THE PHILIPPINES, AS LONG AS THESE SHALL NOT**
23 **BE GUARANTEED BY THE NATIONAL GOVERNMENT.**

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

6 **SECTION 42.** Section 20 of the same Act is accordingly renumbered as Section
7 **[26] 25.**

8 **SECTION 43.** Section 21 of the same Act is accordingly renumbered as Section
9 **[27] 26.**

10 **SECTION 44.** Section **[27] 26** paragraph (f) of the same Act, as renumbered, is
11 hereby amended to read as follows:

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

18 **1) ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF A**
19 **BANK FOR:**

20 a. **[for]** any willful refusal to submit reports as required by law,
21 rules and regulations;

- 1 b. any unjustified refusal to permit examination and audit of the
2 deposit records or the affairs of the institution;
- 3 c. any willful making of a false statement or entry in any bank
4 report or document required by the Corporation;
- 5 d. submission of false material information in connection with or in
6 relation to any financial assistance of the Corporation extended
7 to the bank;
- 8 e. splitting of deposits or creation of fictitious **OR FRAUDULENT**
9 loans or deposit accounts.

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

- 22 **f. REFUSAL TO RECEIVE THE NOTICE OF CLOSURE AS**
23 **PROVIDED UNDER SECTION 14 OF THIS ACT;**

- 1 g. refusal to allow the Corporation to take over a closed bank
2 [placed under its receivership] or obstructing such action of the
3 Corporation;
- 4 h. refusal to turn over or destroying or tampering bank records;
- 5 i. fraudulent disposal, transfer or concealment of any asset,
6 property or liability of the closed bank [under the receivership of
7 the Corporation];
- 8 j. violation of, or causing any person to violate, the exemption
9 from garnishment, levy, attachment or execution provided under
10 this Act and the New Central Bank Act;
- 11 k. any willful failure or refusal to comply with, or violation of any
12 provision of this Act, or commission of any other irregularities,
13 and/or conducting business in an unsafe or unsound manner as
14 may be determined by the Board of Directors[,] **IN RELATION**
15 **TO SECTION 56 OF REPUBLIC ACT NO. 8791, OR THE**
16 **GENERAL BANKING LAW OF 2000.**

17 **NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE**
18 **FOREGOING ACTS OF DIRECTORS, OFFICERS,**
19 **EMPLOYEES OR AGENTS OF THE BANK SHALL BE**
20 **CONSIDERED AS ADDITIONAL GROUNDS FOR**
21 **DISQUALIFICATION UNDER THE FIT AND PROPER RULES**
22 **OF THE BANGKO SENTRAL.**

23 **L. "OTHER ACTS INIMICAL TO THE INTEREST OF THE BANK**
24 **OR THE CORPORATION, SUCH AS, BUT NOT LIMITED TO,**

1 CONFLICT OF INTEREST, DISLOYALTY, AUTHORIZING
2 RELATED PARTY TRANSACTIONS WITH TERMS
3 DETRIMENTAL TO THE BANK AND ITS STAKEHOLDERS,
4 AND UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL
5 INFORMATION, AS MAY BE DETERMINED BY THE
6 CORPORATION.”

7 **2) ANY PERSON FOR:**

8 **a. REFUSAL TO DISCLOSE INFORMATION, RECORDS OR**
9 **DATA PERTAINING TO THE BANK ACCOUNTS OF A**
10 **CLOSED BANK TO THE RECEIVER;**

11 **b. REFUSAL TO TURN OVER POSSESSION OR CUSTODY OF**
12 **THE ASSET AND RECORD OF THE CLOSED BANK TO THE**
13 **RECEIVER, NOTWITHSTANDING ANY AGREEMENT TO**
14 **THE CONTRARY;**

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

16 **i. VERIFICATION OF AUTHENTICITY OF THE OWNERSHIP**
17 **DOCUMENTS;**

18 **ii. REGISTRATION OF INTEREST OF THE CLOSED BANK**
19 **ON A SPECIFIC PROPERTY;**

20 **iii. CONSOLIDATION OF OWNERSHIP OVER AN ASSET OF**
21 **THE CLOSED BANK;**

1 **iv. ACT OF SECURING CERTIFIED TRUE COPIES OF**
2 **DOCUMENTS IN RELATION TO AN ASSET OF THE**
3 **CLOSED BANK;**

4 **v. ACT OF SECURING THE APPROPRIATE**
5 **CERTIFICATION FROM THE AGENCIES OR ENTITIES**
6 **STATED IN SECTION 16 OF THIS ACT IN RELATION TO**
7 **AN ASSET OF THE CLOSED BANK;**

8 **vi. CONDUCT OF A PHYSICAL OR OCULAR INSPECTION**
9 **OF THE PROPERTIES OWNED BY, OR MORTGAGED**
10 **TO, THE CLOSED BANK, TO DETERMINE THEIR**
11 **EXISTENCE AND PRESENT CONDITION; OR**

12 **vii. OTHER RELATED ACTIVITIES OF THE RECEIVER; OR**

13 **d. ALLOWING THE WITHDRAWAL FROM DEPOSITS OR**
14 **DISPOSITION OF ANY ASSET OF THE CLOSED BANK**
15 **OTHER THAN BY THE RECEIVER;**

16 **e. WILLFULLY VIOLATING ANY PROVISION OF THIS ACT;**

17 **F. CONSPIRING OR WILLFULLY PARTICIPATING IN ANY OF**
18 **THE OFFENSES ENUMERATED IN PARAGRAPH 1 OF THIS**
19 **SECTION;**
20 **SECTION;**

21 **3) ANY LAW ENFORCEMENT OFFICER OR LOCAL GOVERNMENT**
22 **OFFICIAL WHO REFUSES OR FAILS TO ASSIST THE RECEIVER**
23 **IN THE SERVICE OF THE NOTICE OF CLOSURE, AS PROVIDED**
24 **UNDER SECTION 14 OF THIS ACT.”**

1 **SECTION 45.** Additional paragraphs to Section [27] 26 of the same Act, as
2 renumbered, are hereby inserted after paragraph (g) which shall read as follows:

3 “(h) **THE PENALTY OF IMPRISONMENT OF NOT LESS THAN TEN**
4 **(10) YEARS BUT NOT MORE THAN TWELVE (12) YEARS, OR A FINE**
5 **OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS**
6 **(P500,000.00) BUT NOT MORE THAN TEN MILLION PESOS**
7 **(P10,000,000.00), OR BOTH, AT THE DISCRETION OF THE COURT,**
8 **SHALL BE IMPOSED UPON:**

9 1) **ANY DEPOSITOR WHO FILES A FICTITIOUS AND/OR**
10 **FRAUDULENT CLAIM FOR DEPOSIT INSURANCE; AND**

11 2) **ANY BANK OFFICER WHO CERTIFIES TO THE VALIDITY OF**
12 **THE DEPOSIT LIABILITIES WHICH IS SUBSEQUENTLY**
13 **VERIFIED TO BE FICTITIOUS AND/OR FRAUDULENT.**

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

18 **IF THE OFFENSE SHALL HAVE BEEN COMMITTED BY A DIRECTOR**
19 **OR OFFICER OF THE BANK, THE PENALTY OF IMPRISONMENT OF**
20 **NOT LESS THAN FIFTEEN (15) YEARS BUT NOT MORE THAN**
21 **SEVENTEEN (17) YEARS SHALL BE IMPOSED.**

22 **IF THE OFFENSE SHALL HAVE RESULTED IN SYSTEMIC**
23 **CONSEQUENCES, AS DETERMINED BY THE *BANGKO SENTRAL,***

1 **THE PENALTY OF IMPRISONMENT OF NOT LESS THAN EIGHTEEN**
2 **(18) YEARS BUT NOT MORE THAN TWENTY (20) YEARS SHALL BE**
3 **IMPOSED.”**

4 **SECTION 46.** Section 22 of the same Act is accordingly renumbered as Section
5 **[28] 27.**

6 **SECTION 47.** Section 23 of the same Act is hereby renumbered as Section **[29]**
7 **28** and **[reinstated as follows] AMENDED TO READ AS FOLLOWS:**

8 “SECTION **[23] 28. WITHIN SIX (6) MONTHS AFTER EFFECTIVITY OF**
9 **THIS ACT, [T]**the Corporation may be reorganized by the board of
10 directors by adopting if it so desires, an entirely new staffing pattern or
11 organizational structure to suit the operations of the corporation under this
12 act **PURSUANT TO REPUBLIC ACT NO. 10149.** *No preferential or*
13 *priority right shall be given to or enjoyed by any personnel for appointment*
14 *to any position in the new staffing pattern nor shall any personnel be*
15 *considered as having prior or vested rights with respect to retention in the*
16 *corporation or in any position which may be created in the new staffing*
17 *pattern, even if he should be the incumbent of a similar position prior to*
18 *reorganization. [The reorganization shall be completed within six (6)*
19 *months after the effectivity of this act.] Personnel who are not retained are*
20 *deemed separated from the service.”*

21 **SECTION 48.** Section 24 of the same Act is accordingly renumbered as Section
22 **[30] 29.**

1 **SECTION 49.** Section 25 of the same Act is accordingly renumbered as Section
2 **[31] 30.**

3 **SECTION 50.** A new section entitled Section **[32] 31** of the same Act is hereby
4 inserted between Sections **[31] 30** and **[33] 32** which shall read as follows:

5 **"SECTION 31. EXEMPTING CLAUSE. - THE CORPORATION SHALL BE**
6 **EXEMPT FROM PRESIDENTIAL DECREE NO. 985, PRESIDENTIAL**
7 **DECREE NO. 1597, REPUBLIC ACT NO. 6758, AS AMENDED, JOINT**
8 **RESOLUTION NO. 4 (2009), PRESIDENTIAL DECREE NO. 1177,**
9 **EXECUTIVE ORDER NO. 248, AS AMENDED, AND EXECUTIVE**
10 **ORDER NO. 298 AND THE PROVISIONS OF REPUBLIC ACT NO. 10149**
11 **WITH REGARD TO POSITION CLASSIFICATION, QUALIFICATION**
12 **STANDARDS, AND THE COMPENSATION PACKAGE OF THE**
13 **EMPLOYEES OF THE CORPORATION, AND THE *PER DIEMS*,**
14 **EMOLUMENTS, AND PERFORMANCE INCENTIVES OF THE**
15 **PRESIDENT AND MEMBERS OF THE BOARD: *PROVIDED, THAT,***
16 **PDIC SHALL BE SUBJECT TO ALL OTHER POLICIES UNDER R.A.**
17 **NO. 10149, INCLUDING, BUT NOT LIMITED TO, PERFORMANCE**
18 **EVALUATION BY THE GOVERNANCE COMMISSION FOR**
19 **GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS,**
20 **SELECTION AND NOMINATION OF APPOINTIVE DIRECTORS, AND**
21 **LIMITATIONS ON THE CREATION OF SUBSIDIARIES AND THE**
22 **ACQUISITION OF AFFILIATES EXCEPT IN THE CASE OF**
23 **ACQUISITION OF SHARES IN THE GRANT OF FINANCIAL**
24 **ASSISTANCE UNDER THIS ACT."**

25 **SECTION 51.** A new section entitled Section **[33] 32** of the same Act is hereby
26 inserted between Sections **[32] 31** and **[34] 33** which shall read as follows:

1 "SECTION 32. *TRANSITORY PROVISIONS.* – (a) THE INCUMBENT
2 PRESIDENT OF THE CORPORATION AND PRIVATE SECTOR
3 MEMBERS OF THE BOARD OF DIRECTORS SHALL CONTINUE TO
4 EXERCISE THEIR RESPECTIVE DUTIES AND FUNCTIONS UNTIL
5 REPLACED BY THE PRESIDENT OF THE PHILIPPINES: *PROVIDED,*
6 *THAT,* SUCH NEW APPOINTEES SHALL BE SUBJECT TO THE TERM
7 OF OFFICE PROVIDED UNDER SECTION 3 OF THIS ACT, AS
8 AMENDED.

9 (b) PAYMENT OF SURPLUS DIVIDENDS UNDER SECTION 13(C) OF
10 THIS ACT, AS AMENDED, SHALL BE APPLICABLE TO BANKS
11 WITHOUT A COURT-APPROVED FINAL ASSET DISTRIBUTION PLAN
12 AT THE TIME OF THE EFFECTIVITY OF THIS ACT.

13 (c) THE PREFERENCE INDICATED UNDER SECTION 15 OF THIS
14 ACT, AS AMENDED, SHALL BE LIKEWISE EFFECTIVE UPON
15 LIQUIDATION PROCEEDINGS ALREADY COMMENCED AND
16 PENDING AS OF THE EFFECTIVITY OF THIS ACT, WHERE NO
17 DISTRIBUTION OF ASSETS HAS BEEN MADE.

18 (d) THE PROVISIONS IN SECTION 10 OF THIS ACT, AS AMENDED,
19 ON LEGAL ASSISTANCE, PROTECTION AND INDEMNIFICATION
20 SHALL APPLY TO ALL CASES PENDING BEFORE THE EFFECTIVITY
21 OF THIS ACT."

22 SECTION 52. Section 26 of the same Act, *Separability Clause* is accordingly
23 renumbered as Section [34] 33.

1 **“Separability Clause.** - If any provision or section of this Act or the
2 application thereof to any person or circumstances is held invalid, the
3 other provisions or sections of this Act, in the application of such provision
4 or section to other persons or circumstances, shall not be affected
5 thereby.”

6 **SECTION 53.** Section 27 of the same Act, **Repealing Clause** is accordingly
7 renumbered as Section [35] **34**.

8 **“Repealing Clause.** - All acts or parts of acts and executive orders,
9 administrative orders, or parts thereof which are inconsistent with the
10 provisions of this Act are hereby repealed.”

11 **SECTION 54.** Section 28 of the same Act, **Effectivity Clause** is accordingly
12 renumbered as Section [36] **35**.

13 **“Effectivity Clause.** - This Act shall take effect fifteen (15) days following
14 the completion of its publication in the *Official Gazette* or in two (2)
15 newspapers of general circulation.”

Approved,

15 SEP 30 P4:52

SENATE

S. B. No. 2976

RECEIVED BY: 

Prepared by the Committee on Banks, Financial Institutions and Currencies with
Senator Sergio Osmeña III as author

AN ACT
ENHANCING THE RESOLUTION AND LIQUIDATION FRAMEWORK FOR BANKS,
AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 3591, AS AMENDED, AND
OTHER RELATED LAWS

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

1 **SECTION 1.** Section 1 of Republic Act No. 3591, as amended, is hereby
2 amended to read as follows:

3 “THE CREATION OF THE
4 PHILIPPINE DEPOSIT INSURANCE CORPORATION

5 SECTION 1. – There is hereby created a Philippine Deposit Insurance
6 Corporation hereinafter referred to as the “Corporation” which shall insure
7 as herein provided, the deposits of all banks which are entitled to the
8 benefits of insurance under this Act, and which shall have the powers
9 hereinafter granted.

10 The Corporation shall, as a basic policy, promote and safeguard the
11 interests of the depositing public by [way of] providing [permanent and
12 continuing] insurance coverage on all insured deposits **AND HELPING**

1 **MAINTAIN A SOUND AND STABLE BANKING SYSTEM.”**

2 **SECTION 2.** A new section entitled Section 2 of the same Act shall be inserted
3 between Sections 1 and 3 which shall read as follows:

4 **“STATE POLICY**

5 **SECTION 2. – IT IS HEREBY DECLARED TO BE THE POLICY OF THE**
6 **STATE TO STRENGTHEN THE MANDATORY DEPOSIT INSURANCE**
7 **COVERAGE SYSTEM TO GENERATE, PRESERVE, MAINTAIN FAITH**
8 **AND CONFIDENCE IN THE COUNTRY’S BANKING SYSTEM, AND**
9 **PROTECT IT FROM ILLEGAL SCHEMES AND MACHINATIONS.**

10 **TOWARDS THIS END, THE GOVERNMENT MUST EXTEND ALL**
11 **MEANS AND MECHANISMS NECESSARY FOR THE CORPORATION**
12 **TO EFFECTIVELY FULFILL ITS VITAL TASK OF PROMOTING AND**
13 **SAFEGUARDING THE INTERESTS OF THE DEPOSITING PUBLIC BY**
14 **WAY OF PROVIDING INSURANCE COVERAGE ON BANK DEPOSITS**
15 **AND IN HELPING DEVELOP A SOUND AND STABLE BANKING**
16 **SYSTEM.**

17 **IN VIEW OF THE CRUCIAL ROLE AND THE NATURE OF ITS**
18 **FUNCTIONS AND RESPONSIBILITIES, THE CORPORATION, WHILE**
19 **BEING A GOVERNMENT INSTRUMENTALITY WITH CORPORATE**
20 **POWERS, SHALL ENJOY FISCAL AND ADMINISTRATIVE**
21 **AUTONOMY.**

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

1 "BOARD OF DIRECTORS: COMPOSITION AND AUTHORITY

2 SECTION [2] 3. (A) The powers and functions of the Corporation shall be
3 vested in and exercised by a Board of Directors which shall be composed
4 of **SEVEN (7)** [five (5)] members as follows:

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

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

9 **[(c)] 3)** The President of the Corporation, who shall be appointed by the
10 President of the Philippines **FROM A SHORTLIST PREPARED BY**
11 **THE GOVERNANCE COMMISSION FOR GOVERNMENT-**
12 **OWNED OR CONTROLLED CORPORATIONS PURSUANT TO**
13 **REPUBLIC ACT NO. 10149** [from either the Government or private
14 sector] to serve on a full-time basis for a term of six (6) years. The
15 President of the Corporation shall also serve as Vice Chairman of
16 the Board.

17 **[(d)] 4) FOUR (4)** [Two (2)] members from the private sector, to be
18 appointed **BY THE PRESIDENT OF THE PHILIPPINES FROM A**
19 **SHORTLIST PREPARED BY THE GOVERNANCE COMMISSION**
20 **FOR GOVERNMENT-OWNED OR CONTROLLED**
21 **CORPORATIONS PURSUANT TO REPUBLIC ACT NO. 10149.**
22 **THE APPOINTIVE DIRECTORS SHALL SERVE** for a term of six
23 (6) years **UNLESS SOONER REMOVED FOR CAUSE AND**
24 **SHALL BE SUBJECT TO ONLY ONE** [without] reappointment [by
25 the President of the Philippines]: *Provided*, That of those first
26 appointed, the first **TWO** appointee**S** shall serve for a period of [two

1 (2)] **THREE (3) years]: PROVIDED, HOWEVER, THAT THE**
2 **APPOINTIVE DIRECTOR SHALL CONTINUE TO HOLD OFFICE**
3 **UNTIL THE SUCCESSOR IS APPOINTED. AN APPOINTIVE**
4 **DIRECTOR MAY BE NOMINATED BY THE GOVERNANCE**
5 **COMMISSION FOR GOVERNMENT OWNED OR CONTROLLED**
6 **CORPORATIONS FOR REAPPOINTMENT BY THE PRESIDENT**
7 **ONLY IF ONE OBTAINS A PERFORMANCE SCORE OF ABOVE**
8 **AVERAGE OR ITS EQUIVALENT OR HIGHER IN THE**
9 **IMMEDIATELY PRECEDING YEAR OF TENURE AS APPOINTIVE**
10 **DIRECTOR BASED ON THE PERFORMANCE CRITERIA FOR**
11 **APPOINTIVE DIRECTORS FOR THE GOVERNMENT OWNED OR**
12 **CONTROLLED CORPORATIONS.**

13 **APPOINTMENT TO ANY VACANCY SHALL BE ONLY FOR THE**
14 **UNEXPIRED TERM OF THE PREDECESSOR PURSUANT TO**
15 **REPUBLIC ACT NO. 10149.**

16 No person shall be appointed as member of the Board unless he be
17 of good moral character, [and] of unquestionable integrity and
18 responsibility, **OF KNOWN PROBITY AND PATRIOTISM**, and who
19 is of recognized competence in economics, banking and finance,
20 law, management administration or insurance, and shall be at least
21 thirty-five (35) years of age. For the duration of their tenure or term
22 in office and for a period of one year thereafter, the appointive
23 members of the Board shall be disqualified from holding any office,
24 position or employment in any insured bank.

25 The Secretary of Finance and the Governor of the *Bangko Sentral*
26 may each designate **AN ALTERNATE** [a representative, whose
27 position shall not be lower than an undersecretary or deputy

1 governor respectively], **WHO SHALL BE AN OFFICIAL WITH A**
2 **RANK NOT LOWER THAN DIRECTOR III OR ITS EQUIVALENT**
3 **WITH WRITTEN AUTHORITY FROM THE SECRETARY OF**
4 **FINANCE OR THE GOVERNOR OF THE BANGKO SENTRAL**
5 **NG PILIPINAS** to attend such meetings and to vote on behalf of
6 their respective principals. Whenever the Chairman of the Board is
7 unable to attend a meeting of the Board, or in the event of a
8 vacancy in the office of the Secretary of Finance, **AND IN THE**
9 **ABSENCE OF THE VICE CHAIRMAN**, the [President of the
10 Corporation] **MEMBERS OF THE BOARD SHALL DESIGNATE**
11 **FROM AMONG THEMSELVES WHO** shall act as Chairman.

12 **THE PRESIDENT OF THE PHILIPPINES MAY REMOVE ANY**
13 **APPOINTIVE MEMBER OF THE BOARD OF DIRECTORS FOR ANY OF**
14 **THE FOLLOWING REASONS:**

15 1) **IF THE MEMBER IS PHYSICALLY OR MENTALLY**
16 **INCAPACITATED THAT HE CANNOT PROPERLY**
17 **DISCHARGE HIS OR HER DUTIES AND**
18 **RESPONSIBILITIES, AND SUCH INCAPACITY HAS**
19 **LASTED FOR MORE THAN SIX (6) MONTHS; OR**

20 2) **IF THE MEMBER IS GUILTY OF ACTS OR**
21 **OPERATIONS WHICH ARE OF FRAUDULENT OR**
22 **ILLEGAL CHARACTER OR WHICH ARE MANIFESTLY**
23 **OPPOSED TO THE AIMS AND INTERESTS OF THE**
24 **CORPORATION; OR**

25 3) **IF THE MEMBER NO LONGER POSSESSES THE**
26 **QUALIFICATIONS SPECIFIED IN THIS ACT; OR**

1 **4) IF THE MEMBER DOES NOT MEET THE STANDARDS**
2 **FOR PERFORMANCE BASED ON THE EVALUATION BY**
3 **THE GOVERNANCE COMMISSION FOR GOVERNMENT-**
4 **OWNED OR CONTROLLED CORPORATIONS UNDER**
5 **REPUBLIC ACT NO. 10149.**

6
7 The presence of **FOUR (4)** [three (3)] members shall constitute a quorum.
8 All decisions of the Board of Directors shall require the concurrence of at
9 least **FOUR (4)** [three (3)] members.

10 [The Secretary of Finance shall fix the rate of *per diem* for every Board
11 meeting attended by the members of the Board of Directors from the
12 private sector.] **THE COMPENSATION, PER DIEMS, ALLOWANCES,**
13 **INCENTIVES, AND OTHER BENEFITS FOR BOARD MEMBERS**
14 **SHALL BE DETERMINED BY THE GOVERNANCE COMMISSION FOR**
15 **GOVERNMENT OWNED OR CONTROLLED CORPORATIONS**
16 **PURSUANT TO REPUBLIC ACT NO. 10149.** [The President of the
17 Philippines may fix such emoluments that may be received by the Board
18 of Directors comparable to the emoluments of members of the Board of
19 Directors of other government financial institutions].

20 **IN ADDITION TO THE REQUIREMENTS OF REPUBLIC ACT NO. 6713,**
21 **OTHERWISE KNOWN AS THE CODE OF CONDUCT AND ETHICAL**
22 **STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, ANY**
23 **MEMBER OF THE BOARD OF DIRECTORS WITH PERSONAL OR**
24 **PECUNIARY INTEREST IN ANY MATTER IN THE AGENDA OF THE**
25 **BOARD OF DIRECTORS SHALL DISCLOSE HIS OR HER INTEREST**
26 **TO THE BOARD AND SHALL RECUSE FROM THE MEETING WHEN**
27 **THE MATTER IS TAKEN UP. THE MINUTES SHALL REFLECT THE**

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

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

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

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

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

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

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

15 [4.] 5. To appoint, establish the rank, fix the remuneration, **BENEFITS,**
16 **INCLUDING HEALTH CARE SERVICES THROUGH A HEALTH**
17 **MAINTENANCE ORGANIZATION (HMO) AND MEDICAL BENEFITS**
18 **OTHER THAN THOSE PROVIDED FOR UNDER REPUBLIC ACT NO.**
19 **7875, AS AMENDED,** [approve local and foreign training of,] and remove
20 any officer or employee of the Corporation, for cause, subject to pertinent
21 civil service laws: *Provided,* That the Board of Directors may delegate this
22 authority to the President subject to specific guidelines; **PROVIDED,**
23 **FURTHER, THAT IN NO CASE SHALL THERE BE ANY DIMINUTION**
24 **OF EXISTING SALARIES, BENEFITS AND OTHER EMOLUMENTS;**

25 6. **TO APPROVE POLICY ON LOCAL AND FOREIGN TRAVEL, AND THE**
26 **CORRESPONDING EXPENSES, ALLOWANCES AND PER DIEMS, OF**
27 **OFFICERS, EMPLOYEES, AGENTS OF THE CORPORATION, WHICH**
28 **SHALL BE COMPARABLE WITH THE EXPENSES, ALLOWANCES**

1 AND PER DIEMS OF PERSONNEL OF OTHER FINANCIAL
2 INSTITUTIONS BASED ON PREVAILING MARKET STANDARDS,
3 NOTWITHSTANDING THE PROVISIONS OF PRESIDENTIAL DECREE
4 NO. 1177, EXECUTIVE ORDER NO. 292, EXECUTIVE ORDER NO. 248,
5 AS AMENDED, EXECUTIVE ORDER NO. 298, AND SIMILAR LAWS;

6 [5] 7. To adopt an annual budget for, and authorize such expenditures
7 by the Corporation, as are in the interest of the effective
8 administration and operation of the Corporation;

9 [6] 8. To approve the **TARGET LEVEL OF THE DEPOSIT INSURANCE FUND**
10 **AND THE** methodology for determining [the level and amount of]
11 **RESERVES** [provisioning] for insurance and financial assistance losses
12 [which shall establish reasonable levels of deposit insurance reserves.];

13 [7] 9. To review the organizational set-up of the Corporation and adopt a new
14 or revised organizational structure as it may deem necessary for the
15 Corporation to undertake its mandate and functions;[.]

16 **10. TO DESIGN, ADOPT AND REVISE, AS IT MAY DEEM NECESSARY,**
17 **AN EARLY SEPARATION PLAN FOR EMPLOYEES OF THE**
18 **CORPORATION TO ENSURE AVAILABILITY OF A HUMAN**
19 **RESOURCE POOL QUALIFIED AND CAPABLE OF IMPLEMENTING**
20 **THE CORPORATION'S AUTHORITIES UNDER THIS CHARTER IN A**
21 **MANNER RESPONSIVE AND ATTUNED TO MARKET**
22 **DEVELOPMENTS, AND TO PROVIDE INCENTIVES FOR ALL THOSE**
23 **WHO SHALL RETIRE OR BE SEPARATED FROM THE SERVICE.**
24 **NOTWITHSTANDING ANY LAW TO THE CONTRARY, THESE**
25 **INCENTIVES SHALL BE IN ADDITION TO ALL GRATUITIES AND**

1 **BENEFITS THE EMPLOYEE IS ENTITLED TO UNDER EXISTING**
2 **LAWS; AND**

3 **11. TO PROMOTE AND SPONSOR THE LOCAL OR FOREIGN**
4 **TRAINING OR STUDY OF PERSONNEL IN THE FIELDS OF**
5 **BANKING, FINANCE, MANAGEMENT, INFORMATION**
6 **TECHNOLOGY AND LAW. TOWARD THIS END, THE**
7 **CORPORATION IS HEREBY AUTHORIZED TO DEFRAY THE**
8 **COSTS OF SUCH TRAINING OR STUDY. THE BOARD SHALL**
9 **PRESCRIBE RULES AND REGULATIONS TO GOVERN THE**
10 **TRAINING OR STUDY PROGRAMS OF THE CORPORATION.”**

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

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

14 “PRESIDENT OF THE CORPORATION
15 COMPENSATION, POWERS AND DUTIES

16 SECTION [3] 4. The President of the Corporation shall be **ITS [the] Chief**
17 Executive **OFFICER AND THE VICE CHAIRMAN OF ITS BOARD OF**
18 **DIRECTORS [thereof]** and his **OR HER** salary shall be fixed by the
19 President of the Philippines **UPON THE RECOMMENDATION OF THE**
20 **GOVERNANCE COMMISSION FOR GOVERNMENT OWNED OR**
21 **CONTROLLED CORPORATIONS,** at a sum commensurate to the
22 importance and responsibility attached to the position. The sum total of
23 the salary, **ALLOWANCES, BENEFITS [of the President and the**
24 **allowances]** and other emoluments **OF THE PRESIDENT OF THE**

1 **CORPORATION** [which the Board of Directors may grant him] **SHALL**
2 **BE HIGHER THAN THE COMPENSATION PACKAGE OF THE NEXT**
3 **HIGHEST RANKING EXECUTIVE OF THE CORPORATION AND** shall
4 be the ceiling for fixing the salary, allowances and other emoluments of all
5 other personnel in the Corporation.

6 **SECTION 6.** Section 4, paragraphs (d), [and] (f) **AND (H)** of the same Act, as
7 renumbered, are hereby amended to read as follows:

8 “(d) To represent the Corporation[, upon prior authority of the
9 Board,] in all dealings with other offices, agencies and instrumentalities of
10 the government and with all other persons or entities, public or private,
11 whether domestic, foreign or international;

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

15 (h) xxx The President shall be assisted by a Vice-President and other
16 officials whose appointment and removal for cause shall be approved and whose
17 salary shall be fixed by the Board of Directors upon recommendation of the
18 President of the Corporation. During the absence or temporary incapacity of the
19 President, or in case of vacancy or permanent incapacity and pending
20 appointment of a new President of the Corporation by the President of the
21 Philippines, the **BOARD OF DIRECTORS SHALL DESIGNATE THE OFFICER-**
22 **IN-CHARGE OF THE CORPORATION** [Vice President shall act as President
23 and discharge the duties and responsibilities thereof].”

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

3 **"DEFINITION OF TERMS**

4 **SECTION [4] 5.** As used in this Act —

5 **(A) THE TERM "ASSET" REFERS TO MOVABLE, IMMOVABLE,**
6 **TANGIBLE, OR INTANGIBLE RESOURCES OR PROPERTIES**
7 **OVER WHICH A BANK HAS AN ESTABLISHED OR EQUITABLE**
8 **INTEREST, INCLUDING THE PROCEEDS OF THE SALE OF ITS**
9 **BANK AND BRANCH LICENSES SUBJECT TO THE APPROVAL**
10 **OF THE BANGKO SENTRAL.**

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

18 **AN ASSET DISTRIBUTION PLAN MAY BE PARTIAL WHEN IT**
19 **PERTAINS TO THE DISTRIBUTION OF A PORTION OR SOME OF**
20 **THE ASSETS OF THE CLOSED BANK, OR FINAL WHEN IT**
21 **PERTAINS TO THE DISTRIBUTION OF ALL THE ASSETS OF THE**
22 **CLOSED BANK.**

23 **(C) [(a)]** The term "Board of Directors" means the Board of Directors of
24 the Corporation.

1 **(D) [(b)]** The term “Bank” and “Banking Institution” shall be
2 synonymous and interchangeable and shall include banks, commercial
3 banks, savings bank, mortgage banks, rural banks, development
4 banks, cooperative banks, stock savings and loan associations and
5 branches and agencies in the Philippines of foreign banks and all other
6 corporations authorized to perform banking functions in the
7 Philippines.

8 **(E) THE TERM “CLOSED BANK” REFERS TO A BANK PLACED**
9 **UNDER LIQUIDATION BY THE MONETARY BOARD.**

10 **(F) THE TERM “CREDITOR” REFERS TO ANY INDIVIDUAL OR**
11 **ENTITY WITH A VALID CLAIM AGAINST THE ASSETS OF THE**
12 **CLOSED BANK.**

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

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

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

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

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

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

- 23 2) Deposit accounts or transactions which are ~~[unfunded, or that are]~~
24 fictitious or fraudulent **AS DETERMINED BY THE**
25 **CORPORATION**;

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

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

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

16 **(H) THE TERM “DISPUTED CLAIM” REFERS TO A CLAIM OR SUIT**
17 **AGAINST THE ASSETS OF A CLOSED BANK, OR FOR SPECIFIC**
18 **PERFORMANCE, OR BREACH OF CONTRACT, OR DAMAGES, OF**
19 **WHATEVER NATURE OR CHARACTER, WHETHER FOR MONEY OR**
20 **OTHERWISE, LIQUIDATED OR UNLIQUIDATED, FIXED OR**
21 **CONTINGENT, MATURED OR CURRENT, DENIED BY THE**
22 **RECEIVER.**

23 **(I) THE TERM “INSURED BANK” MEANS ANY BANK THE DEPOSITS**
24 **OF WHICH ARE INSURED IN ACCORDANCE WITH THE PROVISIONS**
25 **OF THIS ACT.**

1 (J) [(g)]The term "insured deposit" means the amount due to any *bona*
2 *fide* depositor for legitimate deposits in an insured bank [net of any
3 obligation of the depositor to the insured bank] as of the date of closure
4 but not to exceed Five Hundred Thousand Pesos (P500,000.00). Such
5 [net] amount shall be determined according to such regulations as the
6 Board of Directors may prescribe. In determining such amount due to any
7 depositor, there shall be added together all deposits in the bank
8 maintained in the same right and capacity for his benefit either in his own
9 name or in the name of others. A joint account regardless of whether the
10 conjunction "and," "or", "and/or" is used, shall be insured separately from
11 any individually-owned deposit account: *Provided*, That (1) If the account
12 is held jointly by two or more natural persons, or by two or more juridical
13 persons or entities, the maximum insured deposit shall be divided into as
14 many equal shares as there are individuals, juridical persons or entities,
15 unless a different sharing is stipulated in the document of deposit, and (2)
16 if the account is held by a juridical person or entity jointly with one or more
17 natural persons, the maximum insured deposit shall be presumed to
18 belong entirely to such juridical person or entity: *Provided, further*, That
19 the aggregate of the interest of each co-owner over several joint accounts,
20 whether owned by the same or different combinations of individuals,
21 juridical persons or entities, shall likewise be subject to the maximum
22 insured deposit of Five Hundred Thousand Pesos (P500,000.00):
23 *Provided, furthermore*, That the provisions of any law to the contrary
24 notwithstanding, no owner/holder of any **PASSBOOK**, negotiable
25 certificate of deposit, **OR OTHER EVIDENCE OF DEPOSIT** shall be
26 recognized as a depositor entitled to the rights provided in this Act unless
27 **THE PASSBOOK, CERTIFICATE OF DEPOSIT OR OTHER EVIDENCE**
28 **OF DEPOSIT IS DETERMINED BY THE CORPORATION TO BE AN**

1 **AUTHENTIC DOCUMENT OR RECORD** of the issuing bank [his name is
2 registered as owner/holder thereof in the books]: *Provided, finally,* That, in
3 case of a condition that threatens the monetary and financial stability of
4 the banking system that may have systemic consequences, as defined in
5 section **22 [17]** hereof, as determined by the Monetary Board, the
6 maximum deposit insurance cover may be adjusted in such amount, for
7 such a period, and/or for such deposit products, as may be determined by
8 a unanimous vote of the Board of Directors in a meeting called for the
9 purpose and chaired by the Secretary of Finance, subject to the approval
10 of the President of the Philippines.

11 **(K) THE TERM “LIQUIDATION” REFERS TO THE PROCEEDINGS**
12 **UNDER SECTIONS 12 TO 16 OF THIS ACT.**

13 **(L) THE TERM “LIQUIDATION COURT” REFERS TO THE**
14 **REGIONAL TRIAL COURT OF GENERAL JURISDICTION**
15 **WHERE THE PETITION FOR ASSISTANCE IN THE**
16 **LIQUIDATION OF A CLOSED BANK IS FILED AND GIVEN**
17 **DUE COURSE.**

18 **(M) THE TERM “PAYOUT” REFERS TO THE PAYMENT OF**
19 **INSURED DEPOSITS.**

20 **(N) THE TERM “PETITION FOR ASSISTANCE IN THE**
21 **LIQUIDATION OF A CLOSED BANK” REFERS TO THE**

1 PETITION FILED BY THE RECEIVER WITH THE REGIONAL
2 TRIAL COURT (RTC) IN ACCORDANCE WITH SECTION 16
3 OF THIS ACT.

4 (O) THE TERM "PURCHASE OF ASSETS AND ASSUMPTION OF
5 LIABILITIES" REFERS TO A TRANSACTION WHERE AN
6 INSURED BANK PURCHASES ANY OR ALL ASSETS AND
7 ASSUMES ANY OR ALL LIABILITIES OF ANOTHER BANK
8 UNDER RESOLUTION OR LIQUIDATION, AS PROVIDED IN
9 THIS ACT.

10 (P) THE TERM "RECEIVER" REFERS TO THE CORPORATION
11 OR ANY OF ITS DULY AUTHORIZED AGENTS ACTING AS
12 RECEIVER OF A CLOSED BANK.

13 (Q) THE TERM "RECORDS" INCLUDES ALL DOCUMENTS,
14 TITLES, PAPERS AND ELECTRONIC DATA OF THE CLOSED
15 BANK, INCLUDING THOSE PERTAINING TO DEPOSIT
16 ACCOUNTS OF AND WITH THE CLOSED BANK, ITS
17 ASSETS, TRANSACTIONS AND CORPORATE AFFAIRS.

18 (R) THE TERM "RESIDUAL ASSETS" REFERS TO ASSETS, IN
19 CASH OR IN KIND, TO BE TURNED OVER TO THE CLOSED
20 BANK'S STOCKHOLDERS OF RECORD, IN PROPORTION TO
21 THEIR INTEREST IN THE CLOSED BANK AS OF DATE OF
22 CLOSURE, AFTER PAYMENT IN FULL OF LIQUIDATION
23 COSTS, FEES AND EXPENSES, AND THE VALID CLAIMS
24 AND SURPLUS DIVIDENDS TO ALL THE CREDITORS.

1 **(S) THE TERM "RESOLUTION" REFERS TO THE ACTIONS**
2 **UNDERTAKEN BY THE CORPORATION UNDER SECTION 11**
3 **OF THIS ACT TO:**

4 **1) PROTECT DEPOSITORS, CREDITORS AND THE**
5 **DEPOSIT INSURANCE FUND;**

6 **2) SAFEGUARD THE CONTINUITY OF ESSENTIAL**
7 **BANKING SERVICES OR MAINTAIN FINANCIAL STABILITY;**

8 **AND**

9 **3) PREVENT DETERIORATION OR DISSIPATION OF BANK**
10 **ASSETS.**

11 **(T) THE TERM "RISK-BASED ASSESSMENT SYSTEM"**
12 **PERTAINS TO A METHOD FOR CALCULATING AN INSURED**
13 **BANK'S ASSESSMENT ON THE PROBABILITY THAT THE**
14 **DEPOSIT INSURANCE FUND WILL INCUR A LOSS WITH**
15 **RESPECT TO THE BANK, AND THE LIKELY AMOUNT OF**
16 **ANY SUCH LOSS, BASED ON ITS RISK RATING THAT**
17 **TAKES INTO CONSIDERATION THE FOLLOWING:**

18 **1) QUALITY AND CONCENTRATION OF ASSETS;**

19 **2) CATEGORIES AND CONCENTRATION OF LIABILITIES,**
20 **BOTH INSURED AND UNINSURED, CONTINGENT AND**
21 **NON-CONTINGENT;**

22 **3) CAPITAL POSITION;**

23 **4) LIQUIDITY POSITION;**

24 **5) MANAGEMENT AND GOVERNANCE; AND**

25 **6) OTHER FACTORS RELEVANT TO ASSESSING SUCH**
26 **PROBABILITY, AS MAY BE DETERMINED BY THE**
27 **CORPORATION.**

1 (U) THE TERM "STATEMENT OF AFFAIRS" REFERS TO A
2 REPORT OF FINANCIAL CONDITION OF THE CLOSED BANK
3 AT A GIVEN DATE, SHOWING THE: 1) ESTIMATED
4 REALIZABLE VALUE OF ASSETS; 2) CLASSIFICATION OF
5 CREDITS; AND 3) ESTIMATED LIABILITIES TO BE SETTLED.

6 (V) THE TERM "SURPLUS DIVIDENDS" REFERS TO THE
7 REMAINING ASSETS OF THE CLOSED BANK AFTER
8 SATISFACTION IN FULL OF ALL THE LIQUIDATION COSTS,
9 FEES AND EXPENSES, AND VALID CLAIMS. THE SURPLUS
10 DIVIDENDS SHALL BE COMPUTED AT THE LEGAL RATE OF
11 INTEREST FROM THE DATE OF TAKEOVER TO CUT-OFF
12 DATE OF THE DISTRIBUTION PLAN, AND SHALL BE PAID, IN
13 CASH OR IN KIND, TO CREDITORS OF THE CLOSED BANK IN
14 ACCORDANCE WITH THE RULES ON CONCURRENCE AND
15 PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR
16 OTHER LAWS.

17 (W) THE TERM "TAKEOVER" REFERS TO THE ACT OF
18 PHYSICALLY TAKING POSSESSION AND CONTROL OF THE
19 PREMISES, ASSETS AND AFFAIRS OF A CLOSED BANK
20 FOR THE PURPOSE OF LIQUIDATING THE BANK.

21 (X) [(h)] The term "transfer deposit" means a deposit in an insured
22 bank made available to a depositor by the Corporation as
23 payment of insured deposit of such depositor in a closed bank
24 and assumed by another insured bank.

1 **(Y) [(i)]** The term “trust funds” means funds held by an insured bank in
2 a fiduciary capacity and includes without being limited to, funds
3 held as trustee, executor, administrator, guardian or agent.

4 **(Z) THE TERM “VALID CLAIM” REFERS TO THE CLAIM**
5 **RECOGNIZED BY THE RECEIVER OR ALLOWED BY THE**
6 **LIQUIDATION COURT.**

7 **(AA) THE TERM “WINDING UP PERIOD” REFERS TO THE**
8 **PERIOD PROVIDED IN SECTION 16 OF THIS ACT.”**

9 **SECTION 8.** Section 5 of the same Act is accordingly renumbered as Section 6,
10 and is hereby amended to read as follows:

11 **“DEPOSIT INSURANCE COVERAGE**

12 **SECTION [5] 6.** The deposit liabilities of any bank [or banking institution,]
13 which is engaged in the business of receiving deposits as herein defined
14 on the effective date of this Act, or which thereafter may engage in the
15 business of receiving deposits, shall be insured with the Corporation.

16 **WHENEVER A BANK IS DETERMINED BY THE BANGKO SENTRAL**
17 **TO HAVE FAILED TO MEET THE MINIMUM CAPITAL**
18 **REQUIREMENTS, THE CORPORATION MAY CONDUCT AN**
19 **INSURANCE RISK EVALUATION ON THE BANK AT ANY TIME TO**
20 **ENABLE IT TO ASSESS THE RISKS TO THE DEPOSIT INSURANCE**
21 **FUND. SUCH EVALUATION MAY INCLUDE THE DETERMINATION OF**
22 **(i) THE FAIR MARKET VALUE OF THE ASSETS AND LIABILITIES OF**
23 **A BANK, OR (ii) THE RISK CLASSIFICATION OF A BANK, OR (iii)**

1 POSSIBLE RESOLUTION MODES, SUBJECT TO SUCH TERMS AND
2 CONDITIONS AS THE PDIC BOARD MAY PRESCRIBE.

3 IN THE CONDUCT OF AN INSURANCE RISK EVALUATION, THE
4 CORPORATION, ITS DULY AUTHORIZED OFFICERS OR
5 EMPLOYEES, SHALL HAVE THE AUTHORITY TO EXAMINE, INQUIRE
6 OR LOOK INTO THE DEPOSIT RECORDS OF A BANK. FOR THIS
7 PURPOSE, BANKS, THEIR OFFICERS AND EMPLOYEES ARE
8 HEREBY MANDATED TO DISCLOSE AND REPORT TO THE
9 CORPORATION OR ITS DULY AUTHORIZED OFFICERS,
10 EMPLOYEES, DEPOSIT ACCOUNT INFORMATION IN SAID BANK.

11 THE CORPORATION, ITS DULY AUTHORIZED OFFICERS OR
12 EMPLOYEES, ARE PROHIBITED FROM DISCLOSING INFORMATION
13 OBTAINED UNDER THIS SECTION TO ANY PERSON, GOVERNMENT
14 OFFICIAL, BUREAU OR OFFICE, EXCEPT WHEN THE DISCLOSURE
15 OF THE INFORMATION OBTAINED UNDER THIS SECTION IS
16 NECESSARY FOR EXPEDITIOUS PAYMENT OF DEPOSIT
17 INSURANCE OR THE PROTECTION OF THE DEPOSIT INSURANCE
18 SYSTEM, OR TO CARRY OUT THE MANDATE OF THE
19 CORPORATION AS A RESOLUTION AUTHORITY."

20 ANY ACT DONE PURSUANT TO THIS SECTION SHALL NOT BE
21 DEEMED TO HAVE VIOLATED REPUBLIC ACT NO. 1405, AS
22 AMENDED, REPUBLIC ACT NO. 6426, AS AMENDED, REPUBLIC
23 ACT NO. 8791, AND OTHER SIMILAR LAWS PROTECTING OR
24 SAFEGUARDING THE SECRECY OR CONFIDENTIALITY OF BANK
25 DEPOSITS: *PROVIDED*, THAT ANY UNAUTHORIZED DISCLOSURE
26 OF THE INFORMATION UNDER THIS SECTION SHALL BE SUBJECT

1 TO THE SAME PENALTY UNDER THE FOREGOING LAWS
2 PROTECTING THE SECRECY OR CONFIDENTIALITY OF BANK
3 DEPOSITS.”

4 SECTION 9. Section 6 of the same Act is accordingly renumbered as Section 7.

5 SECTION 10. Section 7 paragraph (a) of the same Act, as renumbered, is
6 hereby amended to read as follows:

7 “ASSESSMENT OF MEMBER BANKS

8
9 SECTION [6] 7. (a) The assessed rate shall be determined by the Board
10 of Directors: *Provided*, That the assessment rate shall not exceed one-fifth
11 (1/5) of one *per centum* (1%) *per annum*. The semi-annual assessment
12 for each insured bank shall be in the amount of the product of one-half
13 (1/2) the assessment rate multiplied by the assessment base but in no
14 case shall it be less than Five thousand pesos (P5,000.00). The
15 assessment base shall be the amount of the liability of the bank for
16 deposits as defined under subsection (G) [(f)] of Section 5 [4] without any
17 deduction for indebtedness of depositors.

18 IN ADDITION, THE BOARD OF DIRECTORS MAY ESTABLISH A
19 RISK-BASED ASSESSMENT SYSTEM AND IMPOSE A RISK-BASED
20 ASSESSMENT RATE WHICH SHALL NOT EXCEED TWO-FIFTH (2/5)
21 OF ONE PER CENTUM (1%) PER ANNUM MULTIPLIED BY THE
22 ASSESSMENT BASE.

23 The semi-annual assessment base for one semi-annual period shall be
24 the average of the assessment base of the bank as of the close of

1 business on March thirty-one and June thirty and the semi-annual
2 assessment base for the other semi-annual period shall be the average of
3 the assessment base of the bank as of the close of business on
4 September thirty and December thirty-one: *Provided*, That when any of
5 said days is a non-business day or legal holiday, either national or
6 provincial, the preceding business day shall be used. The certified
7 statements required to be filed with the Corporation under subsections (b)
8 and (c) of this Section shall be in such form and set forth such supporting
9 information as the Board of Directors shall prescribe. The assessment
10 payments required from the insured banks under subsections (b) and (c)
11 of this Section shall be made in such manner and at such time or times as
12 the Board of Directors shall prescribe[, provided the time or times so
13 prescribed shall not be later than sixty (60) days after filing the certified
14 statement setting forth the amount of assessment].”

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

17 “(d) All assessment collections and income from operations after
18 expenses and charges shall be added to the Deposit Insurance Fund
19 under Section 17 [13] hereof. Such expenses and charges are: (1) the
20 operating costs and expenses of the Corporation for the calendar year; (2)
21 additions to reserve to provide for insurance and financial assistance
22 losses, net of recoverable amounts from applicable assets and collaterals,
23 during the calendar year; and (3) the net insurance and financial
24 assistance losses sustained in said calendar year.

25 (h) [The Corporation shall not terminate the insured status of any bank
26 which continues to operate or receive deposits.] Should any insured bank
27 fail or refuse to pay any assessment required to be paid by such bank

1 under any provision of this Act, and should the bank not correct such
2 failure or refusal within thirty (30) days after written notice has been given
3 by the Corporation to an officer of the bank citing this subsection, and
4 stating that the bank has failed or refused to pay as required by the law,
5 the Corporation may, at its discretion, file a case for collection before the
6 appropriate court without prejudice to the imposition of administrative
7 sanctions allowed under the provisions of this Law on the bank officials
8 responsible for the non-payment of assessment fees.”

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

11 **“(I) THE CORPORATION SHALL HAVE THE AUTHORITY TO**
12 **COLLECT A SPECIAL ASSESSMENT FROM ANY MEMBER BANK**
13 **AND PRESCRIBE THE TERMS AND CONDITIONS THEREOF TO**
14 **MAINTAIN THE TARGET LEVEL OF THE DEPOSIT INSURANCE**
15 **FUND SET BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH**
16 **THIS ACT: *PROVIDED, THAT,* THE COLLECTION OF A SPECIAL**
17 **ASSESSMENT MAY LIKEWISE BE MADE FOR THE PURPOSE OF**
18 **REIMBURSING THE NATIONAL GOVERNMENT FOR ANY FINANCIAL**
19 **ASSISTANCE IT MAY HAVE EXTENDED TO AFFECTED**
20 **INSTITUTIONS OR ORGANIZATIONS DURING A SYSTEMIC**
21 **SCENARIO.”**

22 **SECTION 13.** Section 7 of the same Act is accordingly renumbered as Section
23 8, and is hereby amended to read as follows:

24 **“SANCTIONS AGAINST UNSAFE AND**
25 **UNSOUND BANKING PRACTICES**

1 SECTION [7] 8. (a) Whenever upon examination by the Corporation into
2 the condition of any insured bank, it shall be disclosed that an insured
3 bank or its directors or agents have committed, are committing or about to
4 commit unsafe or unsound practices in conducting the business of the
5 bank, or have violated, are violating or about to violate any provisions of
6 any law or regulation to which the insured bank is subject, the Board of
7 Directors shall submit the report of the examination to the Monetary Board
8 to secure corrective action thereon. If no such corrective action is taken by
9 the Monetary Board within forty-five (45) days from the submission of the
10 report, the Board of Directors shall, *motu proprio*, institute corrective
11 action which it deems necessary. The Board of Directors may thereafter
12 issue a cease and desist order, and require the bank or its directors or
13 agents concerned to correct the practices or violations within forty-five
14 (45) days. However, if the practice or violation is likely to cause insolvency
15 or substantial dissipation of assets or earnings of the bank, or is likely to
16 seriously weaken the condition of the bank or otherwise seriously
17 prejudice the interests of its depositors and the Corporation, the period to
18 take corrective action shall not be more than fifteen (15) days. The order
19 may also include the imposition of fines provided in Section 26 (g) [21(f)]
20 hereof. The Board of Directors shall duly inform the Monetary Board of the
21 *Bangko Sentral ng Pilipinas* of action it has taken under this subsection
22 with respect to such practices or violations.

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

1
2 (c) THE CORPORATION MAY TERMINATE THE INSURED STATUS OF
3 ANY BANK THAT FAILS OR REFUSES TO COMPLY, WITHIN THIRTY
4 (30) DAYS FROM NOTICE, WITH ANY CEASE-AND-DESIST ORDER
5 ISSUED BY THE CORPORATION, OR WITH ANY CORRECTIVE
6 ACTION IMPOSED BY THE MONETARY BOARD, UNDER THIS
7 SECTION PERTAINING TO A DEPOSIT-RELATED UNSAFE AND/OR
8 UNSOUND BANKING PRACTICE.

9 SUCH TERMINATION SHALL BE FINAL AND EXECUTORY, AND
10 SHALL BE EFFECTIVE UPON PUBLICATION OF THE NOTICE OF
11 TERMINATION IN A NEWSPAPER OF GENERAL CIRCULATION.

12 THE DEPOSITS OF EACH DEPOSITOR IN THE BANK ON THE
13 EFFECTIVE DATE OF THE TERMINATION OF INSURANCE
14 COVERAGE, LESS ALL SUBSEQUENT WITHDRAWALS, SHALL
15 CONTINUE TO BE INSURED UP TO THE MAXIMUM DEPOSIT
16 INSURANCE COVERAGE FOR A PERIOD OF ONE HUNDRED EIGHTY
17 (180) DAYS. ADDITIONS TO, OR RENEWAL OF, EXISTING DEPOSITS
18 AND NEW DEPOSITS IN SUCH BANK AFTER THE EFFECTIVE DATE
19 OF TERMINATION OF INSURED STATUS OF THE BANK SHALL NOT
20 BE INSURED BY THE CORPORATION.

21 THE BANK SHALL IMMEDIATELY GIVE WRITTEN NOTICE OF SUCH
22 TERMINATION AND THE INTERIM DEPOSIT INSURANCE
23 COVERAGE TO EACH OF ITS DEPOSITORS AT THEIR ADDRESS AS
24 RECORDED IN THE BOOKS OF THE BANK.

25 THE BANK SHALL NOT ADVERTISE OR REPRESENT THAT
26 ADDITIONS TO, OR RENEWAL OF, EXISTING DEPOSITS AND NEW

1 **DEPOSITS MADE AFTER THE EFFECTIVE DATE OF TERMINATION**
2 **ARE COVERED BY DEPOSIT INSURANCE.”**

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

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

6 “Twelfth - **THE PROVISIONS OF PRESIDENTIAL DECREE NO.**
7 **1445, AS AMENDED, EXECUTIVE ORDER NO. 292, AND OTHER**
8 **SIMILAR LAWS NOTWITHSTANDING, [T]** to compromise, condone or
9 release, in whole or in part, any claim or settled liability to the Corporation,
10 regardless of the amount involved, under such terms and conditions as
11 may be imposed by the Board of Directors to protect the interest of the
12 Corporation, **AND TO WRITE OFF THE CORPORATION’S**
13 **RECEIVABLES AND ASSETS WHICH ARE NO LONGER**
14 **RECOVERABLE OR REALIZABLE;”**

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

17 **“THIRTEENTH - TO DETERMINE QUALIFIED INTERESTED**
18 **ACQUIRERS OR INVESTORS FOR ANY OF THE MODES OF**
19 **RESOLUTION OR LIQUIDATION OF BANKS;**

20 **FOURTEENTH - TO DETERMINE THE APPROPRIATE**
21 **RESOLUTION METHOD AND TO IMPLEMENT THE SAME FOR A**
22 **BANK SUBJECT OF RESOLUTION; AND**

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

3 **SECTION 17.** Section 9 of the same Act is accordingly renumbered as Section
4 10.

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

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

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

20 “(c) Each insured bank shall make to the Corporation reports of condition
21 in such form and at such times as the Board of Directors may require such
22 reports to be published in such manner, not inconsistent with any
23 applicable law, as it may direct. Every such bank which fails to make or
24 publish any such report within such time, as the Board of Directors may

1 require, shall be subject to a penalty of not more than **P10,000 [P100]** for
2 each day of such failure recoverable by the Corporation for its use.”

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

5 “(d-1) Each insured bank shall keep and maintain a true and accurate
6 record or statement of its daily deposit transactions consistent with the
7 standards set by the *Bangko Sentral ng Pilipinas* and the Corporation.
8 Compliance with such standards shall be duly certified by the president of
9 the bank [or] **AND** the compliance officer: *Provided*, That refusal or
10 willful failure to issue the required certification shall constitute a violation
11 of this Section and shall subject such officers of the bank to the sanctions
12 provided for under Section **26 [21]** (f) of this Act.”

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

15 “(f) The Corporation shall underwrite or advance **ALL LEGAL [litigation]**
16 costs and expenses, including legal fees and other expenses of external
17 counsel, or provide legal assistance to, directors, officers, employees or
18 agents of the Corporation in connection with any civil, criminal,
19 administrative or any other action or proceeding, to which such director,
20 officer, employee or agent is made a party by reason of, or in connection
21 with, the exercise of authority or performance of functions and duties
22 under this Act: *Provided*, That such legal protection shall not apply to any
23 civil, criminal, administrative or any action or proceeding that may be
24 initiated by the Corporation, in whatever capacity, against such director,
25 officer, employee or agent: *Provided*, Further, That directors, officers,

1 employees or agents who shall resign, retire, transfer to another agency
2 or be separated from the service, shall continue to be provided with such
3 legal protection in connection with any act done or omitted to be done by
4 them in good faith during their tenure or employment with the Corporation:
5 Provided, finally, That in the event of a settlement or compromise,
6 indemnification shall be provided only in connection with such matters
7 covered by the settlement as to which the Corporation is advised by
8 counsel that the persons to be indemnified did not commit any negligence
9 or misconduct.”

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

12
13 “(i) Notwithstanding the provisions of this Section and Section 3 [2],
14 members of the Board of Directors and personnel of the Corporation may
15 become directors and officers of any bank and banking institution and of
16 any entity related to such institution in connection with financial assistance
17 extended by the Corporation to such institution and when, in the opinion of
18 the Board, it is appropriate to make such designation to protect the
19 interest of the Corporation.”

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

22 **“BANK RESOLUTION**

23 **SECTION 11. (A) THE CORPORATION, IN COORDINATION WITH THE**
24 **BANGKO SENTRAL, MAY COMMENCE THE RESOLUTION OF A**
25 **BANK UNDER THIS SECTION UPON:**

- 1 **1) FAILURE OF PROMPT CORRECTIVE ACTION AS DECLARED**
2 **BY THE MONETARY BOARD; OR**
3 **2) REQUEST BY A BANK TO BE PLACED UNDER RESOLUTION.**

4 **THE CORPORATION SHALL INFORM THE BANK OF ITS ELIGIBILITY**
5 **FOR ENTRY INTO RESOLUTION.**

6 **(B) THE *BANGKO SENTRAL* SHALL INFORM THE CORPORATION**
7 **OF THE INITIATION OF PROMPT CORRECTIVE ACTION ON ANY**
8 **BANK AND SHALL BE AUTHORIZED TO SHARE WITH THE**
9 **CORPORATION ALL INFORMATION, AGREEMENTS OR**
10 **DOCUMENTS, INCLUDING ANY ORDER OF THE MONETARY**
11 **BOARD, IN RELATION TO THE PROMPT CORRECTIVE ACTION.**
12 **THE CORPORATION SHALL HAVE THE AUTHORITY TO INQUIRE**
13 **AND MONITOR THE STATUS OF BANKS UNDER PROMPT**
14 **CORRECTIVE ACTION.**

15 **(C) THE STOCKHOLDERS, DIRECTORS, OFFICERS OR EMPLOYEES**
16 **OF THE BANK SHALL HAVE THE FOLLOWING OBLIGATIONS:**

- 17 **1) ENSURE BANK COMPLIANCE WITH TERMS AND**
18 **CONDITIONS PRESCRIBED BY THE CORPORATION FOR THE**
19 **RESOLUTION OF THE BANK;**
20 **2) CAUSE THE ENGAGEMENT, WITH THE CONSENT OF THE**
21 **CORPORATION, OF AN INDEPENDENT APPRAISER OR**
22 **AUDITOR FOR THE PURPOSE OF DETERMINING THE**
23 **VALUATION OF THE BANK CONSISTENT WITH GENERALLY**
24 **ACCEPTED VALUATION STANDARDS;**

- 1 **3) ENSURE PRUDENT MANAGEMENT AND ADMINISTRATION**
2 **OF THE BANK'S ASSETS, LIABILITIES AND RECORDS;**
3 **4) COOPERATE WITH THE CORPORATION IN THE CONDUCT OR**
4 **EXERCISE OF ANY OR ALL OF ITS AUTHORITIES UNDER**
5 **THIS ACT AND HONOR IN GOOD FAITH ITS COMMITMENT OR**
6 **UNDERTAKING WITH THE CORPORATION ON THE**
7 **RESOLUTION OF THE BANK.**

8 **(d) WITHIN A PERIOD OF ONE HUNDRED EIGHTY (180) DAYS FROM**
9 **A BANK'S ENTRY INTO RESOLUTION, THE CORPORATION,**
10 **THROUGH THE AFFIRMATIVE VOTE OF AT LEAST FIVE (5)**
11 **MEMBERS OF THE PDIC BOARD, SHALL DETERMINE WHETHER**
12 **THE BANK MAY BE RESOLVED THROUGH THE PURCHASE OF ALL**
13 **ITS ASSETS AND ASSUMPTION OF ALL ITS LIABILITIES, OR**
14 **MERGER OR CONSOLIDATION WITH, OR ITS ACQUISITION, BY A**
15 **QUALIFIED INVESTOR.**

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

- 17 **1) DETERMINE A RESOLUTION PACKAGE FOR THE BANK;**
18 **2) IDENTIFY AND, WITH THE APPROVAL OF THE MONETARY**
19 **BOARD, PRE-QUALIFY POSSIBLE ACQUIRERS OR**
20 **INVESTORS;**
21 **3) AUTHORIZE PRE-QUALIFIED ACQUIRERS OR INVESTORS TO**
22 **CONDUCT DUE DILIGENCE ON THE BANK, FOR PURPOSES**
23 **OF DETERMINING THE VALUATION OF A BANK THROUGH**
24 **AN OBJECTIVE AND THOROUGH REVIEW AND APPRAISAL**
25 **OF ITS ASSETS AND LIABILITIES, AND ASSESSMENT OF**
26 **RISKS OR EVENTS THAT MAY AFFECT ITS VALUATION;**

1 **4) CONDUCT A BIDDING TO DETERMINE THE ACQUIRER OF**
2 **THE BANK.**

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

- 5 **1) FAIR MARKET VALUE OF THE ASSETS OF THE BANK, ITS**
6 **FRANCHISE, AS WELL AS THE AMOUNT OF ITS LIABILITIES;**
7 **2) AVAILABILITY OF A QUALIFIED INVESTOR;**
8 **3) LEAST COST TO THE DEPOSIT INSURANCE FUND; AND**
9 **4) INTEREST OF THE DEPOSITING PUBLIC.**

10 **(F) THE CORPORATION MAY APPOINT OR HIRE PERSONS OR**
11 **ENTITIES OF RECOGNIZED COMPETENCE IN BANKING, FINANCE,**
12 **ASSET MANAGEMENT OR REMEDIAL MANAGEMENT, AS ITS**
13 **AGENTS, TO PERFORM SUCH POWERS AND FUNCTIONS OF THE**
14 **CORPORATION IN THE RESOLUTION OF A BANK, OR ASSIST IN**
15 **THE PERFORMANCE THEREOF.**

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

18
19 **(h) UPON A DETERMINATION BY THE CORPORATION THAT THE**
20 **BANK MAY NOT BE RESOLVED, THE MONETARY BOARD MAY ACT**
21 **IN ACCORDANCE WITH SECTION 30 OF REPUBLIC ACT NO. 7653**
22 **OR THE NEW CENTRAL BANK ACT.**

23 **(i) BANK RESOLUTION INVOLVING THE PURCHASE OF ALL**
24 **ASSETS AND ASSUMPTION OF ALL LIABILITIES OF A BANK SHALL**

1 BE EXEMPT FROM THE PROVISIONS OF ACT NO. 3952,
2 OTHERWISE KNOWN AS THE BULK SALES LAW.

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

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

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

9 **“LIQUIDATION OF A CLOSED BANK**

10 SECTION 12. (a) WHENEVER A BANK IS ORDERED CLOSED BY THE
11 MONETARY BOARD, THE CORPORATION SHALL BE DESIGNATED
12 AS RECEIVER AND IT SHALL PROCEED WITH THE TAKEOVER AND
13 LIQUIDATION OF THE CLOSED BANK. FOR THIS PURPOSE, THE
14 FOLLOWING CLAUSE IN SECTION 30 OF REPUBLIC ACT NO. 7653,
15 AS AMENDED, SHALL NOT BE APPLICABLE TO BANKS:

16 “THE RECEIVER SHALL DETERMINE, AS SOON AS
17 POSSIBLE, BUT NOT LATER THAN NINETY (90) DAYS
18 FROM TAKE-OVER, WHETHER THE INSTITUTION MAY
19 BE REHABILITATED OR OTHERWISE PLACED IN SUCH
20 A CONDITION SO THAT IT MAY BE PERMITTED TO
21 RESUME BUSINESS WITH SAFETY TO ITS
22 DEPOSITORS AND CREDITORS AND THE GENERAL
23 PUBLIC: PROVIDED, THAT ANY DETERMINATION FOR

1 THE RESUMPTION OF BUSINESS OF THE INSTITUTION
2 SHALL BE SUBJECT TO PRIOR APPROVAL OF THE
3 MONETARY BOARD."

4 SECTION 26. A new section entitled Section 13 of the same Act is hereby
5 inserted between Sections 12 and 14 which shall read as follows:

6 "AUTHORITIES OF A RECEIVER AND EFFECTS OF PLACEMENT OF
7 A BANK UNDER LIQUIDATION

8 SECTION 13. (a) THE RECEIVER IS AUTHORIZED TO ADOPT AND
9 IMPLEMENT, WITHOUT NEED OF CONSENT OF THE
10 STOCKHOLDERS, BOARD OF DIRECTORS, CREDITORS OR
11 DEPOSITORS OF THE CLOSED BANK, ANY OR A COMBINATION OF
12 THE FOLLOWING MODES OF LIQUIDATION:

13 1) CONVENTIONAL LIQUIDATION; AND

14 2) PURCHASE OF ASSETS AND/OR ASSUMPTION OF
15 LIABILITIES

16 (b) IN ADDITION TO THE POWERS OF A RECEIVER PROVIDED
17 UNDER EXISTING LAWS, THE CORPORATION, AS RECEIVER OF A
18 CLOSED BANK, IS EMPOWERED TO:

19 1) REPRESENT AND ACT FOR AND IN BEHALF OF THE CLOSED
20 BANK;

21 2) GATHER AND TAKE CHARGE OF ALL THE ASSETS,
22 RECORDS AND AFFAIRS OF THE CLOSED BANK, AND

1 ADMINISTER THE SAME FOR THE BENEFIT OF ITS
2 CREDITORS;

3 3) CONVERT THE ASSETS OF THE CLOSED BANK TO CASH OR
4 OTHER FORMS OF LIQUID ASSETS, AS FAR AS
5 PRACTICABLE;

6 4) BRING SUITS TO ENFORCE LIABILITIES OF THE DIRECTORS,
7 OFFICERS, EMPLOYEES, AGENTS OF THE CLOSED BANK
8 AND OTHER ENTITIES RELATED OR CONNECTED TO THE
9 CLOSED BANK OR TO COLLECT, RECOVER, AND PRESERVE
10 ALL ASSETS, INCLUDING ASSETS OVER WHICH THE BANK
11 HAS EQUITABLE INTEREST;

12 5) APPOINT OR HIRE PERSONS OR ENTITIES OF RECOGNIZED
13 COMPETENCE IN BANKING, FINANCE, ASSET MANAGEMENT
14 OR REMEDIAL MANAGEMENT, AS ITS DEPUTIES,
15 ASSISTANTS OR AGENTS, TO PERFORM SUCH POWERS
16 AND FUNCTIONS OF THE CORPORATION AS RECEIVER OF
17 THE CLOSED BANK, OR ASSIST IN THE PERFORMANCE
18 THEREOF;

19 6) APPOINT OR HIRE PERSONS OR ENTITIES OF RECOGNIZED
20 COMPETENCE IN FORENSIC AND FRAUD INVESTIGATIONS;

21 7) PAY ACCRUED UTILITIES, RENTALS AND SALARIES OF
22 PERSONNEL OF THE CLOSED BANK FOR A PERIOD NOT
23 EXCEEDING THREE (3) MONTHS, FROM AVAILABLE FUNDS
24 OF THE CLOSED BANK;

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

9) HIRE OR RETAIN PRIVATE COUNSEL AS MAY BE NECESSARY;

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

11) IF THE STIPULATED INTEREST RATE ON DEPOSITS IS UNUSUALLY HIGH COMPARED WITH PREVAILING APPLICABLE INTEREST RATES, THE CORPORATION AS RECEIVER, MAY EXERCISE SUCH POWERS WHICH MAY INCLUDE A REDUCTION OF THE INTEREST RATE TO A REASONABLE RATE: *PROVIDED*, THAT ANY MODIFICATIONS OR REDUCTIONS SHALL APPLY ONLY TO EARNED AND UNPAID INTEREST;

12) UTILIZE AVAILABLE FUNDS OF THE BANK, INCLUDING FUNDS GENERATED BY THE RECEIVER FROM THE

1 **CONVERSION OF ASSETS TO PAY FOR REASONABLE**
2 **COSTS AND EXPENSES INCURRED FOR THE**
3 **PRESERVATION OF THE ASSETS, AND LIQUIDATION OF, THE**
4 **CLOSED BANK, WITHOUT NEED FOR APPROVAL OF THE**
5 **LIQUIDATION COURT;**

6 **FOR BANKS WITH INSUFFICIENT FUNDS, THE**
7 **CORPORATION IS AUTHORIZED TO ADVANCE THE**
8 **FOREGOING COSTS AND EXPENSES, AND COLLECT**
9 **PAYMENT, AS AND WHEN FUNDS BECOME AVAILABLE.**

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

16 **14) DISTRIBUTE THE AVAILABLE ASSETS OF THE CLOSED**
17 **BANK, IN CASH OR IN KIND, TO ITS CREDITORS IN**
18 **ACCORDANCE WITH THE RULES ON CONCURRENCE AND**
19 **PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR**
20 **OTHER LAWS;**

21 **15) DISPOSE RECORDS OF THE CLOSED BANK THAT ARE NO**
22 **LONGER NEEDED IN THE LIQUIDATION IN ACCORDANCE**
23 **WITH GUIDELINES SET BY THE PDIC BOARD OF DIRECTORS,**
24 **NOTWITHSTANDING THE LAWS ON ARCHIVAL PERIOD AND**
25 **DISPOSAL OF RECORDS;**

1 **16) EXERCISE SUCH OTHER POWERS AS ARE INHERENT AND**
2 **NECESSARY FOR THE EFFECTIVE DISCHARGE OF THE**
3 **DUTIES OF THE CORPORATION AS RECEIVER.**

4 **THE BOARD OF DIRECTORS SHALL ADOPT SUCH POLICIES AND**
5 **GUIDELINES AS MAY BE NECESSARY FOR THE PERFORMANCE**
6 **OF THE ABOVE POWERS BY PERSONNEL, DEPUTIES, ASSISTANTS**
7 **AND AGENTS OF THE CORPORATION.**

8
9 **(C) AFTER THE PAYMENT OF ALL LIABILITIES AND CLAIMS AGAINST**
10 **THE CLOSED BANK, THE CORPORATION SHALL PAY SURPLUS, IF ANY,**
11 **DIVIDENDS AT THE LEGAL RATE OF INTEREST FROM DATE OF**
12 **TAKEOVER TO DATE OF DISTRIBUTION TO CREDITORS AND CLAIMANTS**
13 **OF THE CLOSED BANK IN ACCORDANCE WITH THE RULES ON**
14 **CONCURRENCE AND PREFERENCE OF CREDITS UNDER THE CIVIL CODE**
15 **OR OTHER LAWS BEFORE DISTRIBUTION TO THE SHAREHOLDERS OF**
16 **THE CLOSED BANK.**

17 **(d) THE OFFICERS, EMPLOYEES, DEPUTIES, ASSISTANTS AND AGENTS**
18 **OF THE RECEIVER SHALL HAVE NO LIABILITY AND SHALL NOT BE**
19 **SUBJECT TO ANY ACTION, CLAIM OR DEMAND IN CONNECTION WITH**
20 **ANY ACT DONE OR OMITTED TO BE DONE BY THEM IN GOOD FAITH IN**
21 **CONNECTION WITH THE EXERCISE OF THEIR POWERS AND FUNCTIONS**
22 **UNDER THIS ACT AND OTHER APPLICABLE LAWS, OR OTHER ACTIONS**
23 **DULY APPROVED BY THE COURT.**

24 **(e) THE PLACEMENT OF A BANK UNDER LIQUIDATION SHALL HAVE THE**
25 **FOLLOWING EFFECTS:**

1 **1) ON THE CORPORATE FRANCHISE OR EXISTENCE**

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

16 **2) ON THE POWERS AND FUNCTIONS OF ITS DIRECTORS,**
17 **OFFICERS AND STOCKHOLDERS**

18 **THE POWERS, VOTING RIGHTS, FUNCTIONS AND DUTIES,**
19 **AS WELL AS THE ALLOWANCES, REMUNERATION AND**
20 **PERQUISITES OF THE DIRECTORS, OFFICERS, AND**
21 **STOCKHOLDERS OF SUCH BANK ARE TERMINATED UPON**
22 **ITS CLOSURE. ACCORDINGLY, THE DIRECTORS, OFFICERS,**
23 **AND STOCKHOLDERS SHALL BE BARRED FROM**
24 **INTERFERING IN ANY WAY WITH THE ASSETS, RECORDS,**
25 **AND AFFAIRS OF THE BANK.**

1 THE RECEIVER SHALL EXERCISE ALL AUTHORITIES AS
2 MAY BE REQUIRED TO FACILITATE THE LIQUIDATION OF
3 THE CLOSED BANK FOR THE BENEFIT OF ALL ITS
4 CREDITORS.

5 3) ON THE ASSETS

6 UPON SERVICE OF NOTICE OF CLOSURE AS PROVIDED IN
7 SECTION 14 OF THIS ACT, ALL THE ASSETS OF THE CLOSED
8 BANK SHALL BE DEEMED IN *CUSTODIA LEGIS* IN THE
9 HANDS OF THE RECEIVER AND AS SUCH THESE ASSETS
10 MAY NOT BE SUBJECT TO ATTACHMENT, GARNISHMENT,
11 EXECUTION, LEVY OR ANY OTHER COURT PROCESSES. A
12 JUDGE, OFFICER OF THE COURT OR ANY PERSON WHO
13 SHALL ISSUE, ORDER, PROCESS OR CAUSE THE ISSUANCE
14 OR IMPLEMENTATION OF THE GARNISHMENT ORDER, LEVY,
15 ATTACHMENT OR EXECUTION, SHALL BE LIABLE UNDER
16 SECTION 27 OF THIS ACT: *PROVIDED*, HOWEVER, THAT
17 COLLATERALS SECURING THE LOANS AND ADVANCES
18 GRANTED BY THE BANGKO SENTRAL NG PILIPINAS SHALL
19 NOT BE INCLUDED IN THE ASSETS OF THE CLOSED BANK
20 FOR DISTRIBUTION TO OTHER CREDITORS: *PROVIDED*,
21 FURTHER, THAT THE PROCEEDS IN EXCESS OF THE
22 AMOUNT SECURED SHALL BE RETURNED BY THE BANGKO
23 SENTRAL TO THE RECEIVER.

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

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

6 **4) ON LABOR RELATIONS**

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

17 **5) CONTRACTUAL OBLIGATIONS**

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

23 **6) ON INTEREST PAYMENTS**

1 THE LIABILITY OF A BANK TO PAY INTEREST ON DEPOSITS
2 AND ALL OTHER OBLIGATIONS AS OF CLOSURE SHALL
3 CEASE UPON ITS CLOSURE BY THE MONETARY BOARD
4 WITHOUT PREJUDICE TO THE FIRST PARAGRAPH OF
5 SECTION 85 OF REPUBLIC ACT NO. 7653 (THE NEW
6 CENTRAL BANK ACT): *PROVIDED, THAT,* THE RECEIVER
7 SHALL HAVE THE AUTHORITY, WITHOUT NEED FOR
8 APPROVAL OF THE LIQUIDATION COURT, TO ASSIGN, AS
9 PAYMENT TO SECURED CREDITORS, THE BANK ASSETS
10 SERVING AS COLLATERALS TO THEIR RESPECTIVE LOANS
11 UP TO THE EXTENT OF THE OUTSTANDING OBLIGATIONS,
12 INCLUDING INTEREST AS OF DATE OF CLOSURE OF THE
13 BANK, AS VALIDATED BY THE RECEIVER. THE VALUATION
14 OF THE ASSET SHALL BE BASED ON THE PREVAILING
15 MARKET VALUE OF THE COLLATERALS AS APPRAISED BY
16 AN INDEPENDENT APPRAISER ON AN "AS IS WHERE IS"
17 BASIS.

18 7) LIABILITY FOR PENALTIES AND SURCHARGES FOR LATE
19 PAYMENT AND NON-PAYMENT OF TAXES

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

1 **8) BANK CHARGES AND FEES ON SERVICES**

2 THE RECEIVER MAY IMPOSE, ON BEHALF OF THE CLOSED
3 BANK, CHARGES AND FEES FOR SERVICES RENDERED
4 AFTER BANK CLOSURE, SUCH AS, BUT NOT LIMITED TO,
5 THE EXECUTION OF PERTINENT DEEDS AND
6 CERTIFICATIONS.

7 **9) ACTIONS PENDING FOR OR AGAINST THE CLOSED BANK**

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

17 **10) FINAL DECISIONS AGAINST THE CLOSED BANK**

18 THE EXECUTION AND ENFORCEMENT OF A FINAL DECISION
19 OF A COURT OTHER THAN THE LIQUIDATION COURT
20 AGAINST THE ASSETS OF A CLOSED BANK SHALL BE
21 STAYED. THE PREVAILING PARTY SHALL FILE THE FINAL
22 DECISION AS A CLAIM WITH THE LIQUIDATION COURT AND
23 SETTLED IN ACCORDANCE WITH THE RULES ON

1 CONCURRENCE AND PREFERENCE OF CREDITS UNDER
2 THE CIVIL CODE OR OTHER LAWS.

3 **11) DOCKET AND OTHER COURT FEES**

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

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

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

22 **14) ASSETS AND DOCUMENTS OF THE CLOSED BANK**
23 **SHALL RETAIN THEIR PRIVATE NATURE EVEN IF**
24 **ADMINISTERED BY THE RECEIVER. MATTERS RELATING TO**

1 THE EXERCISE BY THE RECEIVER OF THE FUNCTIONS
2 UNDER THIS ACT SHALL BE SUBJECT TO VISITORIAL AUDIT
3 ONLY BY THE COMMISSION ON AUDIT.

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

6 "NOTICE OF CLOSURE AND TAKEOVER ACTIVITIES

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

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

1 (c) DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OF A BANK
2 HOLD MONEY AND OTHER ASSETS OF THE BANK IN TRUST OR
3 UNDER ADMINISTRATION OR MANAGEMENT BY THEM FOR THE
4 BANK IN THEIR FIDUCIARY CAPACITY. UPON SERVICE OF THE
5 NOTICE OF CLOSURE TO THE BANK, ALL DIRECTORS, OFFICERS,
6 EMPLOYEES OR AGENTS OF THE CLOSED BANK SHALL HAVE
7 THE DUTY TO IMMEDIATELY ACCOUNT FOR, SURRENDER AND
8 TURN OVER TO THE RECEIVER, AND PROVIDE INFORMATION
9 RELATIVE TO, THE ASSETS, RECORDS, AND AFFAIRS OF THE
10 CLOSED BANK IN THEIR POSSESSION, CUSTODY,
11 ADMINISTRATION OR MANAGEMENT.

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

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

22 **“PURCHASE OF ASSETS AND ASSUMPTION OF LIABILITIES**

23 SECTION 15. (a) THE RECEIVER SHALL HAVE THE AUTHORITY TO
24 FACILITATE AND IMPLEMENT THE PURCHASE OF THE ASSETS OF
25 THE CLOSED BANK AND THE ASSUMPTION OF ITS LIABILITIES BY

1 ANOTHER INSURED BANK, WITHOUT NEED FOR APPROVAL OF
2 THE LIQUIDATION COURT. THE EXERCISE OF THIS AUTHORITY
3 SHALL BE IN ACCORDANCE WITH THE RULES ON CONCURRENCE
4 AND PREFERENCE OF CREDITS UNDER THE CIVIL CODE OR
5 OTHER LAWS, SUBJECT TO SUCH TERMS AND CONDITIONS AS
6 THE CORPORATION MAY PRESCRIBE. THE DISPOSITION OF THE
7 BRANCH LICENSES AND OTHER BANK LICENSES OF THE CLOSED
8 BANK SHALL BE SUBJECT TO THE APPROVAL OF THE BANGKO
9 SENTRAL NG PILIPINAS.

10 (b) SUCH ACTION OF THE RECEIVER TO DETERMINE WHETHER A
11 BANK MAY BE THE SUBJECT OF A PURCHASE OF ASSETS AND
12 ASSUMPTION OF LIABILITIES TRANSACTION SHALL BE FINAL AND
13 EXECUTORY, AND MAY NOT BE SET ASIDE BY ANY COURT.”

14 SECTION 29. A new section entitled Section [17] 16 of the same Act is hereby
15 inserted between Sections [16] 15 and [18] 17 which shall read as follows:

16 “CONVENTIONAL LIQUIDATION

17 A. ASSET MANAGEMENT AND CONVERSION

18 SECTION 16. (A) THE ASSETS GATHERED BY THE RECEIVER
19 SHALL BE EVALUATED AND VERIFIED AS TO THEIR EXISTENCE,
20 OWNERSHIP, CONDITION, AND OTHER FACTORS TO DETERMINE
21 THEIR REALIZABLE VALUE. IN THE MANAGEMENT,
22 PRESERVATION AND DISPOSITION OF ASSETS, THE RECEIVER
23 SHALL BE GUIDED BY COST-BENEFIT CONSIDERATIONS,

1 RESOURCES OF THE CLOSED BANK, AND POTENTIAL ASSET
2 RECOVERY.

3 (B) THE CONVERSION OF THE ASSETS OF THE CLOSED BANK
4 SHALL BE CARRIED OUT IN A FAIR AND TRANSPARENT MANNER
5 IN ACCORDANCE WITH THE RULES AND PROCEDURES AS MAY
6 BE DETERMINED BY THE RECEIVER.

7 (C) IN THE MANAGEMENT AND/OR CONVERSION OF THE ASSETS
8 OF THE CLOSED BANK, THE RECEIVER SHALL HAVE THE
9 AUTHORITY TO:

10 1) REPRESENT THE CLOSED BANK BEFORE THE LAND
11 REGISTRATION AUTHORITY (LRA), BUREAU OF LANDS,
12 REGISTER OF DEEDS, THE LAND TRANSPORTATION OFFICE
13 (LTO), THE ASSESSOR'S OFFICE OR OTHER APPROPRIATE
14 OFFICE OF THE LOCAL GOVERNMENT UNIT, THE
15 SECURITIES AND EXCHANGE COMMISSION (SEC), OR SUCH
16 OTHER SIMILAR GOVERNMENT AGENCIES OR PRIVATE
17 ENTITIES IN:

18 A. VERIFYING THE AUTHENTICITY OF OWNERSHIP
19 DOCUMENTS;

20 B. REGISTERING THE INTEREST OF THE CLOSED BANK ON
21 A SPECIFIC PROPERTY;

22 C. CONSOLIDATING OWNERSHIP OVER AN ASSET OF THE
23 CLOSED BANK;

1 D. SECURING CERTIFIED TRUE COPIES OF DOCUMENTS
2 HELD BY THE FOREGOING AGENCIES/ENTITIES IN
3 RELATION TO AN ASSET OF THE CLOSED BANK;

4 E. SECURING THE APPROPRIATE CERTIFICATION FROM
5 THE FOREGOING AGENCIES/ENTITIES IN RELATION TO
6 AN ASSET OF THE CLOSED BANK; AND

7 F. PERFORMING OTHER RELATED ACTIVITIES;

8 2) CONDUCT A PHYSICAL OR OCULAR INSPECTION OF THE
9 PROPERTIES OWNED BY, OR MORTGAGED TO, THE CLOSED
10 BANK, TO DETERMINE THEIR EXISTENCE AND PRESENT
11 CONDITION;

12 3) DETERMINE THE DISPOSAL PRICE OF ASSETS IN
13 ACCORDANCE WITH GENERALLY ACCEPTED VALUATION
14 PRINCIPLES, STANDARDS AND PRACTICES, SUBJECT TO
15 SUCH GUIDELINES AS THE RECEIVER MAY DETERMINE;

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

23 5) ENGAGE THIRD PARTIES TO ASSIST IN THE LIQUIDATION,
24 MANAGE AND/OR DISPOSE THE ASSETS, HANDLE CASES

1 FILED AGAINST OR BY THE CLOSED BANK, SUBJECT TO
2 SUCH GUIDELINES AS DETERMINED BY THE RECEIVER.

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

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

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

1 **TURNOVER, ALL PERSONS OR ENTITIES IN CUSTODY OR**
2 **POSSESSION OF ANY ASSET OR RECORD OF THE CLOSED**
3 **BANK SHALL HOLD THE SAID ASSETS OR RECORDS IN**
4 **TRUST FOR THE RECEIVER.**

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

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

16 **(F) THE PROCEEDS OF THE SALE OF THE BANK AND BRANCH**
17 **LICENSES SHALL BE FOR THE BENEFIT OF THE CREDITORS OF**
18 **THE CLOSED BANK WHICH SHALL BE DISTRIBUTED IN**
19 **ACCORDANCE WITH THIS ACT AND THE RULES ON**
20 **CONCURRENCE AND PREFERENCE OF CREDITS UNDER THE CIVIL**
21 **CODE OR OTHER LAWS.**

22 **B. PETITION FOR ASSISTANCE**
23 **IN THE LIQUIDATION OF A CLOSED BANK**

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

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

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

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

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

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

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

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

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

24 (N) UPON FINALITY OF THE ORDER APPROVING THE FINAL ASSET
25 DISTRIBUTION PLAN, THE PETITION FOR ASSISTANCE IN THE

1 LIQUIDATION OF A CLOSED BANK SHALL HENCEFORTH BE, FOR
2 ALL INTENTS AND PURPOSES, CONSIDERED CLOSED AND
3 TERMINATED AND THE RECEIVER, ITS OFFICERS, EMPLOYEES OR
4 AGENTS, ARE FOREVER DISCHARGED FROM ANY AND ALL
5 CLAIMS AND/OR LIABILITY ARISING FROM OR IN CONNECTION
6 WITH THE LIQUIDATION OF THE CLOSED BANK.

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

12 (P) THE SUPREME COURT SHALL PROMULGATE THE
13 APPROPRIATE PROCEDURAL RULES TO IMPLEMENT THIS
14 SECTION.

15 C. WINDING-UP

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

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

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

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

24 (S) AFTER THE LAPSE OF THE SIX-MONTH PERIOD PROVIDED IN
25 PARAGRAPHS (Q) AND (R) OF THIS SECTION, ALL ASSETS WHICH
26 REMAIN UNCLAIMED BY THE CREDITORS AND/OR

1 STOCKHOLDERS OF RECORD SHALL BE TURNED OVER TO THE
2 BUREAU OF TREASURY.

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

10 SECTION 30. Section 13 of the same Act is hereby renumbered as Section [18]
11 17.

12 SECTION 31. A new section entitled Section [19] 18 of the same Act is hereby
13 inserted between Sections [18] 17 and [20] 19 which shall read as follows:

14 “DIVIDEND DECLARATION

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

22 THE CORPORATION IS EXEMPT FROM REPUBLIC ACT NO. 7656;
23 INSTEAD, THE CORPORATION SHALL REMIT DIVIDENDS TO THE

1 NATIONAL GOVERNMENT ONLY IF THE TARGET DEPOSIT
2 INSURANCE FUND LEVEL FOR THE APPLICABLE YEAR HAS BEEN
3 REACHED. FOR PURPOSES OF COMPUTING THE AMOUNT OF
4 DIVIDENDS TO BE DECLARED AND REMITTED TO THE NATIONAL
5 GOVERNMENT, ALL ASSESSMENT COLLECTIONS SHALL NOT BE
6 CONSIDERED AS INCOME. THE DIVIDEND RATE SHALL BE AT
7 LEAST FIFTY PERCENT (50%) OF THE INCOME FROM OTHER
8 SOURCES ONLY.”

9 SECTION 32. Section 14 of the same Act is accordingly renumbered as Section
10 [20] 19 and is hereby amended to read as follows:

11 “PAYMENT OF INSURED DEPOSITS

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

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

7 **SECTION 33.** Section 15 of the same Act is accordingly renumbered as Section
8 **[21] 20** and is hereby amended to read as follows:

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

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

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

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

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

18 **SECTION 37.** Section [23] 22 paragraph (b) of the same Act, as renumbered, is
19 hereby amended to read as follows:

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

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

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

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

23 The Corporation, prior to the exercise of the powers under this Section,
24 shall determine that actual payoff and liquidation thereof will be more
25 expensive than the exercise of this power: *Provided,* That when the

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

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

23 **SECTION 40.** Section 18 of the same Act is accordingly renumbered as Section
24 **[24] 23** and is hereby amended to read as follows:

1 "AUTHORITY TO BORROW

2 SECTION [24] 23. The Corporation is authorized to borrow from the
3 *Bangko Sentral ng Pilipinas* and the *Bangko Sentral* is authorized to lend
4 TO the Corporation on such terms as may be agreed upon by the
5 Corporation and the *Bangko Sentral*, such funds as in the judgment of the
6 Board of Directors of the Corporation are from time to time required for
7 insurance purposes and financial assistance provided for in Section [17]
8 22 (e) of this Act: *Provided*, That any such loan as may be granted by the
9 *Bangko Sentral* shall be consistent with monetary policy; *Provided*,
10 further, That the rate of interest thereon shall be fixed by the Monetary
11 Board [but shall not exceed the treasury bill rate].

12 When in the judgment of the Board of Directors the funds of the
13 Corporation are not sufficient to provide for an emergency or urgent need
14 to attain the purposes of this Act, the Corporation is likewise authorized to
15 borrow money, obtain loans or arrange credit lines or other credit
16 accommodations from any bank [designated as depository or fiscal agent
17 of the Philippine Government]: *Provided*, That such loan shall be of short-
18 term duration, **PROVIDED, FURTHER, THAT NO PRIOR MONETARY**
19 **BOARD OPINION SHALL BE REQUIRED FOR THE CORPORATION**
20 **AND ITS COUNTERPARTIES ON INDIVIDUAL DRAWDOWNS OR**
21 **BORROWINGS WITHIN AN APPROVED BORROWING PROGRAM**
22 **WHERE PRIOR MONETARY BOARD OPINION HAS ALREADY BEEN**
23 **OBTAINED, PURSUANT TO SECTION 123 OF REPUBLIC ACT NO.**
24 **7653."**

25 SECTION 41. Section 19 of the same Act is accordingly renumbered as Section
26 [25] 24 and is hereby amended to read as follows:

1 "ISSUANCE OF BONDS, DEBENTURES AND OTHER
2 OBLIGATIONS

3 SECTION [19] 24. With the approval of the President of the Philippines,
4 **UPON THE RECOMMENDATION OF THE DEPARTMENT OF**
5 **FINANCE**, the Corporation is authorized to issue bonds, debentures, and
6 other obligations, both local or foreign, as may be necessary for purposes
7 of providing liquidity for settlement of insured deposits in closed banks,
8 **TO FACILITATE THE IMPLEMENTATION OF BANK RESOLUTION**
9 **UNDER SECTION 11 OF THIS ACT**, as well as for financial assistance
10 as provided herein, *Provided*, That the Board of Directors shall determine
11 the interest rates, maturity and other requirements of said obligations:
12 *Provided, further*, That the Corporation [shall] **MAY** provide for appropriate
13 reserves for the redemption or retirement of said obligation.

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

20 **THE CORPORATION MAY ISSUE NOTES, DEBENTURES, BONDS,**
21 **OR OTHER DEBT INSTRUMENTS WITHOUT THE APPROVAL OF THE**
22 **PRESIDENT OF THE PHILIPPINES, AS LONG AS THESE SHALL NOT**
23 **BE GUARANTEED BY THE NATIONAL GOVERNMENT.**

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

6 **SECTION 42.** Section 20 of the same Act is accordingly renumbered as Section
7 **[26] 25.**

8 **SECTION 43.** Section 21 of the same Act is accordingly renumbered as Section
9 **[27] 26.**

10 **SECTION 44.** Section **[27] 26** paragraph (f) of the same Act, as renumbered, is
11 hereby amended to read as follows:

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

18 **1) ANY DIRECTOR, OFFICER, EMPLOYEE OR AGENT OF A**
19 **BANK FOR:**

20 a. **[for]** any willful refusal to submit reports as required by law,
21 rules and regulations;

- 1 b. any unjustified refusal to permit examination and audit of the
2 deposit records or the affairs of the institution;
- 3 c. any willful making of a false statement or entry in any bank
4 report or document required by the Corporation;
- 5 d. submission of false material information in connection with or in
6 relation to any financial assistance of the Corporation extended
7 to the bank;
- 8 e. splitting of deposits or creation of fictitious **OR FRAUDULENT**
9 loans or deposit accounts.

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

- 22 **f. REFUSAL TO RECEIVE THE NOTICE OF CLOSURE AS**
23 **PROVIDED UNDER SECTION 14 OF THIS ACT;**

- 1 g. refusal to allow the Corporation to take over a closed bank
2 [placed under its receivership] or obstructing such action of the
3 Corporation;
- 4 h. refusal to turn over or destroying or tampering bank records;
- 5 i. fraudulent disposal, transfer or concealment of any asset,
6 property or liability of the closed bank [under the receivership of
7 the Corporation];
- 8 j. violation of, or causing any person to violate, the exemption
9 from garnishment, levy, attachment or execution provided under
10 this Act and the New Central Bank Act;
- 11 k. any willful failure or refusal to comply with, or violation of any
12 provision of this Act, or commission of any other irregularities,
13 and/or conducting business in an unsafe or unsound manner as
14 may be determined by the Board of Directors[,] **IN RELATION**
15 **TO SECTION 56 OF REPUBLIC ACT NO. 8791, OR THE**
16 **GENERAL BANKING LAW OF 2000.**

17 **NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE**
18 **FOREGOING ACTS OF DIRECTORS, OFFICERS,**
19 **EMPLOYEES OR AGENTS OF THE BANK SHALL BE**
20 **CONSIDERED AS ADDITIONAL GROUNDS FOR**
21 **DISQUALIFICATION UNDER THE FIT AND PROPER RULES**
22 **OF THE BANGKO SENTRAL.**

23 **L. "OTHER ACTS INIMICAL TO THE INTEREST OF THE BANK**
24 **OR THE CORPORATION, SUCH AS, BUT NOT LIMITED TO,**

1 CONFLICT OF INTEREST, DISLOYALTY, AUTHORIZING
2 RELATED PARTY TRANSACTIONS WITH TERMS
3 DETRIMENTAL TO THE BANK AND ITS STAKEHOLDERS,
4 AND UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL
5 INFORMATION, AS MAY BE DETERMINED BY THE
6 CORPORATION.”

7 **2) ANY PERSON FOR:**

8 **a. REFUSAL TO DISCLOSE INFORMATION, RECORDS OR**
9 **DATA PERTAINING TO THE BANK ACCOUNTS OF A**
10 **CLOSED BANK TO THE RECEIVER;**

11 **b. REFUSAL TO TURN OVER POSSESSION OR CUSTODY OF**
12 **THE ASSET AND RECORD OF THE CLOSED BANK TO THE**
13 **RECEIVER, NOTWITHSTANDING ANY AGREEMENT TO**
14 **THE CONTRARY;**

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

16 **i. VERIFICATION OF AUTHENTICITY OF THE OWNERSHIP**
17 **DOCUMENTS;**

18 **ii. REGISTRATION OF INTEREST OF THE CLOSED BANK**
19 **ON A SPECIFIC PROPERTY;**

20 **iii. CONSOLIDATION OF OWNERSHIP OVER AN ASSET OF**
21 **THE CLOSED BANK;**

1 **iv. ACT OF SECURING CERTIFIED TRUE COPIES OF**
2 **DOCUMENTS IN RELATION TO AN ASSET OF THE**
3 **CLOSED BANK;**

4 **v. ACT OF SECURING THE APPROPRIATE**
5 **CERTIFICATION FROM THE AGENCIES OR ENTITIES**
6 **STATED IN SECTION 16 OF THIS ACT IN RELATION TO**
7 **AN ASSET OF THE CLOSED BANK;**

8 **vi. CONDUCT OF A PHYSICAL OR OCULAR INSPECTION**
9 **OF THE PROPERTIES OWNED BY, OR MORTGAGED**
10 **TO, THE CLOSED BANK, TO DETERMINE THEIR**
11 **EXISTENCE AND PRESENT CONDITION; OR**

12 **vii. OTHER RELATED ACTIVITIES OF THE RECEIVER; OR**

13 **d. ALLOWING THE WITHDRAWAL FROM DEPOSITS OR**
14 **DISPOSITION OF ANY ASSET OF THE CLOSED BANK**
15 **OTHER THAN BY THE RECEIVER;**

16 **e. WILLFULLY VIOLATING ANY PROVISION OF THIS ACT;**

17 **F. CONSPIRING OR WILLFULLY PARTICIPATING IN ANY OF**
18 **THE OFFENSES ENUMERATED IN PARAGRAPH 1 OF THIS**
19 **SECTION;**
20

21 **3) ANY LAW ENFORCEMENT OFFICER OR LOCAL GOVERNMENT**
22 **OFFICIAL WHO REFUSES OR FAILS TO ASSIST THE RECEIVER**
23 **IN THE SERVICE OF THE NOTICE OF CLOSURE, AS PROVIDED**
24 **UNDER SECTION 14 OF THIS ACT.”**

1 **SECTION 45.** Additional paragraphs to Section [27] 26 of the same Act, as
2 renumbered, are hereby inserted after paragraph (g) which shall read as follows:

3 “(h) **THE PENALTY OF IMPRISONMENT OF NOT LESS THAN TEN**
4 **(10) YEARS BUT NOT MORE THAN TWELVE (12) YEARS, OR A FINE**
5 **OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS**
6 **(P500,000.00) BUT NOT MORE THAN TEN MILLION PESOS**
7 **(P10,000,000.00), OR BOTH, AT THE DISCRETION OF THE COURT,**
8 **SHALL BE IMPOSED UPON:**

9 1) **ANY DEPOSITOR WHO FILES A FICTITIOUS AND/OR**
10 **FRAUDULENT CLAIM FOR DEPOSIT INSURANCE; AND**

11 2) **ANY BANK OFFICER WHO CERTIFIES TO THE VALIDITY OF**
12 **THE DEPOSIT LIABILITIES WHICH IS SUBSEQUENTLY**
13 **VERIFIED TO BE FICTITIOUS AND/OR FRAUDULENT.**

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

18 **IF THE OFFENSE SHALL HAVE BEEN COMMITTED BY A DIRECTOR**
19 **OR OFFICER OF THE BANK, THE PENALTY OF IMPRISONMENT OF**
20 **NOT LESS THAN FIFTEEN (15) YEARS BUT NOT MORE THAN**
21 **SEVENTEEN (17) YEARS SHALL BE IMPOSED.**

22 **IF THE OFFENSE SHALL HAVE RESULTED IN SYSTEMIC**
23 **CONSEQUENCES, AS DETERMINED BY THE *BANGKO SENTRAL,***

1 **THE PENALTY OF IMPRISONMENT OF NOT LESS THAN EIGHTEEN**
2 **(18) YEARS BUT NOT MORE THAN TWENTY (20) YEARS SHALL BE**
3 **IMPOSED.”**

4 **SECTION 46.** Section 22 of the same Act is accordingly renumbered as Section
5 **[28] 27.**

6 **SECTION 47.** Section 23 of the same Act is hereby renumbered as Section **[29]**
7 **28** and **[reinstated as follows] AMENDED TO READ AS FOLLOWS:**

8 “SECTION **[23] 28. WITHIN SIX (6) MONTHS AFTER EFFECTIVITY OF**
9 **THIS ACT, [T]the** Corporation may be reorganized by the board of
10 directors by adopting if it so desires, an entirely new staffing pattern or
11 organizational structure to suit the operations of the corporation under this
12 act **PURSUANT TO REPUBLIC ACT NO. 10149.** *No preferential or*
13 *priority right shall be given to or enjoyed by any personnel for appointment*
14 *to any position in the new staffing pattern nor shall any personnel be*
15 *considered as having prior or vested rights with respect to retention in the*
16 *corporation or in any position which may be created in the new staffing*
17 *pattern, even if he should be the incumbent of a similar position prior to*
18 *reorganization. [The reorganization shall be completed within six (6)*
19 *months after the effectivity of this act.] Personnel who are not retained are*
20 *deemed separated from the service.”*

21 **SECTION 48.** Section 24 of the same Act is accordingly renumbered as Section
22 **[30] 29.**

1 **SECTION 49.** Section 25 of the same Act is accordingly renumbered as Section
2 **[31] 30.**

3 **SECTION 50.** A new section entitled Section **[32] 31** of the same Act is hereby
4 inserted between Sections **[31] 30** and **[33] 32** which shall read as follows:

5 **“SECTION 31. EXEMPTING CLAUSE. - THE CORPORATION SHALL BE**
6 **EXEMPT FROM PRESIDENTIAL DECREE NO. 985, PRESIDENTIAL**
7 **DECREE NO. 1597, REPUBLIC ACT NO. 6758, AS AMENDED, JOINT**
8 **RESOLUTION NO. 4 (2009), PRESIDENTIAL DECREE NO. 1177,**
9 **EXECUTIVE ORDER NO. 248, AS AMENDED, AND EXECUTIVE**
10 **ORDER NO. 298 AND THE PROVISIONS OF REPUBLIC ACT NO. 10149**
11 **WITH REGARD TO POSITION CLASSIFICATION, QUALIFICATION**
12 **STANDARDS, AND THE COMPENSATION PACKAGE OF THE**
13 **EMPLOYEES OF THE CORPORATION, AND THE *PER DIEMS*,**
14 **EMOLUMENTS, AND PERFORMANCE INCENTIVES OF THE**
15 **PRESIDENT AND MEMBERS OF THE BOARD: *PROVIDED, THAT,***
16 **PDIC SHALL BE SUBJECT TO ALL OTHER POLICIES UNDER R.A.**
17 **NO. 10149, INCLUDING, BUT NOT LIMITED TO, PERFORMANCE**
18 **EVALUATION BY THE GOVERNANCE COMMISSION FOR**
19 **GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS,**
20 **SELECTION AND NOMINATION OF APPOINTIVE DIRECTORS, AND**
21 **LIMITATIONS ON THE CREATION OF SUBSIDIARIES AND THE**
22 **ACQUISITION OF AFFILIATES EXCEPT IN THE CASE OF**
23 **ACQUISITION OF SHARES IN THE GRANT OF FINANCIAL**
24 **ASSISTANCE UNDER THIS ACT.”**

25 **SECTION 51.** A new section entitled Section **[33] 32** of the same Act is hereby
26 inserted between Sections **[32] 31** and **[34] 33** which shall read as follows:

1 "SECTION 32. *TRANSITORY PROVISIONS.* – (a) THE INCUMBENT
2 PRESIDENT OF THE CORPORATION AND PRIVATE SECTOR
3 MEMBERS OF THE BOARD OF DIRECTORS SHALL CONTINUE TO
4 EXERCISE THEIR RESPECTIVE DUTIES AND FUNCTIONS UNTIL
5 REPLACED BY THE PRESIDENT OF THE PHILIPPINES: *PROVIDED,*
6 *THAT,* SUCH NEW APPOINTEES SHALL BE SUBJECT TO THE TERM
7 OF OFFICE PROVIDED UNDER SECTION 3 OF THIS ACT, AS
8 AMENDED.

9 (b) PAYMENT OF SURPLUS DIVIDENDS UNDER SECTION 13(C) OF
10 THIS ACT, AS AMENDED, SHALL BE APPLICABLE TO BANKS
11 WITHOUT A COURT-APPROVED FINAL ASSET DISTRIBUTION PLAN
12 AT THE TIME OF THE EFFECTIVITY OF THIS ACT.

13 (c) THE PREFERENCE INDICATED UNDER SECTION 15 OF THIS
14 ACT, AS AMENDED, SHALL BE LIKEWISE EFFECTIVE UPON
15 LIQUIDATION PROCEEDINGS ALREADY COMMENCED AND
16 PENDING AS OF THE EFFECTIVITY OF THIS ACT, WHERE NO
17 DISTRIBUTION OF ASSETS HAS BEEN MADE.

18 (d) THE PROVISIONS IN SECTION 10 OF THIS ACT, AS AMENDED,
19 ON LEGAL ASSISTANCE, PROTECTION AND INDEMNIFICATION
20 SHALL APPLY TO ALL CASES PENDING BEFORE THE EFFECTIVITY
21 OF THIS ACT."

22 SECTION 52. Section 26 of the same Act, *Separability Clause* is accordingly
23 renumbered as Section [34] 33.

1 **“Separability Clause.** - If any provision or section of this Act or the
2 application thereof to any person or circumstances is held invalid, the
3 other provisions or sections of this Act, in the application of such provision
4 or section to other persons or circumstances, shall not be affected
5 thereby.”

6 **SECTION 53.** Section 27 of the same Act, **Repealing Clause** is accordingly
7 renumbered as Section [35] **34**.

8 **“Repealing Clause.** - All acts or parts of acts and executive orders,
9 administrative orders, or parts thereof which are inconsistent with the
10 provisions of this Act are hereby repealed.”

11 **SECTION 54.** Section 28 of the same Act, **Effectivity Clause** is accordingly
12 renumbered as Section [36] **35**.

13 **“Effectivity Clause.** - This Act shall take effect fifteen (15) days following
14 the completion of its publication in the *Official Gazette* or in two (2)
15 newspapers of general circulation.”

Approved,