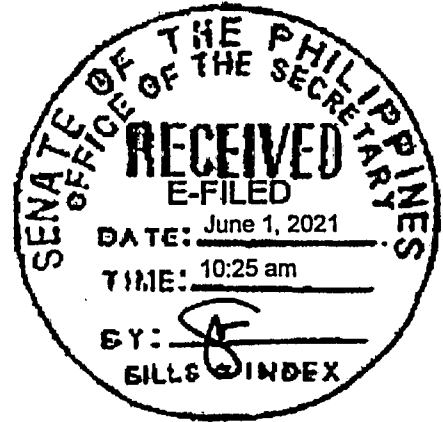


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



SENATE

Senate Bill No. 2249

Introduced by Senator FRANCIS N. PANGILINAN

AN ACT
PROVIDING PROTECTION TO COOPERATIVE DEPOSITORS AND
ESTABLISHING THE PHILIPPINE COOPERATIVE INSURANCE CORPORATION,
DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

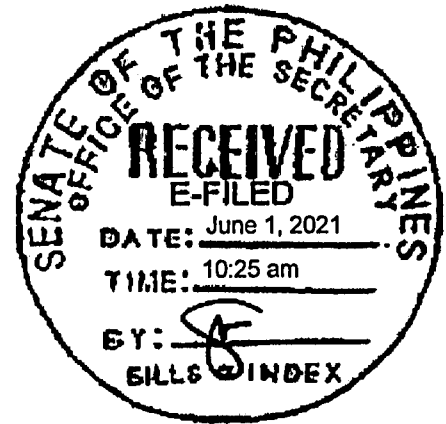
The interest for safety of public deposits has motivated governments to provide deposit insurance. In the Philippines, government has enacted Republic Act 3591 in 1963 creating the Philippine Deposit Insurance Corporation (PDIC). PDIC was established to promote and safeguard the interests of the depositing public by way of providing insurance coverage on all insured deposits. On membership, it is mandatory for all banks licensed by the Bangko Sentral ng Pilipinas to be a member of PDIC. According to the PDIC website (www.pdic.gov.ph/public-policy) as of 31 December 2017, there are 587 banks in the Philippine banking system. These consist of 43 commercial banks (including branches of foreign banks), 55 thrift banks (savings banks, mortgage banks, stock savings and loan associations, and development banks), and 489 rural banks (including cooperative banks).

Although cooperative banks are included in the membership of PDIC, other savings and credit cooperatives are not. In a policy paper by Dr. Gilberto Llanto (June 2000)¹, he concluded that savings and credit cooperatives have been effective in mobilizing millions of pesos of deposits, and these deposits are mostly coming from the low-[income] and middle-income classes. Hence, he recommended various measures to protect members deposits and one of which is to put a deposit insurance for savings and credit cooperative depcsits. In the 2019 data of the Cooperative Development Authority, it is estimated that more or less 40 percent of the total number of cooperatives are engaged in the business of savings and credit.

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


FRANCIS N. PANGILINAN
Senator

¹ Llanto G. (2000). Protecting Deposits in Savings and Credit Cooperatives. Philippine Institute for Development Studies.



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

1 SECTION 1. *Short Title.* - This Act shall be known as the "Cooperative Depositors
2 Protection Act of 2021."

3 SEC. 2. *Declaration of Principles and Policies.* - Section 1, Article XII of the 1987
4 Constitution declares that the state shall promote the viability and growth of cooperatives
5 as instruments for social justice and economic development. Towards this end, the
6 government must extend all means and mechanisms necessary for the Philippine
7 Cooperative Deposit Insurance Corporation to effectively fulfill its vital task of
8 promoting and safeguarding the interests of the depositing public by way of providing
9 permanent and continuing insurance coverage on all deposits, in order to help develop a
10 sound and stable cooperative system at all times.

11 SEC. 3. *Creation and Nature of the Corporation.* - There is hereby created a
12 Philippine Cooperative Deposit Insurance Corporation which shall have the status of a
13 tax-exempt government corporation attached to the Department of Finance for policy
14 coordination and guidance.

15 SEC. 4. *Powers and Functions.* - The Corporation shall have the following powers
16 and functions:

- 17 a) To provide a deposit insurance scheme for insured cooperatives and to
18 receive, liquidate and wind up any cooperative;
- 19 b) To formulate and issue rules and regulations for the effective discharge of
20 its responsibilities;
- 21 c) To organize its office, fix the compensation of an appoint personnel as may
22 be deemed necessary upon the recommendation of the president of the
23 Corporation;
- 24 d) To direct the management and operation of the Corporation;

- 1 e) To receive and manage grants, donations, and other forms of assistance;
- 2 f) To sue and be sued;
- 3 g) To adopt an annual budget for, and authorize such expenditures by the
- 4 Corporation;
- 5 h) To perform such other acts as it may deem necessary for the corporation to
- 6 undertake its mandate and functions.

7 **SEC. 5. *The Board of Directors.*** - The Corporation shall be governed by the Board
8 of Directors which shall be composed of five (5) members as follows:

- 9 a) The Secretary of Finance who shall be the ex-officio Chairman of the Board
- 10 without compensation.
- 11 b) The Chairman of the Cooperative Development Authority, who shall be ex-
- 12 officio member of the Board without compensation.
- 13 c) The President of the Corporation, who shall be appointed by the President
- 14 of the Philippines from either the Government or private sector to serve on
- 15 a full-time basis for a term of six (6) years. The President of the Corporation
- 16 shall also serve as Vice Chairman of the Board.
- 17 d) Two (2) members from the private sector, to be appointed for a term of six
- 18 (6) years without reappointment by the President of the Philippines:
- 19 Provided, That of those first appointed, the first appointee shall serve for a
- 20 period of two (2) years.

21 No person shall be appointed as member of the Board unless he be of good
22 moral character and of unquestionable integrity and responsibility, and
23 who is of recognized competence in cooperativism, economics, banking and
24 finance, law, management administration or insurance, and shall be at least
25 thirty-five (35) years of age. For the duration of their tenure or term in office
26 and for a period of one year thereafter, the appointive members of the Board
27 shall be disqualified from holding any office, position or employment in
28 any insured cooperative.

29 The Secretary of Finance may designate a representative, whose position
30 shall not be lower than an undersecretary or deputy governor respectively,
31 to attend such meetings and to vote on behalf of the principal. Whenever
32 the Chairman of the Board is unable to attend a meeting of the Board, or in
33 the event of a vacancy in the office of the Secretary of Finance, the President
34 of the Corporation shall act as Chairman.

35 The presence of three (3) members shall constitute a quorum. All decisions
36 of the Board of Directors shall require the concurrence of at least three (3)
37 members.

38 The Secretary of Finance shall fix the rate of per diem for every Board
39 meeting attended by the members of the Board of Directors.

40 **SEC. 6. *The President of the Corporation.*** - The President of the Corporation shall
41 be the Chief Executive thereof and his salary shall be fixed by the President of the
42 Philippines. The sum total of the salary of the President and allowances and other

1 emoluments which the Board of Directors may grant him shall be the ceiling for fixing
2 the salary, allowances and other emoluments of all other personnel in the Corporation.
3 The power and duties of the President of the Corporation are:

- 4 a) To prepare the agenda for the meeting of the Board and to submit for the
5 consideration of the Board the policies and measures which he believes to
6 be necessary to carry out the purposes and provisions of this Act;
- 7 b) To execute and administer the policies and measures approved by the
8 Board;
- 9 c) To direct and supervise the operations and internal administration of the
10 Corporation in accordance with the policies established by the Board. The
11 President may delegate certain of his administrative responsibilities to
12 other officers of the Corporation, subject to the rules and regulations of the
13 Board;
- 14 d) To represent the Corporation, upon prior authority of the Board, in all
15 dealings with other offices, agencies and instrumentalities of the
16 government and with all other persons or entities, public or private,
17 whether domestic, foreign or international;
- 18 e) To authorize, with his signature, upon prior authority of the Board,
19 contracts entered into by the Corporation, notes and securities issued by the
20 Corporation, and the annual reports, balance sheets, profits and loss
21 statements, correspondence and other documents of the Corporation. The
22 signature of the President may be in facsimile wherever appropriate;
- 23 f) To represent the Corporation, either personally or through counsel, in all
24 legal proceedings or actions;
- 25 g) To delegate, with the prior approval of the Board of Directors, his power to
26 represent the Corporation, as provided in subsection (d) and (f) of this
27 section, to other officers of the Corporations; and
- 28 h) To exercise such other powers as may be vested in him by the Board.

29 The President shall be assisted by a Vice President and other officials whose
30 appointment and removal for cause shall be approved and whose salary shall be fixed by
31 the Board of Directors upon recommendation of the President of the Corporation. During
32 the absence or temporary incapacity of the President, or in case a vacancy or permanent
33 incapacity and pending the appointment of a new President of the Corporation by the
34 President of the Philippines, the Vice President shall act as President and discharge the
35 duties and responsibilities thereof.

36 **SEC. 7. Definition of Terms as Used in this Act. -**

- 37 a) **Board of Directors** means the Board of Directors of the Corporation.
- 38 b) **Cooperative** shall be synonymous and interchangeable and shall include
39 other types and categories of cooperatives that encourages and accept
40 savings among its members and the general public.
- 41 c) **Receiver** includes a receiver, commission, person or other agency charged
42 by law with the duty to take charge of the assets and liabilities of the
43 cooperative which has been forbidden from doing deposit business in the
44 Philippines, as well as the duty to gather, preserve and administer such
45 assets and liabilities for the benefit of the depositors of said cooperative,

1 and to continue into liquidation whenever authorized under this Act or
2 other laws, and to dispose of the assets and wind up the affairs of such
3 cooperative.

4 d) **Insured Cooperative** means any cooperative the deposits of which are
5 insured in accordance with the provisions of this Act.

6 e) **Non-insured Cooperative** means any cooperative the deposits of which are
7 not insured.

8 f) **Deposit** means the unpaid balance of money or its equivalent received by
9 a cooperative in the usual course of savings deposit business and for which
10 it has given or is obliged to give credit to a savings, time or thrift account,
11 or issued in accordance with Cooperative Development Authority rules
12 and regulations, R.A. 9520 and other applicable laws, together with such
13 other obligations of a cooperative consistent with cooperative principles
14 and practices, the Board of Directors shall determine and prescribe by
15 regulations to be deposit liabilities of the cooperative.

16 The Corporation shall not pay deposit insurance for the following accounts
17 or transaction, whether denominated, documented, recorded or booked as
18 deposit by the cooperative:

- 19 1. Investment products such as share capital, fix deposits, bonds and
20 securities, trust accounts, and other similar instruments;
- 21 2. Deposit accounts or transactions which are unfunded, or that are
22 fictitious or fraudulent;
- 23 3. Deposit accounts or transactions constituting, and/or emanating
24 from, unsafe and unsound cooperative savings transactions
25 practice/s, as determined by the Corporation, in consultation with
26 the Cooperative Development Authority, after due notice and
27 hearing, and publication of a cease and desist order issued by the
28 Corporation against such deposit accounts or transactions; and
- 29 4. Deposits that are determined to be the proceeds of an unlawful
30 activity as defined under Republic Act 9160, as amended.

31 g) **Insured Deposit** means the amount due to any bona fide depositor for
32 legitimate deposits in an insured cooperative net of any obligation of the
33 depositor to the insured cooperative as of the date of closure, but not to
34 exceed Three Hundred Thousand Pesos (P300,000.00). such net amount
35 shall be determined according to such regulations as the Board of Directors
36 may prescribe. In determining such amount due to any depositor, there
37 shall be added together all deposits in the cooperative maintained in the
38 same right and capacity for his benefit either in his own name or in the name
39 of others. A joint account regardless of whether the conjunction "and," "or,"
40 "and/or" is used, shall be insured separately from any individually-owned
41 deposit account: Provided, That (1) If the account is held jointly by two or
42 more natural persons, or by two or more juridical persons or entities, the
43 maximum insured deposit shall be divided into as many equal shares as
44 there are individuals, juridical persons or entities, unless a different sharing
45 is stipulated in the document of deposit, and (2) if the account is hold by a
46 juridical person or entity jointly with one or more natural persons, the
47 maximum insured deposit shall be presumed to belong entirely to such
48 juridical person or entity: Provided, further, That the aggregate of the

1 interest of each co-owner over several joint accounts, whether owned by the
2 same or different combinations of individuals, juridical persons or entities,
3 shall likewise be subject to the maximum insured deposit of Three Hundred
4 Thousand Pesos (P500,000.00): Provided, furthermore, That the provisions
5 of any law to the contrary notwithstanding, no owner/holder of any
6 negotiable certificate of deposit shall be recognized as a depositor entitled
7 to the rights provided in this Act unless his name is registered as
8 owner/holder thereof in the books of the issuing cooperative: Provided,
9 finally, That, in case of a condition that threatens the monetary and financial
10 stability of the financial system that may have systematic consequences, as
11 defined in Section 19 hereof, as determined by the Monetary Board, the
12 maximum deposit insurance cover may be adjusted in such amount, for
13 such a period, and/or for such deposit products, as may be determined by
14 a unanimous vote of the Board of Directors in a meeting called for the
15 purpose and chaired by the Secretary of Finance, subject to the approval of
16 the President of the Philippines.

- 17 h) **Transfer Deposit** means deposit in an insured cooperative made available
18 to a depositor by the Corporation as payment of insured deposit of such
19 depositor in a closed cooperative and assumed by another insured
20 cooperative.

21 **SEC. 8. Deposit Insurance Coverage.** - The deposit liabilities of any cooperative,
22 which is engaged in the business of receiving deposits as herein defined on the effective
23 date of this Act, or which thereafter may engage in the business of receiving deposits,
24 shall be insured with the Corporation.

25 **SEC. 9. Assessment of Member Cooperative.** -

- 26 a) The assessment rate shall be determined by the Board of Directors:
27 Provided, That the assessment rate shall not exceed one-fifth (1/5) of one
28 percent (1%) per annum. The semi-annual assessment for each insured
29 cooperative shall be in the amount of the product of one-half (1/2) the
30 assessment rate multiplied by the assessment base but in no case shall it be
31 less than Three Thousand pesos (P3,000.00). The assessment base shall be
32 the amount of the liability of the cooperative for deposits as defined under
33 subsection (f) of section 7 without any deduction for indebtedness of
34 depositors.
- 35 b) The semi-annual assessment base for one semi-annual period shall be the
36 average of the assessment base of the cooperative as of the close of business
37 on March thirty-one and June thirty and the semi-annual assessment base
38 for the other semi-annual period shall be the average of the assessment base
39 or the cooperative savings deposit as of the close of business on September
40 thirty and December thirty-one: Provided, That when any of said days is a
41 non-business day or legal holiday, either national or provincial, the
42 preceding business day shall be used. The certified statements required to
43 be filed with the Corporation under subsections (b) and (c) of this section
44 shall be in such form and set forth such supporting information as the Board
45 of Directors shall prescribe. The assessment payments required from the
46 insured cooperatives under subsections (b) and (c) of this Section shall be

1 made in such manner and at such time or times as the Board of Directors
2 shall prescribe, provided the time so prescribed shall not be later than sixty
3 (60) days after filing the certified statement setting forth the amount of
4 assessment.

5 c) On or before the 31st of July of each year, each insured cooperative shall file
6 with the Corporation a certified statement showing for the six months
7 ending on the preceding June thirty the amount of the assessment base and
8 the amount of the semi-annual assessment due to the Corporation for the
9 period ending on the following December thirty-one, determined in
10 accordance with subsection (a) of this section, which shall contain or be
11 verified by a written declaration that it is made under the penalties of
12 perjury. Each insured cooperative shall pay to the Corporation the amount
13 of the semi-annual assessment it is required to certify. On or before the 31st
14 day of January of each year, each insured cooperative shall file with the
15 Corporation a similar certified statement for the six months ending on the
16 preceding December thirty one and shall pay to the Corporation the
17 amount of the semi-annual assessment for the period ending on the
18 following June thirty which it is required to certify.

19 d) Each cooperative which becomes an insured cooperative shall not be
20 required to file any certified statement or pay any assessment for the semi-
21 annual period in which it becomes an insured cooperative. On the
22 expiration of such period, each such cooperative shall comply with the
23 provisions of subsection (b) of this Section except that the semi-annual
24 assessment base for its first certified statement shall be the assessment base
25 of the cooperative as of the close of business on the proceeding June thirty
26 or December thirty-one, whichever is applicable, determined in accordance
27 with subsection (a) of this Section. If such cooperative has assumed the
28 liabilities for deposits of another cooperative, it shall include such liabilities
29 in its assessment base. The first certified statement shall show as the amount
30 of the first semi-annual assessment due to the Corporation, an amount
31 equal to the product of one-half of the annual assessment rate multiplied by
32 such assessment base.

33 e) All assessment collections and income from operations after expenses and
34 charges shall be added to the Deposit Insurance Fund under this Section.
35 Such expenses and charges are: (1) the operating costs and expenses of the
36 Corporation for the calendar year; (2) additions to reserve to provide for
37 insurance and financial assistance losses, net of recoverable amounts from
38 applicable assets and collaterals, during the calendar year; and (3) the net
39 insurance and financial assistance losses sustained in said calendar year.

40 f) The Corporation (1) may refund to an insured cooperative any payment of
41 assessment in excess of the amount due to the Corporation or (2) may credit
42 such excess toward the payment of the assessment next becoming due from
43 such cooperative and upon succeeding assessments until the credit in
44 exhausted.

45 g) Any insured cooperative which fails to file any certified statement required
46 to be filed by it in connection with determining the amount of any
47 assessment payable by the cooperative to the Corporation may be
48 compelled to file such statement by mandatory injunction or other

- 1 appropriate remedy in a suit brought for such purpose by the Corporation
2 against the cooperative and any officer or officers thereof in any court of the
3 Philippines of competent jurisdiction in which such cooperative is located.
- 4 h) The Corporation, in a suit brought in any court of competent jurisdiction,
5 shall be entitled to recover from any insured cooperative the amount of any
6 unpaid assessment lawfully payable by such insured cooperative to the
7 Corporation, whether or not such cooperative shall have filed any such
8 certified statement and whether or not suit shall have been brought to
9 compel the cooperative to file any such statement. No action or proceeding
10 shall be brought for recovery of any assessment due to the Corporation or
11 for the recovering of any amount paid to the Corporation in excess of the
12 amount due to it, unless such action or proceeding shall have been brought
13 within five years after the right accrued for which the claim is made, except
14 where the insured cooperative has made or filed with the Corporation a
15 false or fraudulent certified statement with the intent to evade, in whole or
16 in part, the payment of assessment, in which case the claim shall not have
17 been deemed to have accrued until the discovery by the Corporation, that
18 the certified statement is false or fraudulent.
- 19 i) The Corporation shall not terminate the insured status of any cooperative
20 which continues to operate or receive deposits. Should any insured
21 cooperative fail or refuse to pay any assessment required to be paid by such
22 cooperative under any provision of this Act, and should the cooperative not
23 correct such failure or refusal within thirty (30) days after written notice has
24 been given by the Corporation to an officer of the cooperative citing this
25 subsection, and stating that the cooperative has failed or refused to pay as
26 required by the law, the Corporation may, at its discretion, file a case for
27 collection before the appropriate court without prejudice to the imposition
28 of administrative sanctions allowed under the provisions of this law on the
29 cooperative officials responsible for the non-payment of assessment fees.

30 **SEC. 10. Sanctions Against Unsafe and Unsound Cooperative Practices. -**

- 31 a) Whenever upon examination by the Corporation into the condition of any
32 insured cooperative, it shall be disclosed that an insured cooperative or its
33 directors or agents have committed, are committing or about to commit
34 unsafe or unsound practices in conducting the savings deposit business of
35 the cooperative or have violated, are violating or about to violate any
36 provisions of any law or regulation to which the insured cooperative is
37 subject, the Board of Directors shall submit the report of the examination to
38 the Cooperative Development Authority to secure corrective action
39 thereon. If no such corrective action is taken by the Cooperative
40 Development Authority within forty-five (45) days from the submission of
41 the report, the Board of Directors shall, motu proprio, institute corrective
42 action which it deems necessary. The Board of Directors may thereafter
43 issue a cease and desist order, and require the cooperative or its directors
44 or agents concerned to correct the practices or violations within forty-five
45 (45) days. However, if the practice or violations is likely to cause insolvency
46 or substantial dissipation of assets or earnings of the cooperative, or is likely
47 to seriously weaken the condition of the cooperative or otherwise seriously

1 prejudice the interests of its depositors and the cooperative, the period to
2 take corrective action shall not be more than fifteen (15) days. The order
3 may also include the imposition of fines provided in Section 22 (f) hereof
4 The Board of Directors shall duly inform the Cooperative Development
5 Authority of action it has taken under this subsection with respect to such
6 practices or violations.

7 b) The actions and proceedings provided in the preceding subsection may be
8 undertaken by the Corporation if, in its opinion, an insured cooperative or
9 its directors or agents have violated, or violating or about to violate any
10 provision of this Act or any order, rule or instruction issued by the
11 Corporation or any written condition imposed by the Corporation in
12 connection with any transaction with or grant by the Corporation.

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

24 **SEC. 11. Powers, Responsibilities, and Prohibitions. -**

25 a) The Board of Directors shall administer the affairs of the Corporation fairly
26 and impartially and without discrimination.

27 b) The Board of Directors shall appoint examiners who shall have power, on
28 behalf of the Corporation to examine any insured cooperative. Each such
29 examiner shall have the power to make a thorough examination of all
30 savings of the cooperative and in doing so, he shall have the power to
31 administer oaths, to examine and take and preserve the testimony of any of
32 the officers and agents thereof, and, to compel the presentation of books,
33 documents, papers, or records necessary in his judgement to ascertain the
34 facts relative to the condition of the cooperative; and shall make full and
35 detailed report of the condition of the cooperative to the Corporation. The
36 Board of Directors in like manner shall appoint claim agents who shall have
37 the power to investigate and examine all claims for insured deposits and
38 transferred deposits. Each claim agent shall have the power to administer
39 oaths and to examine under oath and take and preserve testimony of any
40 person relating to such claim.

41 The investigators appointed by the Board of Directors shall have the power
42 on behalf of the Corporation to conduct investigations on frauds,
43 irregularities and anomalies in relation to saving transaction committed in
44 cooperatives, based on reports of examination conducted by the
45 Corporation and Cooperative Development Authority or complaints from
46 depositors or from other government agency. Each investigator shall have

- 1 the power to administer oaths, and examine and take and preserve the
2 testimony of any person relating to the subject of investigation.
- 3 c) Each insured cooperative shall make to the Corporation reports of
4 condition in such form and at such times as the Board of Directors may
5 require such reports to be published in such manner, not inconsistent with
6 any applicable law, as it may direct. Every such cooperative which fails to
7 make or publish any such report within such time, not less than five days,
8 as the Board of Directors may require, shall be subject to a penalty of not
9 more than P100 for each day of such failure recoverable by the Corporation
10 for its use.
- 11 d) The Corporation shall have access to reports of examination made by, and
12 reports of condition made to the Cooperative Development Authority or its
13 appropriate supervising agencies.
- 14 e) Each insured cooperative shall keep and maintain a true and accurate
15 record or statement of its daily deposit transactions consistent with the
16 standards set by the Cooperative Development Authority and the
17 Corporation. Compliance with such standards shall be duly certified by the
18 Chairman/President of the cooperative or the compliance officer: Provided,
19 That refusal or willful failure to issue the required certification shall
20 constitute a violation of this section and shall subject such officers of the
21 cooperative to the sanctions provided for under Section 22 (f) of this Act.
- 22 f) Personnel of the Corporation are hereby prohibited from:
- 23 1. being an officer, director, consultant, employee or member, directly
24 or indirectly, of any cooperative;
 - 25 2. receiving any gift or thing of value from any officer, director or
26 employee thereof;
 - 27 3. revealing in any manner, except as provided in this Act or under
28 order of the court, information relating to the condition or business
29 of any such cooperative. This prohibition shall not apply to the
30 giving of information to the Board of Directors, the President of the
31 Corporation, Congress, any agency of government authorized by
32 law, or to any person authorized by either of them in writing to
33 receive such information.
- 34 g) The Corporation shall underwrite or advance litigation costs and expenses,
35 including legal fees and other expenses of external counsel, or provide legal
36 assistance to, directors, officers, employees or agents of the Corporation in
37 connection with any civil, criminal, administrative or any other action or
38 proceeding, to which such director, officer, employee or agent is made a
39 party by reason of, or in connection with, the exercise of authority or
40 performance of functions and duties under this Act: Provided, That such
41 legal protection shall not apply to any civil, criminal, administrative or any
42 action or proceeding that may be initiated by the Corporation, in whatever
43 capacity, against such director, officer, employee or agent: Provided,
44 further, That directors, officers, employees or agents who shall resign,
45 retire, transfer to another agency or be separated from the service, shall
46 continue to be provided with such legal protection in connection with any
47 act done or omitted to be done by them in good faith during their tenure or
48 employment with the Corporation: Provided, finally That in the event of a

1 settlement or compromise, indemnification shall be provided only in
2 connection with such matters covered by the settlement as to which the
3 Corporation is advised by counsel that the persons to be indemnified did
4 not commit any negligence or misconduct.

5 h) The costs and expenses incurred in defending the aforementioned action,
6 suit or proceeding may be paid by the Corporation in advance of the final
7 disposition of such action, suit or proceeding upon receipt of an
8 undertaking by or on behalf of the director, officer, employee or agent to
9 repay the amount advanced should it ultimately be determined by the
10 Board of Directors that he is not entitled to be indemnified as provided in
11 this subsection.

12 Unless the actions of the Corporation or any of its officers and employees
13 are found to be in willfull violation of this Act, performed in bad faith, with
14 malice and/or gross negligence, the Corporation, its directors, officers,
15 employees and agents are held free and harmless to the fullest extent
16 permitted by law from any liability, and they shall be indemnified for any
17 and ll liabilities, losses, claims, demands, damages, deficiencies, costs and
18 expenses of whatsoever kind and nature that may arise in connection with
19 the performance of their functions, without prejudice to any criminal
20 liability under existing laws.

21 Legal assistance shall include the grant or advance of reasonable legal fees
22 as determined by the Board of Directors to enable the concerned directors,
23 officers, employees or agent to engage counsel of his choice, subject to
24 approval by the Board of Directors.

25 Notwithstanding the provisions of this Section and Sections 4 and 5,
26 members of the Board of Directors and personnel of the Corporation may
27 become directors and officers of any cooperative in connection with
28 financial assistance extended by the Corporation to such institution and
29 when, in the opinion of the Board, it is appropriate to make such
30 designation to protect the interest of the Corporation.

31 **SEC. 12. Receivership and Liquidation. -**

32 a) The provisions of other laws, general or special, to the contrary
33 notwithstanding, whenever it shall be appropriate for the Cooperative
34 Development Authority to appoint a receiver of any cooperative pursuant
35 to existing laws, the Cooperative Development Authority shall give prior
36 notice and appoint the Corporation as receiver.

37 b) The Corporation as receiver shall control, manage and administer the
38 affairs of the closed cooperative. Effective immediately upon takeover as
39 receiver of such cooperative, the powers, functions and duties, as well as all
40 allowances, remunerations and perquisites of the directors, officers, and
41 shareholders of such cooperative are suspended, and the relevant
42 provisions of the Articles of Cooperation and By-laws of the closed
43 cooperative are likewise deemed suspended.

1 c) The assets of the closed cooperative under receivership shall be deemed in
2 custodia legis in the hands of the receiver. From the time the closed
3 cooperative is placed under such receivership, its assets shall not be subject
4 to attachment, garnishment, execution, levy or any other court processes.

5 d) In addition to the powers of the receiver pursuant to existing laws, the
6 Corporation is empowered to:

- 7 1. bring suits to enforce liabilities to or recoveries of the closed
8 cooperative;
- 9 2. appoint and hire persons or entities of recognized competence in
10 cooperativism as its deputies and assistants, to perform such powers
11 and functions of the Corporation as receiver or liquidator of the
12 closed cooperative;
- 13 3. suspend or terminate the employment of officers and employees of
14 the closed cooperative: Provided, that payment of separation pay or
15 benefits shall be made only after the closed cooperative has been
16 placed under liquidation and that such payment shall be made from
17 available funds of the cooperative after deducting reasonable
18 expenses for receivership and liquidation;
- 19 4. pay accrued utilities, rentals and salaries of personnel of the closed
20 cooperative for a period not exceeding three (3) months, from
21 available funds of the closed cooperative;
- 22 5. collect loans and other claims of the closed cooperative, and for the
23 purpose, modify, compromise or restructure the terms and
24 conditions of such loans or claims as may be deemed advantageous
25 to the interest of the creditors and claimants of the closed
26 cooperative;
- 27 6. hire or retain private counsels as may be necessary;
- 28 7. borrow or obtain a loan, or mortgage, pledge or encumber any asset
29 of the closed cooperative, when necessary, to preserve or prevent
30 dissipation of the assets, or to redeem foreclosed assets of the closed
31 cooperative, or to minimize losses to the depositors and creditors;
- 32 8. if the stipulated interest on deposits is unusually high compared
33 with the prevailing applicable interest rate, the Corporation as
34 receiver may exercise such powers which may include a reduction
35 of the interest rate to a reasonable rate: Provided, that any
36 modification or reduction shall apply only to unpaid interest; and
- 37 9. exercise such other powers as are inherent and necessary for the
38 effective discharge of the duties of the Corporation as a receiver.

39 The Board of Directors shall adopt such policies and guidelines as may be
40 necessary for the performance of the above powers by personnel, deputies
41 and agents of the Corporation.

42 **SEC. 13. Court Fees and Other Fees.** - In all cases or actions filed by the Corporation
43 as receiver for the recovery of, or involving any assets of the closed cooperative, payment
44 of all docket and other court fees shall be free.

1 **SEC. 14. Receivership Expenses.** – Before any distribution of the assets of the closed
2 cooperative in accordance with the preference established by Philippine Cooperative
3 Code and other laws, the Corporation shall periodically charge against said assets
4 reasonable receivership expenses and subject to approval by the proper court, reasonable
5 liquidation expenses, it has incurred as part of the cost of receivership/liquidation
6 proceedings and collect payment therefore from available assets.

7 After the payment of all liabilities and claims against the closed cooperative, the
8 Corporation shall pay any surplus dividends at the legal rate of interest from date of
9 takeover to date of distribution, to creditors and claimants of the closed cooperative in
10 accordance with legal priority before distribution to the shareholders of the closed
11 cooperative.

12 **SEC. 15. Permanent Insurance Funds.** – To carry out the purposes of this Act, the
13 permanent insurance fund shall be Five Hundred million pesos (P500,000,000.00).

14 The Deposit Insurance Fund shall be the capital account of the Corporation and
15 shall principally consist of the following: (i) the Permanent Insurance Fund; (ii)
16 assessment collection, subject to the charges enumerated in Section 6 (d); (iii) reserves for
17 insurance and financial assistance losses; and (iv) retained earnings: Provided, That the
18 reserves for insurance and financial assistance losses and retained earnings shall be
19 maintained at a reasonable level to ensure capital adequacy: Provided, further, That the
20 Corporation may, within two (2) years from the passage of this Act, and every five (5)
21 years thereafter, conduct a study on the need to adjust the amount of the Permanent
22 Insurance Fund, insurance cover, assessment rate and assessment base, and thereafter
23 make the necessary recommendation to Congress. For this purpose, the Corporation may
24 hire the services of actuarial consultants to determine, among others, the affordability of
25 assessment rates, analysis and evaluation of insurance risk, and advisability of imposing
26 varying assessment rates or insurance cover of different cooperatives.

27 **SEC. 16. Payment of Insured Deposits.** – Whenever an insured cooperative shall
28 have been closed by the Cooperative Development Authority, payment of the insured
29 deposits on such closed cooperative shall be made by the Corporation as soon as possible
30 either (1) by cash or (2) by making available to each depositor a transferred deposit in
31 another insured cooperative in an amount equal to insured deposit of such depositor.
32 Provided, however, That the Corporation, in its discretion, may require proof of claims
33 to be filed before paying the insured deposits, and that in any case where the Corporation
34 is not satisfied as to the viability of a claim for an insured deposit, it may require final
35 determination of a court of competent jurisdiction before paying such claim: Provided,
36 further, That failure to settle the claim, within six (6) months from the date of filing of
37 claim for insured deposit, where such failure was due to grave abuse of discretion, gross
38 negligence, bad faith, or malice, shall, upon conviction, subject to directors, officers or
39 employees of the Corporation responsible for the delay, to imprisonment from six (6)
40 months to one (1) year: Provided, furthermore, That the period shall not apply if the
41 validity of the claim requires the resolution of issues of facts and or law by another office,
42 body or agency including the case mentioned in the first proviso or by the Corporation
43 together with such other office, body or agency.

1 **SEC. 17. Subrogation.** - The Corporation upon payment of any depositor, shall be
2 subrogated to all rights of the depositor against the closed cooperative to the extent of
3 such payment. Such subrogation shall include the right on the part of the Corporation to
4 receive the same payments from the proceeds of the assets of such closed cooperative and
5 recoveries on account of cooperatives debtors as would have been payable to the
6 depositor on a claim for the insured deposits but, such depositor shall retain his claim for
7 any uninsured portion of his deposit. All payments by the Corporation of insured
8 deposits in closed cooperatives partake of the nature of public funds, and as such, must
9 be considered a preferred credit similar to taxes due to the national government in the
10 order of preference under Article 2244 of the New Civil Code.

11 **SEC. 18. Determination of Insured Deposits.** -

- 12 a) The Corporation shall commence the determination of insure deposits due
13 the depositors of a closed cooperative upon its actual takeover of the closed
14 cooperative. The Corporation shall give notice to the depositors of the
15 closed cooperative of the insured deposits due them by whatever means
16 deemed appropriate by the Board of Directors: Provided, That the
17 Corporation shall publish the notice once a week for at least three (3)
18 consecutive weeks in a newspaper of general circulation or, when
19 appropriate, in a newspaper circulated in the community or communities
20 where the closed cooperative or its branches are located and post the same
21 in the office of the cooperative.
- 22 b) Payment of an insured deposit to any person by the Corporation shall
23 discharge the Corporation, and payment of transferred deposit to any
24 person by the new cooperative or by an insured cooperative in which a
25 transferred deposit has been made available shall discharge the
26 Corporation and such new cooperative or other insured cooperative, to the
27 same extent that payment to such person by the closed cooperative would
28 have discharged it from liability for the insured deposit.
- 29 c) Except as otherwise prescribed by the Board of Directors, neither the
30 Corporation nor such other insured cooperative shall be required to
31 recognize as the owner of any portion of a deposit appearing on the records
32 of the closed cooperative under a name other than that of the claimant, any
33 person whose name or interest as such owner is not disclosed on the records
34 of such closed cooperative as part owner of said deposit, if such recognition
35 would increase the aggregate amount of the insured deposits in such closed
36 cooperative.
- 37 d) The Corporation may withhold payment of such portion of the insured
38 deposit of any depositor in a closed cooperative as may be required to
39 provide for the payment of any liability of such depositor as a shareholder
40 of the closed cooperative, or of any liability of such depositor to the closed
41 cooperative or its receiver, which is not offset against a claim due from such
42 cooperative, pending the determination and payment of such liability by
43 such depositor or any other liable therefor.
- 44 e) Unless otherwise waived by the Corporation, if the depositor in the closed
45 cooperative shall fail to claim his insured deposits with the Corporation
46 within two (2) years from actual takeover of the closed cooperative by the
47 receiver, or does not enforce his claim filed with the corporation within two

1 (2) years after the two-year period to file a claim as mentioned hereinabove,
2 all rights of the depositor against the Corporation with respect to the
3 insured deposit shall be barred; however, all rights of the depositor against
4 the closed cooperative or the receivership estate to which the Corporation
5 may have become subrogated, shall thereupon revert to the depositor.
6 Thereafter, the Corporation shall be discharged from any liability on the
7 insured deposit.

8 **SEC. 19. Corporate funds and financial assistance. -**

- 9 a) Money of the Corporation not otherwise employed shall be invested in
10 obligation of the Republic of the Philippines or in obligations guaranteed as
11 to principal and interest by the Republic of the Philippines.
- 12 b) The banking or checking accounts of the Corporation shall be kept with the
13 Bangko Sentral ng Pilipinas, with the Land Bank of the Philippines, or with
14 any other bank designated as depository or fiscal agent of the Philippine
15 government.
- 16 c) It is hereby declared to be the policy of the state that the Deposit Insurance
17 Fund of the Corporation shall be preserved and maintained at all times.
18 Provided, That, the Corporation shall be exempt from income tax, final
19 withholding tax, value-added tax on assessments collected from member
20 cooperatives, and local taxes.
- 21 d) When the Corporation has determined that an insured cooperative is in
22 danger of closing, in order to prevent such closing, the Corporation, in the
23 discretion of its Board of Directors, is authorized to make loans to, or
24 purchase the assets of or assume liabilities of, or make deposits in, such
25 insured cooperative, upon such terms and condition as the Board of
26 Directors may prescribe, when in the opinion of the Board of Directors, the
27 continued operation of such cooperative is essential to provide adequate
28 cooperative saving service in the community or maintain financial stability
29 in the economy.

30 The authority of the Corporation under the foregoing paragraph to extend
31 financial assistance to, assume liabilities of purchase the assets of an insured
32 cooperative may also be exercised in the case of a closed insured
33 cooperative if the Corporation finds that the resumption of operations of
34 such cooperative is vital to the interests of the community: Provided, That
35 the reopening and resumption of operations of the closed cooperative shall
36 be subject to the prior approval of the Cooperative Development Authority.

37 The Corporation may provide any corporation acquiring control of,
38 merging or consolidating with or acquiring the assets of an insured
39 cooperative danger of closing in order to prevent such closing or of a closed
40 insured cooperative in order to restore to normal operations, with such
41 financial assistance as it could provide an insured cooperative under this
42 subsection: Provided, That, within sixty (60) days from date of assistance
43 the Corporation shall submit a report thereof to the Cooperative
44 Development Authority.

1 The Corporation, prior to the exercise of the powers under this section, shall
2 determine that actual payoff and liquidation thereof will be more expensive
3 than the exercise of this power: Provided, That when the Cooperative
4 Development Authority has determined that there are systemic
5 consequences of a probable failure or closure of an insured cooperative, the
6 Corporation may grant financial assistance to such insured cooperative in
7 such amount as may be necessary to prevent its failure or closure and/or
8 restore the insured cooperative to viable operations, under such terms and
9 conditions as may be deemed necessary by the Board of Directors, subject
10 to concurrence by the Cooperative Development Authority and without
11 additional cost to the Deposit Insurance Fund.

12 **SEC. 20. Authority to Borrow.** - The Corporation is authorized to borrow from the
13 Bangko Sentral ng Pilipinas and the Bangko Sentral is authorized to lend the Corporation
14 on such terms as may be agreed upon by the Corporation and the Bangko Sentral, such
15 funds as in the judgement of the Board of Directors of the Corporation are from time to
16 time required for insurance purpose and financial assistance provided for in Section 19
17 (d) of this Act: Provided, That any such loan as may be granted by the Bangko Sentral
18 shall be consistent with monetary policy; Provided, further, That the rate of interest
19 thereon shall be fixed by the Monetary Board but shall not exceed the treasury bill rate.

20 When in judgement of the Board of Directors the funds of the Corporation are not
21 sufficient to provide for an emergency or urgent need to attain the purposes of this Act,
22 the Corporation is likewise authorized to borrow money, obtain loans or arrange credit
23 lines or other credit accommodations from any bank designated as depository or fiscal
24 agent of the Philippine Government: Provided, that such loan shall be short-term
25 duration.

26 **SEC. 21. Reports and Audit.** -

- 27 a) The Corporation shall annually make a report of its operations to the
28 Congress as soon as practicable after the first day of January of each year.
- 29 b) The financial transactions of the Corporation shall be audited by the
30 Commission on Audit in accordance with the principles and procedures
31 applicable to commercial corporate transactions and under such rules and
32 regulations as may be prescribed by the Commission on Audit, the audit
33 shall be conducted at the place or places where accounts of the Corporation
34 are normally kept. Except as to matters relating to the function of the
35 Corporation as receiver which shall be subject to visitorial audit only, the
36 representatives of the Commission on Audit shall have access to all books,
37 accounts, records, reports, files and all other papers, things, or property
38 belonging to or in use by the Corporation pertaining to its financial
39 transactions and necessary to facilitate the audit, and they shall be afforded
40 full facilities for verifying transactions with the balances or securities held
41 by depositories, fiscal agents, and custodians. All such books, accounts,
42 records, reports, files, papers, and property of the Corporation shall remain
43 in possession and custody of the Corporation.
- 44 c) A report of the Audit for each fiscal year ending on June 30 shall be made
45 by the Auditor General to the Congress not later than January 15 following

1 the close of such fiscal year. On or before December 15 following such fiscal
2 year, the Auditor General shall furnish the Corporation a short form report
3 showing the financial position of the Corporation at the close of fiscal year.
4 The report to Congress shall set forth the scope of the audit and shall
5 include a statement of assets and liabilities and surplus or deficit; a
6 statement of surplus or deficit analysis; a statement of income and expenses;
7 a statement of sources and application of funds and such comments and
8 information as may be deemed necessary to inform Congress of the
9 financial operations and condition of the Corporation, together with such
10 recommendations with respect thereto as the Auditor General may deem
11 advisable. The report shall also show specifically any program,
12 expenditure, or other financial transactions or undertaking observed in the
13 course of the audit, which in the opinion of the Auditor General, has been
14 carried on or made without authority of law. A copy of each report shall be
15 furnished to the President of the Philippines, to the Governor of the Bangko
16 Sentral ng Pilipinas, and the Corporation at the time submitted to Congress.

17 **SEC. 22. Penalties. -**

- 18 a) Every insured cooperative shall display at each place of business
19 maintained by it a sign or signs, and shall include a statement in all its
20 advertisements to the effect that its deposits are insured by the Corporation.
21 b) No insured cooperative shall pay any dividend on its share capital or
22 distribute any of its capital assets while it remains in default in the payment
23 of any assessment due to the Corporation: Provided, that if such default is
24 due to a dispute between the insured cooperative and the Corporation over
25 the amount of such assessment, this subsection shall not apply if such
26 cooperative shall deposit security satisfactory to the Corporation for
27 payment upon final determination of the issue.
28 c) Without prior written consent by the Corporation, no insured cooperative
29 shall (1) merge or consolidate with any cooperative or (2) assume liability
30 to pay any deposits made in, or similar liabilities of, any cooperative or (3)
31 transfer assets to any cooperative in consideration of the assumption of
32 liabilities for any portion of the deposits made in such insured cooperative.
33 d) The Corporation may require an insured cooperative to provide protection
34 and indemnity against burglary, defalcation, losses arising from discharge
35 of duties by, or particular acts of defaults of its directors, officers, or
36 employees, and other similar insurable losses. The Board of Directors in
37 consultation with the Cooperative Development Authority, shall determine
38 the bonding requirement as it refers to directors, officers and employers of
39 the insured cooperative as well as the form and amount of the bond.
40 Whenever any insured cooperative refuses to comply with any such
41 requirement the Corporation may contract for such protection and add the
42 cost thereof to the assessment otherwise payable by such cooperative.
43 e) Any assessment payable by an insured cooperative under this Act shall be
44 subject to payment of interest computed from the date such assessment
45 became due and payable and at the legal rate for loans as prescribed by law
46 or appropriate authority and in case of willful failure or refusal to pay such
47 assessment and interest thereon, there shall be added a penalty equivalent

1 to twice the amount of interest payable as computed herein for each day
2 such violations continue, which the interest and penalty the Corporation
3 may recover for its use: Provided, That the penalty shall not be applicable
4 under the circumstances stated in the provisions of subsection (b) of this
5 section.

6 f) If the penalty of prison mayor or a fine of not less than Fifty thousand pesos
7 (P50,000.00) but not more than Two million pesos (P2,000,000.00), or both,
8 at the discretion of the court, shall be imposed upon any director, officer,
9 employee or agent of a cooperative.

- 10 1. for any willful refusal to submit reports as required by law,
11 rules and regulations;
- 12 2. any unjustified refusal to permit examination and audit of the
13 deposit records or the affairs of the cooperative;
- 14 3. any willful making of a false statement or entry in any
15 cooperative report or document required by the Corporation;
- 16 4. submission of false material information in connection with
17 or in relation to any financial assistance of the Corporation
18 extended to the cooperative;
- 19 5. splitting of deposits or creation of fictitious loans or deposit
20 accounts.

21 Splitting of deposits occurs whenever a deposit account with
22 an outstanding balance of more than the statutory maximum
23 amount of insured deposit maintained under the name of
24 natural or juridical persons is broken down and transferred in
25 two (2) or more accounts in the name/s of natural or juridical
26 persons or entities who have no beneficial ownership on
27 transferred deposits in their names within one hundred
28 twenty (120) days immediately preceding or during a
29 cooperative declared holiday, or immediately preceding a
30 closure order issued by the Cooperative Development
31 Authority for the purpose of availing of the maximum deposit
32 insurance coverage;

- 33 6. refusal to allow the Corporation to take over a closed
34 cooperative placed under its receivership or obstructing such
35 action of the Corporation;
- 36 7. refusal to turn over or destroying or tampering cooperative
37 records;
- 38 8. fraudulent disposal, transfer or concealment of any assets,
39 property or liability of the closed cooperative under the
40 receivership of the Corporation;
- 41 9. violation of, or causing any person to violate, the exemption
42 from garnishment, levy, attachment or execution.
- 43 10. Any willful failure ore refusal to comply with, or violation of
44 any provision of this Act, or commission of any other
45 irregularities, and/or conducting business in an unsafe or
46 unsound manner as may be determined by the Board of
47 Directors.

1 The Board of Directors is hereby authorized to impose administrative fines
2 for any act or omission enumerated in the preceding subsection, and for violation
3 of any order, instruction, rule or regulation issued by the Corporation, against a
4 cooperative and/or any of its directors, officers or agents responsible for such act,
5 omission, or violation, in amounts as it may be determined to be appropriate, but
6 in no case to exceed three times the amount of the damages or costs caused by the
7 transaction for each day that the violation subsists, taking into consideration the
8 attendant circumstances, such as the nature and gravity of the violation or
9 irregularity and the assets of the cooperative.

10 **SEC. 23. Separability Clause.** - If any provision or section of this Act or the
11 application thereof to any person or circumstances is held invalid, the other provisions
12 or sections of this Act, in the application of such provision or section to other persons or
13 circumstances, shall not be affected thereby.

14 **SEC. 24. Repealing Clause.** - All acts or parts of acts and executive orders,
15 administrative orders, or parts thereof which are inconsistent with the provisions of this
16 Act are hereby repealed.

17 **SEC. 25. Effectivity Clause.** - This Act shall take effect fifteen (15) days following
18 the completion of its publication in the Official Gazette or in two (2) newspapers of
19 general circulation.

Approved,