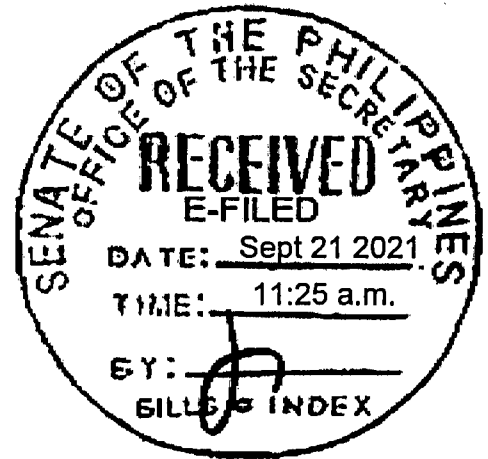


EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

SENATE

S. No. 2411



Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
AMENDING SECTIONS 48,77,176,181,194 and 238 OF
PRESIDENTIAL DECREE NO. 612, OTHERWISE KNOWN AS "THE
INSURANCE CODE", AS AMENDED

EXPLANATORY NOTE

Insurance is vital to the nation and our people. It has proven to be a source of security and protection during critical times. The growth and stability of this industry is anchored on an effective framework of laws and rules that addresses current and future developments. It is for this reason that Presidential Decree No. 612, otherwise known as the Insurance Code, which was enacted almost 47 years ago was amended by several laws through the years, the most recent of which was Republic Act (RA) 10607 enacted on August 15, 2013.

Various improvements in compliance standards and practices were set including financial and governance requirements. The trust and confidence of the insuring public, the ability of the industry to provide better services and a nurturing regulatory environment are sought to be achieved. The past years showed evident success in the attainment of its objectives.

However, to further build on such gains, there are certain amendments to the law that need to be made, most critical of which is the requirement for insurance companies to have a minimum net worth of one billion three hundred thousand pesos (P1,300,000,000.00) by December 31, 2022.

To further ensure financial stability, the Insurance Code has gradually increased the required capitalization of insurance companies to two hundred fifty million pesos (P250,000,000.00) in June 30, 2013, to five hundred fifty million pesos (P550,000,000.00) in December 31, 2016, to nine hundred million pesos (P900,000,000.00) in December 31, 2019 and to one billion three hundred thousand pesos (P1,300,000,000.00) by December 31, 2022.


A review of comparative and advanced markets, particularly in ASEAN, would show that the final increase in the required capitalization by December 31, 2022 would make the Philippine requirement the highest in the region considering our market size. Furthermore, our net worth requirements are more stringent than the fixed paid-up capital required in other ASEAN countries. The Risk-Based Capital Framework as set forth in the Insurance Code has continued to be a more reasonable safeguard to measure the capacity of a company to meet its financial obligations.

The ongoing COVID-19 epidemic has had far-reaching effects and consequences to our economy, the insurance industry is no exception. While remaining resilient and compliant, the industry needs to continuously meet its obligations. Thus, a reprieve from the legislative imposition of the final minimum capitalization is needed to help the industry face its challenges more reasonably and equitably. Moving forward, public interest is still adequately served since the mechanism to determine and impose the subsequent capitalization requirements are provided for in the insurance code.

There are other amendments to the Insurance Code that are necessary to improve services to the insuring public. These include the ability of insurance companies to directly pay healthcare providers and expand their range of insurance products to offer. The bill also seeks to clarify the issue on the incontestability of coverage as affected by the death of the insured within the two-year incontestability period and when premium payment impacts on the contract as valid and binding. The bill also clarifies that the definition and feature of variable contracts are not collective investment scheme and properly construed as insurance products.

The bill seeks to complement Senate Bill 2063 which I earlier filed to strengthen the functions of the Insurance Commission and transforming it to a collegial body to better exercise its functions and responsibilities.

In view of the foregoing, the approval of this bill is earnestly requested.

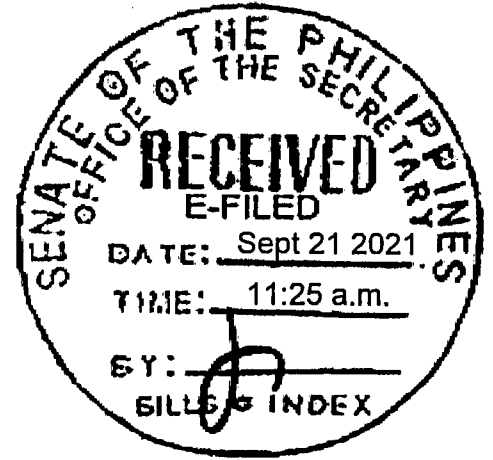


MANUEL "LITO" M. LAPID
Senator

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AN ACT
AMENDING SECTIONS 48,77,176,181,194 and 238 OF
PRESIDENTIAL DECREE NO. 612, OTHERWISE KNOWN AS "THE
INSURANCE CODE", AS AMENDED

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

1 SECTION 1. Section 48 of Presidential Decree No. 612, as amended, is hereby
2 further amended to read as follows:

3
4 "Section 48. Whenever a right to rescind a contract of insurance is given
5 to the insurer by any provision of this chapter, such right must be
6 exercised previous to the commencement of an action on the contract.
7

8 After a policy of life insurance made payable on the death of the insured
9 shall have been in force during the lifetime of the insured for a period of
10 two (2) years from the date of its issue or of its last reinstatement, the
11 insurer cannot prove that the policy is void ab initio or is rescindable by
12 reason of the fraudulent concealment or misrepresentation of the insured
13 or his agent.
14

15 **THE DEATH OF THE INSURED DURING THE TWO-YEAR PERIOD**
16 **FROM THE DATE OF THE ISSUANCE OF THE POLICY OR OF ITS**
17 **LAST REINSTATEMENT SHALL NOT RENDER THE POLICY**
18 **INCONTESTABLE."**
19
20
21
22

1 SECTION 2. Section 77 of Presidential Decree No. 612, as amended, is hereby
2 further amended to read as follows:

3
4 "Section 77. An insurer is entitled to payment of the premium as soon as
5 the thing insured is exposed to the peril insured against. Notwithstanding
6 any agreement to the contrary, no policy or contract of insurance issued
7 by an insurance company is valid and binding unless and until the premium
8 thereof has been paid, **OR IN THE CASE OF INSTALLMENT MODE OF**
9 **PAYMENT ALLOWED BY THE INSURER, THE INITIAL**
10 **INSTALLMENT PREMIUM IS PAID**, except in the case of a life or an
11 industrial life policy whenever the grace period provision applies, or
12 whenever under the broker and agency agreements with duly licensed
13 intermediaries, a ninety (90)-day credit extension is given. No credit
14 extension to a duly licensed intermediary should exceed ninety (90) days
15 from date of issuance of the policy."
16

17 SECTION 3. Section 176 of Presidential Decree No. 612, as amended, is hereby
18 further amended to read as follows:

19
20 "Section 176. Casualty insurance is insurance covering loss or liability
21 arising from accident or mishap, excluding certain types of loss which by
22 law or custom are considered as falling exclusively within the scope of
23 other types of insurance such as fire or marine. It includes, but is not
24 limited to, employer's liability insurance, motor vehicle liability insurance,
25 plate glass insurance, burglary and theft insurance, personal accident and
26 health insurance as written by non-life insurance companies, and other
27 substantially similar kinds of insurance.
28

29 **WHERE THE HEALTH INSURANCE CONTRACT PROVIDES THAT**
30 **ALL OR A PORTION OF INDEMNITIES PROVIDED BY ANY SUCH**
31 **POLICY ON ACCOUNT OF HOSPITAL, NURSING, MEDICAL OR**
32 **SURGICAL SERVICES, OR UPON THE CONSENT OF THE INSURED**
33 **OR GROUP POLICYHOLDER, POLICY BENEFITS MAYBE PAID**
34 **DIRECTLY TO THE HOSPITAL, MEDICAL FACILITIES OR PERSON**
35 **RENDERING SUCH SERVICES."**
36

37 SECTION 4. Section 181 of Presidential Decree No. 612, as amended, is hereby
38 further amended to read as follows:

39
40 "Section 181. Life insurance is insurance on human lives and insurance
41 appertaining thereto or connected therewith.
42

1 Every contract or undertaking for the payment of annuities including
2 contracts for the payment of lump sums under a retirement program
3 where a life insurance company manages or acts as a trustee for such
4 retirement program shall be considered a life insurance contract for
5 purposes of this Code.
6

7 **HEALTH INSURANCE, APPERTAINING OR CONNECTED TO A LIFE**
8 **INSURANCE CONTRACT, TO INDEMNIFY THE INSURED FOR**
9 **MEDICAL EXPENSES, THROUGH ASSUMPTION OF FINANCIAL**
10 **RISK AND POOLING OF FUNDS FOR RISK DISTRIBUTION, SHALL**
11 **BE CONSIDERED AS A LIFE INSURANCE CONTRACT. NOTHING IN**
12 **THIS CODE SHALL PROHIBIT THE INSURER TO PROVIDE OR**
13 **ARRANGE MEDICAL SERVICES INCIDENTAL TO THE PRIMARY**
14 **PURPOSE OF INDEMNIFYING AGAINST LOSS, DAMAGE OR**
15 **LIABILITY UPON THE OCCURRENCE OF AN UNKNOWN OR**
16 **CONTINGENT EVENT OR ILLNESS."**
17

18 SECTION 5. Section 194 of Presidential Decree No. 612, as amended, is hereby
19 further amended to read as follows:
20

21 "Section 194. Except as provided in Section 289, no new domestic life or
22 non-life insurance company shall, in a stock corporation, engage in
23 business in the Philippines unless possessed of a paid-up capital equal to
24 at least One billion pesos (P1,000,000,000.00):
25

26 Provided, That a domestic insurance company already doing business in
27 the Philippines shall have a net worth by June 30, 2013 of Two hundred
28 fifty million pesos (P250,000,000.00). Furthermore, said company must
29 have by December 31, 2016, an additional Three hundred million pesos
30 (P300,000,000.00) in net worth AND; by December 31, 2019, an additional
31 Three hundred fifty million pesos (P350,000,000.00) in net worth; ~~and~~
32 ~~by December 31, 2022, and additional Four hundred million~~
33 ~~pesos}.~~
34

35 **SUCH DOMESTIC INSURANCE COMPANY SHALL MEET AND**
36 **COMPLY WITH THE RISK-BASED CAPITAL STANDARDS AS MAY**
37 **BE PRESCRIBED BY THE COMMISSION AS PREREQUISITE IN THE**
38 **RENEWAL OF ITS CERTIFICATE OF AUTHORITY AND CONDITION**
39 **FOR ITS CONTINUED OPERATION.**
40

41 xxx."
42

1 SECTION 6. Section 238 of Presidential Decree No. 612, as amended, is hereby
2 further amended to read as follows:

3
4 "xxx.

5
6 "Section 238(b). The term variable contract shall mean any policy or
7 contract with either a group or an individual basis issued by an insurance
8 company providing for benefits or other contractual payments or values
9 thereunder to vary so as to reflect investments results of any segregated
10 portfolio of investments or of a designated separate account in which
11 amounts received in connection with such contracts shall have been
12 placed and accounted for separately and apart from other investment
13 and accounts. This contract may also provide benefits or values incidental
14 thereto payable in fixed or variable amounts, or both. It shall not be
15 deemed to be a security or securities as defined in The Securities Act, as
16 amended, or in The Investment Company Act, as amended, nor subject
17 to regulation under said Acts. **NEITHER SHALL IT BE DEEMED AS A**
18 **COLLECTIVE INVESTMENT SCHEME CONSIDERING THAT IT IS,**
19 **AS HEREBY DEFINED AS CONTRACT OF INSURANCE WITH**
20 **INEXTRICABLE INVESTMENT FEATURES AND AS SUCH SHALL BE**
21 **EXCLUSIVELY REGULATED BY THE COMMISSION AND**
22 **GOVERNED BY THE INSURANCE CODE."**

23
24 xxx."

25
26 SECTION. 7. Separability Clause. - If any provision of this Act shall be held
27 unconstitutional or invalid, the other provisions not otherwise affected shall remain in
28 full force and effect.

29
30 SECTION 8. Repealing Clause. - All laws, decrees, executive orders, rules and
31 regulations or parts thereof which are contrary to or inconsistent with this Act are
32 hereby repealed, amended or modified accordingly.

33
34 SECTION 9. Effectivity. - This Act shall take effect fifteen (15) days after its
35 complete publication either in the Official Gazette or in a newspaper of general
36 circulation.

37
38 *Approved,*